CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

SECOND SECTION

DECISION

Application no. 469/03
by Mustafa DURAK
against Turkey

The European Court of Human Rights (Second Section), sitting on 8 January 2008 as a Chamber composed of:

Françoise Tulkens, *President,*
Ireneu Cabral Barreto,
Riza Türmen,
Mindia Ugrekhelidze,
Vladimiro Zagrebelsky,
Antonella Mularoni,
Dragoljub Popović, *judges,*

and Sally Dollé *Section Registrar*,

Having regard to the above application lodged on 2 October 2002,

Having regard to the decision to apply Article 29 § 3 of the Convention and examine the admissibility and merits of the case together,

Having regard to the formal declarations accepting a friendly settlement of the case.

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Mustafa Durak, is a Turkish national who was born in 1943 and lives in Izmir. He was represented before the Court by Mr Y. Durak, a lawyer practising in Izmir. The Turkish Government ("the Government") were represented by their Agent.

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

On 6 May 1983 the Land Registry Commission in Van conducted a land registry survey and established that two plots of land in the Erciş district of Van belonged to the applicant's father, along with three other persons.

The Treasury and a certain Ş.Y. challenged the Land Registry Commission's decision.

On 27 July 1983 the Land Registry Commission dismissed their objections.

On 18 August 1983 the Treasury and Ş.Y. brought a case before the Erciş Cadastre Court and requested the annulment of the decision of 27 July 1983.

On 29 August 1983 the Erciş Cadastre Court held the first hearing on the merits of the case.

On 29 June 1987 the applicant's father died. The applicant, his mother and his siblings requested to take part in the proceedings.

On 27 October 1987 the first-instance court allowed their request.

According to the information submitted to the Court by the applicant's representative on 27 October 2003, the proceedings were still pending before the Erciş Cadastre Court.

COMPLAINT

The applicant complained under Article 6 of the Convention that the proceedings before the Erciş Cadastre Court were not concluded within a reasonable time.

THE LAW

The Court received the following declaration from the Government:

> "I declare that the Government of Turkey offer to pay *ex gratia* 15,000 (fifteen thousand) euros to Mr Mustafa Durak with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.
>
> This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into new Turkish liras at the rate applicable on the date of payment and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from 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 case."

The Court received the following declaration signed by the applicant and his representative:

> "I note that the Government of Turkey are prepared to pay ex gratia the sum of 15,000 (fifteen thousand) euros to Mr Mustafa Durak with a view to securing a friendly settlement of the above-mentioned case pending before the European Court of Human Rights.
>
> This sum, which is to cover any pecuniary and non-pecuniary damage as well as costs and expenses, will be converted into new Turkish liras at the rate applicable on the date of payment, and free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. From the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.
>
> I accept the proposal and waive any further claims against Turkey in respect of the facts giving rise to this application. I declare that this constitutes a final resolution of the case."

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 its Protocols and finds no public policy 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 discontinue the application of Article 29 § 3 and 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.

Sally Dollé
Registrar

Françoise Tulkens
President