

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

SECOND SECTION

DECISION

Application no. 3305/07
Hasan BELİREN
against Turkey

The European Court of Human Rights (Second Section), sitting on 3 April 2012 as a Committee composed of:

Isabelle Berro-Lefèvre, President,
Guido Raimondi,
Helen Keller, judges,

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

Having regard to the above application lodged on 5 January 2007,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Hasan Beliren, is a Turkish national who was born in 1955 and lives in Adana. He was represented before the Court by Mr K. Derin, a lawyer practising in Adana. The Turkish Government ("the Government") were represented by their Agent.

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

On 8 January 2002 the applicant was arrested following his involvement in a petition campaign for Kurdish education. Subsequently, criminal proceedings were brought against him for aiding and abetting the PKK (*Kurdish Workers' Party*), an illegal organisation. The next day, the applicant was taken before the public prosecutor and investigating judge who subsequently ordered the applicant's pre-trial detention.

On 19 April 2002 the applicant was released pending trial.

On 22 May 2003 the Adana State Security Court acquitted the applicant of the criminal charges brought against him as there was no sufficient evidence establishing that he had committed the offences concerned. The judgment became final on 30 May 2003.

On 18 August 2003 the applicant lodged a case with the Adana Assize Court requesting compensation pursuant to Law no. 466 on account of his unjustified detention for the period between 8 January and 19 April 2002.

During the proceedings, no oral hearing was held and as a result neither the applicant nor his lawyer appeared before the Adana Assize Court in the adjudication of his claim for compensation.

On 2 May 2005 the court awarded the applicant TRY 452 for pecuniary and TRY 1,000 for non-pecuniary damage.

On 21 June 2006 the Court of Cassation upheld the judgment with a final decision.

On 18 January 2011 the Court decided to communicate to the Government the complaint under Article 6 § 1 of the Convention concerning the lack of an oral hearing in the proceedings brought pursuant to Law no. 466.

By letter of 24 October 2011 the Government informed the Court that they proposed to make a declaration with a view to resolving the issues raised by the application. They acknowledged a violation of the applicant's right under Article 6 § 1 of the Convention on account of the domestic court's failure to ensure an adversarial hearing in the proceedings brought under Law no. 466. They also undertook to pay the applicant 1,000 (one thousand) euros (EUR) to cover any pecuniary and non-pecuniary damage as well as any tax that may be chargeable. The payment would be effected within a period of three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the Convention. In the event of failure to pay within that period, the Government undertook 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. They further requested the Court to strike out the application from its list of cases in accordance with Article 37 of the Convention.

By letter of 4 January 2012 the applicant's lawyer informed the Court that his client had agreed to the terms of the Government's declaration and invited the Court to proceed with the examination of the Government's request and to strike the case out of its list of cases.

THE LAW

The Court considers that the applicant's express agreement to the terms of the declaration made by the Government can be considered as an implied friendly settlement between the parties.

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 (Article 37 § 1 *in fine* of the Convention).

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

For these reasons, the Court unanimously

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

Françoise Elens-Passos	Isabelle Berro-Lefèvre
Deputy Registrar	President