CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

THIRD SECTION

PARTIAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 29600/02
by Serdar ÇAKMAK
against Turkey

The European Court of Human Rights (Third Section), sitting on 28 April 2005 as a Chamber composed of:

Mr B.M. ZUPANČIČ, *President*,
Mr J. HEDIGAN,
Mr R. TÜRMEN,
Mr C. BÎRSAN,
Mrs M. TSATSA-NIKOLOVSKA,
Mr E. MYJER,
Mr DAVID THÓR BJÖRGVINSSON, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having regard to the above application lodged on 4 June 2002,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Serdar Çakmak, is a Turkish national who was born in 1955 and lives in İstanbul.

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

In 1984 the applicant was appointed as a research assistant in the Institute for Positive Sciences, at the Istanbul Technical University.

In 1988 the applicant was enrolled in a doctoral programme (PhD) in the Institute for Positive Sciences. Mr B.Ş. was appointed as his supervisor.

On 28 February 1995 Mr E.Ş. was appointed as the applicant's supervisor following Mr B.Ş.'s resignation.

On 10 October 1995 the applicant submitted his PhD thesis to the Institute for Positive Sciences. On 17 October 1995 he was informed by the Board of the Institute that he had to submit his thesis with a cover letter provided by his supervisor.

On 19 October 1995 the applicant re-submitted his thesis with a cover letter drafted by his previous supervisor, Mr B.Ş. On 1 November 1995 he was informed by the Institute that the cover letter should be provided by his current supervisor.

On 14 November 1995 the applicant sent a further letter to the Institute requesting clarification for the letter of 1 November 1995. On 29 November 1995 the Board of the Institute once more informed the applicant that the cover letter should be requested from Mr E.Ş. as he was the applicant's current supervisor.

On 2 January 1996, following having received a letter from E.Ş., the Board of the Institute for Positive Sciences informed the applicant that his dissertation did not have the quality of a PhD thesis.

On 19 January 1996 the applicant requested the Institute to compose a panel for the examination of his thesis. On 12 February 1996 his request was dismissed.

On 12 April 1996 the applicant filed an action with the Istanbul Administrative Court for the annulment of the decision of 12 February 1996. He also requested the court to order the administration to suspend the execution of the aforementioned decision.

On 16 April 1996 the Institute of Positive Sciences admitted the submission of the applicant's thesis.

On 7 May 1996 a panel was composed at the University for the assessment of the applicant's thesis.

On 13 June 1996 the Istanbul Administrative Court took into account the decision of 7 May 1996 and dismissed the applicant's request for suspension of the execution of the University's decision.

On 30 June 1996 the University decided not to renew the applicant's contract as a research assistant. On 17 July 1996 the applicant was informed of this decision.

On 30 July 1996 the applicant filed a further action with the Istanbul Administrative Court for the annulment and suspension of the execution of the decision of 30 June 1996.

On 1 October 1996 the applicant was notified by the director of the Institute of Positive Sciences that the panel had examined his thesis and that he was refused to be awarded a doctoral degree. The director further informed the applicant that he was granted a period of one year for the correction of his thesis.

On 24 January 1997 the administrative court dismissed the applicant's request for suspension of the execution of decision of 30 June 1996.

On 15 April 1997 the applicant sent a letter to the Institute of Positive Sciences and requested that his registration as a PhD candidate be suspended for a period of one year. He received no reply to his petition.

On 31 October 1997 the Istanbul Administrative Court dismissed the applicant's case. It held that the University had the discretion as to whether the applicant's contract would be renewed and that the applicant had failed to obtain a PhD degree, which demonstrated that he was not competent to continue to perform his duties as an academic.

On 20 January 1998 the applicant appealed.

On 23 March 1998 the applicant filed a petition with the University and repeated his request for suspension of his registration. He received no reply to his petition.

On 1 June 2000 the Supreme Administrative Court dismissed the applicant's appeal.

On 12 September 2000 the applicant requested the Supreme Administrative Court to rectify its decision of 20 January 2000.

On 6 December 2001 his request was dismissed.

On 16 January 2002 the decision of 6 December 2001 was served on the applicant.

COMPLAINTS

The applicant complains under Article 6 of the Convention that the decisions of the domestic courts were unfair as they failed to assess the facts and the laws correctly. He further complains under the same heading that the length of the proceedings before the administrative courts concerning his “dismissal” was excessive.

The applicant alleges that his “dismissal” from the University prevented him from completing his doctoral thesis. In this connection, he invoked Article 10 of the Convention and Article 2 of Protocol No. 1. He further complains under Article 13 of the Convention, in connection with Article 10 of the Convention Article 2 of Protocol No. 1, that he did not have an effective remedy in domestic law as the decisions of the administration were inconsistent.

THE LAW

1. The applicant contends under Article 6 § 1 of the Convention that the administrative courts did not apply the domestic law correctly and that their decisions were arbitrary.

The Court recalls at the outset its "fourth instance" doctrine (for which, see *García Ruiz v. Spain* [GC], no. 30544/96, §§ 28-29, ECHR 1999-I). Having regard to the materials submitted by the applicant, it notes that the applicant did not lay the basis of an arguable claim that any of the procedural guarantees contained in Article 6 of the Convention were breached in his case.

This complaint is therefore manifestly ill-founded and must be rejected in application of Article 35 §§ 3 and 4 of the Convention.

2. The applicant further complains under Article 6 § 1 of the Convention that the proceedings before the administrative courts were not concluded within a "reasonable time".

The Court considers that it cannot, on the basis of the case file, determine the admissibility of this complaint and that it is therefore necessary, in accordance with Rule 54 § 2 (b) of the Rules of Court, to give notice of this part of the application to the respondent Government.

3. The applicant complains under Articles 10 and 13 of the Convention and Article 2 of Protocol No. 1 that his "dismissal" from his post as a research assistant prevented him from completing his PhD thesis and that he did not have an effective remedy in domestic law.

The Court observes that the applicant has failed to demonstrate in what way his doctoral studies were directly affected by the non-renewal of his contract as research assistant. The Court further notes that the applicant was able to lodge two cases with the Istanbul Administrative Court against the decisions of the Istanbul Technical University. Accordingly, the Court considers that the applicant has failed to substantiate his allegations under Articles 10 and 13 of the Convention and Article 2 of Protocol No. 1 and to provide an arguable claim allowing an examination of his complaints by the Court.

It follows that these complaints are manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court unanimously

Decides to adjourn the examination of the applicant's complaint concerning the length of proceedings before the administrative courts;

Declares the remainder of the application inadmissible.

Vincent BERGER
Registrar

Boštjan M. ZUPANČIČ
President