



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

THIRD SECTION

CASE OF EĞİNLİOĞLU v. TURKEY

(Application no. 31312/96)

JUDGMENT
(Friendly settlement)

STRASBOURG

20 December 2001

In the case of Eğinlioğlu v. Turkey,

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

Mr G. RESS, *President*,
Mr I. CABRAL BARRETO,
Mr L. CAFLISCH,
Mr R. TÜRMEŒ,
Mr B. ZUPANČIČ,
Mrs H.S. GREVE,
Mr K. TRAJA, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 29 November 2001,

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

PROCEDURE

1. The case originated in an application (no. 31312/96) against the Republic of Turkey lodged with the European Commission of Human Rights (“the Commission”) under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Turkish national, Erkan Eğinlioğlu (“the applicant”), on 22 April 1995.

2. The Turkish Government (“the Government”) did not designate an Agent for the purposes of the proceedings before the Court.

3. The applicant complained that the criminal proceedings instituted against him were not terminated within a reasonable time as required by Article 6 § 1 of the Convention.

4. Following communication of the complaint to the Government and rejection of the remainder of the application by the Commission, the case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention.

5. On 11 January 2000, having obtained the parties’ observations, the Court (First Section) declared the application admissible.

6. On 3 July 2001, after an exchange of correspondence, the Registrar suggested to the parties that they should attempt to reach a friendly settlement within the meaning of Article 38 § 1 (b) of the Convention.

7. On 16 July and 17 July 2001 the applicant and the Government respectively submitted formal declarations accepting a friendly settlement of the case.

8. On 1 November 2001 the Court changed the composition of its Sections (Rule 25 § 1). This case was assigned to the newly composed Third Section (Rule 52 § 1).

THE FACTS

9. On 12 September 1984 policemen from the Ankara Security Directorate arrested the applicant on suspicion of membership of an illegal organisation, the Dev-Yol (*Revolutionary Way*).

10. On 26 October 1984 the Ankara Martial Law Court ordered the applicant's detention on remand.

11. On 26 December 1984 and 10 May 1985 the Military Public Prosecutor filed two bills of indictment with the Ankara Martial Law Court against the applicant. He accused the applicant of membership of the Dev-Yol, whose aim was to undermine the constitutional order and replace it with a Marxist-Leninist regime, contrary to Article 146 § 3 of the Criminal Code. The Public Prosecutor further alleged, *inter alia*, that the applicant had been involved in a number of crimes such as a bomb attack on a coffee house, opening fire on a house and several robberies.

12. On 26 May 1986 the applicant was released pending trial.

13. On 19 July 1989 the Ankara Martial Law Court convicted the applicant and sentenced him to 5 years' imprisonment on account of his membership of an illegal armed organisation (Article 168 § 2). The applicant lodged an appeal with the Military Court of Cassation against this judgment.

14. On 26 December 1994 the jurisdiction of the martial law courts was abolished and the Court of Cassation acquired jurisdiction over the case.

15. On 27 December 1995 the Court of Cassation held that the criminal proceedings against the applicant should be discontinued on the ground that the prosecution was time-barred.

THE LAW

16. On 17 July 2001 the Court received the following declaration from the Government:

"I declare that the Government of Turkey offer to pay the amount of 50,000 (fifty thousand) French francs on an *ex gratia* basis to Mr Erkan Eğinlioğlu with a view to securing a friendly settlement of the application registered under no. 31312/96. This sum shall cover any pecuniary and non-pecuniary damage as well as costs, and it will be payable, free of any taxes that may be applicable, within three months after the notification of the judgment delivered by the Court pursuant to the Article 39 of the European Convention on Human Rights. This payment will constitute the final resolution of the case.

The Government further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention."

17. On 16 July 2001 the Court received the following declaration signed by the applicant:

“I note that the Government of Turkey are prepared to pay me, free of any taxes that may be applicable, within three months after the notification of the judgment delivered by the Court pursuant to the Article 39 of the European Convention on Human Rights, a sum totalling 50,000 (fifty thousand) French francs on an *ex gratia* basis covering both pecuniary and non-pecuniary damage and costs with a view to securing a friendly settlement of application no. 31312/96 pending before the Court.

I accept the proposal and waive any further claims in respect of Turkey relating to the facts of this application. I declare that the case is definitely settled.

This declaration is made in the context of a friendly settlement which the Government and I have reached.

I further undertake not to request the reference of the case to the Grand Chamber under Article 43 § 1 of the Convention after the delivery of the Court’s judgment.”

18. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

19. Accordingly, the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the case out of the list;
2. *Takes note* of the parties’ undertaking not to request a rehearing of the case before the Grand Chamber.

Done in English, and notified in writing on 20 December 2001, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Georg RESS
President