

In the case of Mansur v. Turkey (1),

The European Court of Human Rights, sitting, in accordance with Article 43 (art. 43) of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") and the relevant provisions of Rules of Court A (2), as a Chamber composed of the following judges:

Mr R. Ryssdal, President,
Mr R. Bernhardt,
Mr F. Gölcüklü,
Mr R. Macdonald,
Mr I. Foighel,
Mr G. Mifsud Bonnici,
Mr J. Makarczyk,
Mr D. Gotchev,
Mr P. Jambrek,

and also of Mr H. Petzold, Registrar,

Having deliberated in private on 25 November 1994 and 23 May 1995,

Delivers the following judgment, which was adopted on the last-mentioned date:

Notes by the Registrar

1. The case is numbered 14/1994/461/542. The first number is the case's position on the list of cases referred to the Court in the relevant year (second number). The last two numbers indicate the case's position on the list of cases referred to the Court since its creation and on the list of the corresponding originating applications to the Commission.

2. Rules A apply to all cases referred to the Court before the entry into force of Protocol No. 9 (P9) and thereafter only to cases concerning States not bound by that Protocol (P9). They correspond to the Rules that came into force on 1 January 1983, as amended several times subsequently.

PROCEDURE

1. The case was referred to the Court by the European Commission of Human Rights ("the Commission") on 15 April 1994, within the three-month period laid down by Article 32 para. 1 and Article 47 (art. 32-1, art. 47) of the Convention. It originated in an application (no. 16026/90) against the Turkish Republic lodged with the Commission under Article 25 (art. 25) by a Turkish national, Mr Sadi Mansur, on 23 November 1989.

The Commission's request referred to Articles 44 and 48 (art. 44, art. 48) and to the declaration whereby Turkey recognised the compulsory jurisdiction of the Court (Article 46) (art. 46). The object of the request was to obtain a decision as to whether the facts of the case disclosed a breach by the respondent State of its obligations under Articles 5 para. 3 and 6 para. 1 (art. 5-3, art. 6-1) of the Convention.

2. In response to the enquiry made in accordance with Rule 33 para. 3 (d) of Rules of Court A, the applicant stated that he wished to take part in the proceedings and designated the lawyer who would represent him (Rule 30).

3. The Chamber to be constituted included ex officio

Mr F. Gölcüklü, the elected judge of Turkish nationality (Article 43 (art. 43) of the Convention), and Mr R. Ryssdal, the President of the Court (Rule 21 para. 3 (b)). On 26 April 1994, in the presence of the Registrar, the President drew by lot the names of the other seven members, namely Mr. R. Bernhardt, Mr. R. Macdonald, Mr I. Foighel, Mr G. Mifsud Bonnici, Mr J. Makarczyk, Mr D. Gotchev and Mr P. Jambrek (Article 43 (art. 43) in fine of the Convention and Rule 21 para. 4).

4. As President of the Chamber (Rule 21 para. 5), Mr Ryssdal, acting through the Registrar, consulted the Agent of the Turkish Government ("the Government"), the applicant's lawyer and the Delegate of the Commission on the organisation of the proceedings (Rules 37 para. 1 and 38). Pursuant to the order made in consequence, the Registrar received the memorials of the Government and the applicant on 1 and 5 August 1994 respectively. The Delegate of the Commission did not submit any written observations.

5. On 10 November 1994 the Commission produced the file on the proceedings before it, as requested by the Registrar on the President's instructions.

6. In accordance with the President's decision, the hearing took place in public in the Human Rights Building, Strasbourg, on 22 November 1994. The Court had held a preparatory meeting beforehand.

There appeared before the Court:

(a) for the Government

Mr M. Özmen,
Mrs D. Akçay,

Acting Agent,
Counsel;

(b) for the Commission

Mr H.G. Schermers,

Delegate;

(c) for the applicant

Mr T. Akillioglu, avukat (lawyer),

Counsel.

The Court heard addresses by Mr Özmen, Mrs Akçay, Mr Schermers and Mr Akillioglu, and also Mr Akillioglu's replies to its questions.

The Government sent their replies in writing on 12 December 1994.

AS TO THE FACTS

I. Circumstances of the case

7. Mr Mansur, who is of Iranian origin, acquired Turkish nationality by naturalisation on 5 May 1989.

8. On 12 June 1981 the Salonika Court of Appeal (Greece) sentenced him to four years' imprisonment for drug trafficking between Greece and Turkey.

A. The criminal proceedings

9. Three years later, in respect of the same facts, two sets of criminal proceedings were brought against the applicant in the First and Second Assize Courts at Edirne (Turkey). The trials were conducted concurrently until 6 May 1987, when the Second

Assize Court realised that the subject-matter of the two cases was identical and relinquished jurisdiction in favour of the First Assize Court (see paragraphs 14 and 27 below).

1. The proceedings in the Edirne First Assize Court

10. On 18 April 1984, at the end of a preliminary investigation opened after the conviction in Greece, the Ipsala public prosecutor's office committed Mr Mansur and A.D., his alleged accomplice, for trial at the Edirne First Assize Court ("the first court") on a charge of exporting drugs (Article 403 of the Turkish Criminal Code - see paragraph 35 below).

11. On 1 May 1984 that court asked the Greek authorities for the documents from the criminal file opened on the two defendants (the records of their statements, the judgment and the laboratory report on the confiscated substances).

On 4 October 1984 the Greek Ministry of Justice replied that the documents requested had already been sent twice, on 30 June and 23 November 1982, through the Turkish Embassy in Athens.

12. The first court then, on 27 November 1985, ordered an expert opinion on the substances confiscated in Greece. On 7 February 1986 the Institute of Forensic Medicine filed its report, concluding on the basis of the case file alone that the sample contained heroin.

13. On 31 March and 21 November 1986 the court asked the Turkish Ministry of Justice what action had been taken on its request for communication of the documents.

14. At a hearing on 1 May 1987 it learned that the Edirne Second Assize Court was also trying the applicant in respect of the same facts. It then requested joinder of the two cases, which was ordered on 6 May (see paragraphs 9 above and 27 below).

Moreover, noting that the reply given in the meantime by the Greek courts concerned A.D. only, the first court asked for specific information about each type of drug confiscated from Mr Mansur's car in Greece.

15. On 12 April 1988 the first court asked the Ankara Assize Court to have a Turkish translation made of a one-page expert opinion communicated by the Greek judicial authorities on 28 October 1987; on 19 July 1988 it repeated this request.

16. The Ankara Assize Court failed to find a sworn translator and returned the document in question on 7 November 1988.

17. On 11 November 1988 the first court then made the same request to the Istanbul Assize Court, which was unable to comply, however, for the reason previously given by its counterpart in Ankara.

18. At the hearing on 15 June 1989 Mr Mansur produced a translation of the report. The court, noting that the report merely stated that Mr Mansur was not a drug addict, once again requested communication of the expert report on the drugs seized in Greece.

19. On 13 July 1990 the Turkish Ministry of Justice transmitted the report in question to the first court, which on 19 July 1990 attempted without success to obtain a translation through the Ankara Assize Court.

20. On 19 February 1991 the first court sentenced the applicant to thirty years' imprisonment. In its judgment it pointed out that Mr Mansur had already been given a sentence of four years' imprisonment in Greece for the same facts, and, on the basis of the judgment given in Greece, the observations of the Institute of Forensic Medicine and Mr Mansur's confessions, established that the substance exported by him had indeed been heroin.

21. On 30 April 1991 the Court of Cassation dismissed an appeal by Mr Mansur on points of law.

22. On 21 June 1991, as Article 403 of the Criminal Code had been amended by Law no. 3756 of 5 June 1991 (see paragraph 35 below), the first court reduced the sentence imposed on 19 February 1991 to ten years' imprisonment.

2. The proceedings in the Edirne Second Assize Court

23. After being released by the Greek authorities on 12 September 1984, Mr Mansur returned to Turkey. He was taking steps to acquire Turkish nationality when, on 1 November 1984, the police arrested him in Istanbul, at the Civil Status Registry Office. In an order made on 5 November the Ipsala police court, on an application by the Edirne public prosecutor's office, placed him in detention pending trial.

The next day the same public prosecutor's office brought criminal proceedings against him in the Edirne Second Assize Court ("the second court") for drug trafficking.

24. On 16 November 1985 that court asked the Greek authorities to send it the judgment in which the applicant had been convicted and the laboratory report on the chemical substances.

25. The documents were received on 18 June 1985 through the Turkish Ministry of Justice. On 7 August 1985 the second court sent them to the Ankara Assize Court to have them translated. The translation was filed on 9 October 1985.

26. At the hearing on 25 October 1985 the second court noted that the laboratory report was not among the documents received. In response to a renewed request, the Greek authorities stated that the documents in question had already been sent twice to the Turkish Embassy in Athens. The second court then applied to the Turkish Ministry of Justice, which sent it the report on 7 October 1986.

On being requested to provide a translation of the expert report, the Ankara Assize Court stated that it had already sent it for translation.

27. After making enquiries, the second court found that the applicant was being tried for the same facts in the Edirne First Assize Court. It therefore decided, on 6 May 1987, to relinquish jurisdiction in favour of the latter (see paragraphs 9 and 14 above).

B. The detention pending trial

28. Mr Mansur's detention began on 5 November 1984 (see paragraph 23 above). The Ipsala police court had given as the reason for this detention the nature of the offence of which the applicant stood accused.

29. On 6 December 1984 the second court dismissed Mr Mansur's

application to it to set that decision aside.

30. Subsequently the court ordered that the applicant should remain in detention

- (a) on 17 December 1984, 5 February and 10 April 1985, "having regard to the nature of the alleged offence and the content of the file"; and
- (b) at twenty-five hearings held between 7 June 1985 and 22 April 1987, either giving no reasons or "because the reasons set out in the detention order [were] still ... valid".

31. After the second court relinquished jurisdiction, the first court in turn ordered that the applicant should remain in detention

- (a) at seventeen hearings held between 12 May 1987 and 2 August 1988, without giving precise reasons;
- (b) on 29 August, 28 September and 2 November 1988, "on account of the nature of the offence the defendant stands accused of";
- (c) on 30 November 1988, without giving precise reasons;
- (d) at nineteen hearings held between 23 December 1988 and 26 June 1990, having regard to "the nature of the offence" and/or "the state of the evidence", and once without giving precise reasons;
- (e) on 25 July and 22 August 1990, without giving precise reasons; and
- (f) on 11 September and 9 October 1990, "on account of the nature of the offence".

32. On 24 November 1987 Mr Mansur pointed out to the President of the first court that he had already been detained for more than three years, two of which had been taken up exclusively with correspondence between the Turkish and Greek judicial authorities, and that he was undergoing "great suffering", especially as he had already served a four-year sentence in Greece for the same facts. He asked for the trial to be concluded speedily.

The court did not respond to this request.

33. Mr Mansur was released on 1 July 1991.

II. Relevant domestic law

A. The Constitution

34. Article 19 para. 7 of the Constitution provides:

"Everyone who is deprived of his liberty for any reason whatsoever shall be entitled to take proceedings by which his case shall be decided speedily by a court and his release ordered if the detention is not lawful."

B. The Criminal Code

35. Article 403 of the Criminal Code, as in force at the material time, provided:

"It shall be an offence, punishable by not less than ten years' imprisonment ..., to manufacture, import or export dangerous drugs without a permit or in contravention of the terms of an existing permit.

Where the drugs referred to in the preceding paragraph are heroin, cocaine, morphine base or hashish, the maximum penalty shall be life imprisonment."

Law no. 3756 of 5 June 1991 amended this provision, replacing the sentence of life imprisonment laid down for the offence of organising the export of highly toxic substances by a sentence of eighteen years' imprisonment and providing for deduction of periods of detention abroad.

PROCEEDINGS BEFORE THE COMMISSION

36. Mr Mansur applied to the Commission on 23 November 1989. He complained of the length both of his detention pending trial (Article 5 para. 3 (art. 5-3) of the Convention) and of the criminal proceedings against him (Article 6 para. 1) (art. 6-1).

37. The Commission declared the application (no. 16026/90) admissible on 10 July 1991. In its report of 28 February 1994 (Article 31) (art. 31), it expressed the unanimous opinion that there had been a violation of these two provisions. The full text of the Commission's opinion is reproduced as an annex to this judgment (1).

1. Note by the Registrar: for practical reasons this annex will appear only with the printed version of the judgment (volume 319-B of Series A of the Publications of the Court), but a copy of the Commission's report is obtainable from the registry.

FINAL SUBMISSIONS TO THE COURT BY THE GOVERNMENT

38. In their memorial the Government asked the Court to allow the preliminary objections they had submitted or, in the alternative, to hold that there had been no violation of Article 5 para. 3 or Article 6 para. 1 (art. 5-3, art. 6-1) of the Convention.

AS TO THE LAW

I. INTRODUCTORY OBSERVATION

39. The Government submitted that their arguments in the present case should be considered only if Turkey's recognition of the Court's compulsory jurisdiction were deemed valid in its entirety.

In the case of *Loizidou v. Turkey* the Government contended that Turkey's declaration of 22 January 1990 under Article 46 (art. 46) of the Convention would not be valid if the Court held the limitation *ratione loci* it contained to be invalid. The Court, in its judgment of 23 March 1995, while holding the limitation in question invalid, ruled that the said declaration contained a valid acceptance of its competence (Series A no. 310, p. 32, para. 98).

II. THE GOVERNMENT'S PRELIMINARY OBJECTIONS

40. As their main submission the Government raised three objections to admissibility, based on lack of jurisdiction

ratione temporis, failure to exhaust domestic remedies and loss of victim status.

1. Lack of jurisdiction *ratione temporis*

41. The Government contended that when, on 22 January 1990, Turkey had recognised the Court's compulsory jurisdiction over "matters raised in respect of facts, including judgments which are based on such facts which have occurred subsequent to" that date, its intention had been to remove from the ambit of the Court's review events that had occurred before the date on which the declaration made under Article 46 (art. 46) of the Convention was deposited. Moreover, in the present case the Court's jurisdiction *ratione temporis* was also excluded in respect of events subsequent to 22 January 1990 which by their nature were merely "extensions of ones occurring before that date".

42. The Delegate of the Commission argued that the Court had jurisdiction to deal with the case from 28 January 1987, the date when the recognition of the right of individual petition had taken effect.

43. Mr Mansur agreed.

44. Having regard to the wording of the declaration Turkey made under Article 46 (art. 46) of the Convention, the Court considers that it cannot entertain complaints about events which occurred before 22 January 1990 and that its jurisdiction *ratione temporis* covers only the period after that date. However, when examining the complaints relating to Articles 5 para. 3 and 6 para. 1 (art. 5-3, art. 6-1) of the Convention, it will take account of the state of the proceedings at the time when the above-mentioned declaration was deposited (see, among other authorities and *mutatis mutandis*, the *Neumeister v. Austria* judgment of 27 June 1968, Series A no. 8, p. 38, para. 7, and the *Baggetta v. Italy* judgment of 25 June 1987, Series A no. 119, p. 32, para. 20).

It therefore cannot accept the Government's argument that even facts subsequent to 22 January 1990 are excluded from its jurisdiction where they are merely extensions of an already existing situation. From the critical date onwards all the State's acts and omissions not only must conform to the Convention but are also undoubtedly subject to review by the Convention institutions.

2. Non-exhaustion of domestic remedies

45. The Government also pleaded failure to exhaust domestic remedies, arguing that Mr Mansur had in the first place neglected to rely in the national proceedings on Article 19 para. 7 of the Constitution (see paragraph 34 above), which gave everyone in detention pending trial the right to be tried within a reasonable time. In addition, he had not sought relief under Law no. 466 of 7 May 1964, which guaranteed persons who had been lawfully or unlawfully in detention the possibility of obtaining damages, irrespective of whether they had been acquitted, discharged without being brought to trial, or convicted.

46. Like the Delegate of the Commission, the Court notes that this objection was not raised at the admissibility stage of the application. There is therefore estoppel.

3. Loss of victim status

47. Lastly, the Government maintained that the applicant could no longer claim to be a victim of breaches of the

Convention since he had been granted a substantial reduction of his sentence on 21 June 1991 after the entry into force of Law no. 3756 (see paragraph 22 above) and had been released on 1 July 1991.

48. Here again, the Court notes that this objection was not raised before the Commission. It must therefore be dismissed as there is estoppel.

III. ALLEGED VIOLATION OF ARTICLE 5 PARA. 3 (art. 5-3) OF THE CONVENTION

49. Mr Mansur complained of the length of his detention pending trial. He considered it contrary to Article 5 para. 3 (art. 5-3) of the Convention, which provides:

"Everyone arrested or detained in accordance with the provisions of paragraph 1 (c) of this Article (art. 5-1-c) shall be ... entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial."

50. The Government contested this view, in the alternative, whereas the Commission accepted it.

A. Period to be taken into consideration

51. Having regard to the conclusion in paragraph 44 of this judgment, the Court can only consider the period of one year and twenty-eight days which elapsed between the deposit of the declaration whereby Turkey recognised the Court's compulsory jurisdiction (22 January 1990) and the judgment of the Edirne First Assize Court (19 February 1991). However, when determining whether the applicant's continued detention after 22 January 1990 was justified under Article 5 para. 3 (art. 5-3) of the Convention, it must take into account the fact that by that date the applicant, having been placed in detention on 5 November 1984 (see paragraph 23 above), had been in custody for nearly five years and three months.

B. Reasonableness of the length of detention

52. It falls in the first place to the national judicial authorities to ensure that, in a given case, the detention of an accused person pending trial does not exceed a reasonable time. To this end they must examine all the facts arguing for or against the existence of a genuine requirement of public interest justifying, with due regard to the principle of presumption of innocence, a departure from the rule of respect for individual liberty and set them out in their decisions on the applications for release. It is essentially on the basis of the reasons given in these decisions and of the true facts mentioned by the applicant in his appeals, that the Court is called upon to decide whether or not there has been a violation of Article 5 para. 3 (art. 5-3) of the Convention (see, among other authorities, the *Letellier v. France* judgment of 26 June 1991, Series A no. 207, p. 18, para. 35).

The persistence of reasonable suspicion that the person arrested has committed an offence is a condition *sine qua non* for the validity of the continued detention, but, after a certain lapse of time, it no longer suffices; the Court must then establish whether the other grounds cited by the judicial authorities continue to justify the deprivation of liberty (*ibid.* and see the *Wemhoff v. Germany* judgment of 27 June 1968, Series A no. 7, pp. 24-25, para. 12, and the *Ringeisen v. Austria* judgment of 16 July 1971, Series A no. 13, p. 42, para. 104).

Where such grounds are "relevant" and "sufficient", the Court must also ascertain whether the competent national authorities displayed "special diligence" in the conduct of the proceedings (see the *Matznetter v. Austria* judgment of 10 November 1969, Series A no. 10, p. 34, para. 12; the *B. v. Austria* judgment of 28 March 1990, Series A no. 175, p. 16, para. 42; and the *Letellier* judgment previously cited, p. 18, para. 35).

53. During the period covered by the Court's jurisdiction *ratione temporis* the Edirne First Assize Court ("the first court") considered the question of the applicant's continued detention on nine occasions of its own motion.

As grounds for refusing to release Mr Mansur it cited "the nature of the offence" the applicant stood accused of and "the state of the evidence" (see paragraph 31 above); on three occasions it omitted to state the reasons for its decision.

The Government emphasised the heavy sentence to which the accused was liable, the danger that he would abscond or destroy evidence and the risk of collusion. Mr Mansur had no fixed abode in Turkey and, once released, might have ignored the summonses of the judicial authorities or evaded enforcement of the sentence, only the length of which remained to be determined.

54. The applicant complained of the repetitiveness of the orders in issue and asserted that he had always lived in Turkey and worked as a trader in the Great Bazaar in Istanbul. The courts had therefore neglected to look into the true facts of his situation.

55. The Court points out that the danger of an accused's absconding cannot be gauged solely on the basis of the severity of the sentence risked. It must be assessed with reference to a number of other relevant factors which may either confirm the existence of a danger of absconding or make it appear so slight that it cannot justify detention pending trial (see, *mutatis mutandis*, the *Letellier* judgment previously cited, p. 19, para. 43).

In the instant case the first court's orders confirming detention nearly always used an identical, not to say stereotyped, form of words, and on three occasions gave no reasons.

56. The expression "the state of the evidence" could be understood to mean the existence and persistence of serious indications of guilt. Although in general these may be relevant factors, in the present case they cannot on their own justify the continuation of the detention complained of (see the *Kemmache v. France* (nos. 1 and 2) judgment of 27 November 1991, Series A no. 218, p. 24, para. 50).

57. In the light of these considerations, the Court holds that the applicant's continued detention during the period in question contravened Article 5 para. 3 (art. 5-3).

That conclusion makes it unnecessary to look at the way in which the judicial authorities conducted the case.

IV. ALLEGED VIOLATION OF ARTICLE 6 PARA. 1 (art. 6-1) OF THE CONVENTION

58. Mr Mansur further complained of the length of the criminal proceedings against him. He relied on Article 6 para. 1 (art. 6-1) of the Convention, which provides:

"In the determination of ... any criminal charge against him, everyone is entitled to a ... hearing within a reasonable time by [a] ... tribunal ..."

59. The Government contested this view, again in the alternative, whereas the Commission accepted it.

A. Period to be taken into consideration

60. The proceedings began when the applicant was committed for trial at the Edirne First Assize Court, on 18 April 1984.

However, having regard to the conclusion in paragraph 44 of this judgment, the Court can only consider the period of one year, three months and eight days that elapsed between 22 January 1990, the date on which the declaration whereby Turkey recognised the Court's compulsory jurisdiction was deposited, and 30 April 1991, when the Court of Cassation upheld the first court's judgment (see paragraph 21 above). Nevertheless, it must take into account the fact that by the critical date the proceedings had already lasted more than seven years.

B. Reasonableness of the length of the proceedings

61. The reasonableness of the length of proceedings is to be assessed in the light of the particular circumstances of the case, regard being had to the criteria laid down in the Court's case-law, in particular the complexity of the case, the applicant's conduct and that of the competent authorities (see, among many other precedents, the *Kemmache* (nos. 1 and 2) judgment previously cited, p. 27, para. 60).

1. Complexity of the case

62. The Government asserted that the case had been a complex one, partly because it had been necessary to elucidate certain matters relating to the drug traffic concerned - in particular the type and quantity of drugs - and partly owing to the lack of co-operation by the Greek authorities, who delayed supplying the documents from Mr Mansur's criminal file.

63. According to the Delegate of the Commission, the complexity alleged by the Government was entirely attributable to the judicial authorities, who instituted two sets of proceedings against the same person in respect of the same facts, and moreover before two different assize courts in the same city.

64. Like the applicant, the Court points out that the documents requested from the Greek authorities were sent by them through the Turkish Embassy in Athens (see paragraphs 11 and 26 above), but for a number of reasons - including a breakdown of communications between the various State departments concerned and the unavailability of any sworn translators - it was not possible for them to be used in time. On 15 June 1989 Mr Mansur himself produced a Turkish translation of one of the documents concerning him (see paragraph 18 above). Moreover, the Edirne First Assize Court convicted the applicant on the basis of the Salonika Court of Appeal's judgment (see paragraph 8 above), his own confessions and the report produced by the Institute of Forensic Medicine (see paragraph 20 above). Accordingly, the case cannot be regarded as complex.

2. The applicant's conduct

65. The Court merely notes that the Government have not made any criticism of the accused's behaviour at any stage of the trial.

3. Conduct of the judicial authorities

66. In the Government's submission, the judicial authorities could not be criticised for any delay in their handling of the case. Being conscious of their country's international responsibility in the prevention of drug trafficking, they could not adopt an expeditious procedure; on the contrary, they had a duty to look into all matters which might have a bearing on the judgment. Nor did the first court lose any time in applying to Mr Mansur's case the legislative amendment of 5 June 1991 which made it necessary to reduce his sentence and deduct the length of the one he had already served in Greece. The applicant was thus able to secure his release on 1 July of the same year.

67. The Court is aware of the danger represented by drug trafficking and of the need for effective measures to prevent it, but in this case it cannot accept the Government's argument.

68. Article 6 para. 1 (art. 6-1) of the Convention guarantees to everyone against whom criminal proceedings are brought the right to a final decision within a reasonable time on the charge against him (see, among many other authorities, the *Adiletta and Others v. Italy* judgment of 19 February 1991, Series A no. 197-E, p. 65, para. 17). It is for the Contracting States to organise their legal systems in such a way that their courts can meet this requirement (see, *mutatis mutandis*, the *Vocaturo v. Italy* judgment of 24 May 1991, Series A no. 206-C, p. 32, para. 17).

69. In this case the Edirne First Assize Court did not receive the laboratory report on the substances confiscated in Greece until 13 July 1990; six days later it sent a letter of request to the Ankara Assize Court, asking for a translation (see paragraph 19 above). Then, on 19 February 1991, it convicted the applicant on the basis of other evidence, since it still did not have a translation of the report (see paragraphs 20 and 64 above).

The Court finds it hard to understand why the proceedings were conducted in this way, especially as the Edirne First and Second Assize Courts had each previously persisted in requesting the report and in adjourning the case pending receipt of it.

70. In conclusion, the length of the criminal proceedings in issue contravened Article 6 para. 1 (art. 6-1).

V. APPLICATION OF ARTICLE 50 (art. 50) OF THE CONVENTION

71. Under Article 50 (art. 50) of the Convention,

"If the Court finds that a decision or a measure taken by a legal authority or any other authority of a High Contracting Party is completely or partially in conflict with the obligations arising from the ... Convention, and if the internal law of the said Party allows only partial reparation to be made for the consequences of this decision or measure, the decision of the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

72. Mr Mansur claimed 850,000,000 Turkish liras (TRL) for pecuniary damage and TRL 500,000,000 for non-pecuniary damage. He argued that throughout the proceedings it had been impossible for him to carry on his occupation and that the poor conditions of his detention had had lasting effects on his health.

73. The Government referred to their preliminary objections based on failure to exhaust domestic remedies and loss of victim status (see paragraphs 45 and 47 above) and asked the Court to dismiss these claims.

74. The Delegate of the Commission expressed the opinion that the applicant had not sustained any pecuniary damage, as the whole length of his detention pending trial had been set off against his sentence. As to non-pecuniary damage, a sum of between 50,000 and 60,000 French francs (FRF) would constitute sufficient just satisfaction.

75. The Court agrees as regards the first point. As to the second point, on the other hand, it fixes the sum to be paid to Mr Mansur for non-pecuniary damage at FRF 30,000.

B. Costs and fees

76. The applicant also requested reimbursement of lawyer's fees incurred for his defence in Turkey and before the Convention institutions, which he put at TRL 300,000,000 in all.

77. The Government made no submissions on this point.

78. Like the Delegate of the Commission, the Court notes that in Turkish law there are no remedies in respect of the length of proceedings, so that no costs can have been incurred under that head; as to costs incurred before the Convention institutions, it considers that a reasonable sum would be FRF 30,000, less the amount of FRF 14,106.50 paid by the Council of Europe in legal aid.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. Dismisses the preliminary objection of lack of jurisdiction *ratione temporis*;
2. Dismisses the objection that domestic remedies were not exhausted;
3. Dismisses the objection based on loss of victim status;
4. Holds that there has been a breach of Article 5 para. 3 (art. 5-3) of the Convention on account of the length of the applicant's detention;
5. Holds that there has been a breach of Article 6 para. 1 (art. 6-1) of the Convention on account of the length of the criminal proceedings;
6. Holds that the respondent State is to pay the applicant, within three months, 30,000 (thirty thousand) French francs in respect of non-pecuniary damage and 30,000 (thirty thousand) francs in respect of costs and fees, less 14,106 (fourteen thousand one hundred and six) francs 50 (fifty) centimes;
7. Dismisses the remainder of the claim for just satisfaction.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 8 June 1995.

Signed: Herbert PETZOLD
Registrar

Signed: Rolv RYSSDAL
President