



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

THIRD SECTION

CASE OF TALATTİN AKKOÇ v. TURKEY

(Application no. 50037/99)

JUDGMENT

STRASBOURG

10 November 2005

FINAL

12/04/2006

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Talattin Akkoç v. Turkey,

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

Mr B.M. ZUPANČIČ, *President*,

Mr J. HEDIGAN,

Mr R. TÜRMEŖ,

Mrs M. TSATSA-NIKOLOVSKA,

Mr V. ZAGREBELSKY,

Mr E. MYJER,

Mr DAVID THÓR BJÖRGVINSSON, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having deliberated in private on 20 October 2005,

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

PROCEDURE

1. The case originated in an application (no. 50037/99) 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, Talattin Akkoç (“the applicant”), on 14 June 1999.

2. The applicant was represented by Ms N. Baylav, a lawyer practising in İstanbul. The Turkish Government (“the Government”) did not designate an Agent for the purposes of the proceedings before the Court.

3. On 28 January 2004 the Court decided to communicate the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

4. On 1 November 2004 the Court changed the composition of its Sections (Rule 25 § 1). The case was assigned to the newly composed Third Section.

THE FACTS**I. THE CIRCUMSTANCES OF THE CASE**

5. The applicant was born in 1957 and lives in Kocaeli.

6. On 14 December 1995 the Kocaeli Provincial Private Administration Office (*Kocaeli İl Özel İdare Müdürlüğü*) expropriated a plot of land

belonging to the applicant. A committee of experts assessed the value of the plot of land and the relevant amount was paid to him on 22 November 1996.

7. On 22 October 1996 the applicant filed an action for compensation with the Gebze Civil Court of First Instance.

8. On 20 February 1998 the first-instance court ordered the administration to pay the applicant 4,619,997,360 Turkish liras (TRL) plus interest at the statutory rate, running from 22 November 1996, the date on which the ownership of the property was transferred to the administration.

9. On 22 September 1998 the Court of Cassation upheld the decision of the first-instance court.

10. On 15 December 1998 the Court of Cassation rejected the applicant's request for the rectification of its decision.

11. On 29 July 1999 the Kocaeli Provincial Private Administration paid the applicant the amount due together with interest.

II. RELEVANT DOMESTIC LAW AND PRACTICE

12. The relevant domestic law and practice are set out in the *Aka v. Turkey* judgment of 23 September 1998 (*Reports of Judgments and Decisions* 1998-VI, pp. 2674-76, §§ 17-25) and *Akkuş v. Turkey* judgment of 9 July 1997 (*Reports* 1997-IV, §§ 13-16).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1

13. The applicant complained that the rate of interest for delay payable on the additional compensation for expropriation was too low and that the expropriating authority had delayed in settling the relevant amounts. He relied on Article 1 of Protocol No. 1, which reads as follows:

“Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

A. Admissibility

14. The Government submitted that the applicant had not exhausted domestic remedies as required by Article 35 of the Convention, as he had failed to make proper use of the remedy available to him under Article 105 of the Code of Obligations.

15. The Court observes that it dismissed a similar preliminary objection in the case of *Aka* (cited above, pp. 2678-79, §§ 34-37). It sees no reason to do otherwise in the present case and therefore rejects the Government's objection.

16. The Court finds that, in the light of the principles it has established in its case-law (see, among other authorities, *Aka* and *Akkuş*, cited above) and of all the evidence before it, the application requires examination on the merits and there are no grounds for declaring it inadmissible.

B. Merits

17. The Court has found a violation of Article 1 of Protocol No. 1 in a number of cases that raise similar issues to those arising here (see *Akkuş*, cited above, p. 1317, § 31; and *Aka*, cited above, p. 2682, §§ 50-51).

18. Having examined the facts and arguments presented by the Government, the Court considers that there is nothing to warrant a departure from its findings in the previous cases. It finds that the delay in paying for the additional compensation awarded by the domestic courts was attributable to the expropriating authority and caused the owner to sustain loss additional to that of the expropriated land. As a result of that delay and the length of the proceedings as a whole, the Court finds that the applicant had had to bear an individual and excessive burden that has upset the fair balance that must be maintained between the demands of the general interest and protection of the right to the peaceful enjoyment of possessions.

19. Consequently, there has been a violation of Article 1 of Protocol No. 1.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

20. Article 41 of the Convention provides:

“If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party.”

21. The Court points out that, under Rule 60 of the Rules of Court, any claim for just satisfaction must be itemised and submitted in writing together with the relevant supporting documents or vouchers, “failing which the Chamber may reject the claim in whole or in part”.

22. In the instant case, on 22 June 2004, after receiving Government's observations on the admissibility and merits of the application, the applicant was invited to submit his claims for just satisfaction, but he did not do so within the required time-limits. Accordingly, the Court makes no award under Article 41 of the Convention.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the application admissible;
2. *Holds* that there has been a violation of Article 1 of Protocol No. 1.

Done in English, and notified in writing on 10 November 2005, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Vincent BERGER
Registrar

Boštjan M. ZUPANČIČ
President