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

SECOND SECTION

DECISION

Application no. 5739/13
Ayhan ŞAHİN
against Turkey

The European Court of Human Rights (Second Section), sitting on 24 January 2017 as a Committee composed of:

Nebojša Vučinić, *President,*
Valeriu Griţco,
Stéphanie Mourou-Vikström, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to the above application lodged on 6 December 2012,

Having regard to the formal declarations accepting a friendly settlement of the case,

Having deliberated, decides as follows:

FACTS AND PROCEDURE

1. The applicant, Mr Ayhan Şahin, is a Turkish national, who was born in 1975 and lives in Eskişehir. He was represented before the Court by Mr G. Güneş, a lawyer practising in Ankara.

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

3. The applicant complained under Article 6 § 1 of the Convention about the lack of fairness in the proceedings before the Supreme Military Administrative Court on account of his inability to access the classified documents submitted by the Ministry of Defence to that court in the course of the judicial proceedings.The applicant also argued under Article 6 of the Convention that the Supreme Military Administrative Court cannot be considered as independent or impartial as two military officers who sit on the bench remain under the hierarchy of the military authorities and do not enjoy the same judicial guarantees as the other military judges.

4. On 24 October 2016 and 24 November 2016 the Court received friendly settlement declarations signed by the parties under which the applicant agreed to waive any further claims against Turkey in respect of the facts giving rise to this application against an undertaking by the Government to pay him 6,000 euros (EUR) to cover any pecuniary and non-pecuniary damage as well as costs and expenses, which will be converted into Turkish Liras (TRY) at the rate applicable on the date of payment, and will be free of any taxes that may be applicable. It will be payable within three months from the date of notification of the decision taken by the Court. In the event of failure to pay this sum within the said three-month period, the Government undertook 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 cases.

THE LAW

5. The Court 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. 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 in accordance with Article 39 of the Convention.

Done in English and notified in writing on 16 February 2017.

Hasan Bakırcı
Deputy Registrar

Nebojša Vučinić
President