

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

SECOND SECTION

DECISION

Application no. 20518/08
Bülent GÜRAKIN
against Turkey

The European Court of Human Rights (Second Section), sitting on 26 March 2013 as a Committee composed of:

Dragoljub Popović, *President,*
Paulo Pinto de Albuquerque,
Helen Keller, *judges,*

and Françoise Elens-Passos, *Deputy Section Registrar,*

Having regard to the above application lodged on 28 March 2008,

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

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Bülent Gürakın, is a Turkish national, who was born in 1961 and lives in Muğla. He was represented before the Court by Mr Ş. Karakış and Ms S. Kızıl, lawyers practising in Istanbul and Hatay.

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

3. On 13 October 2003 the applicant brought compensation proceedings against a third person for his failure to comply with a contract concerning the sale of a property.

4. On 26 May 2008 the Izmir Civil Court of General Jurisdiction delivered a judgment in the applicant's favour. The court indicated that in

addition to compensation, the defendant party was to pay the court fees of 1,018 Turkish liras.However, the other party failed to pay the said fees.

5. Consequently, the applicant could not have the judgment executed as Sections 28 § 1 (a) and 32 of the Law on Fees (Law no. 492) provided that the copy of the judgment could not be served on the parties and the judgment could not be executed unless the fees for the judgment and the writ of execution were paid.

6. The applicant complained under Article 6 § 1 of the Convention that the civil proceedings had lasted for an excessively long period of time.

7. Relying upon the same Article, he further maintained that his right of access to court was violated in that he could not have the judgment in his favour executed due to the other party's failure to pay the required court fees.

8. On 17 February 2011, the complaints were communicated to the Government.

9. On 18 January 2012 and 7 June 2012 the Court received friendly settlement declarations signed by the parties under which the applicant agreed to waive any further claims against Turkey in respect of the facts giving rise to this application against an undertaking by the Government to pay him the outstanding judgment debt and EUR 4,100 (four thousand one hundred euros) to cover any and all pecuniary and non-pecuniary damage as well as costs and expenses, which will be converted into Turkish liras at the rate applicable on the date of payment, and will be 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. In the event of failure to pay this sum within the said three-month period, the Government undertook to pay simple interest on it, from the 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 LAW

10. 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 reasons to justify a continued examination of the application.

11. In view of the above, it is appropriate 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 in accordance with Article 39 of the Convention.

Françoise Elens-Passos Deputy Registrar	Dragoljub Popović President