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

SECOND SECTION

DECISION

Application no. 6082/06
Sadık DAĞCI
against Turkey

The European Court of Human Rights (Second Section), sitting on 8 November 2016 as a Committee composed of:
Nebojša Vučinić, *President,*
Valeriu Griţco,
Stéphanie Mourou-Vikström, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*
Having regard to the above application lodged on 21 January 2006,
Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Sadık Dağcı, is a Turkish national, who was born in 1953 and lives in Istanbul. He was represented before the Court by Mr A. Şenel, a lawyer practising in Istanbul.

A. The circumstances of the case

2. The facts of the case, as submitted by the applicant, may be summarised as follows.
3. In 1980 the applicant purchased a share of a plot of land in Kınalıada, in the Adalar District of Istanbul, which had been registered in the land register as plot no. 15, block no. 111 and parcel no. 2.
4. In 1995 an annotation was made in the land registry indicating that the applicant's land was classified as part of the public forest estate.
5. On 25 January 2002 the applicant instituted proceedings before the Adalar Civil Court of First Instance seeking the annulment of the annotation made in the land register.

6. On 18 December 2002 the Adalar Civil Court of First Instance dismissed the applicant's case. An appeal and a request for rectification lodged by the applicant were rejected by the Court of Cassation and the decision became final on 1 October 2004.

7. On 8 April 2002 the applicant applied to the Adalar Civil Court of First Instance and sought compensation for his pecuniary damage arguing that he had been deprived of his registered property.

8. On 31 December 2002 the Adalar Civil Court of First Instance dismissed the applicant's claim. On 29 March 2005 the Court of Cassation upheld the decision. The applicant's request for rectification of the decision was subsequently rejected and the decision became final on 25 October 2005.

9. On 6 March 2013, following a claim submitted by the Treasury and the forest administration, the Adalar Civil Court of First Instance ordered that the applicant's title deed be annulled and the land be entered in the land register as belonging to the Treasury, holding that the land was part of the public forest estate. An appeal and a request for rectification lodged by the applicant were rejected by the Court of Cassation and the decision became final on 6 April 2015.

B. Relevant domestic law and practice

10. A description of the domestic law and practice with respect to the Compensation Commission mentioned below (paragraph 13) may be found in *Savaşçın and Others v. Turkey* (dec.), no. 15661/07, 7 June 2016.

COMPLAINTS

11. The applicant complained under Article 1 of Protocol No. 1 to the Convention that he had been deprived of his property without receiving any compensation. Relying on Article 6 of the Convention, the applicant further complained about the unfairness of the proceedings.

THE LAW

A. Alleged violation of Article 1 of Protocol No. 1 to the Convention

12. The applicant complained under Article 1 of Protocol No. 1 to the Convention that the annulment of his title deed without any compensation

constituted a disproportionate burden and thus breached his right to the peaceful enjoyment of his possessions.

13. The Court observes that a new domestic remedy has been established in Turkey following the application of the pilot judgment procedure in the case of *Ümmühan Kaplan v. Turkey* (no. 24240/07, 20 March 2012). In this regard pursuant to Law no. 6384 a new Compensation Commission had been established in Turkey to deal with applications concerning the length of proceedings, the delayed execution of judgments and the non-execution of judgments. The competence *ratione materiae* of the Compensation Commission was subsequently extended by the decrees of 16 March 2014 and 9 March 2016, which now has the competence to examine complaints concerning alleged breaches of the right to peaceful enjoyment of possessions on account of the annulment of applicants' title deeds where the land at issue is classified as part of the public forest estate.

14. The Court notes that in its decision in the case of *Savaşçın and Others v. Turkey* ((dec.), no. 15661/07, 7 June 2016), it declared the application inadmissible on the ground that the applicants had failed to exhaust domestic remedies, that is to say the new remedy. In so doing, the Court considered in particular that this new remedy was a priori accessible and capable of offering a reasonable prospect of redress for complaints concerning the annulment of the applicants' title deeds because their land was classified as part of the public forest area.

15. The Court finds no particular circumstances in the instant case which would require it to adopt a different conclusion from the one reached in *Savaşçın and Others* (cited above, §§ 17-26) and therefore concludes that the applicant should seek redress for his Convention complaint by using the new remedy under Law no. 6384.

16. The Court particularly notes that should the compensation granted at domestic level be insufficient in comparison with amounts awarded by the Court in similar cases, it would be open to the applicant to claim that he was still a "victim" within the meaning of Article 34 of the Convention and to lodge a fresh application with the Court.

17. In view of the above, the Court concludes that this part of the application should be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

B. Alleged violation of Article 6 of the Convention

18. The applicant complained under Article 6 of the Convention that the domestic proceedings had been unfair.

19. In the light of all the material in its possession and in so far as the matter complained of is within its competence, the Court concludes that this complaint does not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. Accordingly, the Court

rejects it as manifestly ill-founded, pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 1 December 2016.

Hasan Bakırcı
Deputy Registrar

Nebojša Vučinić
President