



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

SECOND SECTION

CASE OF T. AND A. v. TURKEY

(Application no. 47146/11)

JUDGMENT

STRASBOURG

21 October 2014

FINAL

21/01/2015

This judgment has become final under Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of T. and A. v. Turkey,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Guido Raimondi, *President*,

Işıl Karakaş,

Nebojša Vučinić,

Helen Keller,

Paul Lemmens,

Egidijus Kūris,

Robert Spano, *judges*,

and Abel Campos, *Deputy Section Registrar*,

Having deliberated in private on 30 September 2014,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 47146/11) against the Republic of Turkey lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by two British nationals, Ms S.T. and Mr K.A. (“the applicants”), on 11 May 2011.

2. The applicants were represented by Mr A. Yılmaz and Mrs S. Yılmaz, lawyers practising in Istanbul. The Turkish Government (“the Government”) were represented by their Agent.

3. On 11 May 2011 the applicants’ representatives sent the application form to the Court by fax. The next day, they posted it together with supporting documents and an authority form completed by the first applicant. On 20 May 2011 the Court received the original of the application form, the accompanying documents and a letter signed by one of the applicants’ representatives, Mr Yılmaz, in which he stated that the second applicant was a minor and that he would send a power of attorney signed by his legal guardian as soon as possible.

4. On 17 April and 2 July 2012 the Court sent two letters to one of the applicants’ representatives asking him to send a completed authority form with regard to the second applicant and warning him that failure to do so could lead the Court to declare the application inadmissible.

5. On 4 April 2013 the application was communicated to the Government.

6. Having been informed on 4 April 2013 that they could submit written observations under Article 36 § 1 of the Convention and Rule 44 of the Rules of Court, the United Kingdom Government indicated on 29 May 2013 that they did not intend to exercise their right in that regard.

7. On 17 December 2013 a completed authority form signed by the second applicant's mother and dated 30 November 2013 was sent to the Court.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

8. The applicants were born in 1966 and 1996 respectively and live in Sheffield, the United Kingdom.

A. The applicants' arrest, detention and deportation

9. On 8 November 2010 the applicants arrived in Turkey from Iran. They were planning to fly to Manchester (the United Kingdom) from Istanbul Atatürk Airport on the next day.

10. At around 11 a.m. on 9 November 2010 the applicants were about to board the plane for Manchester, but were prevented from doing so by officers from the private airport security company. It was alleged that the second applicant's passport photograph did not resemble him and could belong to someone else. Both applicants were taken to the "problematic passenger room" at the office of the passport police for an examination of the second applicant's passport.

11. At 4 p.m. on the same day the applicants signed documents entitled "Report of apprehension and custody/rights of suspects and accused persons", which set out their rights within the context of their arrest. According to the report which the first applicant signed, she had been apprehended on account of "being an accomplice to false identity". The reports stated that a public prosecutor had been informed of the apprehension. However, the prosecutor did not order that the applicants be taken into police custody. The reports signed by the applicants do not bear the signature of an interpreter.

12. According to a report drafted by two police officers at 4 p.m. the same day, the police asked one of the public prosecutors at the Bakırköy public prosecutor's office for instructions on how to proceed. The public prosecutor ordered that the photographs, fingerprints and statements of the first applicant, S.T., be taken; that the second applicant, K.A., be transferred to the Bakırköy police station juvenile department and that the passport in question be seized for an examination of its authenticity.

13. The second applicant was kept at the office of the passport police at Atatürk Airport until 10.50 p.m. on 9 November 2010. He was then transferred to the Bakırköy police station juvenile department following the

instructions of the public prosecutor, before being sent to the police criminal laboratory in order to establish his identity.

14. On 10 November 2010 the Bakırköy Magistrates' Court decided to confiscate the second applicant's passport.

15. On the same day the second applicant was taken to the Bakırköy public prosecutor's office. His statements were taken by the public prosecutor, who decided to impose an administrative sanction under the Misdemeanors Act and to release him.

16. Later on the same day the police criminal laboratory issued a report establishing the authenticity of the second applicant's passport.

17. Subsequently, the police received instructions from one of the prosecutors from the Bakırköy public prosecutor's office to either hand the second applicant over to a family member or transfer him to social services.

18. At around 4 p.m. on 11 November 2010 the second applicant was handed over to one of his relatives, Mr. B.M., who was also the first applicant's husband. At the same time his passport was given back to him as its authenticity had been proved.

19. Meanwhile, following the arrest of the first applicant at the airport on 9 November 2010, her photograph and fingerprints were taken. At 9 p.m. on the same day she was questioned by two police officers at Istanbul Atatürk Airport with the help of another police officer, who acted as an interpreter. The first applicant was informed that she had been brought to the office of the passport police on suspicion that she had helped the second applicant to travel abroad with a passport which had not belonged to him. In her statements, the applicant maintained that the second applicant was a relative of her husband and that his mother was a British citizen. She denied the veracity of the allegations against her.

20. The first applicant continued to be detained at the airport detention facility until 12 November 2010.

21. At 4 p.m. on 12 November 2010 the first applicant was transferred from the airport detention facility to the Kumkapı Foreigners' Removal Centre.

22. At 9.20 p.m. on 13 November 2010 the first applicant was deported to the United Kingdom.

B. Proceedings brought by the first applicant

23. On 12 November 2010 the applicants' lawyer lodged a criminal complaint with the Bakırköy public prosecutor's office against D.Ö., N.G. and Y.A., officers on duty at the time of the applicants' detention at Istanbul Atatürk Airport. He requested that an investigation be initiated against the aforementioned officers who had abused their power and unlawfully deprived his client of her liberty. The lawyer submitted that the authenticity of the second applicant's passport had been established and that the first

applicant had been detained at the airport without a legal basis. He stressed that if his client had been suspected of having committed an offence, the police should have kept her for only twenty-four hours. He requested that his client be brought before a public prosecutor or be released. In his petition, the lawyer also complained of overcrowding and the material conditions of the airport detention room where his client had been held.

24. On 20 January 2011 the Bakırköy public prosecutor took statements from two police officers who had been on duty at the time of the first applicant's detention. Both officers maintained that the first applicant had been kept in detention pending her transfer to the Kumkapı Foreigners' Removal Centre attached to the Istanbul security directorate.

25. On 22 January 2011 the Bakırköy public prosecutor decided not to bring criminal proceedings against those police officers. In his decision, the public prosecutor noted that the first applicant had been subject to a criminal investigation following the instructions of the public prosecutor on duty and that she had been held at the foreigners' detention centre (*misafirhane* - guesthouse) at the airport. The public prosecutor considered that the delay in the first applicant's release had occurred on account of the administrative procedure regarding her deportation and that the police officers had not acted with the intention of committing the offence of abuse of power.

26. On 23 February 2011 the applicants' lawyer objected to the decision of 22 January 2011. In his petition he brought to the attention of the Assize Court the issues of the alleged unlawfulness of the first applicant's detention, the absence of information given to the first applicant about her arrest, the unlawfulness of her deportation without being notified by a deportation order and the alleged poor conditions of detention.

27. On 14 March 2011 the Istanbul Assize Court dismissed the first applicant's objection, holding that the decision of 22 January 2011 had been in accordance with the law.

28. In the meantime, following the criminal complaint lodged by the first applicant, a disciplinary inquiry was initiated into D.Ö., N.G. and Y.A. by the Istanbul security directorate. On 16 February 2011 the Istanbul security directorate decided not to bring disciplinary proceedings against the officers in view of the Bakırköy public prosecutor's decision of 22 January 2011. In the decision, it was noted that the applicants had been subject to misdemeanour proceedings and that the first applicant had not been in police custody but had been held in the foreigners' detention centre (*misafirhane* - guesthouse) at the airport.

29. On 28 February 2011 the applicants' lawyer objected to the decision of 16 February 2011. In his petition, he submitted the same arguments as those he had submitted to the Istanbul Assize Court on 23 February 2011.

30. On 2 June 2011 the Istanbul Regional Administrative Court held that it did not have jurisdiction to render a judgment on the merits of the first applicant's objection, given that the decision of 16 February 2011 had not

refused authorisation to bring criminal proceedings against the police officers. The court noted that in order to annul the administrative decision in question, the applicant should have lodged an action with the administrative courts.

C. Conditions of detention at the Istanbul Atatürk Airport detention facility

1. The first applicant's account

31. The first applicant claimed that the detention room at Istanbul Atatürk Airport had been overcrowded at the time of her detention, which had lasted seventy-seven hours. She submitted that she had been kept in a room measuring approximately 32 sq. m, which had been divided into two sections by a partition. One of the sections had a window but the other one received no natural light. The applicant claimed that she had been kept in the latter section with at least twenty other people at a time. There was no fresh air and the overcrowding of the room led to problems of hygiene. The applicant also claimed that there had been no furniture in the room suitable for sleeping on, and that in any case it had been impossible to lie down due to the overcrowding. She also claimed that she had had no access to fresh air throughout her detention at the airport and that she had been unable to go to the toilets unless she had been accompanied by officers.

2. The Government's account

32. The Government maintained that the applicant had been detained in a waiting room located in the legal services department of the airport security directorate. The room in question measured 32 sq. m. It received direct sunlight through windows and had a ventilation system. They noted that the room had a padded sitting area for rest and sleep, and was cleaned every day. The Government contended that detainees used the toilet of the security directorate. According to the Government's submissions, in total eighty-seven persons were detained in that room between 9 and 12 November 2010.

33. The Government submitted a black-and-white photograph of the room where the first applicant had been detained. The photograph shows two separate areas divided by a partition. The area on the right side of the photograph has two windows, two divans and three chairs. This part of the room appears to be well lit. The left side of the photograph shows a dark area without a window in which there are seven chairs and a divan. Both areas appear to be clean.

34. The Government further submitted two lists to the Court containing the names of the detainees kept in police custody at the Istanbul Atatürk airport detention facility on 9 and 12 November 2010, the reasons for their

detention, the nationality of the detainees, and the date and time of their arrest. According to those lists, at 7 p.m. on 9 November 2010 a total of thirty-eight persons were detained at Istanbul Atatürk Airport (thirty-one men and seven women), whereas at 8 a.m. on 12 November 2010, there were forty-nine detainees in custody (thirty-seven men and twelve women). The first applicant's name appears on the list of 9 November 2010 but not on the list dated 12 November 2010.

II. RELEVANT LAW AND PRACTICE

A. Domestic law and practice

35. A description of relevant domestic law and practice regarding the detention and deportation of foreign nationals at the material time can be found in the cases of *Yarashonen v. Turkey* (no. 72710/11, §§ 21-26, 24 June 2014) and *Abdolkhani and Karimnia v. Turkey* (no. 30471/08, §§ 29-45, 22 September 2009).

36. Paragraph 1 of Article 141 of the Code of Criminal Procedure provides as follows:

“Persons; ...

b) who were not brought before a judge within the period prescribed by law,

...

g) who were not provided with the reasons for their arrest and the charges in a written form or, in the event that written notification was not imminently possible, orally;

...

during the criminal investigation or prosecution may demand compensation for all pecuniary and non-pecuniary damage they sustained from the State.”

B. International material

37. The standards of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (“the CPT”) for the conditions of detention of foreign nationals (see the CPT standards, document no. CPT/Inf/E (2002) 1- Rev. 2013) provide, in so far as relevant, as follows:

“25. CPT visiting delegations have met immigration detainees in a variety of custodial settings, ranging from holding facilities at points of entry to police stations, prisons and specialised detention centres. As regards more particularly transit and ‘international’ zones at airports ... the CPT has always maintained that a stay in a transit or ‘international’ zone can, depending on the circumstances, amount to a deprivation of liberty within the meaning of Article 5 (1)(f) of the European

Convention on Human Rights, and that consequently such zones fall within the Committee's mandate

...

26. **Point of entry holding facilities** have often been found to be inadequate, in particular for extended stays. More specifically, CPT delegations have on several occasions met persons held for days under makeshift conditions in airport lounges. It is axiomatic that such persons should be provided with suitable means for sleeping, granted access to their luggage and to suitably-equipped sanitary and washing facilities, and allowed to exercise in the open air on a daily basis. Further, access to food and, if necessary, medical care should be guaranteed.

...

79. Conditions of detention for irregular migrants should reflect the nature of their deprivation of liberty, with limited restrictions in place and a varied regime of activities. For example, detained irregular migrants ... should be restricted in their freedom of movement within the detention facility as little as possible."

38. In June 2009 the CPT visited a number of detention facilities, in different provinces in Turkey, where foreign nationals were held, including the holding facilities for foreign nationals in the transit zone of Istanbul Atatürk Airport, where the first applicant was also detained. The relevant extracts from their visit report dated 16 December 2009 read as follows:

"3. Holding facilities for foreign nationals in the transit zone of Istanbul International Airport

65. The holding facilities of the Passport Police in the transit area of Istanbul International Airport comprised two rooms for persons who, upon arrival by airplane, are being denied entry into the territory of Turkey. The premises were managed by a private security company under the supervision of the Passport Police.

On the day of the visit, there were 13 foreign nationals present (seven women and six men). According to the custody book, more than 3,400 foreign nationals had been held in these facilities since the beginning of 2009. The vast majority of them stayed there only for very short periods, pending their departure on the next possible flight. Only in exceptional cases were persons held there for more than 24 hours.

66. Material conditions were generally adequate for short periods of stay. The two detention rooms (one for male and one for female foreign nationals) were equipped with armchairs (which could be converted into beds), tables and chairs. Showers and sanitary facilities were also available."

39. The United Nations ("UN") Special Rapporteur on the human rights of migrants, Mr François Crépeau, conducted an official visit to Turkey on 25-29 June 2012 at the invitation of the Turkish Government. He visited, *inter alia*, the holding facilities for foreign nationals in the transit zone of Istanbul Atatürk Airport, and submitted a report to the UN General Assembly on 17 April 2013 (A/HRC/23/46/Add.2). The relevant parts of the report read as follows:

"58. The Special Rapporteur also visited the "problematic passenger room" in the transit zone at Istanbul Atatürk Airport. This is an important border crossing point, where migrants may be arrested and detained, both those who are trying to enter

Turkey, and those who are in transit. The fact that Turkish authorities claim that the “problematic passenger room” is under the authority of a private company, and not within the jurisdiction of Turkish authorities, is of great concern to the Special Rapporteur: this “problematic passenger room”, despite its name, is a place of detention, as the persons held there are not free to leave. Moreover, the transit zone is Turkish territory for which Turkish authorities are responsible. The difficulties the Special Rapporteur had getting access to the “problematic passenger room”, with the Government claiming that they did not have jurisdiction, reflects what the Special Rapporteur heard from lawyers, civil society and international organizations concerning their limited access to this place. The Special Rapporteur is further alarmed at reports of persons being detained there for lengthy periods of time. He is troubled that the Turkish authorities do not appear to be monitoring effectively how migrants are treated in the transit zone, and encourages them to do so systematically.”

THE LAW

I. THE GOVERNMENT’S PRELIMINARY OBJECTION

40. The Government submitted that the facts and the applicants’ complaints in the application form had not been submitted succinctly in accordance with the Rules of Court and consisted of twenty-eight pages in total. They further noted that the applicants had failed to submit a brief summary of the facts of the case and their complaints in accordance with Article 47 of the Rules of Court and paragraph 11 of the Practice Directions. They therefore asked the Court to reject the application for failing to meet the requirements of Article 47 of the Rules of Court.

41. The Court reiterates that it has already examined and dismissed similar objections by the respondent Government in the cases of *Öner Aktaş v. Turkey* (no. 59860/10, § 29, 29 October 2013) and *Yüksel v. Turkey* ((dec.), no. 49756/09, § 42, 1 October 2013)). In the present case, the Court finds no reason to depart from that conclusion. The Government’s arguments on this point should therefore be rejected.

II. AS REGARDS THE SECOND APPLICANT

42. The Government submitted that the applicants’ representatives had failed to submit an authority form indicating that they represented the second applicant in the proceedings before the Court at least until 17 April 2013, despite the letters sent by the Registry to the representatives. They therefore considered that the application should be rejected for being incompatible *ratione personae* in so far as it concerned the second applicant.

43. The applicants’ representatives maintained in reply that on 30 November 2013 they had submitted a duly completed authority form

signed by the legal guardian of the second applicant, who was a minor at the time of the events giving rise to the present application.

44. The Court does not consider it necessary to examine the Government's objection since the application brought by the second applicant was in any event not lodged within the six-month time-limit pursuant to Article 35 § 1 of the Convention, for the reasons set out below.

45. In the case of *Kaur v. the Netherlands* ((dec.), no. 35864/11, ECHR 15 May 2002), the Court stated as follows:

“12. ... It would be contrary to the spirit and aim of the six-month rule if, by any initial communication, an applicant or his or her representative could set into motion the proceedings under the Convention and then remain inactive for an unexplained and unlimited length of time. Applicants and their representatives must therefore pursue their applications with reasonable expedition, after any initial introductory contact (*P.M. v. the United Kingdom* (dec.), no. 6638/03, 24 August 2004). A failure to do so may lead the Court to decide that the interruption of the six-month period is to be invalidated and that it is the date of the submission of the completed application which is to be considered as the date of its introduction (see Rule 47 § 5 of the Rules of Court and paragraph 4 of the Practice Direction on the Institution of Proceedings, ...).

13. As to the question whether the omission to submit an authority form – in cases where applicants are represented –, may have consequences for the date of introduction of an application, it is true that the Court has previously held that the date on which a form of authority has been submitted is not decisive for the purposes of assessment of the compliance with the six-month requirement (see *Post v. the Netherlands* (dec.), no. 21727/08, 20 January 2009 and *W.S. v. Poland*, no. 21508/02, § 42, 19 June 2007). However, that consideration concerned the – different – question whether it is required that an authority form be submitted within a period of six months from the date on which the final decision was taken at the national level. The question at issue here is whether an application – even if it contains all the data and documents as set out in Rule 47 § 1 of the Rules of Court – can continue to be considered to have been introduced at a particular date when an authority form is not submitted until considerably later and after the expiry of time-limits fixed for the submission of that form. The Court is of the opinion that such should not be the case, for the following reasons.

14. In a number of cases in which the applicant had not been in contact with the Court directly, the Court has held that it considers it essential for representatives to demonstrate that they have received specific and explicit instructions from the alleged victim(s) within the meaning of Article 34 of the Convention on whose behalf they purport to act. Where the case files did not contain a power of attorney – i.e. a document in which the applicants themselves had indicated that they wished the stated representative to lodge an application with the Court on their behalf –, the Court considered that such cases should be rejected for want of an “applicant” for the purposes of Article 34 of the Convention and it declared them inadmissible as incompatible *ratione personae* pursuant to Article 35 §§ 3 and 4 of the Convention (see *Post*, cited above; *K.M. and Others v. Russia* (dec.), no. 46086/07, 29 April 2010; *Çetin v. Turkey* (dec.), no. 10449/08, 13 September 2011).

15. It would clearly run contrary to the purpose of the six-month rule ... if Convention proceedings could be instituted on behalf of purported applicants who did not confirm to the Court for an unexplained and unlimited length of time their wish

for those proceedings to be set in motion on their behalf. In addition, against the background of the Court's current overload and the fact that a large number of applications raising serious issues on human rights are pending, it can no longer be expected of the Court that it deal with the merits of cases in which time-limits set for the purpose of submitting an authority form are exceeded without an extension having been sought and an explanation provided for the delay incurred in complying with this very simple yet crucial procedural requirement (see *mutatis mutandis* *Bock v. Germany* (dec.), no. 22051/07, 19 January 2010)."

46. In the light of the aforementioned considerations and given the circumstances of the present case, the Court notes that at the time of the proceedings in the present case, the rules contained in the Rules of Court and in the Practice Direction on the Institution of Proceedings in force were the same as those applied in the above-cited case of *Kaur v. the Netherlands*. Therefore, the considerations in that decision are applicable in the circumstances of the present case, even though on 1 January 2014 a new version of the Rules of Court entered into force.

47. The Court further notes that with regard to the second applicant, the six-month period started to run on 11 November 2010, namely on the date on which he was released from detention (see paragraph 4 above). Accordingly, the application to the Court should have been introduced at the latest on 11 May 2011.

48. The application was introduced by the applicants' representatives on 11 May 2011. However, the Court does not consider this to be the date of the introduction of the application in so far as it concerns the second applicant. It observes in this respect that no duly signed and completed authority form was included with the submissions of the applicants' representative. In this connection, the Court takes note of the letter dated 11 May 2011 from Mr Yılmaz, one of the applicant's representatives, in which he maintained that in view of the second applicant's age, he would provide an authority form signed by the applicant's legal guardian as soon as possible. Subsequently, on 17 April and 2 July 2012, the Court sent two letters to Mr Yılmaz asking him to submit an authority form regarding the second applicant and explicitly warning him that failure to do so could lead the Court to declare the application inadmissible (see paragraph 36 above). However, it was not until 17 December 2013 that a completed authority form signed by the second applicant's mother and dated 30 November 2013 was despatched to the Court. The Court observes in this connection that the accompanying letter did not contain any explanation for the delay, which lasted more than two and a half years.

49. The Court is aware that the present application is slightly different from the case of *Kaur v. the Netherlands* in that the applicants' representatives were not given a time-limit for the submission of the authority form in the letters of 17 April and 2 July 2012. However, given that the applicants' representatives had been warned about the possible outcome of their failure to provide the form and in view of the excessive

length of the delay in providing it, the Court finds that the date of the submission of the authority form, namely 17 December 2013, should be considered as the date of introduction of the application. Since the six-month time period ended on 11 May 2011, the application has been lodged out of time and must be rejected pursuant to Article 35 §§ 1 and 4 of the Convention, in so far as it concerns the second applicant.

III. AS REGARDS THE FIRST APPLICANT

A. Alleged violations of Article 5 of the Convention

50. The first applicant complained, under Article 5 §§ 1, 2, 3 and 4 and Article 13 of the Convention, that she had been unlawfully detained without the opportunity to challenge the lawfulness of her detention and that she had not been duly informed of the reasons for her deprivation of liberty. She further maintained, under Article 5 § 5 of the Convention, that she had had no right to compensation under domestic law in respect of these complaints.

51. The Government contested those arguments.

52. The Court considers at the outset that the complaint under Article 13 falls to be examined under Article 5 § 4 of the Convention alone, which provides a *lex specialis* in relation to the more general requirements of Article 13 (see *Amie and Others v. Bulgaria*, no. 58149/08, § 63, 12 February 2013) and that the complaint under Article 5 § 3 should be examined under Article 5 § 1 of the Convention.

Article 5 §§ 1, 2, 4 and 5 of the Convention provides as follows:

“1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:

- (a) the lawful detention of a person after conviction by a competent court;
- (b) the lawful arrest or detention of a person for non-compliance with the lawful order of a court or in order to secure the fulfilment of any obligation prescribed by law;
- (c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;
- (d) the detention of a minor by lawful order for the purpose of educational supervision or his lawful detention for the purpose of bringing him before the competent legal authority;
- (e) the lawful detention of persons for the prevention of the spreading of infectious diseases, of persons of unsound mind, alcoholics or drug addicts or vagrants;
- (f) the lawful arrest or detention of a person to prevent his effecting an unauthorised entry into the country or of a person against whom action is being taken with a view to deportation or extradition.

2. Everyone who is arrested shall be informed promptly, in a language which he understands, of the reasons for his arrest and of any charge against him.

...

4. Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.

5. Everyone who has been the victim of arrest or detention in contravention of the provisions of this Article shall have an enforceable right to compensation.”

1. Admissibility

53. The Government submitted that the applicant’s detention between 9 and 12 November 2010 fell within the scope of Article 5 § 1 (c) of the Convention, as the applicant had been kept in police custody until her transfer to the Kumkapı Foreigners’ Removal Centre on 12 November 2010. They maintained in this connection that under Article 91 of the Code of Criminal Procedure the police custody period in such circumstances was twenty-four hours and that the applicant’s detention had exceeded the period prescribed by law. The Government considered that as a person who had not been brought before a judge at the end of the legal custody period, the applicant was eligible for compensation pursuant to Article 141 § 1 (b) of the Code of Criminal Procedure (Law no. 5271). They further argued, in relation to the applicant’s complaint under Article 5 § 2 of the Convention, that had she not been informed of the reasons for her detention, the applicant could have requested compensation under Article 141 § 1 (g) of Law no. 5271. They therefore argued that the application should be rejected for non-exhaustion of domestic remedies.

54. The applicant argued that no effective remedy existed in relation to her complaints under Article 5 §§ 1 and 2 of the Convention. In this connection, she submitted that a criminal charge had not been brought against her within the meaning of the Code of Criminal Procedure and that both she and the second applicant had been subject to misdemeanour proceedings under the Misdemeanours Act. She therefore argued that Article 141 of Law no. 5271 was not applicable in her case. She further noted that the domestic courts had dismissed similar requests in similar cases. In support of her arguments, she submitted an example in which the Bakırköy Assize Court had dismissed a request for compensation under Article 141 of Law no. 5271 by a certain A.C.U., who had first been taken into police custody and subsequently held in a foreigners’ removal centre despite the fact that no prosecution had been brought against her. According to the judgment submitted by the applicant, the court had held that although there had been a criminal investigation against A.C.U., she had not been in police custody but in administrative detention. The court had therefore decided that Article 141 of the Code of Criminal Procedure was not applicable in that case.

55. The Court considers that it must first determine whether the applicant's detention between 9 and 12 November 2010 at Istanbul Atatürk Airport could be considered as detention falling within the scope of Article 5 § 1 (c) and thus whether the applicant could have sought compensation under Article 141 of the Code of Criminal Procedure. In this connection, the Court first observes that on 9 November 2010 the police took the applicant to the "problematic passenger room", which is described as a detention facility where foreign nationals are held at Istanbul Atatürk Airport (see paragraphs 38 and 39 above). The Court further notes that although the police reports drafted at 4 p.m. on the same day refer to the "apprehension" of the applicant, according to those reports, public prosecutors had not ordered her detention in police custody (see paragraphs 11 and 12 above). Indeed, when the applicant's lawyer lodged a criminal complaint against two officers alleging that they had deprived the applicant of her liberty unlawfully and abused their power, the officers in question maintained before the public prosecutor that the applicant had been kept in detention pending her transfer to the Kumkapı Foreigners' Removal Centre (see paragraphs 23 and 24 above). Hence, the Bakırköy public prosecutor considered that the applicant had been subject to a criminal investigation but held within the context of immigration controls in a foreigners' detention centre, and he therefore declined to bring criminal proceedings against the police officers (see paragraph 25 above). Lastly, in the decision dated 16 February 2011, the Istanbul security directorate noted that the applicant had not been in police custody but had been held in the foreigners' detention centre at the airport (see paragraph 28 above). The Court also observes that the judgment of the Bakırköy Assize Court in the case brought by A.C.U., submitted by the applicant, appears to point in the same direction (see paragraph 54 above).

56. In the light of the above, the Court considers that uncertainty remains on whether the applicant's detention was to be considered a form of police custody, as part of a criminal investigation within the meaning of Article 141 of the Code of Criminal Procedure, or a detention of an administrative nature as part of immigration controls, not falling under the compensatory scheme of that provision. In this regard, the Court attaches weight to the decisions of the Bakırköy public prosecutor and the Istanbul security directorate concluding that the applicant was held by the police in the context of immigration controls and not in police custody. The Court also stresses that the Government have failed to provide any examples in which Article 141 (b) or (g) of the Code of Criminal Procedure have been applied successfully in situations similar to the applicant's. On the contrary, the applicant himself submitted a judgment of the Bakırköy Assize Court in the case brought by A.C.U. which appears to point in the opposite direction (see paragraph 54 above). The Court considers that, in the circumstances, the applicant cannot be blamed for not having sought compensation under

Article 141 of the Code of Criminal Procedure. The Court accordingly rejects the Government's objection.

57. The Court further notes that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

a. Alleged violation of Article 5 § 1 of the Convention

58. The Government submitted that the applicant's detention between 9 and 12 November 2010 had been justified under Article 5 § 1 (c) of the Convention. They further noted that between 12 and 13 November 2010 she had been detained with a view to her deportation within the meaning of Article 5 § 1 (f) of the Convention.

59. The applicant maintained that her detention had been unlawful as it had had no legal basis in domestic law.

60. The Court reiterates that in the light of the content of the case file, the applicant's detention cannot be described as falling within the scope of Article 5 § 1 (c) of the Convention and that she was deprived of her liberty in the context of immigration controls with a view to her removal (see paragraphs 55 and 56 above).

61. The Court has already examined a similar grievance in the case of *Abdolkhani and Karimnia* (cited above, §§ 125-135), in which it found that in the absence of clear legal provisions in Turkish law establishing the procedure for ordering detention with a view to deportation, the applicants' detention was not "lawful" for the purposes of Article 5 of the Convention. The Court has examined the present case and finds no particular circumstances which would require it to depart from its findings in the above-mentioned judgment.

62. There has accordingly been a violation of Article 5 § 1 of the Convention in the instant case.

b. Alleged violation of Article 5 § 2 of the Convention

63. Referring to the police report drafted at 4 p.m. on 9 November 2010 and the document containing the applicant's statements given to the police on the same day (see paragraphs 11 and 19 above), the Government argued that the applicant had been informed that she had been arrested on suspicion of committing a crime.

64. The applicant argued that she had not been informed of the reasons for her detention at Istanbul Atatürk Airport and the Kumkapı Foreigners' Removal Centre.

65. The general principles governing the elementary safeguard embodied in Article 5 § 2 of the Convention were set out in the case of

Abdolkhani and Karimnia (cited above, § 136). The Court reiterates in this connection that by virtue of Article 5 § 2, anyone who is arrested must be told, in simple, non-technical language that can be easily understood, the essential legal and factual grounds for the arrest, so as to be able, if he or she sees fit, to apply to a court to challenge its lawfulness in accordance with Article 5 § 4.

66. The Court observes that when the applicant was taken to the office of the passport police at the airport on 9 November 2010, she signed a document according to which she had been informed of the reason for her arrest, namely suspicion that she had helped the second applicant to commit a criminal act. Yet, as the domestic authorities held and the Court found, the applicant continued to be detained not on account of a criminal charge, but in the context of immigration controls (see paragraphs 55 and 56 above). In this connection, the Court notes that there is no other document in the case file demonstrating that she was formally notified of the grounds for her administrative detention at the airport or subsequently at the Kumkapı Foreigners' Removal Centre. In the absence of such documents, the Court is led to the conclusion that the reasons for the applicant's detention from 4 p.m. on 9 November 2010 onwards were never communicated to her by the national authorities.

67. There has accordingly been a violation of Article 5 § 2 of the Convention.

c. Alleged violation of Article 5 §§ 4 and 5 of the Convention

68. With regard to the applicant's allegation under Article 5 § 4 of the Convention, the Government submitted that the applicant had had a remedy whereby she could have challenged the lawfulness of her deprivation of liberty. In particular, they maintained that as she had been held in police custody she could have applied to the magistrates' courts requesting her release under Article 91 § 4 of the Code of Criminal Procedure, which provides that anyone who was in police custody within the context of a criminal investigation or a prosecution could request his or her release. Alternatively, the applicant could have applied to the administrative courts in order to object to the decision to hold her at the Kumkapı Foreigners' Removal Centre. In support of their argument, the Government submitted copies of decisions in two cases examined by the Ankara and Istanbul administrative courts.

69. In the first of those cases, A.A., an Iranian refugee who was held in a removal centre, requested the Ministry of the Interior to release him on 14 July 2008 and subsequently lodged a case with the Ankara Administrative Court on 6 August 2008. Stating that he had been recognised as a refugee by UNHCR, A.A. mainly argued that his detention was unlawful. On 17 September 2008 the Ankara Administrative Court ordered A.A.'s release as an interim measure and on 21 January 2009 the court

annulled the administrative decision to detain him. The second decision submitted by the Government concerned a case brought by A.T., a Romanian national, for the annulment of the administrative decision obliging her to leave Turkey.

70. As to the complaint under Article 5 § 5, the Government submitted that as there had been no violation of Article 5 § 1, 2 or 4 of the Convention, the applicant's right under Article 5 § 5 had also not been breached.

71. The applicant contended in reply that she could not have requested her release pursuant to Article 91 § 4 of the Code of Criminal Procedure as she had not been detained in relation to a criminal investigation but merely because she was a foreigner. As to the Government's submissions regarding the remedy before the administrative courts, the applicant maintained that the case brought by A.T. did not concern that person's detention but her removal from Turkey and that therefore the decision rendered by the administrative court was not applicable in her case. She further noted that it had taken almost two months for the administrative court to issue an interim measure in the case brought by A.A., a delay which did not meet the "speedy judicial review" requirement in Article 5 § 4.

72. As regards her complaint under Article 5 § 5 of the Convention, the applicant submitted that she did not have a remedy whereby she could claim compensation for the breaches of her rights under Article 5.

73. The Court reiterates that the purpose of Article 5 § 4 is to guarantee to persons who are arrested and detained the right to judicial supervision of the lawfulness of the measure to which they are thereby subjected. A remedy must be made available during a person's detention to allow a speedy judicial review of its lawfulness. That review should be capable of leading, where appropriate, to release. The existence of the remedy required by Article 5 § 4 must be sufficiently certain, not only in theory but also in practice, failing which it will lack the accessibility and effectiveness required for the purposes of that provision (see *Tehrani and Others v. Turkey*, nos. 32940/08, 41626/08 and 43616/08, § 76, 13 April 2010 and the cases cited therein).

74. In the present case, the Court notes at the outset that it has already found that the applicant was detained within the context of immigration controls (see paragraph 56 above). Therefore, the provisions of Article 91 § 4 of the Code of Criminal Procedure cannot be considered to be a remedy whereby the applicant could have challenged the lawfulness of her detention within the meaning of Article 5 § 4 of the Convention. As regards A.T., the Court notes that she applied to the administrative courts and challenged the lawfulness of the decision to remove her from Turkey. The case she lodged with the administrative court did not concern her detention. Lastly, as to the case lodged by A.A., the Court has already held that the judicial review in the case of A.A. cannot be regarded as a speedy and, thus, an effective reply to A.A.'s request, given that the review by the administrative court lasted

forty-two days and A.A. was released seventy-two days after he had challenged the lawfulness of his detention (see *Tehrani and Others*, cited above, § 77).

75. Moreover, the Court has already found that the applicant had not been duly informed of the reasons for the deprivation of her liberty (see paragraph 66 above). It considers that this fact in itself meant that the applicant's right of appeal against her detention under Article 5 § 4 was deprived of all effective substance (see *Abdolkhani and Karimnia*, cited above, § 141, and *Dbouba v. Turkey*, no. 15916/09, § 54, 13 July 2010).

76. Lastly, as regards the applicant's allegation under Article 5 § 5 of the Convention, the Court observes that the Government did not make any submission relevant to the present case demonstrating that the applicant had had at her disposal a procedure allowing her to claim compensation for the violation of her rights enshrined in Article 5 §§ 1, 2 and 4. In this connection, the Court has already found a violation of Article 5 § 5 of the Convention in the past, where it concluded that the Turkish legal system did not provide individuals in the applicant's position with a remedy whereby they could receive compensation for their unlawful detention as required under Article 5 § 5 of the Convention (see *Dbouba*, cited above, §§ 53-54, and *Yarashonen*, cited above, §§ 48-50). In the absence of any examples submitted by the Government in which the administrative courts had granted such persons compensation, the Court sees no reason to depart from its findings in the aforementioned judgments.

77. In the light of the above, the Court concludes that there has been a violation of Article 5 §§ 4 and 5 of the Convention.

B. Alleged violations of Articles 3 and 13 of the Convention within the context of the first applicant's detention at Istanbul Atatürk Airport and the Kumkapı Foreigners' Removal Centre

78. Relying on Article 3 of the Convention, the applicant complained about the material conditions of the detention facility at Istanbul Atatürk Airport and at the Kumkapı Foreigners' Removal Centre. She also complained under Article 13, in conjunction with Article 3, that there were no effective domestic remedies available to her to complain of the conditions of her detention.

Articles 3 and 13 of the Convention provide as follows:

Article 3

"No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

Article 13

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

79. The Government contested those arguments.

1. Admissibility

80. The Government submitted that this part of the application should be rejected for failure to exhaust domestic remedies, as required by Article 35 § 1 of the Convention. They maintained in this connection that the applicant could have applied to the administrative and judicial authorities; requested improvements in the conditions of detention; and sought compensation in accordance with Article 125 of the Constitution or section 2(1)(a) and (b) of the Administrative Procedure Act. The Government did not submit any examples of administrative or judicial decisions reviewing conditions of detention at places where foreign nationals had been held. Yet, according to the Government, that did not mean that the administrative remedies they suggested were ineffective.

81. The applicant maintained, in reply, that she had complained about the conditions of her detention in her petition to the public prosecutor’s office, but it had not yielded any result. She further contended that no adequate remedy existed in relation to her complaint, which also explained the Government’s failure to submit concrete and relevant examples demonstrating how the legal provisions in question would have provided effective redress in practice.

82. The Court considers that the issue of exhaustion of domestic remedies is closely linked to the merits of the complaint that the applicant did not have an effective remedy at her disposal by which to complain of the inhuman and degrading conditions during her detention. The Court therefore finds it necessary to join the Government’s objection to the merits of the complaint under Article 13 of the Convention (see, among others, *Sergey Babushkin v. Russia*, no. 5993/08, § 34, 28 November 2013 and *Yarashonen*, cited above, § 54).

83. The Court notes that this part of the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

2. Merits

a. As regards the applicant's detention at the Istanbul Atatürk Airport

i. Alleged violation of Article 13 of the Convention

84. The Government maintained that the applicant had had effective remedies at her disposal in respect of her grievances about the conditions of her detention.

85. The applicant alleged that she had not had an adequate and effective remedy at her disposal with regard to her complaints concerning the conditions of her detention.

86. The Court has already examined and rejected similar preliminary objections by the Government in comparable cases and moreover found a violation of Article 13 of the Convention (see *Z.N.S. v. Turkey*, no. 21896/08, §§ 74-78, 19 January 2010; *Abdolkhani and Karimnia v. Turkey (no. 2)*, no. 50213/08, §§ 25-26, 27 July 2010; and, most recently, *Yarashonen*, cited above, §§ 56-66). Given the particular facts of the instant case, in particular, the existence of an “arguable complaint” (see paragraphs 90-98 below), the Court finds no reason to depart from its findings in the above-mentioned cases.

87. It therefore rejects the Government's objection concerning the non-exhaustion of domestic remedies and concludes that there has been a violation of Article 13, in conjunction with Article 3 of the Convention, on account of the absence of an effective remedy to complain about the inadequate conditions of the applicant's detention.

ii. Alleged violation of Article 3 of the Convention

88. The Government reiterated their account of the detention conditions at the Istanbul Atatürk Airport detention facility (see paragraphs 32-34 above) and maintained that those conditions complied with the requirements of Article 3 of the Convention. They provided one photograph of the room where the applicant had been held and copies of logs indicating the number of the detainees held in that room on 9 and 12 November 2010.

89. The applicant submitted in reply that the room had been severely overcrowded when she had been held at the airport. She noted in this connection that the Government had failed to submit the logs concerning 10 and 11 November 2012 and that although she had been in detention on 12 November 2010, the list submitted by the Government did not contain her name. She therefore considered that the logs provided by the Government were not reliable.

90. The applicant further submitted that the room where she had been detained had been divided into two, as the photograph submitted by the Government demonstrated, and that she had been held in the part which did not receive any sunlight or fresh air. She maintained that the room had had

no furniture on which to sleep and she had not been allowed to maintain her personal hygiene during her detention.

91. The Court refers to the principles established in its case-law regarding conditions of detention (see, in particular, *Yarashonen*, cited above, §§ 70-73 and the cases cited therein). It has previously found violations of Article 3 on account of inadequate conditions of detention, even for short periods of time, notably ten and four days of detention in an overcrowded and dirty cell in the case of *Koktysh v. Ukraine* (no. 43707/07, §§ 22 and 91-95, 10 December 2009) and five days in *Gavrilovici v. Moldova* (no. 25464/05, §§ 25 and 42-44, 15 December 2009) and *Cășuneanu v. Romania* (no. 22018/10, § 60-62, 16 April 2013).

92. The Court observes that the parties have disputed a number of aspects of the applicant's detention conditions at Istanbul Atatürk Airport. However, the Court does not consider it necessary to resolve all the differences between the parties, as it can establish a violation of Article 3 on the basis of the pertinent facts that have been presented, and those that have not been disputed, by the respondent Government.

93. The Court notes in this connection that the Government did not submit any information regarding the exact number of persons detained at the same time as the applicant and whether women and men had been held separately. Nor did they provide information as to whether the applicant had been detained in the part of the detention room which did not receive natural light and fresh air, as claimed by the applicant. The Government only provided information on the number of persons detained on 9 and 12 November 2010 and given that the applicant's name does not appear on the list of detainees drafted at 8 a.m. on 12 November 2010, the latter does not appear to be wholly reliable.

94. In view of the limited nature of the information provided by the Government, it is not possible to establish with any certainty the precise number of persons detained at the airport detention facility together with the applicant during her detention between 9 and 12 November 2010, nor exactly where she was held. If the Government's submissions are to be taken as the starting point, it should be accepted that women and men were held together at the airport in a room measuring 32 sq. m and that there were thirty-eight persons on 9 November 2010 and forty-nine on 12 November 2010. Given that the first applicant's submissions regarding her detention are much more detailed and precise and that those submissions were not disputed by the Government, the Court takes those submissions into account. The Court accordingly accepts the first applicant's version as regards the place of detention, which is the part of the room that did not receive natural light and fresh air. The Court is also led to conclude that the applicant was held together with other women listed in the logs submitted to the Court by the Government.

95. Against this background, the Court observes that on 9 November 2010 the applicant was taken to the airport detention facility at 4 p.m. at the latest. She was held with six other persons until at least the next morning, in a space measuring 16 sq. m in which there were seven chairs and a divan. Similarly, according to the document drafted at 8 a.m. on 12 November 2010, she was held in the same space together with at least twelve other persons. Accordingly, on 9 November 2010 the personal space per female detainee was approximately 2.30 sq. m and on 12 November 2010, the floor area per detainee dropped as low as 1.23 sq. m.

96. The Court notes that, by its very nature, the detention facility at Istanbul Atatürk Airport is a place designed to accommodate people for very short periods, as also pointed out by the CPT (see paragraph 37 above). While it can be argued that the number of persons held in the room at the same time as the applicant was acceptable and the material conditions were adequate for extremely short periods of stay, the same cannot be held for detention which exceeded three days. In this connection, the Court reiterates that it has already found that where applicants have at their disposal less than three square metres of floor surface, the overcrowding must be considered to be so severe as to justify in itself a finding of a violation of Article 3 (see *Tunis v. Estonia*, no. 429/12, § 44, 19 December 2013, and *Cășuneanu v. Romania*, cited above, §§ 43 and 60-62).

97. The Court further notes that, in particular on 12 November 2010, the applicant and her co-detainees did not even have a sufficient number of places to sit in the room where they were held. What is more, they would have had to sleep in turns, given that there was only one piece of furniture in the room suitable for sleeping on. The Court considers that the lack of sleeping places makes the effect of overcrowding in the applicant's case even more harmful (see *Koktysh*, cited above, § 94).

98. In the Court's view the aforementioned findings, coupled with the possible feeling of anxiety that the indefinite term of the applicant's detention may have caused, are sufficient to conclude that the conditions of her detention caused the applicant suffering which attained the threshold of degrading treatment proscribed by Article 3 of the Convention (see, *mutatis mutandis*, *Yarashonen*, cited above, § 80 and *Z.N.S. v. Turkey*, cited above, § 86). It is therefore not necessary to examine the applicant's remaining allegations regarding the conditions of her detention at Istanbul Atatürk Airport.

99. There has accordingly been a violation of Article 3 of the Convention on account of the conditions of the applicant's detention at Istanbul Atatürk Airport.

b. As regards the applicant's detention at the Kumkapı Foreigners' Removal Centre

100. Having regard to the fact that the applicant was detained at the Kumkapı Foreigners' Removal Centre for a brief period of time and its finding of a violation of Article 3 of the Convention on account of the conditions of detention at Istanbul Atatürk Airport, the Court considers that that there is no need to give a separate ruling on her complaints under this head (see, *mutatis mutandis*, *Kamil Uzun v. Turkey*, no. 37910/97, § 64, 10 May 2007 and *Güveç v. Turkey*, no. 70337/01, § 135, ECHR 2009).

C. Other alleged violations of the Convention

101. The first applicant complained, under Article 13 of the Convention in conjunction with Article 1 of Protocol No. 7 and Article 2 of Protocol No. 4, that she had not had an effective remedy in domestic law. She and the second applicant had been deported collectively and in breach of the procedural safeguards relating to the expulsion of aliens.

102. The Court notes that Turkey has not ratified Protocol No. 4 and Protocol No. 7 to the Convention. Therefore the applicant's complaints under Article 13, in conjunction with Article 1 of Protocol No. 7 and Article 2 of Protocol No. 4 are incompatible *ratione personae* with the provisions of the Convention within the meaning of Article 35 § 3 (a) and must be rejected in accordance with Article 35 § 4 (see *Ghorbanov v. Turkey* (dec.), no. 28127/09, ECHR 24 August 2010).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

103. Article 41 of the Convention provides:

"If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

104. The first applicant claimed 228.15 euros (EUR) in respect of pecuniary damage. She contended in this connection that as a result of her arrest and subsequent detention, she had had to purchase a new plane ticket from Istanbul to London. In support of her claim, the applicant submitted a copy of the plane ticket in question. The first applicant also claimed EUR 20,000 in respect of non-pecuniary damage.

105. The Government contested those claims, submitting that the requested amounts were unsubstantiated and excessive.

106. The Court notes that the first applicant was obliged to purchase a new plane ticket as she was prevented from boarding the plane on 9 November 2010 for the reason that the airport security officers considered that the second applicant's passport photograph did not resemble him and could belong to someone else. Both applicants were taken to the "problematic passenger room" at the office of the passport police for an examination of the second applicant's passport. The alleged pecuniary damage, due to the need to purchase a new plane ticket, did not therefore arise directly because of the circumstances surrounding the first applicant's ensuing detention which the Court has found was in breach of Articles 3, 5 and 13 of the Convention. The Court therefore does not discern any causal link between the violations found and the pecuniary damage alleged. As a result, it rejects this claim. On the other hand, it considers that the first applicant must have suffered non-pecuniary damage which cannot be compensated for solely by the finding of violations. Having regard to the gravity of the violations in question and to equitable considerations, it awards the applicant EUR 10,000 in respect of non-pecuniary damage.

B. Costs and expenses

107. The first applicant also claimed EUR 5,932 for the costs and expenses incurred before the domestic authorities and before the Court, including the lawyer's fees and other costs and expenses, such as travel expenses, stationery, photocopying, translation and postage. In this connection, she submitted a time sheet showing that her legal representatives had carried out forty-seven hours' legal work, an invoice demonstrating that she had paid EUR 660 to one of her representatives, and invoices for the remaining costs and expenses.

108. The Government contested those claims, deeming them unsubstantiated.

109. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 3,500 covering costs under all heads.

C. Default interest

110. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Joins* the Government's objection as to the non-exhaustion of domestic remedies in relation to the adverse material conditions of detention at the Istanbul Atatürk Airport and the Kumkapı Foreigners' Removal Centre to the merits of the first applicant's complaint under Article 13 of the Convention and *dismisses* it in so far as it relates to the first applicant's complaints concerning her detention at the Istanbul Atatürk Airport;
2. *Declares* the first applicant's complaints under Article 5 §§ 1, 2, 4 and 5 of the Convention regarding her right to liberty, and her complaints under Articles 3 and 13 of the Convention regarding the conditions of her detention at Istanbul Atatürk Airport and at the Kumkapı Foreigners' Removal Centre, as well as the lack of effective remedies concerning those conditions, admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 5 §§ 1, 2, 4 and 5 of the Convention in respect of the first applicant;
3. *Holds* that there has been a violation of Article 3 of the Convention on account of the conditions of the first applicant's detention at Istanbul Atatürk Airport;
4. *Holds* that there has been a violation of Article 13 of the Convention, in conjunction with Article 3, on account of the absence of effective remedies to complain about the conditions of detention at Istanbul Atatürk Airport in respect of the first applicant;
5. *Holds* that there is no need to examine the first applicant's complaints under Articles 3 and 13 of the Convention regarding the conditions of her detention at the Kumkapı Foreigners' Removal Centre;
6. *Holds*
 - (a) that the respondent State is to pay the first applicant, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts, to be converted into the currency of the respondent State at the rate applicable at the date of settlement:
 - (i) EUR 10,000 (ten thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (ii) EUR 3,500 (three thousand five hundred euros), plus any tax that may be chargeable to the first applicant, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

7. *Dismisses* the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 21 October 2014, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Abel Campos
Deputy Registrar

Guido Raimondi
President