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

SECOND SECTION

DECISION

Application no. 51424/11
Mehmet ERDIL and Dudu ERDIL
against Turkey
(see appended table)

The European Court of Human Rights (Second Section), sitting on 1 July 2021 as a Committee composed of:

Branko Lubarda, *President,*
Pauliine Koskelo,
Marko Bošnjak, *judges,*

and Viktoriya Maradudina, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 1 July 2011,

Having regard to the declaration submitted by the respondent Government requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The list of applicants is set out in the appended table.

The applicants were represented by Mr M. Uyar, a lawyer practising in Adana.

The applicants' complaint under Article 6 § 1 of the Convention concerning the inability to increase their pecuniary claims during the compensation proceedings before the military administrative court were communicated to the Turkish Government ("the Government").

By a letter dated 30 November 2020, the Government informed the Court of the death of the applicant Mrs Dudu Erdil on 14 May 2013. On 21 January 2021 the applicants' representative informed the Court of the wish of the heirs, whose names are listed in the Appendix, to pursue the application and submitted the certificates of inheritance and authority forms.

THE LAW

The Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issues raised by the complaint. They further requested the Court to strike out the application in accordance with Article 37 of the Convention

The declaration provided as follows:

> "I declare that the Government of Turkey offer to pay jointly, the applicant Mehmet ERDİL and Mine HAYDAR, Zöhre DEMİR, Hanife ERTUNA as heirs of the applicant Dudu ERDİL, EUR 1,400 (one thousand and four hundred) to cover any pecuniary and non-pecuniary damage as well as costs and expenses that may be chargeable to the applicants with a view to resolving the above-mentioned case pending before the European Court of Human Rights.
>
> These sums 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 decision taken by the Court to strike the case out of its list of cases. In the event of failure to pay these sums within the said three-month period, the Government undertake to pay simple interest on them, 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 before the European Court of Human Rights.
>
> The Government of Turkey wish to express by way of unilateral declaration its consideration that the proceedings which the applicants subjected to did not meet the standards enshrined in Article 6 of the Convention in the present case.
>
> The Government further emphasize that Article 53 § 1 (1) of the Code of Administrative Procedure, as amended by Law no.7145 of 31 July 2018, now provides for the reopening of administrative court proceedings in cases where the European Court of Human Rights decides to strike an application out of its list of cases following a unilateral declaration. The Government consider that the aforementioned remedy is capable of providing redress in respect of the applicants' complaints under Article 6 § 1 of the Convention.
>
> The Government respectfully invite the Court to declare that it is no longer justified to continue the examination of the application and to strike it out of its list of cases in accordance with Article 37 of the convention."

The applicants were sent the terms of the Government's unilateral declaration on 18 March 2021. The Court has received a response from the applicants on 11 May 2021 refusing the terms of the declaration.

The Court observes that Article 37 § 1 (c) enables it to strike a case out of its list if:

> "... for any other reason established by the Court, it is no longer justified to continue the examination of the application".

Thus, it may strike out applications under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicants wish the examination of the case to be continued (see, in

particular, the *Tahsin Acar v. Turkey* judgment (preliminary objections) [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI).

The Court has established in a number of cases, including those brought against Turkey, its practice concerning complaints about the disproportionate limitation to the right of access to a court on account of the procedural rule at the time which prevented litigants from amending their pecuniary claims in the course of administrative proceedings (see *Fatma Nur Erten and Adnan Erten v. Turkey*, no. 14674/11, §§ 29-33, 25 November 2014).

Noting the admissions contained in the Government's declaration as well as the amount of compensation proposed – which is consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1 (c)).

In the light of the above considerations, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the application (Article 37 § 1 *in fine*).

Finally, the Court emphasises that, should the Government fail to comply with the terms of their unilateral declaration, the application may be restored to the list in accordance with Article 37 § 2 of the Convention (see *Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court, unanimously,

Holds that Mrs Dudu Erdil's heirs (as indicated in the Appendix) have standing to pursue the proceedings in her stead;

Takes note of the terms of the respondent Government's declaration and of the arrangements for ensuring compliance with the undertakings referred to therein;

Decides to strike the application out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Done in English and notified in writing on 22 July 2021.

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Viktoriya Maradudina
Acting Deputy Registrar

Branko Lubarda
President

APPENDIX

Application raising complaints under Article 6 § 1 of the Convention
(Access to a court)

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 comments	Amount awarded for pecuniary and non-pecuniary damage and costs and expenses (in euros)[1]
51424/11 01/07/2011	**Mehmet ERDIL** 1958 **Dudu ERDIL** 1959 *Deceased 14/05/2013* Heirs Mehmet ERDİL (1958) Zöhre DEMİR (1982) Mine HAYDAR (1984) Hanife ERTUNA (1984)	Uyar Mehmet Adana	12/03/2021	11/05/2021	1,400 *jointly to the first applicant and the heirs of the second applicant*

[1] Plus any tax that may be chargeable to the applicant