AS TO THE ADMISSIBILITY OF

Application No. 29593/96
by Aygül SEZER and others
against Turkey

The European Commission of Human Rights (Second Chamber) sitting in private on 20 May 1998, the following members being present:

MM J.-C. GEUS, President
M.A. NOWICKI
G. JÖRUNDSSON
J.-C. SOYER
H. DANELIUS
Mrs G.H. THUNE
MM F. MARTINEZ
I. CABRAL BARRETO
J. MUCHA
D. SVÁBY
P. LORENZEN
E. BIELIUNAS
E.A. ALKEMA
A. ARABADJIEV

Ms M.-T. SCHOEPFER, Secretary to the Chamber

Having regard to Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms;

Having regard to the application introduced on 7 October 1995 by Aygül SEZER, Ugur AKDOGAN, Pinar AKDOGAN, Hüseyin AKDOGAN, Seyhan DEMiR, Bedir AKDOGAN, Naci AKDOGAN, Ömer AKDOGAN and Naciye AKDOGAN against Turkey and registered on 2 January 1996 under file No. 29593/96;

Having regard to the report provided for in Rule 47 of the Rules of Procedure of the Commission;

Having deliberated;

Decides as follows:

THE FACTS

The applicants, whose names appear in the annex, are Turkish citizens. They are represented before the Commission by Mr Hüsnü Öndül, a lawyer practising in Ankara.

The facts of the present case, as submitted by the applicants, may be summarised as follows.

On 12 February 1991 the applicants' relative R.A., while doing his military service in Kirklareli, was killed by his friend D.D., who belonged to the same military unit.

On 24 November 1992 the Kirklareli Military Court convicted D.D. of homicide and, taking account of the fact that he had been seriously provoked by R.A., sentenced him to twenty years' imprisonment.

The applicants appealed against the judgment of the Military Court.

On 9 February 1994 the Military Court of Cassation quashed the

judgment delivered by the Kirklareli Military Court on the ground that the provocation of the crime had not been serious but only slight.

The Kirklareli Military Court declined jurisdiction in the case since D.D. had finished his military service and ordered the transfer of the file to the Kirklareli Assize Court.

The case was still pending before the court at the time of the introduction of the present application.

In the meantime the applicants instituted compensation proceedings on 21 July 1992 before the Military High Administrative Court on the basis of administrative liability for the killing of R.A.

On 30 November 1994 the Military High Administrative Court delivered its judgment. It ordered the Ministry of Defence to pay as pecuniary damage 31,000,000 Turkish Lira to Aygül Sezer, the wife of R.A, 12,000,000 Turkish Lira to Ugur Akdogan, the son of R.A. and 3,000,000 Turkish Lira each to Ömer and Naciye Akdogan, the parents of R.A. The Court also awarded 3,000,000 Turkish Lira to each of them for non-pecuniary damage.

On 21 January 1995 the applicants applied to the Military High Administrative Court for rectification of its judgment dated 30 November 1994 as they considered the amount of the compensation insufficient.

On 3 April 1995 the Military High Administrative Court rejected the applicants' request for rectification. This decision was served on the applicants on 19 April 1995.

COMPLAINTS

1. The applicants complain under Article 6 para. 1 of the Convention that their right to a fair trial was breached as the national courts granted them insufficient compensation.

2. The applicants further complain under Article 6 para. 1 of the Convention that the length of the civil proceedings exceeded a reasonable time.

THE LAW

1. The applicants complain under Article 6 para. 1 (Art. 6-1) of the Convention that their right to a fair trial was breached as the national court awarded them insufficient compensation.

The Commission recalls that under Article 19 (Art. 19) of the Convention, its sole task is to ensure the observance of the engagements undertaken by the High Contracting Parties in the Convention. It is not competent to examine applications concerning errors of law or fact allegedly committed by the competent national authorities, which are competent in the first place to interpret and apply domestic law (No. 25062/94, Dec. 18.10.1995, D.R. 83, p. 77).

In this case, the Commission notes primarily that the Military High Administrative Court delivered its judgment on the basis of domestic law and in view of the particular circumstances of the case and awarded an amount of compensation to the applicants. The Commission also considers that the applicants' complaints concern the national court's evaluation of the facts and the evidence and their interpretation of domestic law. The Commission finds no basis on which to conclude that the Military High Administrative Court, in establishing the facts or interpreting the law, acted in an arbitrary or unreasonable manner. Therefore, there is no appearance of a

violation by the national courts of the applicants' rights under Article 6 para. 1 (Art. 6-1) of the Convention.

It follows that this part of the application must be rejected as being manifestly ill-founded within the meaning of Article 27 para. 2 (Art. 27-2) of the Convention.

2. The applicants further allege that the length of the civil proceedings exceeded a reasonable time within the meaning of Article 6 para. 1 (Art. 6-1) of the Convention.

The Commission notes that the period to be taken into consideration began on 21 July 1992, when the applicants brought an action before the Military High Administrative Court for compensation. It lasted until 3 April 1995 when the same court rejected the applicants' request for rectification. The proceedings thus lasted approximately 2 years and 8 months.

The Commission recalls that the reasonableness of the length of proceedings must be assessed in the light of the particular circumstances of the case and having regard to the criteria laid down in the established case-law, in particular the complexity of the case and the conduct of the applicant and of the relevant authorities. (Eur. Court HR, Yagci and Sargin v. Turkey judgment of 8 June 1995, Series A no. 319, p. 20, para. 59). Furthermore, the Convention organs make an overall assessment of the length of proceedings in some cases (see e.g. Eur. Court HR, Cifola v. Italy judgment of 27 February 1992, Series A no. 231, p. 9, para. 14).

The Commission notes that the applicants' case was dealt by two levels of jurisdiction in 2 years and 8 months. Moreover, the applicants have not shown any substantial periods of inactivity attributable to the judicial authorities.

In these circumstances, the Commission finds that the proceedings at issue in the present case did not exceed a reasonable time within the meaning of Article 6 para. 1 (Art. 6-1) of the Convention.

It follows that this part of the application must be rejected as being manifestly ill-founded within the meaning of Article 27 para.2 (Art. 27-2) of the Convention.

For these reasons, the Commission, unanimously,

DECLARES THE APPLICATION INADMISSIBLE.

M.-T. SCHOEPFER Secretary to the Second Chamber	J.-C. GEUS President of the Second Chamber

ANNEX

List of the applicants

1. Aygül SEZER,
2. Ugur AKDOGAN,
3. Pinar AKDOGAN,

4. Hüseyin AKDOGAN,
5. Seyhan DEMiR,
6. Bedir AKDOGAN,
7. Naci AKDOGAN,
8. Ömer AKDOGAN
9. Naciye AKDOGAN