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

SECOND SECTION

DECISION

Application no. 35566/06
Özlem GEZER
against Turkey

The European Court of Human Rights (Second Section), sitting on 8 November 2016 as a Committee composed of:

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

Having regard to the above application lodged on 28 August 2006,

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

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Ms Özlem Gezer, is a Turkish national, who was born in 1980 and lives in Diyarbakır. She was represented before the Court by Mr M. Tanrıkulu, a lawyer practising in Diyarbakır. The Turkish Government ("the Government") were represented by their Agent.

A. The circumstances of the case

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

3. After having succeeded in a general exam to become a civil servant, on an unspecified date the applicant applied to a vacancy at the Harran University to become a security guard.

4. On 5 September 2000 her application was rejected as the university administration did not find her fit to work as a security guard. It was

indicated that according to the regulations, in order to become eligible as a security guard, a minimum height of 1.75 metres was obligatory.

5. The applicant initiated administrative proceedings to have the annulment of this decision and the proceedings commenced before the Gaziantep Administrative Court.

6. According to the latest information in the case file, as of 21 November 2012 the proceedings were still pending before the first instance court.

B. Relevant domestic law

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

COMPLAINTS

8. The applicant complained under Article 6 § 1 of the Convention that the proceedings before the national courts had not been concluded within a reasonable time. She further alleged under Article 13 of the Convention that she did not have an effective remedy in respect of her complaint.

9. The applicant further invoked Articles 8 and 14, and Article 1 of Protocol No. 1 to the Convention and maintained that the refusal of the authorities to appoint her as a security guard constituted a breach of her rights.

THE LAW

A. Alleged violation of Articles 6 § 1 of the Convention

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

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. Accordingly, they maintained that the applicant had not exhausted domestic remedies, as she 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 *Turgut and Others* ((dec.), no. 4860/09, 26 March 2013), 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 applicant's 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*, cited above.

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

B. Article 13 of the Convention

16. The applicant further complained that there was no effective remedy under Turkish law concerning lengthy judicial proceedings.

17. The Court recalls that the Compensation Commission established by Law No. 6384 provides for a remedy to the applicants within the meaning of Article 13 of the Convention to complain about the length of proceedings for the purposes of Article 6 § 1 of the Convention relating to all applications pending before the Court submitted before 23 September 2012 (*Turgut and Others*, cited above, § 59; and *İnan v. Turkey* (dec.) no. 14129/11, §§ 43-46, 4 November 2014).

18. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with Article 35 §§ 3 (a) and 4 of the Convention.

C. Other alleged violations of the Convention

19. The applicant also raised other complaints under Articles 8, 14 and Article 1 of Protocol No. 1.

20. 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.

21. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with the Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 1 December 2016.

Hasan Bakırcı
Deputy Registrar

Nebojša Vučinić
President