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

SECOND SECTION

DECISION

Application no. 24241/09
Özkan KART
against Turkey

The European Court of Human Rights (Second Section), sitting on 31 May 2016 as a Committee composed of:
Paul Lemmens, *President,*
Ksenija Turković,
Jon Fridrik Kjølbro, *judges,*
and Milan Blaško*, Acting Deputy Section Registrar,*
Having regard to the above application lodged on 2 April 2009,
Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Özkan Kart, is a Turkish national, who was born in 1983 and is detained in Ankara. He was represented before the Court by Mr Murat Vargün and Ms Derya Bayır, lawyers practising in Troisdorf and Istanbul.

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

A. The circumstances of the case

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

4. The applicant was detained in the Sincan F-type Prison when the present application was lodged. On 21 January 2009 the prison's letter reading committee decided to withhold the applicant's two letters on the grounds that their content could not be understood since they had been written in Kurdish.

5. The applicant's objections to set aside the letter reading committee's decisions were rejected by Ankara Enforcement Judge on 30 January 2009.

6. On 17 February 2009, Ankara Assize Court further dismissed the applicant's appeals.

B. Relevant domestic law

1. Regarding the prisoners' right to correspondence

7. A full description of the domestic law and practice at the relevant time may be found in *Mehmet Nuri Özen and Others v. Turkey* (nos. 15672/08, 24462/08, 27559/08, 28302/08, 28312/08, 34823/08, 40738/08, 41124/08, 43197/08, 51938/08 and 58170/08, §§ 30-34, 11 January 2011).

2. Regarding the competence of the Compensation Commission established by Law no. 6384

8. A full description of domestic law may be found in *Yıldız and Yanak v. Turkey* ((dec.), no. 44013/07, §§ 9-17, 21 May 2014) and *Özbil v. Turkey* ((dec.), no. 45601/09, § 6, 22 October 2015).

COMPLAINT

9. The applicant complained of an interference with his right to respect for his correspondence on account of the fact that the prison administration refused to send his two letters drafted in Kurdish.

THE LAW

10. The Government noted that following the pilot judgment procedure applied in the case of *Ümmühan Kaplan v. Turkey* (no. 24240/07, 20 March 2012), on 9 January 2013 the Turkish National Assembly enacted Law no. 6384 on the resolution, by means of compensation, of applications lodged with the Court concerning length of judicial proceedings and non-enforcement or delayed enforcement of judicial decisions. The competence of the Compensation Commission was subsequently enlarged by a decree adopted on 10 February 2014, and published in the Official Gazette on 16 March 2014 to examine complaints relating to, among other issues, complaints lodged by detainees/prisoners about the restriction of the right of detainees to correspond or to communicate in a language other than Turkish. In the light of the foregoing, the Government asked the Court to

reject the application for non-exhaustion of domestic remedies, since the applicant had not applied to the Compensation Commission.

11. The Court observes that, as pointed out by the Government, a new domestic remedy has been established in Turkey. It further recalls that it has already examined similar applications and declared them inadmissible on the grounds that the applicants had failed to exhaust domestic remedies, that is to say the new remedy (see *Çelik v. Turkey* (dec.), no. 23772/13, 16 June 2015). 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 similar complaints.

12. Taking into account the Government's 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 v. Turkey* ((dec.), no. 4860/09, 26 March 2013). It therefore concludes that the application should 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.

Done in English and notified in writing on 23 June 2016.

Milan Blaško
Acting Deputy Registrar

Paul Lemmens
President