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

SECOND SECTION

DECISION

Application no.34550/06
Hasan KILIÇ
against Turkey

The European Court of Human Rights (Second Section), sitting on 21 November 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 1 August 2006,

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 Hasan Kılıç, is a Turkish national, who was born in 1956 and lives in Mardin. He was represented before the Court by Ms A. Bingöl Demir, a lawyer practising in 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 is a civil servant. Following a decision regarding his appointment to a different post, on 22 April 1999 the applicant initiated administrative proceedings before the Diyarbakır Administrative Court to have the decision annulled. On 15 June 2000 the first instance court found

in line with the applicant's request. Upon the appeal filed by the defendant party, on 15 March 2004 the Supreme Administrative Court quashed the decision of the Diyarbakır Administrative Court.

5. On 20 April 2006 the Diyarbakır Administrative Court dismissed the applicant's case, following the reasoning of the Supreme Administrative Court.

6. On 12 March 2007 the judgment was upheld by the Supreme Administrative Court.

B. Relevant domestic law

7. A description of the relevant domestic law may be found in *Turgut and Others v. Turkey* ((dec.), no. 4860/09, §§ 19-26, 26 March 2013).

COMPLAINTS

8. The applicant complained under Article 6 of the Convention that the length of the proceedings had been excessive.

9. The applicant alleged under Article 1 of Protocol No. 1 to the Convention that as a result of unjust court decisions, he had suffered pecuniary loss.

THE LAW

10. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement laid down in Article 6 § 1 of the Convention.

11. The Government noted that pursuant to Law no. 6384 a new Compensation Commission had been established to deal with applications concerning the length of proceedings and the non-execution of judgments. They maintained that the applicant had not exhausted domestic remedies, as he had not made any application to the Compensation Commission: this ground had also been recognised by the Court in its decision in the case of Turgut and Others v. Turkey ((dec.), no. 4860/09, 26 March 2013).

12. The Court observes that, as pointed out by the Government, a new domestic remedy has been established in Turkey following the application of the pilot judgment procedure in the case of *Ümmühan Kaplan v. Turkey* (no. 24240/07, 20 March 2012). Subsequently, in its decision in the case of *Turgut and Others*, cited above, the Court declared a new application inadmissible on the ground that the applicants had failed to exhaust

domestic remedies, that is to say the new remedy. 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 complaints concerning the length of proceedings.

13. The Court notes that in its judgment in the case of *Ümmühan Kaplan* (cited above, § 77) it stressed that it could nevertheless examine, under its normal procedure, applications of this type which had already been communicated to the Government.

14. However, taking account of the Government's preliminary 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* (cited above). It therefore concludes that the complaint of the excessive length of the civil proceedings must be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

15. In so far as the applicant's complaint raised under Article 1 of Protocol No. 1 to the Convention, the Court considers that, in the light of the material in its possession and in so far as the matters complained of are within its competence, this complaint does not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application is manifestly ill-founded and must be rejected in accordance with the Article 35 § 3 and 4 of the Convention.

For these reasons, the Court, unanimously,

Declares the application inadmissible.

Done in English and notified in writing on 14 December 2017.

Hasan Bakırcı
Deputy Registrar

Ledi Bianku
President