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

SECOND SECTION

DECISION

Application no. 24702/14
Hüseyin KISAKOL
against Turkey

The European Court of Human Rights (Second Section), sitting on 26 April 2016 as a Committee composed of:

Valeriu Griţco, *President,*
Stéphanie Mourou-Vikström,
Georges Ravarani, *judges,*

and Milan Blaško, *Acting Deputy Section Registrar,*

Having regard to the above application lodged on 26 March 2014,

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Hüseyin Kısakol, is a Turkish national, who was born in 1962 and lives in Ankara. He was represented before the Court by Mr L. Ercan and Mr H. Oz, lawyers practising in Ankara.

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

3. On 19 January 2006 the applicant brought an action before the Afşin Civil Court of First Instance acting as a Labour Court with a view to obtaining compensation.

4. On 22 January 2008 the first instance court ordered the municipal authority to pay the applicant a certain amount on account of salary arrears and social insurance contributions, plus the costs of the civil proceedings. On 20 May 2013 the Court of Cassation upheld the judgment.

5. In the meantime, on 27 February 2008 the applicant filed a request for the enforcement of the above judgment. The enforcement order was notified to the local authority. According to the information provided by the applicant, the final judgment in his favour remains unenforced.

COMPLAINTS

6. The applicant complained under Article 6 § 1 of the Convention and Article 1 of Protocol No. 1 of the respondent State's failure to enforce the final court decision rendered in his favour.

THE LAW

7. Relying on Article 6 and Article 1 of Protocol No. 1 to the Convention, the applicant complained of the non-enforcement of the domestic decision given in his favour.

8. The Court recalls that under Article 35 § 1 of the Convention it "may only deal with the matter after all domestic remedies have been exhausted". The purpose of the exhaustion rule is to afford the Contracting States the opportunity of preventing or putting right the violations alleged against them before those allegations are submitted to the Court. Accordingly, this rule requires applicants first to use the remedies provided by the national legal system, thus dispensing States from answering before the European Court for their acts. Yet, the rule is based on the assumption that the domestic system provides an effective remedy in respect of the alleged breach (see *Aydemir and Others* (dec.), nos. 9097/05, 9491/05, 9498/05, 9500/05, 9505/05, and 9509/05, 9 November 2010; *İçyer v. Turkey* (dec.), no. 18888/02, 12 January 2006; and *Latak v. Poland* (dec.), no. 52070/08, § 75, 12 October 2010).

9. Having examined the new remedy before the 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 (*Uzun v. Turkey* (dec.), no. 10755/13, §§ 68-71, 30 April 2013).

10. The Court observes that the proceedings before the domestic courts became final on 20 May 2013 and the applicant did not file an application with the Constitutional Court pursuant to Law no. 6216 (ibidem).

11. It follows that the application 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.

Done in English and notified in writing on 19 May 2016.

Milan Blaško
Acting Deputy Registrar

Valeriu Griţco
President