



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

SECOND SECTION

DECISION

Application no. 31248/09  
Hanım HAN  
against Turkey

The European Court of Human Rights (Second Section), sitting on 15 January 2012 as a Committee composed of:

Dragoljub Popović, *President*,

Paulo Pinto de Albuquerque,

Helen Keller, *judges*,

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

Having regard to the above application lodged on 30 April 2009,

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Hanım Han, is a Turkish national, who was born in 1952 and lives in Erzincan. She was represented before the Court by Ms G. Düzgün Türk, a lawyer practising in Erzincan.

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

On 22 April 1993 the applicant's husband was killed by unknown persons in Diyarbakır. Following his death, the Diyarbakır Public Prosecutor initiated an investigation. During the investigation, the public prosecutor issued a continuous search warrant. No information came to light about the perpetrators of the crime.

Fifteen years later, on 20 June 2008 the public prosecutor closed the investigation due to the expiry of the statutory time-limit.

On 7 October 2008 the Siverek Assize Court rejected the applicant's objection and this decision was notified on the applicant's representative on 13 November 2008.

## COMPLAINT

The applicant complained under Article 2 about the ineffectiveness of the investigation into her husband's killing.

## THE LAW

The applicant argued that no effective steps had been taken in the investigation into her husband's killing.

The Court considers that it should first examine whether the applicant has complied with the six-month rule contained in Article 35 § 1 given that she did not lodge her application until 30 April 2009 although her husband was killed on 22 April 1993, i.e. almost sixteen years previously.

The Court reiterates that the purpose of the six-month rule is to promote security of law and to ensure that cases raising issues under the Convention are dealt with within a reasonable time. Furthermore, it ought also to protect the authorities and other persons concerned from being under any uncertainty for a prolonged period of time (see *Bulut and Yavuz v. Turkey* (dec.), no. 73065/01, 28 May 2002, also *Bayram and Yıldırım v. Turkey* (dec.), no. 38587/97, ECHR 2002-III).

As a rule, the six-month period runs from the date of the final decision in the process of exhaustion of domestic remedies. In cases concerning deprivation of life, if no remedies are available or if they are judged to be ineffective, the six-month time-limit in principle runs from the date of the act complained of. Special considerations may apply in exceptional cases where an applicant first avails himself of a domestic remedy and only at a later stage becomes aware, or should have become aware, of circumstances which make that remedy ineffective. In such a situation, the six-month period might be calculated from the time when the applicant becomes aware, or should have become aware, of these circumstances (*ibid*; see also *Hazar and others v. Turkey* (dec.), no. 62566/00, 10 January 2002).

In the present application, the applicant's husband was killed in 1993 and it appears from the documents in the case file that no active steps were taken in the investigation. The Court considers that the absence of a meaningful investigation must have been apparent to the applicant long before the public prosecutor closed the investigation in 2008 due to the expiry of the statutory time-limit. Even though the applicant lodged her case following

the final decision in the domestic law, in the Court's opinion the investigation in dispute cannot be regarded as effective capable of satisfying the requirement of Article 2.

Having regard to the above, the Court finds that the applicant, who waited for sixteen years for an ineffective investigation to come to an end, failed to comply with the six-month time-limit.

In the light of the foregoing, the Court concludes that the application has been introduced out of time and is inadmissible under Article 35 §§ 1 and 4 of the Convention.

For these reasons, the Court unanimously

*Declares* the application inadmissible.

Françoise Elens-Passos  
Deputy Registrar

Dragoljub Popović  
President