

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

SECOND SECTION

DECISION

This version was rectified on 31 May 2016
under Rule 81 of the Rules of Court.

Application no. 70941/10
Cengiz AYAR
against Turkey

The European Court of Human Rights (Second Section), sitting on 15 March 2016 as a Committee composed of:

Nebojša Vučinić, *President,*
Valeriu Griţco,
Stéphanie Mourou-Vikström, *judges,*
and Abel Campos, *Deputy Section Registrar,*

Having regard to the above application lodged on 3 August 2010,

Having regard to the declaration submitted by the respondent Government on 30 July 2015 requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Cengiz Ayar, is a Turkish national, who was born in 1973 and is detained in Kocaeli.

2. The Turkish Government ("the Government") were represented by their Agent.

3. The applicant complained under Article 10 of the Convention about his conviction and imprisonment due to his statements in a letter he sent to the Turkish Armed Forces.

4. The application was communicated to the Government.

5. By letter dated 30 July 2015, the Government informed the Court that they proposed to make a declaration with a view to resolving the issues raised by the application.

6. The declaration provided as follows:

> « The Government hereby wish to express by the way of unilateral declaration its acknowledgement that the applicants right to freedom of expression did not meet the standards enshrined in Article 10 § 1 of the Convention.
>
> Consequently, the Government are prepared to pay the applicant 2,500 (two thousand five hundred[1]) Euros. This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses (inclusive of value-added taxes paid on lawyers' fees), will be converted into the national currency at the rate applicable on the date of payment, and will be free of any further taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.
>
> The Government therefore invite the Court to strike the present case out of the list of cases. They suggest that the present declaration might be accepted by the Court as "any other reason" justifying the striking out of the case of the Court's list of cases, as referred to in Article 37 §1 (c) of the Convention. »

7. On 6 November 2015, the Court received a letter from the applicant informing the Court that he had agreed to the terms of the Government's declaration.

THE LAW

8. The Court finds that following the applicant's express agreement to the terms of the declaration made by the Government the case should be treated as a friendly settlement between the parties.

9. It therefore takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application.

10. In view of the above, it is appropriate to strike the case out of the list.

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[1] Rectified on 31 May 2016: the text was "(two thousand)".

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases pursuant to Article 39 of the Convention.

Done in English and notified in writing on 7 April 2016.

Abel Campos
Deputy Registrar

Nebojša Vučinić
President