

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

SECOND SECTION

DECISION

Applications nos. 29061/06 and 34582/06
Hüseyin SÜRMELI and Cemal SEVİN
against Turkey

The European Court of Human Rights (Second Section), sitting on 5 December 2017 as a Committee composed of:

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

Having regard to the above applications lodged on 6 July 2006 and 21 July 2006 respectively,

Having regard to the decision of 8 November 2011,

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

Having deliberated, decides as follows:

THE FACTS

1. The applicants, Mr Hüseyin Sürmeli and Mr Cemal Sevin are Turkish nationals, who were born in 1942 and 1950 respectively, and reside in İzmir. They were represented before the Court by Mr Kemal Kırlangıç, a lawyer practising İzmir.

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. Towards the end of 2001 the first applicant and on 12 February 2002 the second applicant initiated administrative proceedings before the Ankara Administrative Court.

5. On 28 February 2003 and 23 October 2002, respectively, the Ankara Administrative Court dismissed their cases.

6. On 20 March 2006 and 27 March 2006, respectively, the Supreme Administrative Court quashed the judgments.

7. On 30 November 2006 and 6 February 2007, respectively, the Ankara Administrative Court once again found against the applicants.

B. Relevant domestic law

8. 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

9. The applicants complained under Article 6 § 1 of the Convention that the proceedings before the national courts had not been concluded within a reasonable time.

THE LAW

10. The Government noted that pursuant to Law no. 6384 a Compensation Commission had been established to deal with applications concerning the length of proceedings and the non-execution of judgments. They maintained that the applicants had to apply to the Compensation Commission to exhaust the domestic remedies.

11. The Court observes that, as pointed out by the Government, a 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 v. Turkey* ((dec.), no. 4860/09, 26 March 2013), 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.

12. 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.

13. However, taking account of the Government's preliminary 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 case of *Turgut and Others* (cited above).

14. It therefore concludes that the applications 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 applications inadmissible.

Done in English and notified in writing on 11 January 2018.

Hasan Bakırcı	Ledi Bianku
Deputy Registrar	President