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

SECOND SECTION

DECISION

Application nos. 41253/19 and 51638/19
Tülay DELİBAŞ against Türkiye
and Durmuş İLHAN against Türkiye

The European Court of Human Rights (Second Section), sitting on 31 August 2023 as a Committee composed of:

Frédéric Krenc*, President*,
Diana Sârcu,
Davor Derenčinović*, judges*,
and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above applications lodged respectively on 23 July and 3 September 2019,

Having regard to the formal declarations accepting a friendly settlement of the cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicants' details are set out in the appended table.

The first applicant was represented by Mr L. Özçelik, a lawyer practising in Ankara, and the second applicant was self-represented.

The applicants' complaints under Article 6 § 1 of the Convention concerning the independence and impartiality of the Supreme Administrative Military Court were communicated to the Turkish Government ("the Government").

The Court received the friendly-settlement declarations, signed by the parties, under which the applicants agreed to waive any further claims against Türkiye in respect of the facts giving rise to these applications, subject to an undertaking by the Government to pay them the amounts detailed in the appended table. These amounts will be converted into Turkish liras at the rate applicable on the date of payment, and will be payable within three months from the date of notification of the Court's decision. In the event of failure to pay these amounts within the above-mentioned three-month period, the Government undertake to pay simple interest on them, 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 cases.

THE LAW

Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

The Court 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 the Protocols thereto and finds no reasons to justify a continued examination of the applications.

The Court would like to draw attention to the fact that on 31 July 2018 the Turkish Law No. 7145 entered into force. Articles 4, 17, 18 and 19 of this new law provide for a right to request the reopening of domestic court proceedings or the investigation following the Court's decision to strike out a case on the basis of a friendly settlement or unilateral declaration. According to the Court's case-law and practice, the reopening of the domestic proceedings is the most appropriate way to provide an effective solution to an alleged breach. In this connection, bearing in mind the Court's subsidiary role in protecting the rights and freedoms guaranteed by the Convention and its protocols, it is recalled that it falls in the first place to the national authorities to redress any violation of the Convention.

The Court further notes that the Supreme Military Administrative Court is abolished as of 16 April 2017 (see *Baysal v. Turkey* (dec.), no. 29698/11, 22 May 2018) and a request may be made before the Ankara Administrative Court for the reopening of the impugned proceedings.

In view of the above, the Court considers it appropriate to strike the applications out of the list.

For these reasons, the Court, unanimously,

Decides to join the applications;

Decides to strike the applications out of its list of cases in accordance with Article 39 of the Convention.

Done in English and notified in writing on 21 September 2023.

Viktoriya Maradudina Acting Deputy Registrar	Frédéric Krenc President

APPENDIX

List of applications raising complaints under Article 6 of the Convention (independent and impartial tribunal)

No.	Application no. Date of introduction	Applicant's name Year of birth	Representative's name and location	Date of receipt of Government's declaration	Date of receipt of Applicant's declaration	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses per applicant (in euros)[1]
1.	41253/19 23/07/2019	**Tülay DELİBAŞ** 1968	Levent Özçelik Ankara	09/05/2023	24/05/2023	1,500
2.	51638/19 03/09/2019	**İlhan DURMUŞ** 1977		30/05/2023	18/04/2023	1,500