

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

SECOND SECTION

DECISION

Applications nos. 6332/08, 8348/08, 11210/08, 59212/08 and 60427/08
Güley SAĞLAM and Others
against Turkey

The European Court of Human Rights (Second Section), sitting on 17 April 2012 as a Committee composed of:
Isabelle Berro-Lefèvre, *President,*
Guido Raimondi,
Helen Keller, *judges,*
and Françoise Elens-Passos, *Deputy Section Registrar,*
Having regard to the above applications lodged on the dates below,
Having decided to join the applications,
Having deliberated, decides as follows:

THE FACTS

The applicants listed below are Turkish nationals who were involved in civil proceedings before the domestic courts. The details of the applications are set out in the table.

Application nos.	**Applicant names, dates of birth and the name of representatives**	**Lodged on**	**Information concerning the domestic proceedings**
6332/08	Güley Sağlam (1956), represented by M. Hasbioğlu,	26 October 2007	Civil proceedings, which started on 11 November 1997 and ended on 12 March 2007, lasted for 9 years and 4 months at two levels of jurisdiction.

	lawyer in Muğla		
8348/08	Köksal Kartal (1964), represented by Ö. Öneren, lawyer in Ankara	4 February 2008	Civil proceedings, which started on 17 April 2000 and ended on 16 June 2010, lasted for 10 years and 2 months at two levels of jurisdiction.
11210/08	Abdulbaki Yazıcıoğlu (1929), no representative	11 February 2008	Civil proceedings, which started on 27 March 1998, are still pending before the first-instance court (approximately 14 years at two levels of jurisdiction).
59212/08	Garip Öztürk (1964), represented by F.N. Ertekin and K. Öztürk, lawyers in Istanbul	3 December 2008	Civil proceedings, which started on 19 August 2003 and ended on 10 October 2011, lasted for 8 years and 2 months at two levels of jurisdiction.
60427/08	İsmail Bilsel (1966), represented by F.N. Ertekin and K. Öztürk, lawyers in Istanbul	3 December 2008	Civil proceedings, which started on 20 November 2003 and ended on 29 December 2011, lasted for 8 years and 1 month at two levels of jurisdiction.

THE LAW

The Court finds that, because of the similarity of the factual and legal issues involved, it is appropriate to join the present applications.

The applicants complained under Article 6 § 1 of the Convention that the length of their civil proceedings was excessive. In the applications nos. 59212/08 and 60427/08 the applicants, in addition, complained under Article 13 of the Convention that there had been no domestic remedy by which they could challenge the length of those proceedings.

After unsuccessful friendly-settlement negotiations, by a letter dated 28 October 2011 the Government informed the Court that they proposed to make unilateral declarations with a view to resolving the issues raised by the applications. They further requested the Court to strike out the applications in accordance with Article 37 of the Convention.

The declarations, in substance, provided as follows:

“Je déclare que le Gouvernement de la République de Turquie offre de verser :

- à la requérante Mme Güley Sağlam la somme de 4 500 EUR (quatre mille cinq cent euros) ;

- au requérant M. Köksal Kartal la somme de 5 000 EUR (cinq mille euros);

- au requérant M. Abdulbaki Yazıcıoğlu la somme de 7 000 EUR (sept mille euros);

- au requérant M. Garip Öztürk la somme de 3 500 EUR (trois mille cinq cents euros);

- au requérant M. İsmail Bilsel la somme de 3 500 EUR (trois mille cinq cents euros)

[sommes] couvrant tout préjudice matériel et moral, plus tout montant pouvant être dû à titre d'impôt par [les requérants, sommes] qu'il considère comme appropriées à la lumière de la jurisprudence.

[Ces sommes seront converties] en livres turques au taux applicable à la date du paiement, et exemptes de toute taxe éventuellement applicable. [Elles seront payées] dans les trois mois suivant la date de la notification de la décision de la Cour rendue conformément à l'article 37 § 1 de la Convention européenne des Droits de l'Homme. A défaut de règlement dans ledit délai, le Gouvernement s'engage à verser, à compter de l'expiration de celui-ci et jusqu'au règlement définitif [des sommes] en question, un intérêt simple à un taux égal à celui de la facilité de prêt marginal de la Banque centrale européenne, augmenté de trois points de poucentge. Ce versement vaudra règlement définitif [des affaires].

Le Gouvernement considère que la procédure interne engagée par [chacun des requérants] a connu une durée excessive au sens de la jurisprudence bien établie de la Cour (*Daneshpayeh c Turkey*, no. 21086/04, 16 juillet 2009). Il invite respectueusement la Cour à dire qu'il ne se justifie plus de poursuivre l'examen de la requête et à la rayer du role conformément à l'article 37 de la Convention."

The first two applicants did not send any comments on the Government's declarations within the allocated time-limit. On the other hand, the last three applicants expressed the view that the sums mentioned in the Government's declarations were unacceptably low and asked the Court to continue its examination of the cases.

The Court recalls that Article 37 of the Convention provides that it may at any stage of the proceedings decide to strike an application out of its list of cases where the circumstances lead to one of the conclusions specified, under (a), (b) or (c) of paragraph 1 of that Article. Article 37 § 1 (c) enables the Court in particular to strike a case out of its list if:

"for any other reason established by the Court, it is no longer justified to continue the examination of the application".

It also recalls that in certain circumstances, it may strike out an application under Article 37 § 1 (c) on the basis of a unilateral declaration by a respondent Government even if the applicant wish the examination of the case to be continued.

To this end, the Court will examine carefully the declarations in the light of the principles emerging from its case-law, in particular the *Tahsin Acar* judgment (*Tahsin Acar v. Turkey*, [GC], no. 26307/95, §§ 75-77, ECHR 2003-VI), and *WAZA Spółka z o.o. v. Poland* (dec.) no. 11602/02, 26 June 2007; and *Sulwińska v. Poland* (dec.) no. 28953/03).

The Court has established in a number of cases, including those brought under Articles 6 § 1 and 13 of the Convention against Turkey, its practice concerning complaints about the violation of one's right to a hearing within a reasonable time (see, for example, *Daneshpayeh v. Turkey*, no. 21086/04, §§ 26-38, 16 July 2009; *Sebahattin Evcimen v. Turkey*, no. 31792/06, § 33, 23 February 2010; *Hasko v. Turkey*, no. 20578/05, § 30, 17 January 2012; and *Can and Gümüş v. Turkey*, nos. 16777/06 and 2090/07, § 19, 31 March 2009).

Having regard to the nature of the admissions contained in the Government's declarations, as well as the amounts of compensation proposed – which are consistent with the amounts awarded in similar cases – the Court considers that it is no longer justified to continue the examination of the applications under Articles 6 § 1 and 13 of the Convention (Article 37 § 1 (c)).

Moreover, in light of the above considerations, and in particular given the clear and extensive case-law on the topic, the Court is satisfied that respect for human rights as defined in the Convention and the Protocols thereto does not require it to continue the examination of the applications (Article 37 § 1 *in fine*).

For these reasons, the Court unanimously

Decides to join the applications;

Takes note of the terms of the respondent Government's declaration and of the modalities for ensuring compliance with the undertakings referred to therein;

Decides to strike the applications out of its list of cases in accordance with Article 37 § 1 (c) of the Convention.

Françoise Elens-Passos
Deputy Registrar

Isabelle Berro-Lefèvre
President