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

SECOND SECTION

DECISION

Application no. 28249/06
Ramazan KIZMAZ against Turkey
and 2 other applications
(see list appended)

The European Court of Human Rights (Second Section), sitting on 20 September 2016 as a Chamber composed of:

Julia Laffranque, *President,*
Işıl Karakaş,
Nebojša Vučinić,
Valeriu Griţco,
Ksenija Turković,
Jon Fridrik Kjølbro,
Georges Ravarani, *judges,*

and Hasan Bakırcı, *Deputy Section Registrar*,

Having regard to the above applications lodged on 3 July 2006,

Having regard to the partial decision of 8 June 2010,

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having deliberated, decides as follows:

THE FACTS

1. The applicants, whose details are set out in the appendix, are Turkish nationals. They are represented before the Court by Mr Mahmut Birlik, a lawyer practising in Şanlıurfa. The Turkish Government ("the Government") were represented by their Agent.

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

A. The circumstances of the case

3. In 2000, the Ministry of Energy and Natural Resources ("the Ministry") expropriated certain plots of land belonging to the applicants for construction of a dam in Birecik. The applicants initiated compensation proceedings for additional compensation plus interest at the statutory rate. The payments were made five to six years after the date of expropriation. The details of the applications appear in the attached table.

B. Relevant domestic law

4. 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).

COMPLAINT

5. The applicants complained under Article 6 § 1 of the Convention that the proceedings before the national courts had not been concluded within a reasonable time.

THE LAW

6. The applicants complained that the length of the proceedings had been incompatible with the "reasonable time" requirement, laid down in Article 6 § 1 of the Convention, which reads as follows:

> "In the determination of his civil rights and obligations ..., everyone is entitled to a ... hearing within a reasonable time by a ... tribunal..."

7. 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. Accordingly, they maintained that the applicants had not exhausted domestic remedies, as they had not made any application to the Compensation Commission.

8. 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* ((dec.), no. 4860/09, 26 March 2013), the Court declared the 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.

9. 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 that type which had already been communicated to the Government.

10. However, taking into account the Government's preliminary objection with regard to the applicants' 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).

11. In view of the above, the Court concludes that the applications 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 applications inadmissible.

Done in English and notified in writing on 13 October 2016.

Hasan Bakırcı
Deputy Registrar

Julia Laffranque
President

APPENDIX

Application No. Applicant's Date of birth Place of Residence	Number of first instance court decision and date of final decision delivered by the Court of Cassation	Date of execution	Total length of proceedings
28249/06 Ramazan Kızmaz (1934) Şanlıurfa	Birecik Civil Court 2000/804 E. 2000/2944K 05.11.2001 (plot no. 372)	03.05.2006	6 years
28250/06 Ayney Kızmaz (1934) Şanlıurfa	Birecik Civil Court 2001/258 E. 2001/552 K. 05.11.2001 (plot no. 1677)	03.05.2006	5 years, 11 months
28251/06 Fatma Demir (1966) Mehmet Demir (1969) Şanlıurfa	Birecik Civil Court 2001/261 E. 2001/555 K. 12.11.2001 (plot no. 1751)	03.05.2006	5 years, 11 months