CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

THIRD SECTION

PARTIAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 33379/02
by Ezel TOSUN
against Turkey

The European Court of Human Rights (Third Section), sitting on 7 October 2004 as a Chamber composed of:

Mr G. RESS, *President*,
Mr I. CABRAL BARRETO,
Mr R. TÜRMEN,
Mr J. HEDIGAN,
Mrs M. TSATSA-NIKOLOVSKA,
Mrs H.S. GREVE,
Mr K. TRAJA, *judges*,

and Mr V. BERGER, *Section Registrar*,

Having regard to the above application lodged on 22 July 2002,

Having deliberated, decides as follows:

THE FACTS

The applicant, Ms Ezel Tosun, is a Turkish national and lives in Ankara. She is represented before the Court by MM. T. Tüfek and B. Ahmetoğlu, and Ms O. Ünal, lawyers practising in Bursa.

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

In 1973 the authorities conducted a land registry survey in Mudanya District of Bursa Province and revised the local plans. Following this revision, the twenty-five plots of land belonging to the applicant were

registered in the Land Registry with the title of twenty-three other persons. In June 1973 the applicant challenged this decision and applied to the Land Registry Council to have this decision annulled. However on 26 May 1974 the Council rejected the applicant's request.

On 27 June 1974 the applicant brought an action in the Mudanya Land Registry Court against twenty-three defendants. She alleged that the twenty-five plots of land in dispute had belonged to her before the revision and requested that the records in the Land Registry be revised.

In 1982 the case was transferred to the Mudanya Cadastre Court, where the case is still pending.

COMPLAINTS

1. The applicant complains under Article 6 of the Convention about the excessive length of the proceedings. The applicant further alleges under Article 1 of Protocol No. 1 that due to the excessive length of the proceedings, she has been deprived of her right to peaceful enjoyment of her possessions.

2. The applicant further alleges under Article 1 of Protocol No. 1 that the domestic authorities have breached her right to respect for her property.

THE LAW

1. The applicant complains under Article 6 of the Convention about the excessive length of the civil proceedings, which have started in 1974 and is still pending.

The applicant further complains that as a result of the excessive length of the proceedings, she is deprived of her right to peaceful enjoyment of her possessions. In this respect, she invokes Article 1 of Protocol No. 1.

The Court considers that it cannot, on the basis of the case file, determine the admissibility of these complaints and that it is therefore necessary, in accordance with Rule 54 § 2 (b) of the Rules of Court, to give notice of this part of the application to the respondent Government.

2. The applicant also alleges under Article 1 of Protocol No. 1 that the domestic authorities have breached her right to respect for her property.

The Court observes that the proceedings concerning the applicant's right to property are still pending before the domestic authorities. Accordingly, this part of the application is premature. The Court recalls that after the final ruling is given in the case, it is open to the applicant to re-submit her complaint to the Court if she still considers herself a victim of the alleged violation.

In view of the above, this complaint should be rejected for non-exhaustion of domestic remedies within the meaning of Article 35 §§ 1 and 4.

For these reasons, the Court unanimously

Decides to adjourn the examination of the applicant's complaints concerning the length of the proceedings and her right to peaceful enjoyment of her possessions;

Declares the remainder of the application inadmissible.

Vincent BERGER
Registrar

Georg RESS
President