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

SECOND SECTION

DECISION

Application no. 38924/11
Ali MERCAN
against Turkey

The European Court of Human Rights (Second Section), sitting on 14 June 2016 as a Committee composed of:

Paul Lemmens, *President,*
Ksenija Turković,
Jon Fridrik Kjølbro, *judges,*

and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to the above application lodged on 9 May 2011,

Having regard to the declaration submitted by the respondent Government on 28 September 2015 requesting the Court to strike the application out of the list of cases and the applicant's reply to that declaration,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Ali Mercan, is a Turkish national, who was born in 1984 and lives in Iğdır. He was represented before the Court by Mr H. Üstündağ, a lawyer practising in İzmir.

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

3. The applicant complained under Article 5 § 1 of the Convention about the disciplinary room confinement sanction imposed on him by his military superior as a disciplinary measure.

4. The application was communicated to the Government.

5. After unsuccessful friendly-settlement negotiations, by a letter dated 28 September 2015 the Government informed the Court that they proposed

to make a declaration with a view to resolving the issues raised by the application.

6. The declaration provided as follows:

> "The Government hereby wishes to express by the way of unilateral declaration that the applicant's detention by order of his high-ranking commander does not meet the standards enshrined in Article 5 § 1 of the Convention.
>
> Consequently, the Government is prepared to pay the applicant 2,800 (two thousand and eight hundred) Euros to cover any pecuniary and non-pecuniary damage. This sum will be converted into the national currency at the rate applicable on the date of payment, and will be free of any further taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court pursuant to Article 37 § 1 of the European Convention on Human Rights. In the event of failure to pay this sum within the said three-month period, the Government undertake to pay simple interest on it, from the expiry of that period until settlement, at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points. The payment will constitute the final resolution of the case.
>
> The Government therefore invites the Court to strike the present case out of the list of cases. They suggest that the present declaration might be accepted by the Court as "any other reason" justifying the striking out of the case of the Court's list of cases, as referred to in Article 37 §1 (c) of the Convention."

7. On 19 January 2016 the Court received a letter from the applicant informing the Court that he had agreed to the terms of the Government's declaration.

THE LAW

8. The Court finds that following the applicant's express agreement to the terms of the declaration made by the Government the case should be treated as a friendly settlement between the parties.

9. It therefore takes note of the friendly settlement reached between the parties. It is satisfied that the settlement is based on respect for human rights as defined in the Convention and its Protocols and finds no reasons to justify a continued examination of the application.

10. In view of the above, it is appropriate to strike the case out of the list.

For these reasons, the Court, unanimously,

Decides to strike the application out of its list of cases pursuant to Article 39 of the Convention.

Done in English and notified in writing on 7 July 2016.

Hasan Bakırcı
Deputy Registrar

Paul Lemmens
President