REPUBLIC OF TURKEY

CONSTITUTIONAL COURT

FIRST SECTION

DECISION

Application Number: 2013/3442

Date of Decision: 20/3/2014

FIRST SECTION

DECISION

President : Serruh KALELİ

Members	: Burhan ÜSTÜN
	Nuri NECİPOĞLU
	Hicabi DURSUN
	Erdal TERCAN
Rapporteur	: Selami ER
Applicant	: Hayrettin EKİM
Counsel	: Att.Gürbüz UĞRAŞ

I. SUBJECT OF APPLICATON

1. By asserting that the conclusion of the case he filed before the labour court for the determination of the working periods which passed under insurance and were not notified to the institution in a period that exceeded eight years violated the freedom to claim rights, the applicant requested the determination of the violation and the delivery of a decision on the compensation of the moral damage he incurred.

II. APPLICATION PROCESS

2. The application was lodged through the 3rd Labour Court of Izmir on 7/5/2013. As a result of the preliminary examination of the petition and annexes thereof as conducted in terms of administrative aspects, it was found out that there was no matter that would prevent the referral of the application to the Commission.

3. It was decided by the Second Commission of the First Section on 17/6/2013 that the file be sent to the Section in order for the examination of admissibility to be conducted by the Section.

4. In accordance with the interim decision of the First Section dated 17/9/2013, it was decided that the examination of admissibility and merits of the application be carried out together.

5. The facts and cases which are the subject matter of the application and a copy of the application were sent to the Ministry of Justice for opinion, the Ministry of Justice declared that it would not submit an opinion on 14/11/2013.

III. FACTS AND CASES

A. Facts

6. As expressed in the application form and the annexes thereof, the facts are summarized as follows:

7. By asserting that his works were not notified to the Social Security Institution although he uninterruptedly worked between the dates of 1/2/1999 and 24/11/2004 based on a service contract in the name of the owners of minibus along Gültepe-Pınarbaşı minibus line station, the applicant filed an action of debt before the 4th Labour Court of Izmir for his labour receivables in the aforementioned period and a declaratory action before the 3rd

Labour Court of Izmir (Court) on 1/1/2005 with a request for the delivery of a decision on the determination of his insured works.

8. At the first hearing dated 15/2/2006, the plaintiff's witness who was present was heard by the Court before which the declaratory action was tried, it was decided that the response to the warrant written to the Police Station with the request that another witness who was determined *ex officio* be made present on the date of hearing be awaited. In the meantime, it was requested, through the warrant written to the Chief Public Prosecutor's Office of Izmir dated 16/2/2006, that the names and addresses of the owners and employees of workplaces present around Gültepe station which is the first station of Gültepe-Pınarbaşı minibus line between the years of 1999-2004 be determined and notified to the court prior to the date of 26/4/2006 to which the hearing was postponed.

9. At the second hearing dated 26/4/2006, as it was seen that no response had been given to the warrant written for the determination of witnesses although the parties were present, it was decided that the hearing be postponed to 8/6/2006; at the third hearing conducted on this date, it was decided that the witnesses determined in the response to the warrant which was found to have been received be summoned with an invitation.

10. At the fourth hearing dated 28/9/2006, as it was seen that the receipts of notification issued in the name of the witnesses determined *ex officio* had not returned, it was decided that a warrant be written to the postal directorate and that the hearing be postponed to 8/11/2006; at the fifth hearing conducted on the aforementioned date, as it was seen that the response to the warrant written to the postal directorate had not been received, it was decided that the warrant be reiterated and the witnesses be summoned again.

11. At the sixth hearing conducted on 24/1/2007, as the subpoenas issued in the name of the witnesses were returned without execution although it was seen that a response was submitted to the writ written to the postal directorate, it was decided that the witnesses be summoned again by force and two witnesses who were decided to be summoned by force were heard at the seventh hearing dated 21/2/2007 and it was decided that the file be submitted to the expert.

12. The petitions of the plaintiff and defendant attorney which included their oppositions against the expert report submitted at the ninth hearing dated 20/6/2007 were read out at the tenth hearing dated 13/8/2007 and it was decided by the Court that the relevant case files be notified; it was decided that an additional expert report be received in accordance with the case files which were found to have been received at the twelfth hearing dated 26/9/2007. At the thirteenth hearing dated 26/11/2007, the additional expert report was notified to the parties and an additional period was granted for them to examine it.

13. At the last hearing, it was decided by the court through the decision dated 24/12/2007 and numbered M.2005/35, D.2007/763 that the case be admitted, that it be determined that the plaintiff worked for 2093 days on minimum wage at the defendant employers based on a service contract between the dates of 1/2/1999 and 24/11/2004 and that these works were not notified to the Social Security Institution.

14. The aforementioned decision of the Court was appealed by the defendant institution and the other defendants except for one. The 10th Civil Chamber of the Supreme Court which conducted the appeal examination decided on the reversal of the decision in question on the grounds of its decision dated 21/10/2010 and numbered M.2009/16168, D.2010/629 and that the accounts of the witnesses whose statements were taken were abstract

and insufficient, that the collected evidence was not suitable for adjudication, that it was necessary to hear the witnesses determined in the first trial stage and the witnesses to be accessed as a result of research be heard and that the outcome of the action of debt for labour tried before the 4th Labour Court be determined and used as evidence.

15. In the case which was retried after the decision of reversal, it was decided by the Court at its first hearing dated 10/5/2010 that the hearing be postponed to 12/7/2010 on the ground that the date of hearing could not be notified to the attorney of the plaintiff and attorney of the defendants other than the defendant institution; at the second hearing conducted on the aforementioned date, it was decided that the hearing be postponed to 4/10/2010 as it was understood that no notification could be made to Yüksel Appak who was one of the defendants.

16. At the third hearing dated 4/10/2010, it was decided that the writ of reversal of the 10th Civil Chamber of the Supreme Court be complied with, that the witnesses determined by Gültepe Police Station be summoned and that the attorney of the plaintiff be granted a period of time to notify the names of the drivers that the defendant employers employed in the line or region in which the service was performed and their addresses used for notification. At the fourth hearing conducted on 1/12/2010, the witnesses who appeared at the hearing were heard, it was decided that the other witnesses who did not appear in spite of the notification of invitation be summoned and that the file of the 4th Labour Court of Izmir numbered Merits 2004/1180 be requested from the relevant court as regards the labour rights of the plaintiff.

17. At the fifth hearing dated 23/2/2011, the excuses of the attorneys of the plaintiff and the defendant institution were accepted and the hearing was postponed to the date of 6/4/2011 and at the sixth hearing conducted on this date, it was decided that the witnesses who had been decided to be summoned be summoned again as it was seen that they did not appear and that a writ be written to the relevant Police Department for the investigation of the last notification addresses of the two witnesses to whom no notification could had been made.

18. At the seventh hearing conducted on 6/7/2011, the 2 witnesses who had been summoned were heard and it was decided that the witnesses who did not appear be summoned again, that the file of the 4th Labour Court of Izmir numbered M.2004/1180 be requested for examination and that a writ be written to the Center of the Coordination of Transportation and the Chamber of Minibus Operators.

19. On 8/12/2011, an instruction letter was written to the Labour Court on Duty of Kartal for the taking of the statements of witnesses. At the tenth hearing dated 16/1/2012, it was decided that the file be returned as it was understood through the examination of the file coming from the 4th Labour Court that the 4th Labour Court also waited for the outcome of the file which is the subject of the case and that the response be awaited as it was seen that no response had been provided to the writs written to the Labour Court of Kartal and the Directorate of the Coordination of Transportation.

20. At the eleventh hearing dated 15/3/2012, it was decided that the file be handed over to the expert as it was seen that the expected responses had been received. At the twelfth hearing dated 23/5/2012, the parties were granted a period for the examination of the expert report and at the thirteenth hearing dated 6/9/2012, it was decided that the file be examined upon the oppositions of the attorney of the plaintiff, at the last hearing dated 19/11/2012, it was decided that it be determined that the plaintiff worked for 2093 days on minimum wage at the defendant employers in Gültepe-Pınarbaşı minibus station as unregistered before Izmir Provincial Directorate of Insurance of the Social Security Organization based on a service

contract between the dates of 1/2/1999 and 24/11/2004 and that his work amounting to 2093 days was not notified to the institution.

21. The decision of the 3rd Labour Court of Izmir dated 19/11/2012 and numbered M.2010/203, D.2012/652 was appealed by the defendant institution on 20/11/2012, it was decided through the decision of the 10th Civil Chamber of the Supreme Court dated 17/1/2013 and numbered M.2012/25371, D.2013/203 that the judgment be approved and this decision was notified to the applicant on 8/4/2013.

B. Relevant Law

22. Article 30 of the Code of Civil Procedure dated 12/1/2011 and numbered 6100 with the side heading of *"Principle of economy in procedure"* is as follows:

> *"The judge is liable to ensure that the trial is carried out in a reasonable amount of time and in orderly fashion and unnecessary expenditures are not made."*

23. Paragraph one of article 1 of the Code of Labour Courts dated 30/1/1950 and numbered 5521 is as follows:

> *"Labour courts shall be established in places where deemed necessary as competent for the settlement of legal disputes arising out of a work contract between the persons who are considered to be a worker according to the Labour Code (except for those who work in jobs that are made exceptional in paragraphs Ç, D and E of amended article two of that code) and an employer or attorneys of the employer or of all sorts of claims based on the Labour Code."*

24. Paragraph one of article 7 of the Code numbered 5521 is as follows:

> *"Oral trial procedure shall apply in labour courts. At the first hearing, the court shall encourage the parties to compromise. In the event that they fail to settle and one of the parties or their attorneys fails to appear, the trial shall continue and a judgment shall be ruled on the merits.*

25. Paragraph (1) of article 447 of the Code numbered 6100 which entered into force on 1/10/2011 with the side heading of *"Provisions regarding the trial procedure in other codes"* is as follows:

> "*In circumstances where other codes refer to the oral or accelerated trial procedure, the provisions of this Code regarding the simple trial procedure are applied."*

26. Paragraph one of provisional article 7 of the Code of Social Insurances and General Health Insurance dated 31/5/2006 and numbered 5510 with the side heading "*common transition provisions as regards the codes numbered 506, 1479, 5434, 2925, 2926*" which entered into force on 1/10/2008 is as follows:

> "*The starting dates of insurance and service periods, actual service period rise, nominal service periods, debited and reclaimed periods and the periods of insurance which are subject to funds according to the codes dated 17/7/1964 and numbered 506, dated 2/9/1971 and numbered 1479, dated 17/10/1983 and numbered 2925, dated 17/10/1983 and numbered 2926 as abolished by this Code, dated 8/6/1949 and numbered 5434 and provisional article 20 of the Code dated 17/7/1964 and numbered 506 until the date of entry into force of this Code shall be evaluated according to the provisions of the codes to which they are subject.*"

27. Paragraph ten of article 79 of the Code of Social Insurances dated 17/7/1964 and numbered 506 with the side heading of *"Premium certificates"* is as follows:

"If those insured whose documents stipulated in the Regulation are not given by the employer or are not determined by the Institution at which they are working prove that they have worked, through a writ that they will receive by applying to the court within 5 years starting from the end of the year during which their services have come to an end, the sums of their monthly earnings and the number of premium payment days as specified in the decision of the court shall be taken into account."

IV. EXAMINATION AND JUSTIFICATION

28. The individual application of the applicant dated 7/5/2013 and numbered 2013/3442 was examined during the session held by the court on 20/3/2014 and the following were ordered and adjudged:

A. Claims of the applicant

29. The applicant asserted that the conclusion of the case that he filed before the 3rd Labour Court of Izmir on 1/1/2005 due to the fact that the work he performed on the basis of a service contract was not notified by the employer to the Social Security Institution and with the request that a decision be delivered on the determination of his insured works that formed the basis for his premium days on 17/1/2013 in final fashion in a period that exceeded eight years and was unreasonable, violated the right to trial in a reasonable time.

B. Evaluation

1. In Terms of Admissibility

30. It must be decided that the application, which is not clearly devoid of justification and where no other reason is deemed to exist to require a decision on its inadmissibility, is admissible.

2. In Terms of Merits

31. The applicant asserted that the conclusion of the declaratory action for service that he filed due to the fact that the periods during which he worked based on a service contract were not notified to the Social Security Institution in a period that exceeded eight years and was unreasonable, violated the freedom to claim rights.

32. In its opinion letter, the Ministry of Justice did not specify a separate opinion for the concrete application by stating that it previously presented its opinions as regards individual applications with similar characteristics, that the Constitutional Court decided on the complaints of lengthy trial as a result of these processes, that when the conditions of the application in question were taken into account, there was no reason which would require the achievement of a different outcome from the outcomes reached in the decisions that the Constitutional Court previously delivered.

33. Paragraph one of Article 36 with the side heading *"Freedom to claim rights"* of the Constitution is as follows:

"Everyone has the right to make claims and defend themselves either as plaintiff or defendant and the right to a fair trial before judicial bodies through the use of legitimate ways and means."

34. Paragraph four of article 141 of the Constitution with the side heading of *"Publicity of hearings and the need for verdicts to be justified"* is as follows:

"It is the duty of the judiciary to conclude cases with minimum cost and as soon as possible."

35. The relevant section of article 6 of the Convention with the side heading of *"Right to a fair trial"* is as follows:

In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing ***within a reasonable time*** *by an independent and impartial tribunal established by law."*

36. The right to trial in a reasonable time which constitutes the basis for the concrete application is covered by the right to a fair trial and it is clear that Article 141 of the Constitution also needs to be taken into account in the evaluation of this right as per the principle of holism of the Constitution (See., App. No: 2012/13, 2/7/2013, § 39). In the incident which is the subject of the application, there is no doubt that a labour dispute case that the applicant filed for the determination of his working periods is a trial which is related to civil rights and obligations.

37. As the aim of the right to trial in a reasonable time is the protection of the parties against material and moral pressures and distresses to which they will be exposed due to the long-lasting trial and the provision of justice as necessary and the maintenance of confidence in law and the requirement of showing due diligence in the settlement of a legal dispute cannot be ignored in the trial activity, it is necessary to evaluate whether the trial period is reasonable or not individually for each application (App. No: 2012/673, 19/12/2013, § 27).

38. In the examination of reasonable time; it is necessary to deliver a decision by evaluating together many matters related to the quality and quantity of the case such as the complexity of the case material which is composed of the material incidents submitted to adjudication and the means of proof or of the legal rules to be applied; the attitude of the parties during the trial in general, their effect on the prolongation of the trial process and whether they have shown due attention and diligence while exercising their procedural rights or not; whether there is a delay arising out of structural problems and the lack of organization which can be attributed to all state bodies which exercise public force as regards the case process in addition to judicial authorities or not and whether due diligence has been shown in order to conclude trial in a speedy way or not; what the benefit of the applicant is in the fulfillment of legal protection as soon as possible (App. No: 2012/13, 2/7/2013, §§ 42-46).

39. The lawmaker created a special labour trial system outside general courts by considering the quality of the labour law to protect employees and the characteristics of labour cases and aimed at the conclusion of labour cases by the courts which are specialized in this subject as fast, simple and cheap as possible. In this respect, in the Code numbered 5521, it is prescribed that oral trial procedure will be applied at labour courts in order to ensure conclusion in a faster way when compared to written trial procedure and the oral trial procedure regulated in articles 473 to 491 of the Code of Civil Procedure numbered 1086 was also applied in the declaratory action for service that the applicant filed in accordance with this provision until the date of 1/10/2011 which is the date on which the Code numbered 6100 entered into force in accordance with this provision.

40. In the oral trial procedure accepted in order to conclude labour disputes in a faster way, according to the system of the abolished Code numbered 1086, as a rule, a case should be completed in three hearings. In this procedure, no response period is prescribed for the defendant and the defendant can orally state his/her responses as regards the merits at the first hearing at the latest. Similarly, in this procedure, as a rule, the parties should produce their

evidence at the first hearing. In the event that this is not possible, the judge shall grant a period to the parties to produce their evidence. The parties can produce new evidence in order to prove their claims and defenses until the end of the stage of investigation. If the judge does not grant a period to the parties in order to submit an argument on the outcome of the investigation after the examination of the evidence at the second hearing, the stage of oral trial shall be proceeded to and at this stage, as a rule, the judge determines a new hearing day for the pronouncement of judgment after giving the floor to each of the parties twice.

41. Moreover, it is specified in article 30 of the Code numbered 6100 that disputes need to be settled in a reasonable time; to this end, the oral and accelerated trial procedures stipulated in the codes which previously entered into force were abolished by article 447 of the Code numbered 6100 and instead of this, simple trial procedure was introduced for also being applied in the disputes of labour law. In this case, the trial procedure which needs to be applied in the declaratory actions for service also became simple trial procedure as of the date of 1/10/2001 on which the Code numbered 6100 entered into force (App. No: 2013/772, 7/11/2013, § 64).

42. In the concrete application, while performing the evaluation of reasonable period, it is necessary to determine delays in the trial process and the factors that resulted in delay and the total effect thereof on the delay considering the value that the declaratory action for service has for the applicant and the personal interest of the applicant.

43. In the incident which is the subject of the application, in the declaratory action for service filed by the applicant before the 3rd Labour Court of Izmir on 1/1/2005, the Court decided on the acceptance of the action on 24/12/2007 at the end of a period that nearly lasted for 36 months, the appealed decision was reversed by the 10th Civil Chamber of the Supreme Court of Appeals on 21/1/2010 due to incomplete examination and investigation, at the end of the trial conducted by the court of first instance in compliance with the decision of reversal, it was decided again that the action be accepted on 19/11/2012 and the decision appealed by the defendant institution was approved by the 10th Civil Chamber of the Supreme Court of Appeals on 17/1/2013. In this case, it is understood that the action lasted for approximately eight years in the two-stage trial system.

44. In the trial process which lasted for 36 months before the Court of first instance, a total of 14 hearings were held. In the first seven hearings that the Court conducted in a period of 25 months from the date of the action to the date of 21/2/2007, it dealt with accessing to the witnesses whom the parties presented and who were determined *ex officio* and making the witnesses brought to the court and hearing their statements. In this process, it is seen that the writs written in order to determine witnesses were responded on later dates than the date that the Court determined, that the notifications which were requested to be made to the witnesses were not made or were made in delay.

45. As declaratory actions for insured services are cases as regards public order, the principle of *ex officio* investigation is applicable in these actions. According to this, witnesses were determined *ex officio* and their statements were taken also in the action in question. The fact that neither the Chief Public Prosecutor's Office of Izmir nor the postal directorate responded to the written writs in due time and the fact that the witnesses who were decided to be invited by force were not made to appear on the determined date are faults which need to be attributed to administrative and judicial institutions and show that the state could not fulfill its obligation to create a judicial system which would guarantee that disputes would be concluded in final fashion within a reasonable period and, accordingly, judicial and administrative mechanisms which would enforce court decisions in a timely and duly manner.

46. The 10th Civil Chamber of the Supreme Court of Appeals which conducted the appeal examination, through its decision dated 21/1/2010 and numbered M.2009/16168, D.2010/629, reversed the relevant decision of the court of first instance on the ground of incomplete examination and investigation approximately 25 months after the date of appeal.

47. The commencement of the trial of the action on the merits was delayed by five months due to the fact that notification could not be made to some plaintiffs and defendants in the action retried upon the decision of reversal of the Supreme Court of Appeals. The performance of notification of actions in a duly, practical and reliable manner and the information of defendants of the date of hearing are among the obligations of the state in order for the principle of the conclusion of cases in a reasonable time to be put into practice.

48. The problems of bringing witnesses to the court were also experienced in the second trial of the court of first instance, it could only be possible to hear some witnesses who were determined *ex officio* before the Court by nine months, to hear a witness at the end of 17 months as his/her address could not be accessed. When the importance of witness evidence is also considered in terms of the action which is the subject of the application, there is no doubt that there were administrative and judicial problems as regards accessing to the witnesses and making the witnesses appear before the court and that the responsibility of negligence that needs to be attributed to the state will increase due to these problems.

49. In the trial conducted following the decision of reversal, the case file as regards labour receivables pending before the 4th Labour Court of Izmir which was decided to be requested at the fourth hearing dated 1/12/2010 was received by the Court at the tenth hearing dated 16/1/2012 approximately 14 months later and returned by stating that "*the file be returned as it is waiting for the outcome of our file*". The justification of the 10th Civil Chamber of the Supreme Court in the decision of reversal as to the effect that the outcome of the action for labour receivables ought to be determined and that it ought to be considered that the judgment ruled and finalized in the aforementioned action had a quality of strong evidence in terms of this declaratory action was effective on the requesting of the file.

50. As understood from the reciprocal writs written between the courts, it is understood that they repeatedly requested files from each other. In this context, the fact that the 4th Labour Court of Izmir sent the requested file at the end of a period of 14 months became an important factor in the trial's exceeding the reasonable period. It is obvious that there is an unreasonable delay in the lasting of correspondence between two courts which are within the same building or even on the same corridor for 14 months. Moreover, it has been understood that the fact that the outcome of the action pending before the 4th Labour Court was awaited in the action which is the subject of the application while the 4th Labour Court waited for the outcome of the action which is the subject of the application was effective on the prolongation of both actions.

51. While the fact that courts wait for the decisions of each other and request files from each other is a need in some cases, concluding a dispute in a reasonable time by determining, in actions which affect each other, which case needs to be primarily tried for the settlement of the dispute as a whole and which case file's outcome will affect the process of the other one is under the responsibility of the judiciary and, finally, the state and there is no negligence which can be attributed to the application in this matter.

52. In the post-reversal trial, the writ written to the Center for the Coordination of Transportation of Izmir Metropolitan Municipality was returned due to incomplete address and the response of this institution could be received by the Court only after eight months.

The return of the notification that the Court issued for an administrative unit due to incomplete address and the failure to respond to this writ in a timely manner are among the faults that need to be attributed to the state in terms of the prolongation of trial.

53. Finally, it was seen that five different judges presided over the action tried in compliance with the reversal before the court of first instance after the decision of reversal. The negative effects of the fact that different judges have to handle and examine the same file again due to the replacement of the posts of judges at frequent intervals on the prolongation of cases as well as the increase of workload should also be taken into account.

54. As a result of the evaluation of the application, the declaratory action for service which is the subject of the application is away from being complex when criteria such as the difficulty in the settlement of legal disputes, the complexity of material incidents, the obstacles encountered in the collection of evidence, the number of parties and witnesses are taken into consideration apart from the difficulties which were encountered in the collection of evidence and the access to the witnesses and were completely under the responsibility of the state. It is not possible to explain and correlate the failure to conclude the trial in a reasonable time with the attitudes and behaviors of the application or the fact that he did not act diligently while exercising his procedural rights.

55. When the periods of delay in the trial process in the declaratory action for service which is the subject of the application are separately evaluated, it is seen that the witnesses who were determined by the court of first instance *ex officio* before and after the decision of reversal could not be made to appear at the hearing in a reasonable time, that the written writs could not be responded in a timely manner, that the appeal authority delivered a decision at the end of a period of 25 months; that as a consequence the trial was completed in a period of eight years which is too long a period to be justified. When the quality of the disputes arising out of the working relation, the value that they have for the applicant and the interest of the applicant in the case are taken into account, it is obvious that a period such as eight years is not reasonable.

56. Due to the aforementioned reasons, it should be decided that the applicant's right to trial in a reasonable time guaranteed by Article 36 of the Constitution was violated.

3. In Terms of Article 50 of the Code Numbered 6216

57. The applicant requested that a moral compensation of 16,000 TL be adjudged in order for the moral damage that he was exposed to be compensated by stating that the right to fair trial was violated due to the long-lasting trial.

58. Paragraph (2) of Article 50 of the Code numbered 6216 with the side heading of *"Decisions"* is as follows:

> *"If the determined violation arises out of a court decision, the file shall be sent to the relevant court for holding the retrial in order for the violation and the consequences thereof to be removed. In cases where there is no legal interest in holding the retrial, the compensation may be adjudged in favor of the applicant or the remedy of filing a case before the general courts may be shown. The court, which is responsible for holding the retrial, shall deliver a decision over the file, if possible, in a way that will remove the violation and the consequences thereof that the Constitutional Court has explained in its decision of violation."*

59. When the personal interest of the applicant and the value that the action has for the applicant are also taken into account, as the declaratory action for insured services, which

is the subject of the application, tried before the labour court lasted for approximately eight years, it should be decided by discretion that a moral compensation of 5.850,00 TL be paid to the applicant in return for his moral damage which cannot be compensated only by the determination of the violation.

60. Upon the examination carried out over the application file, it should be decided that the trial expenses of 1,698.35 TL in total composed of the fee of 198.35 and the counsel's fee of 1,500 TL, which were made by the applicant and determined in accordance with the documents in the file, be paid to the applicant.

V. JUDGMENT

In the light of the reasons explained, it is **UNANIMOUSLY** decided on 20/3/2014 that;

A. The application is ADMISSIBLE,

B. The right to trial in a reasonable time enshrined in Article 36 of the Constitution WAS VIOLATED,

C. A moral COMPENSATION of 5,850.00 TL BE PAID to the applicant.

D. The other requests of the applicant be DISMISSED,

E. The trial expenses of 1,698.35 TL in total composed of the fee of 198.35 and the counsel's fee of 1,500 TL, which were made by the applicant be PAID TO THE APPLICANT,

F. The payments be made within four months from the date of application of the applicants to the State Treasury following the notification of the judgment; if there happens to be a delay in payment, legal interest be accrued for the period elapsing from the date when this duration ends until the date of payment,

G. A copy of the decision be sent to the relevant court.

President	Member	Member
Serruh KALELİ	Burhan ÜSTÜN	Nuri NECİPOĞLU

Member	Member
Hicabi DURSUN	Erdal TERCAN