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

SECOND SECTION

DECISION

Applications nos. 4653/06 and 20131/06
Hasan OKUR and Hüseyin OKUR against Turkey
and Sıdıka KOCAKUŞAK and others against Turkey

The European Court of Human Rights (Second Section), sitting on 8 November 2016 as a Committee composed of:

Ksenija Turković, *President,*
Jon Fridrik Kjølbro,
Georges Ravarani, *judges,*

and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to the above applications lodged on 25 January 2006 and 30 March 2006 respectively,

Having deliberated, decides as follows:

THE FACTS

1. A list of the applicants is set out in the appendix. They were represented by Mr O. Evren, a lawyer practicing in Antalya. The Turkish Government ("the Government") were represented by their Agent.

2. One of the applicants, Mr Hasan Okur, died on 24 December 2006, after lodging the present applications. Following the communication of the case, his heirs, namely Ms Esma Nevin Okur, Mr Asım Okur and Ms Aslı Okur Kuru informed the Court that they wished to pursue the applications in his stead.

A. The circumstances of the case

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

4. Several plots of land belonging to the applicants were expropriated by the administration. The applicants subsequently initiated proceedings before

the Antalya Civil Court seeking additional expropriation compensation for expropriation. The domestic courts established the amount of compensations and these judgments were subsequently upheld by the Court of Cassation. The applicants received the due amounts on 8 March 2007 and 18 May 2006 respectively. The details of the applications may be found in the appendix.

B. Relevant domestic law

5. A description of the domestic law and practice with respect to the Compensation Commission mentioned below (paragraphs 8-12) may be found in *Turgut and Others v. Turkey* (dec.), no. 4860/09, 26 March 2013; *Demiroğlu v. Turkey* (dec.), no. 56125/10, 4 June 2013; and *Yıldız and Yanak v. Turkey* (dec.), no. 44013/07, 27 May 2014.

COMPLAINT

6. The applicants complained that the excessive delay in the payment of the additional compensation awards, coupled with the low interest rates, had caused them substantial financial loss. In this respect, they relied on Article 1 of Protocol No. 1 to the Convention.

THE LAW

7. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

8. The applicants complained under Article 1 of Protocol No. 1 about the late payment of the additional compensation awards.

9. 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 further noted that the competence of the Compensation Commission was subsequently enlarged by a decree adopted on 16 March 2014 to examine complaints relating to, among other things, the alleged loss of value of the amount of the expropriation compensation due to the effects of inflation and the length of the proceedings. Accordingly, they maintained that the applicants had not exhausted domestic remedies, as they had not made any application to the Compensation Commission.

10. 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 *Yıldız and Yanak* ((dec.), no. 44013/07, 27 May 2014), the Court declared an 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 depreciation of awards in expropriation cases.

11. The Court notes that in its decision 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.

12. However, taking into account the Government's 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 cases of *Turgut and Others* ((dec.), no. 4860/09, §§ 47-59, 26 March 2013), *Çakır and Others v. Turkey* ((dec.), no. 51274/07, § 6, 25 June 2013), *Yöyler and Others v. Turkey* ((dec.), no. 10783/07, §§ 11-13, 16 December 2014), and *Yıldız and Yanak* (cited above, §§ 29-38).

13. In view of the above, the Court concludes that the application should be rejected under Article 35 §§ 1 and 4 of the Convention for non-exhaustion of domestic remedies.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 1 December 2016.

Hasan Bakırcı	Ksenija Turković
Deputy Registrar	President

APPENDIX

No	Application No and date of introduction	Applicant Date of birth Place of residence	Date and number of first instance court decisions
1.	4653/06 Introduced on 25/01/2006	Hüseyin Okur 1951, Antalya Hasan Okur (Born in 1945 and died on 24 December 2006) His heirs: Esma Nevin Okur 1952, Istanbul Asım Okur 1977, Istanbul Aslı Okur Kuru 1985, Istanbul	Decision of Antalya Civil Court of General Jurisdiction 26 May 2005 (2005/33 E, 2005/175K)
2.	20131/06 Introduced on 30/03/2006	Sıdıka Kocakuşak 1942, Antalya Hüseyin Okur 1951, Antalya Hasan Okur (Born in 1945 and died on 24 December 2006) His heirs: Esma Nevin Okur 1952 , Istanbul Asım Okur 1977, Istanbul Aslı Okur Kuru 1985, Istanbul	Decision of Antalya Civil Court of General Jurisdiction 30 September 2005 (2005/350 E 2005/342 K)