



EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

THIRD SECTION

CASE OF VOLKAN ÖZDEMİR v. TURKEY

(Application no. 29105/03)

JUDGMENT
(revision)

STRASBOURG

20 July 2010

FINAL

20/10/2010

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Volkan Özdemir v. Turkey (request for revision of the judgment of 20 October 2009),

The European Court of Human Rights (Third Section), sitting as a Chamber composed of:

Josep Casadevall, *President*,

Elisabet Fura,

Boštjan M. Zupančič,

Alvina Gyulumyan,

Luis López Guerra,

Işıl Karakaş,

Ann Power, *judges*,

and Santiago Quesada, *Section Registrar*,

Having deliberated in private on 29 June 2010,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 29105/03) against the Republic of Turkey lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Turkish national, Mr Volkan Özdemir (“the applicant”), on 18 July 2003.

2. In a judgment delivered on 20 October 2009, the Court held that there had been a violation of Article 3 of the Convention in its substantive and procedural aspects on account of the ill-treatment to which the applicant had been subjected, as well as on account of the national authorities' failure to carry out an effective investigation into the circumstances of the ill-treatment. The Court also decided to award the applicant 10,000 euros (EUR) for non-pecuniary damage and dismissed the remainder of the claims for just satisfaction.

3. On 12 February 2010 the applicant's representative informed the Court that he had learned that the applicant had died on 5 February 2007. He accordingly requested revision of the judgment within the meaning of Rule 80 of the Rules of Court.

4. On 18 February 2010 the Court considered the request for revision and decided to give the Government three weeks in which to submit any observations. Those observations were received on 31 March 2010.

THE LAW

THE REQUEST FOR REVISION

5. The applicant's representative requested revision of the judgment of 20 October 2009, which he had been unable to have executed because the applicant had died before the judgment had been adopted. Mr Murtaze Özdemir and Ms Aysel Eroğlu were the parents and should therefore receive the sums awarded to the deceased.

6. The Government did not contest the claim.

7. The Court considers that the judgment of 20 October 2009 should be revised pursuant to Rule 80 of the Rules of Court, the relevant parts of which provide:

“A party may, in the event of the discovery of a fact which might by its nature have a decisive influence and which, when a judgment was delivered, was unknown to the Court and could not reasonably have been known to that party, request the Court ... to revise that judgment.

...”

8. It accordingly decides to award the heirs jointly the amount it previously awarded to the deceased applicant, namely EUR 10,000 for non-pecuniary damage.

9. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to revise its judgment of 20 October 2009 in so far as it concerns the claim made by the deceased applicant's heirs under Article 41 of the Convention;

accordingly,

2. *Holds*

(a) that the respondent State is to pay jointly to the heirs of Mr Volkan Özdemir, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 10,000 (ten thousand euros) in respect of non-pecuniary damage, to be converted into Turkish liras at the rate applicable at the date of settlement, plus any tax that may be chargeable;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

Done in English, and notified in writing on 20 July 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Santiago Quesada
Registrar

Josep Casadevall
President