

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

SECOND SECTION

DECISION

Application no. 26264/06
by Halil TÖREN and Others
against Turkey

The European Court of Human Rights (Second Section), sitting on 13 December 2011 as a Committee composed of:

Dragoljub Popović, *President,*
András Sajó,
Paulo Pinto de Albuquerque, *judges,*

and Françoise Elens-Passos, *Deputy Section Registrar,*

Having regard to the above application lodged on 2 June 2006,

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

Having deliberated, decides as follows:

PROCEDURE

The applicants, Mr Halil Tören, Mr Mustafa Tören, Mr Müslüm Tören, Mr Necmettin Tören, Mr Bahattin Tören and Mr Mehmet Tören are Turkish nationals who were born in 1927, 1943, 1945, 1963, 1970, 1967 respectively and live in Şanlıurfa. They were represented before the Court by Mr R. Yaşar, a lawyer practising in Şanlıurfa. The Turkish Government ("the Government") were represented by their Agent.

The applicants complained under Article 6 § 1 of the Convention about the length of cadastral proceedings concerning their property. On 10 May 2010 the President of the Second Section decided to give notice of that complaint to the Government. The impugned proceedings had lasted for a

period of thirty eight years and eight months at the time of communication and are still pending before the Bozova Cadastral Court as of October 2011.

During the proceedings before the Court, one of the applicants, Mr Halil Tören passed away. With a letter dated 28 June 2010, the applicants' lawyer submitted the request of Halil Tören's heirs to pursue the application. Nevertheless, they failed to present a document in support of their argument that they have become parties to the domestic proceedings. In this respect, the Government submitted that the applicant's heirs had no *locus standi* to pursue the application, arguing that the issues falling under Article 6 § 1 of the Convention were so closely linked to the deceased applicant that they could not be regarded as transferrable.

On 16 September 2010 and 13 September 2011 the Court received friendly settlement declarations signed by the parties under which the applicants 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 EUR 18,500 (eighteen thousand and five hundred euros) jointly to Mustafa Tören, Müslüm Tören, Necmettin Tören, Bahattin Tören and Mehmet Tören to cover any pecuniary and non-pecuniary damage as well as costs and expenses, which would be converted into Turkish liras 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 pursuant to Article 37 § 1 of the European Convention on Human Rights. 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 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 case.

THE LAW

As regards the request submitted by the heirs of the first applicant, Mr Halil Tören to pursue the application, the Court notes that it is not established whether they have become parties to the cadastral proceedings before the domestic court either before or after Mr Tören's decease. The Court further recalls that relatives of a deceased person could not in any case be considered as victims for complaints concerning the length of proceedings. It notes in the instant case that the applicant's heirs failed to intervene in the domestic proceedings, which are still pending before the Bozova Cadastral Court, and have not been directly affected by those proceedings' excessive length. As a result, they do not have legal interest to pursue the application (see, among other authorities, *Georgia Makri and*

Others v. Greece (dec.), 5977/03, 24 March 2005 and *Panchenko v. Ukraine* (dec.), 31085/05, 26 January 2010) and the conditions in which a case may be struck out of the Court's list, as provided in Article 37 § 1 of the Convention, have been satisfied.

As regards the remainder of the application, 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 (Article 37 § 1 *in fine* of the Convention).

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 for lack of legal interest in so far as it concerns the deceased applicant Halil Tören and his heirs;

Decides to strike the remainder of the application out of its list of cases based on the friendly settlement reached between the Government and the other applicants, Mustafa Tören, Müslüm Tören, Necmettin Tören, Bahattin Tören and Mehmet Tören.

Françoise Elens-Passos
Deputy Registrar

Dragoljub Popović
President