



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

THIRD SECTION

DECISION

Application no. 42125/98
by Mehmet ALPARSLAN
against Turkey

The European Court of Human Rights (Third Section), sitting on 21 November 2002 as a Chamber composed of

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

and Mr V. BERGER, *Section Registrar*,

Having regard to the above application lodged with the European Commission of Human Rights on 18 May 1998,

Having regard to Article 5 § 2 of Protocol No. 11 to the Convention, by which the competence to examine the application was transferred to the Court,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Mehmet Alparslan, is a Turkish national, who was born in 1938 and lives in Ankara. He was represented before the Court by Mr G.Ç. Ekşiođlu, a lawyer practising in Ankara. The respondent Government were represented by Mr E. İřcan, Deputy Director General for the Council of Europe and Human Rights, Ministry of Foreign Affairs.

The facts of the case, as submitted by the parties, may be summarised as follows.

The General Directorate of National Roads and Highways (Devlet Karayolları Genel Müdürlüğü), expropriated plots of land belonging to the applicant in Pursaklar, Solfasol and Bağlum, Ankara in order to build a motorway. Expropriations took place between February 1993 and May 1995. A committee of experts assessed the value of the plots of land belonging to the applicant and compensation was paid to him when the expropriation took place.

Following the applicant's requests for increased compensation, the first instance court awarded him additional compensation plus interest at the statutory rate of 30% per annum, namely the rate applicable at the date of the court's decision. The date for the running of the statutory rate of interest was fixed by the domestic court in respect of the applicant. The applicant appealed and the Court of Cassation upheld the decision of the first instance court. In January and February 1998 the administration paid the applicant the additional compensation awarded to him together with interest. The interest on the additional compensation was calculated at the statutory rate applicable between the date of the decision of the Court of Cassation in favour of the applicant and 31 December 1997, namely 30%. As regards the period after 1 January 1998 the interest was calculated at the then applicable rate, namely 50%.

Between 1993 and 1999 the rate of inflation averaged 81.7% per annum.

COMPLAINT

The applicant complained under Article 1 of Protocol No. 1 to the Convention that the rate of interest applied to the calculation of the additional compensation granted to him for the expropriation of his land was too low. He also complained of the delays in obtaining his compensation.

THE LAW

On 13 December 2001 the Court received the following declaration signed by the applicant's representative:

"In my capacity as the representative of the applicant, Mr Mehmet Alparslan, I have taken cognizance of the declaration of the Government of the Republic of Turkey that they are prepared to make an *ex gratia* all-inclusive payment of 6,000 (six thousand) United States dollars (USD) with a view to concluding a friendly settlement of the case that originated in application no. 42125/98. This sum, which is to cover any

pecuniary and non-pecuniary damage as well as legal expenses connected with the case, will be paid in accordance with the terms stipulated in the said declaration within three months of notification of the Court's decision ...

Having duly consulted the applicant, I accept the proposal and he, in consequence, waives all other claims against Turkey in respect of the matters that were at the origin of the application ...

This declaration is made within the scope of the friendly settlement which the Government and I, in agreement with the applicant, have reached."

On 23 July 2002 the Court received the following declaration from the Government:

"I declare that the Government of the Republic of Turkey offer to pay *ex gratia* to the applicant, Mr Mehmet Alparslan, an all-inclusive amount of 6,000 (six thousand) United States dollars (USD) with a view to securing a friendly settlement of his application registered under no. 42125/98. This sum, which is to cover any pecuniary and non-pecuniary damage as well as legal expenses connected with the case, shall be free of any tax that may be applicable and be paid in United States dollars (USD) to a bank account named by the applicant and / or his duly authorised representative. This sum shall be payable within three months from the date of notification of the Court's decision ... This payment will constitute the final settlement of the case ..."

The Court takes note of the agreement reached between the parties. 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).

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

For these reasons, the Court unanimously

Decides to disjoin the application from applications nos. 41949/98, 41985/98, 41987/98, 41988/98, 42121/98, 42128/98, 42129/98, 42131/98, 42135/98, 42441/98 and 42446/98;

Decides to strike the application out of its list of cases.

Vincent BERGER
Registrar

Georg RESS
President