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

SECOND SECTION

DECISION

Application no. 69775/11
Çilem İLASLAN
against Turkey

The European Court of Human Rights (Second Section), sitting on 14 June 2016 as a Committee composed of:

Paul Lemmens, *President,*
Ksenija Turković,
Jon Fridrik Kjølbro, *judges,*

and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to the above application lodged on 7 October 2011,

Having regard to the declaration submitted by the respondent Government on 16 November 2015 requesting the Court to strike the application out of the list of cases,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

The applicant, Ms Çilem İlaslan, is a Turkish national, who was born in 1984 and lives in Istanbul. She was represented before the Court by Mrs G. Altay and Mr H. Karakuş, lawyers practising in Istanbul. The Turkish Government ("the Government") were represented by their Agent.

At the material time, the applicant was the owner and executive director of a bi-weekly newspaper, *Özgür Gelecek.* Relying on Articles 6, 7, 10 and 13 of the Convention and Article 1 of Protocol No. 1, the applicant complained about the domestic courts' decisions dated 8 July and 15 July 2011 to suspend the publication and distribution of *Özgür Gelecek*, for a period of one month under section 6(5) of the Prevention of Terrorism Act (Law no. 3713), without holding an oral hearing or obtaining her defence submissions and without granting her the possibility of participating in the proceedings.

On 4 November 2014 the application was communicated to the Government.

THE LAW

The applicant relies on Articles 6, 7, 10 and 13 of the Convention and on Article 1 of Protocol No. 1.

After the failure of attempts to reach a friendly settlement, by a letter of 16 November 2015 the Government informed the Court that they proposed to make a unilateral declaration with a view to resolving the issue raised by the application. 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 the Republic of Turkey offers to pay to the applicant, Ms Çilem İlaslan, the amount of 1 500 EUR (one thousand and five hundred euros), to cover any and all pecuniary and non-pecuniary damage and 750 EUR (seven hundred and fifty euros), to cover all costs and expenses, plus any tax that may be chargeable to the applicant; which is considered to be appropriate in the light of the jurisprudence of the Court.
>
> These sums, which are to cover any pecuniary and non-pecuniary damage as well as costs and expenses will be converted into the national currrency at the rate applicable on the date of payment, and will be free of any further taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month-period, the Government undertake to pay simple interest on it, from expiry of that period until the 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 Government wishes to express that the interference in this case does not conform with the requirements of the Convention. In addition, Article 6(5) of the Prevention of Terrorism Act (Law no. 3713), which constitutes the basis of the present application, was abolished by Section 105 (2) of Law no. 6352 (2 July 2012) in the light of the Court's jurisprudence concerning the subject matter (see Ürper and others v. Turkey, nos. 14526/07, 14747/07, 15022/07, 15737/07, 36137/07, 47245/07, 50371/07, 50372/07 and 54637/07, § 52, 20 October 2009). The Government invites the Court to declare that it is not justified anymore to continue the examination of the application and to strike the case out of its list in accordance with Article 37 of the Convention."

By a letter of the Registry dated 30 November 2015, the applicant was invited to submit any comments which she might wish to make by 15 January 2016. The applicant failed to respond to this letter.

The Court recalls that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified

under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular 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".

It also recalls that in certain circumstances, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wishes the examination of the case to be continued.

To this end, the Court will examine carefully the declaration in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey*, [GC], no. 26307/95, §§ 75-77, ECHR 2004-III; see also *WAZA Spółka z o.o. v. Poland* (dec.) no. 11602/02, 26 June 2007, and *Sulwińska v. Poland* (dec.), no. 28953/03, 18 September 2007).

The Court has established in a number of cases, including those brought against Turkey, its case-law concerning complaints about the violation of one's freedom of expression as a result of court orders suspending the publication of newspapers under section 6(5) of Law no. 3713 (see, among others, *Ürper and Others,* nos. 14526/07, 14747/07, 15022/07, 15737/07, 36137/07, 47245/07, 50371/07, 50372/07 and 54637/07, 20 October 2009).

Having regard to the nature of the admissions contained in the Government's declaration and the fact that section 6(5) of Law no. 3713 was abolished with effect from 2 July 2012, as well as the amount of compensation proposed – which is consistent with the amounts awarded by the Court in similar cases – the Court considers that it is no longer justified to continue the examination of the application (Article 37 § 1 (c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, 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 could be restored to the list in accordance with Article 37 § 2 of the Convention (*Josipović v. Serbia* (dec.), no. 18369/07, 4 March 2008).

For these reasons, the Court, unanimously,

Takes note of the terms of the respondent Government's declaration and of the modalities 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 7 July 2016.

Hasan Bakırcı
Deputy Registrar

Paul Lemmens
President