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

SECOND SECTION

DECISION

Application no. 64999/09
Mehmet KARAHAN
against Turkey

The European Court of Human Rights (Second Section), sitting on 1 October 2013 as a Committee composed of:
Peer Lorenzen, *President,*
András Sajó,
Nebojša Vučinić, *judges,*
And Seçkin Erel, *Acting Deputy Section Registrar,*
Having regard to the above application lodged on 20 November 2009,
Having deliberated, decides as follows:

# THE FACTS

The applicant, Mr Mehmet Karahan, is a Turkish national, who was born in 1966 and was detained in Tekirdağ at the time he introduced his application.

## A. The circumstances of the case

The facts of the case, as submitted by the applicant, may be summarized as follows.

On an unspecified date, the applicant lodged a petition with the Denizli Execution Court and praised the imprisoned leader of the PKK (Kurdish Workers' Party).

On 2 April 2007 criminal proceedings were brought against the applicant by the İzmir Public Prosecutor.

On 24 April 2008 İzmir Assize Court found the applicant guilty of the offence of making terrorist propaganda on behalf of an illegal organization under Article 7 § 2 of the Prevention of Terrorism and sentenced him to one year's imprisonment.

On 1 March 2011 the Court of Cassation quashed the judgment of the first-instance court.

The case is still pending before the national court.

### B. Relevant domestic law

A description of the relevant domestic law may be found in (see *Hasan Uzun v. Turkey* ((dec.), no. 10755/13, §§ 68-71, 30 April 2013).

## COMPLAINTS

The applicant contends under Article 10 of the Convention that the institution of criminal proceedings against him for lodging a petition constituted an unjustified interference with his right to freedom of expression.

The applicant further complains under Article 6 of the Convention that he has been denied a fair hearing as the domestic judicial authorities erred in the assessment of the evidence and the establishment of the facts.

## THE LAW

The Court observes that in the instant case the proceedings against the applicant are still pending before the national court.

Having examined the main aspects of the new remedy before the Turkish Constitutional Court, the Court found that the Turkish Parliament had entrusted that court with powers that enabled it to provide, in principle, direct and speedy redress for violations of the rights and freedoms protected by the Convention, in respect of all decisions that had become final after 23 September 2012, and declared it as a remedy to be used (*Hasan Uzun v. Turkey*, cited above, §§ 68-71).

Accordingly, the applicant should avail himself of the new remedy before the Turkish Constitutional Court offered by Law no. 6216 (*ibidem*).

It follows that this complaint must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

For these reasons, the Court unanimously

*Declares* the application inadmissible.

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| Seçkin Erel | Peer Lorenzen |
| Acting Deputy Registrar | President |