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

SECOND SECTION

DECISION

Application no. 8388/09
Kemal KILIÇ
against Turkey

The European Court of Human Rights (Second Section), sitting on 5 September 2017 as a Committee composed of:

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

Having regard to the above application lodged on 5 February 2009,

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, Mr Kemal Kılıç, is a Turkish national, who was born in 1954 and lives in İzmir. He was represented before the Court by Mr M. N. Eldem, a lawyer practising in Ankara.

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. At the time of events, the applicant was a teacher and a vice principle at a high school.

5. On various dates several disciplinary sanctions were imposed the applicant for abuse of office.

6. The applicant filed separate actions, requesting the annulment of the respective disciplinary sanctions imposed on him.

7. Both cases filed by the applicant were dismissed by the İzmir Administrative Court on 28 December 2005 and 12 May 2005 respectively. The applicant did not file an appeal against the judgment of 28 December 2005.

8. During the appeal proceedings, the Chief Public Prosecutor at the Supreme Administrative Court delivered his written opinion on the case and without raising any new issues; he invited the court to uphold the decision of 12 May 2005. This opinion was not notified to the applicant.

9. The applicant's appeal against the judgment of 12 May 2005 was further rejected in 5 November 2007.

10. On 20 June 2008 the applicant's rectification request was rejected. The final decision was served on the applicant on 6 August 2008.

B. Relevant domestic law

11. The description of the relevant domestic law may be found in *Kılıç and others v. Turkey* ((dec.), no. 33162/10, §§ 10-13, 3 December 2013).

COMPLAINTS

12. The applicant complained under Article 6 § 1 of the Convention that the non-communication of the Chief Public Prosecutor's written opinion during the appeal proceedings before the Supreme Administrative Court had violated his right to an adversarial and fair hearing.

13. Referring to both sets of administrative proceedings, the applicant further complained under Article 6 § 1 of the Convention that the domestic courts did not adequately examine his claims and dismissed them without sufficient reasoning.

14. Invoking Article 6 § 2 of the Convention, the applicant alleged that the disciplinary sanctions that were imposed on him were unfair and had no basis.

15. Relying on Article 13 of the Convention, the applicant argued that there was no effective domestic remedy whereby he could challenge the disciplinary measures unfairly enforced against him.

THE LAW

A. Non-communication of the Chief Public Prosecutor's written opinion

16. The applicant complained that the non-communication of the Chief Public Prosecutor's written opinion during the appeal proceedings before the Supreme Administrative Court had violated his right to an adversarial and fair hearing. In this respect, he relied on Article 6 § 1 of the Convention.

17. The Court notes that it has already examined the same issue in the case of *Kılıç and others v. Turkey* ((dec.), no. 33162/10, §§ 19-23, 3 December 2013) and considered that the applicants had not suffered a significant disadvantage. Accordingly, it has declared this complaint inadmissible in accordance with Article 35 § 3 (b) of the Convention.

18. Having in particular regard to the content of the respective written opinion filed by the Chief Public Prosecutor in the proceedings before the Supreme Administrative Court (see paragraph 10 above), the Court finds no particular reasons in the present application which would require it to depart from its findings in the aforementioned case.

19. In the light of the foregoing, this complaint is inadmissible and must be rejected pursuant to Article 35 §§ 3 (b) and 4 of the Convention.

B. Other Complaints

20. The applicant raised further complaints under Articles 6 and 13 of the Convention.

21. 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.

22. It follows that this part of the application must be declared inadmissible as being manifestly ill-founded, pursuant to 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 28 September 2017.

Hasan Bakırcı
Deputy Registrar

Ledi Bianku
President