AS TO THE ADMISSIBILITY OF

Application No. 37408/97
by Arif Engin AHMET
against Turkey

The European Commission of Human Rights (First Chamber) sitting in private on 21 October 1998, the following members being present:

MM	M.P. PELLONPÄÄ, President
	N. BRATZA
	E. BUSUTTIL
	A. WEITZEL
	C.L. ROZAKIS
Mrs	J. LIDDY
MM	L. LOUCAIDES
	I. BÉKÉS
	G. RESS
	A. PERENIČ
	C. BÎRSAN
	M. VILA AMIGÓ
Mrs	M. HION
Mr	R. NICOLINI

Mrs M.F. BUQUICCHIO, Secretary to the Chamber

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 13 October 1996 by Arif Engin Ahmet against Turkey and registered on 20 August 1997 under file No. 37408/97;

Having regard to the report provided for in Rule 47 of the Rules of Procedure of the Commission;

Having deliberated;

Decides as follows:

THE FACTS

The applicant, born in 1948, is a Turkish citizen of Cypriot origin and resident in Munich (Germany). He is represented before the Commission by Mrs Petra Steeb, a lawyer practising in Munich.

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

On 8 october 1985 the applicant divorced from his wife.

On 9 January 1989 he brought an action before the Denizli Civil Court of General Jurisdiction. He alleged before the court that he had bought three plots of land in 1980-81 and that these plots of land had been registered under his ex-wife's name as he was of Cypriot nationality. He accordingly asked the court to order that a certain amount of money corresponding to half the price of the lands be paid to him by his ex-wife.

On 7 September 1992 the court dismissed the applicant's claim. This judgment was upheld by the Court of Cassation on 18 February 1993.

COMPLAINTS

The applicant complains that he was deprived of his properties because of the unfair decisions of the Turkish courts as he was of Cypriot nationality. He invokes Articles 6 and 14 of the Convention and Article 1 of Protocol No. 1 to the Convention.

PROCEEDINGS BEFORE THE COMMISSION

On 9 August 1993 the applicant sent his first letter to the Commission. By letters of 18 August 1993 and 17 September 1993 the applicant was informed about the shortcomings of his application and requested, pursuant to Rule 44 para. 3 of the Commission's Rules of Procedure, to submit further information as to his application. He was informed that the application would be registered upon receipt of this information. The applicant did not submit any information for over three years.

On 18 August 1996 the applicant sent a letter to the Commission requesting information about the state of his application. By letter of 12 September 1996 the applicant was informed that his file had not been examined by the Commission due to the fact that no action had been taken by him for over three years. By letters of 13 October 1996 and 23 November 1996 the applicant informed the Commission that he intended to pursue his application. On 12 February 1997 the applicant submitted information about the substance of his application.

On 20 August 1997 the application was registered and the applicant was informed that, unless the Commission decides otherwise, the application would be considered to have been introduced with the Commission on 13 October 1996. The applicant did not provide any explanation concerning the reasons for the delay.

By letter of 17 September 1997 the applicant's new lawyer informed the Commission that she had taken over the case and requested that a copy of the documents contained in the applicant's file be sent to her for her examination. On 2 October 1997 a copy of the documents were sent to the applicant's lawyer.

On 5 March 1998 the applicant's lawyer sent a letter to the Commission enclosing her observations on the case. On 26 May 1998 she filed another letter with the Commission requesting that legal aid be granted to the applicant. She did not give any explanation for the delays between 1993 and 1996.

THE LAW

The applicant complains that he was deprived of his properties as a result of the unfair decisions of the Turkish courts as he was of Cypriot nationality. He invokes Articles 6 and 14 of the Convention and Article 1 of Protocol No. 1 to the Convention.

Having regard to the requirement of Article 26 of the Convention, the Commission has first considered the question of the date of the introduction of the present application. In this respect the Commission notes that the applicant's first communication to the Commission was dated 9 August 1993. After some correspondence he was requested, on 18 August and 17 September 1993, to provide additional information in order to complete the application. However, the applicant did not provide any further information and it was not until 13 October 1996 that he sent a letter to the Commission announcing his intention to pursue his application.

In accordance with its established practice, the Commission considers the date of introduction of an application to be the date of the first letter indicating an intention to lodge an application and giving some indication of the nature of the complaint. However, where a substantial interval follows before an applicant submits further information as to his proposed application, the Commission examines the particular circumstances of the case in order to decide what date shall be regarded as the date of introduction and from which to calculate the running of the six month period set out in Article 26 of the Convention (see No. 4429/70, Dec. 1.2.71, Collection 37, p. 109; No. 22507/93, Dec. 5.4.95, D.R. 81-A, p. 67).

In particular, delays in pursuing the case are only acceptable in so far as they are based on reasons connected with the case.

In the present case the Commission recalls that approximately three years and one month passed until the applicant, on 13 October 1996, resumed the correspondence with the Commission and informed it that he intended to pursue his application without providing any reasons for this delay which could have suspended the running of the six months period referred to in Article 26 of the Convention.

Therefore, the Commission considers 13 October 1996 to be the date of introduction of the application. It follows that, having been introduced out of time, the application must be rejected under Article 27 para. 3 of the Convention.

For these reasons, the Commission, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

M.F. BUQUICCHIO
Secretary
to the First Chamber

M.P. PELLONPÄÄ
President
of the First Chamber