



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

SECOND SECTION

CASE OF ATEŞSÖNMEZ v. TURKEY

(Application no. 22487/05)

JUDGMENT

STRASBOURG

16 February 2010

FINAL

16/05/2010

Cet arrêt est devenu définitif en vertu de l'article 44 § 2 de la Convention. Il peut subir des retouches de forme.

In the case of Ateşsönmez v. Turkey,

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

Françoise Tulkens, *President*,

Ireneu Cabral Barreto,

Vladimiro Zagrebelsky,

Danutė Jočienė,

András Sajó,

Nona Tsotsoria,

Işıl Karakaş, *judges*,

and Françoise Elens-Passos, *Deputy Section Registrar*,

Having deliberated in private on 26 January 2010,

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

PROCEDURE

1. The case originated in an application (no. 22487/05) 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 Naif Ateşsönmez (“the applicant”), on 3 June 2005. The Turkish Government (“the Government”) were represented by their Agent.

2. On 8 October 2008 the President of the Second Section decided to give notice of the application to the Government. It was also decided to rule on the admissibility and merits of the application at the same time (Article 29 § 3).

THE FACTS

3. The applicant was born in 1947 and lives in Istanbul.

4. Following the privatisation of the public institute where he was employed as an inspector, on 19 March 1999 the applicant was appointed to a new post at the Social Security Institution for the Self-Employed (*Bağ-Kur*).

5. On 16 April 1999 the applicant brought a case before the Ankara Administrative Court against the Prime Minister's Office and *Bağ-Kur* to challenge his appointment.

6. On 2 December 1999 the administrative court dismissed the applicant's request, holding that his appointment had been effected in accordance with the relevant domestic law.

7. On 14 October 2003 the Supreme Administrative Court upheld the decision of the administrative court and on 1 February 2006 it rejected the applicant's rectification request.

THE LAW

8. The applicant complained that the length of the proceedings had been incompatible with the “reasonable time” requirement of Article 6 § 1 of the Convention. The Government contested that argument.

9. The Court observes that the period to be taken into consideration lasted six years, nine months and nineteen days before two levels of jurisdiction, and the case was pending before the Supreme Administrative Court for approximately six years of this total period.

10. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

11. The Court has frequently found violations of Article 6 § 1 of the Convention in cases raising issues similar to the one in the present application (see, among many other authorities, *Frydlender v. France* [GC], no. 30979/96, § 43, ECHR 2000-VII, and *Karakullukçu v. Turkey*, no. 49275/99, §§ 30-39, 22 November 2005). Having examined all the material submitted to it, the Court considers that the Government have not put forward any fact or convincing argument capable of persuading it to reach a different conclusion in the present circumstances. Having regard to its case-law on the subject, the Court considers that the length of the proceedings was excessive and failed to meet the “reasonable time” requirement. There has accordingly been a breach of Article 6 § 1 of the Convention.

12. Relying on Articles 6 § 1 and 14 of the Convention, the applicant also complained that he had been denied a fair hearing as the domestic courts had failed to duly respond to his arguments, that the Supreme Administrative Court's decisions lacked reasoning and that his appointment disrupted his family life and constituted discrimination.

13. However, in the light of all the material in its possession, the Court finds that the above submissions by the applicant do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that these complaints must be declared inadmissible as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention (see, in particular, *Van de Hurk v. the Netherlands*, 19 April 1994, § 61, Series A no. 288, and *García Ruiz v. Spain* [GC], no. 30544/96, § 26, ECHR 1999-I).

14. The applicant did not submit a claim for just satisfaction under Article 41 of the Convention. Accordingly, the Court considers that there is no call to award him any sum on that account.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the complaint concerning the excessive length of the proceedings admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention.

Done in English, and notified in writing on 26 February 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise Elens-Passos
Deputy Registrar

Françoise Tulkens
President