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

SECOND SECTION

DECISION

Application no. 55559/07
Sabahattin SAYGI
against Turkey

The European Court of Human Rights (Second Section), sitting on 7 November 2017 as a Committee composed of:

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

Having regard to the above application lodged on 10 December 2007,

Having regard to the decision of 17 November 2009,

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

Having deliberated, decides as follows:

THE FACTS

1. The applicant, Mr Sabahattin Saygı, is a Turkish national, who was born in 1949 and lives in Istanbul.

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

A. The circumstances of the case

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

4. Following the taking over of the Imarbank by the Banking Regulation and Supervision Agency and Savings Deposit Insurance Fund, on 22 September 2003 the applicant initiated compensation proceedings before the Istanbul Administrative Court. On 15 October 2003 the Istanbul

Administrative Court declared lack of jurisdiction and transferred the case to the Ankara Administrative Court. On 23 October 2007 the Ankara Administrative Court dismissed the applicant's case. The applicant filed an appeal with the Supreme Administrative Court. At the time when the application was communicated on 17 November 2009, the proceedings were still pending before the Supreme Administrative Court. The Court has not received any information from the Parties regarding further developments in the proceedings.

B. Relevant domestic law

5. 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

6. The applicant complained under Article 6 of the Convention that the length of the proceedings had been excessive.

THE LAW

I. DISJOINDER OF THE APPLICATIONS

7. On 19 November 2009 in view of the similarity of the complaints, the Court decided to join five applications, namely *Erdem and Egin Erdem v. Turkey* (no. 28431/06), *Saygı v. Turkey* (no. 55559/07), *Karadağ v. Turkey* (no. 26427/08), *Güney v. Turkey* (no. 38143/08) and *Şensoy v. Turkey* (no. 58227/08); to declare the applications partially inadmissible and communicate the remaining part to the Government. However, the Court considers that it is necessary to separate them. Accordingly, it decides to disjoin the present application from the other ones.

II. ARTICLE 6 OF THE CONVENTION

8. The applicant complained that the length of the proceedings had been incompatible with the "reasonable time" requirement laid down in Article 6 § 1 of the Convention.

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 maintained that the applicant had not exhausted domestic remedies, as he had not made any application to the Compensation Commission: this ground had also been recognised by the Court in its decision in the case of *Turgut and Others v. Turkey* ((dec.), no. 4860/09, 26 March 2013).

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 *Turgut and Others*, cited above, the Court declared a new 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.

11. 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 this type which had already been communicated to the Government.

12. However, taking account of the Government's preliminary objection with regard to the obligation of the applicant 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). It therefore concludes that the application must 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 remainder of the application inadmissible.

Done in English and notified in writing on 30 November 2017.

Hasan Bakırcı
Deputy Registrar

Nebojša Vučinić
President