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

SECOND SECTION

DECISION

Application no. 23597/11
İbrahim CAN
against Turkey

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

Ksenija Turković, *President*,
Jon Fridrik Kjølbro,
Georges Ravarani, *judges*,
and Abel Campos, *Deputy Section Registrar*,

Having regard to the above application lodged on 5 April 2011,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr İbrahim Can, is a German national, who was born in 1965 and lives in Köln. He was represented before the Court by Mr H. Sığınak, a lawyer practising in Istanbul.

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

3. On 15 July 2008, the applicant's partner, A.Y., was shot and killed by his father, allegedly because of his sexual orientation. Criminal proceedings were initiated against the father for murder in the Üsküdar Assize Court. The applicant requested leave to join the criminal proceedings as a civil party, maintaining that A.Y. was his fiancé. In this connection, he pointed out that he was a German national and that under German law same sex marriage was legal. On 25 November 2010 the assize court rejected the applicant's request on the ground that he was not a victim of the alleged offence.

COMPLAINTS

4. The applicant complained under Article 6 of the Convention that he was not allowed to join as a civil party to the criminal proceedings concerning the murder of his partner. Furthermore, relying on Article 14 of the Convention, the applicant alleged that he was discriminated against on the basis of his sexual orientation.

THE LAW

5. Relying on Article 6 of the Convention, the applicant complained that he was not granted leave by the assize court to join the criminal proceedings as a civil party.

6. The Court reiterates that the Convention does not confer any right, as demanded by the applicant, to "private revenge" or to an *actio popularis*. Thus, the right to have third parties prosecuted or sentenced for a criminal offence cannot be asserted independently: it must be indissociable from the victim's exercise of a right to bring civil proceedings in domestic law, even if only to secure symbolic reparation or to protect a civil right such as the right to a "good reputation" (see *Perez v. France* [GC], no. 47287/99, § 70, ECHR 2004-I). Thus, a civil party complaint in a criminal case might come within the scope of Article 6 § 1 of the Convention, only if the third party has the possibility of obtaining compensation at the end of the proceedings. At this point, the Court notes that according to Turkish legislation, the Code of Criminal Procedure does not allow the request of compensation in such proceedings (see *Beyazgül v. Turkey*, n° 27849/03, §§ 36 and 39, 22 September 2009). Consequently, the civil limb of Article 6 is not also applicable in the instant case.

7. The Court therefore concludes that this part of the application is incompatible *ratione materiae* with the provisions of the Convention and must be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

8. As to the complaint concerning Article 14, the applicant alleged that he was discriminated against on account of his sexual orientation. Having regard to the fact that Article 14 of the Convention is not autonomous and to the conclusion that the complaint raised under Article 6 of the Convention is incompatible *ratione materiae* with the Convention, the Court considers that Article 14 cannot apply in the instant case (see *Gratzinger and Gratzingerova v. the Czech Republic* (dec.), no. 39794/98, §§68, 76, ECHR 2002-VII, and *Woźny v. Poland* (dec.), no. 70720/11, § 60, 15 December 2015). This part of the application should therefore be also declared inadmissible for being incompatible *ratione materiae* with the

provisions of the Convention within the meaning of Article 35 §§ 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

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

Abel Campos
Deputy Registrar

Ksenija Turković
President