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

SECOND SECTION

DECISION

Application no. 42107/04
Hasan EROĞLU against Turkey
and 20 other applications
(see list appended)

The European Court of Human Rights (Second Section), sitting on 28 June 2016 as a Committee composed of:

Ksenija Turković, *President,*
Jon Fridrik Kjølbro,
Georges Ravarani, *judges,*

and, Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to the above applications lodged on the various dates indicated in the appended table,

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. A list of the applicants is set out in the appendix. The Turkish Government ("the Government") were represented by their Agent.

A. The circumstances of the cases

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

3. The applicants' respective plots of land were expropriated by the administration. Subsequently, pursuant to section 10 of Law no. 2942 proceedings were initiated before the first instance courts to determine the amount of compensations that should be awarded to the applicants. Based on expert reports, the domestic courts established the amount of

compensations and these judgments were subsequently upheld by the Court of Cassation. No interest was applied to the amounts paid. The details of the applications may be found in the appendix.

B. Relevant domestic law and practice

4. A description of the domestic law regarding the new remedy introduced by Law no. 6384 may be found in *Turgut and Others v. Turkey* (dec.), no. 4860/09, 26 March 2013; *Demiroğlu v. Turkey* (dec.), no. 56125/10, 4 June 2013; and *Yıldız and Yanak v. Turkey* (dec.), no. 44013/07, 27 May 2014.

COMPLAINTS

5. Relying on Article 6 and Article 1 of Protocol No. 1 to the Convention, the applicants complained about the financial loss they had suffered as a result of late payment of the expropriation amounts. In this connection, they maintained that no interest had been applied to the amounts awarded by the courts, that the payment had not been made pursuant to Article 46 of the Constitution, and that the authorities had not complied with the three and a half month time-limit in paying the awarded sums.

6. Some of the applicants also complained under Article 6 of the Convention that the domestic courts had erred in the calculation of the awards.

7. Furthermore, in some cases, the applicants alleged under Article 8 of the Convention that their right to respect for their home had been breached as a result of the expropriation.

THE LAW

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

A. Complaint regarding the alleged financial loss suffered by the applicants

9. Relying on Article 6 and Article 1 of Protocol No. 1 to the Convention, the applicants complained about the financial loss they had suffered as a result of the late payment of the expropriation amounts.

10. The Court will examine this part of the application solely under Article 1 of Protocol No. 1 to the Convention (see, *Yetiş and Others v. Turkey*, no. 40349/05, § 63, 6 July 2010, and *Güleç and Armut v. Turkey* (dec.), no. 25969/09, 16 November 2010).

11. 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 further noted that the competence of the Compensation Commission was subsequently enlarged by a decree adopted on 16 March 2014 to examine complaints relating to, among other things, the alleged loss of value of the amount of the expropriation compensation due to the effects of inflation and the length of the proceedings. Accordingly, they maintained that the applicants had not exhausted domestic remedies, as they had not made any application to the Compensation Commission.

12. 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 *Yıldız and Yanak v. Turkey* ((dec.), no. 44013/07, 27 May 2014), the Court declared an 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 depreciation of awards in expropriation cases.

13. 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 that type which had already been communicated to the Government.

14. However, taking into account the Government's preliminary objection with regard to the applicants' failure 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* ((dec.), no. 4860/09, 26 March 2013).

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

B. Other complaints

16. The applicants also raised other complaints under Articles 6 and 8 of the Convention. However, in the light of the material in its possession and in so far as the matters complained of are within its competence, the Court finds that these complaints do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols.

17. It follows that this part of the applications is manifestly ill-founded and must be rejected in accordance with the Article 35 § 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares inadmissible the applications.

Done in English and notified in writing on 21 July 2016.

Hasan Bakırcı
Deputy Registrar

Ksenija Turković
President

APPENDIX

No.	Application No and Date of Introduction	Applicant's Name, date of birth, place of residence and name of representative	Date on which the applicant initiated proceedings and plot no.	Information regarding the judgment of the first-instance courts	Information regarding the final decision of the Court of Cassation
1.	**42107/04** 06/09/2004	**Hasan Eroğlu** 06/01/1944 Niğde ***Adil Aktay***	29/03/2002 Plot no. 104/386	21/11/2003 Ulukışla Civil Court *(E : 2003/318, K : 2003/505)* 1 690 749 107 TRL	23/03/2004 *(E : 2004/691, K : 2004/2241)*
2.	**42108/04** 06/09/2004	**Ali Avcu** 05/07/1926 Horuz ***Adil Aktay***	11/03/2002 Plot no. 563 (a)	19/12/2003 Ulukışla Civil Court *(E : 2003/141, K : 2003/540)* 71 826 921 305 TRL	13/04/2004 *(E : 2004/1619, K : 2004/3036)*
3.	**42109/04** 06/09/04	**Ali Avcu** 05/07/1926 Horuz ***Adil Aktay***	11/03/2002 Plot no. 563	19/12/2003 Ulukışla Civil Court *(E : 2003/139, K : 2003/538)* 23 290 063 462 TRL	13/04/2004 *(E : 2004/1629, K : 2004/3037)*
4.	**44627/09** 10/08/2009	**Abdullah Ünlü** 20/08/1935 Karaman ***Özlem Yıldız***	28/03/2006 Plot no. 147/ 3	23/09/2008 Ermenek Civil Court *(E : 2008/40, K : 2008/274)* 33 547,63 TRY	02/03/2009 *(E : 2008/12923, K : 2009/1886)*

No.	Application No and Date of Introduction	Applicant's Name, date of birth, place of residence and name of representative	Date on which the applicant initiated proceedings and plot no.	Information regarding the judgment of the first-instance courts	Information regarding the final decision of the Court of Cassation
5.	**45988/09** 17/08/2009	**Fadime Altunay** 25/10/1965 Karaman **Mehmet Gündüz** 18/07/1968 Karaman **Hanım Çeyiz** 25/02/1972 Konya **Hakkı Altunay** 10/05/1954 Karaman **Hasan Altunay** 05/04/1935 Karaman **Fatma Altunay** 01/01/1929 Karaman **Hasibe Gündüz** 01/01/1960 Karaman ***Özlem Yıldız***	28/03/2006 Plot no. 144/ 6	23/09/2008 Ulukışka Civil Court *(E : 2008/29,* *K : 2008/264)* 38 260,09 TRY	03/03/2009 *(E : 2009/947,* *K : 2009/2088)*
6.	**47356/09** 24/08/2009	**Mehmet Ali Bakır** 19/01/1954 **Emine Altunay** 01/09/1965 **Hasan Ali Bakır** 15/10/1947 **Fatma Belen** 10/05/1952 **Ayşe Balcı** 20/03/1963 Karaman ***Özlem Yıldız***	28/03/2006 Plot no. 151/ 35	23/09/2008 Ermenek Civil Court *(E/2008/87,* *K/2008/284)* 2 298,66 TRY	02/03/2009 *(E/2008/12895,* *K/209/1885)*

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7.	**47412/09** 25/08/2009	**Fadime Armut** 13/11/1972 Karaman ***Özlem Yıldız***	28/03/2006 Plot no. 150/ 4	23/09/2008 Ermenek Civil Court *(E : 2008/129, K : 2008/286)* 3 905, 45 TRY	02/03/2009 *(E : 2008/12908, K : 2009/1884)*
8.	**47982/09** 10/08/2009	**Hasan Korkmaz** 03/07/1959 Karaman ***Adil Aktay***	28/03/2006 Plot no. 150/ 5	23/09/2008 Ermenek Civil Court *(E : 2008/39, K : 2008/273)* 14 917,71 TRY	02/03/2009 *(E : 2008/1291, K : 2009/1889)*

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9.	**47987/09** 10/08/2009	**Ayşe Başcı** 12/02/1931 Karaman **İsmail Keşyapan** 01/12/1977 Karaman **Serkan Keşyapan** 07/02/1982 Karaman **Erdal Keşyapan** 01/03/1980 Karaman **Zehra Keşyapan** 03/10/1952 Karaman **Mehmet Ali Başçı** 06/05/1949 Karaman **Fadime Şimşek** 25/06/1959 Karaman **Kamil Başçı** 01/02/1962 Karaman **Mehmet Başçı** 01/04/1967 Karaman **Şerife Yaldız** 07/04/1970 Karaman **Ahmet Başçı** 15/01/1955 Karaman ***Adil Aktay***	28/03/2006 Plot no. 146/ 8	23/09/2008 Ermenek Civil Court *(E : 2008/46,* *K : 2008/283)* 42 836,91 TRY	02/03/2009 *(E : 2008/12922,* *K : 2009/1887)*

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10.	**49789/09** 15/08/2009	**Özdemir Dede** 01/03/1945 Karaman ***Özlem Yıldız***	23/02/2006 Plot no. 101/ 17	01/09/2008 Ermenek Civil Court *(E : 2008/26, K : 2008/241)* 28 946,09 TRY	16/03/2009 *(E : 209/1824, K : 2009/2608)*
11.	**49799/09** 15/08/2009	**Teslime Toklu** 15/01/1959 Karaman ***Özlem Yıldız***	23/02/2006 Plot no. 101/ 10	01/09/2008 Ermenek Civil Court *(E : 2008/25, K : 2008/240)* 13 924,44 TRY	30/03/2009 *(E : 2009/2988, K : 2009/3408)*
12.	**53149/09** 29/09/2009	**Şefika Demir** 11/02/1949 Karaman ***Özlem Yıldız***	09/10/2006 Plot no. 139/ 13	30/12/2008 Ermenek Civil Court *(E : 2008/53, K : 2008/362)* 149 859,09 TRY	30/03/2009 *(E : 2009/2998, K : 2009/3407)*
13.	**53152/09** 29/09/2009	**Hatice Kalkan** 01/01/1927 Karaman ***Özlem Yıldız***	09/10/2006 Plot no. 140/ 4	30/12/2008 Ermenek Civil Court *(E : 2008/58, K : 2008/366)* 165 735, 40 TRY	30/03/2009 *(E : 2009/2996, K : 2009/3406)*
14.	**53691/09** 05/10/2009	**Mustafa Kalkan** 20/08/1945 Karaman ***Özlem Yıldız***	09/10/2006 Plot no. 140/ 3	30/12/2008 Ermenek Civil Court *(E : 2008/57, K : 2008/365)* 45 544,62 TRY	06/04/2009 *(E : 2009/2990, K : 2009/3772)*

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15.	**53692/09** 05/10/2009	**Mehmet Başçı** 03/03/1955 Karaman ***Özlem Yıldız***	09/10/2006 Plot no. 139/ 31	30/12/2008 Ermenek Civil Court *(E : 2008/56, K : 2008/364)* 233 995,97 TRY	06/04/2009 *(E : 2009/2997, K : 2009/3775)*
16.	**53694/09** 05/10/2009	**Mehmet Başçı** 01/04/1967 Karaman ***Özlem Yıldız***	09/10/2006 Plot no. 139/ 5	30/12/2008 Ermenek Civil Court *(E : 2008/132, K : 2008/370)* 71 449,34 TRY (paid on 30/12/2008)	06/04/2009 *(E : 2009/2992, K : 2009/3770)*
17.	**53698/09** 05/10/2009	**Osman Tuna** 20/03/1951 Karaman ***Özlem Yıldız***	09/10/2006 Plot no. 151/ 37	30/12/2008 Ermenek Civil Court *(E : 2008/59, K : 2008/367)* 76 827,50 TRY (paid on 31/12/2008)	06/04/2009 *(E : 2009/2999, K : 2009/3771)*
18.	**54814/09** 05/10/2009	**Emine Altunay** 01/01/1938 Karaman ***Özlem Yıldız***	09/10/2006 Plot no. 151/ 33	30/12/2008 Ermenek Civil Court *(E : 2008/60, K : 2008/368)* 208 562,67 TRY (paid on 31/12/2008)	06/04/2009 *(E : 2009/2995, K : 2009/3773)*

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19.	**54842/09** 05/10/2009	**Mustafa Kalkan** 20/08/1945 Karaman ***Özlem Yıldız***	09/10/2006 Plot no. 139/ 12	30/12/2008 Ermenek Civil Court *(E : 2008/52,* *K : 2008/361)* 180 864,63 TRY (paid on 30/12/2008)	06/04/2009 *(E : 2009/2991,* *K : 2009/3774)*
20.	56460/09 12/10/2009	**Asiye Yeşilyaprak** 10/11/1957 Karaman **Emine Dağ** 15/07/1966 Ermenek **Salahaddin Şimşek** 15/10/1968 Karaman **Erol Şimşek** 25/07/1972 Karaman **Ali Şimşek** 04/08/1960 Karaman ***Özlem Yıldız***	09/10/2006 Plot no. 128/ 1	30/12/2008 Ermenek Civil Court *(E : 2008/50,* *K : 2008/360)* 446 268,96 TRY (paid on 30/12/2008)	13/04/2009 *(E : 2009/2989,* *K : 2009/4075)*
21.	56478/09 12/10/2009	**Mehmet Başçı** 03/03/1955 Karaman ***Özlem Yıldız***	09/10/2006 Plot no. 139/ 30	30/12/2008 Ermenek Civil Court *(E : 2008/55,* *K : 2008/363)* 846 795, 26 TRY (paid on 30/12/2008)	13/04/2009 *(E : 2009/3000,* *K : 2009/4076)*