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

SECOND SECTION

DECISION

Application no. 32037/06
İzzet Kürşat ENÖN and others
against Turkey

The European Court of Human Rights (Second Section), sitting on 21 November 2017 as a Committee composed of:

Ledi Bianku, *President,*
Valeriu Griţco,
Stéphanie Mourou-Vikström, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to the above application lodged on 24 July 2006,

Having regard to the decision of 20 October 2010,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

THE FACTS

1. The applicants Mr İzzet Kürşat Enön, Ms Tülin Pilevneli and Ms Hamdiye Enön are Turkish nationals, who were born in 1952, 1942 and 1918 respectively. The applicant Boy-ver Inşaat Ticaret ve Sanayi is a company, registered in Istanbul. The applicants were represented before the Court by Mr C. Güven, a lawyer practising in Istanbul.

2. The Turkish Government ("the Government") were represented by their Agent.

A. The circumstances of the case

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

4. Following a dispute arising out of a construction permit, on 9 October 2000 the applicants initiated proceedings before the Istanbul Administrative Court against the Bakırköy Municipality. The proceedings continued until the Supreme Administrative Court rendered its final decision on 13 May 2014.

B. Relevant domestic law

5. A description of the relevant domestic law may be found in *Turgut and Others v. Turkey* ((dec.), no. 4860/09, §§ 19-26, 26 March 2013).

COMPLAINT

6. The applicants complained under Article 6 of the Convention that the length of the proceedings had been excessive.

THE LAW

7. The applicants complained that the length of the proceedings had been incompatible with the "reasonable time" requirement laid down in Article 6 § 1 of the Convention.

8. The Government noted that pursuant to Law no. 6384 a new Compensation Commission had been established to deal with applications concerning the length of proceedings and the non-execution of judgments. They maintained that the applicants had not exhausted domestic remedies, as they had not made any application to the Compensation Commission: this ground had also been recognised by the Court in its decision in the case of *Turgut and Others v. Turkey* ((dec.), no. 4860/09, 26 March 2013).

9. The Court observes that, as pointed out by the Government, 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). Subsequently, in its decision in the case of *Turgut and Others*, cited above, the Court declared a new 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 length of proceedings.

10. The Court notes that in its decision in the case of *Ümmühan Kaplan* (cited above, § 77) it stressed that it could nevertheless examine, under its

normal procedure, applications of this type which had already been communicated to the Government.

11. However, taking account of the Government's preliminary objection with regard to the obligation of the applicants to make use of the new domestic remedy established by Law no. 6384, the Court reiterates its conclusion in the case of *Turgut and Others* (cited above). It therefore concludes that the application must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

For these reasons, the Court, unanimously,

Declares the remainder of the application inadmissible.

Done in English and notified in writing on 14 December 2017.

Hasan Bakırcı
Deputy Registrar

Ledi Bianku
President