



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

FOURTH SECTION

CASE OF DUYUM v. TURKEY

(Application no. 57963/00)

JUDGMENT

STRASBOURG

27 March 2007

FINAL

09/07/2007

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Duyum v. Turkey,

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

Sir Nicolas BRATZA, *President*,

Mr J. CASADEVALL,

Mr R. TÜRMEŖ,

Mr S. PAVLOVSCHI,

Mr L. GARLICKI,

Mr J. ŠIKUTA,

Mrs P. HIRVELÄ, *judges*,

and Mrs F. ARACI, *Deputy Section Registrar*,

Having deliberated in private on 6 March 2007,

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

PROCEDURE

1. The case originated in an application (no. 57963/00) 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 a Turkish national, Mr Ahmet Duyum (“the applicant”), on 16 May 2000.

2. The applicant was represented by Mr A. İnce, a lawyer practising in Istanbul. The Turkish Government (“the Government”) did not designate an Agent for the purposes of the proceedings before the Court.

3. On 19 May 2005 the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1956 and lives in Istanbul.

5. On 22 May 1996 the applicant was taken into police custody on suspicion of having committed a murder, together with the wife of the deceased.

6. On 27 May 1996 the Küçükçekmece Magistrates' Court (*Sulh Ceza Mahkemesi*) ordered the applicant's detention on remand.

7. On 6 June 1996 the Bakırköy public prosecutor filed a bill of indictment with the Bakırköy Assize Court charging the applicant and the deceased's wife, K.Y., under Articles 450 § 4, 40 and 64 of the Criminal Code with homicide.

8. On 31 July 1996 the Third Chamber of the Bakırköy Assize Court held the first hearing and heard the applicant who denied the charges against him. On the same day, the first-instance court issued a summons requiring M.Y., K.Y.'s son, to give evidence and ordered that the autopsy report on the deceased be submitted to it.

9. On 18 September 1996 the first-instance court heard M.Y. and read out the autopsy report. On the same day, the applicant requested the first-instance court to order an examination of the blood stains found at the scene of the incident. The court disregarded the applicant's request. The applicant further requested to be released pending trial. The first-instance court dismissed this request, having regard to the content of the case file. The court also issued summonses requiring M.Y. and K.Y.'s other children, Ü.Y. and H.Y., to testify before the court during the next hearing.

10. On 6 November 1996 M.Y. once again testified before the first-instance court. The court further heard M.D., the applicant's wife. On the same day, the deceased's brother, İ.Y., joined the proceedings as a civil party (*müdahil*). At the end of the hearing, the assize court once again requested Ü.Y. and H.Y. to give evidence and also issued summonses requiring İ.Y.'s wife and brother and a certain H.D. to testify before the court.

11. On 9 December 1996 the court heard H.D. and reiterated its orders in respect of İ.Y.'s brother, Ü.Y. and H.Y.

12. On 17 February 1997 the assize court heard S.Y., İ.Y.'s daughter. On the same day, the statements of İ.Y.'s brother taken by the Niksar Criminal Court of First Instance were read out. The first-instance court reiterated its order in respect of Ü.Y. and H.Y.

13. On 28 March 1997 H.Y. testified before the first-instance court. The court heard the applicant and K.Y. and issued summonses requiring F.Ç. and Y.Ç., the applicant's witnesses, to give evidence. The court dismissed the request for an on-site inspection.

14. On 16 May 1997 the Third Chamber of the Bakırköy Assize Court heard Ü.Y., F.Ç. and Y.Ç. On the same day, the court decided to send the case file to the public prosecutor and requested the latter to file his submissions on the merits of the case.

15. On 27 June 1997 the first-instance court heard K.Y. who maintained that the deceased had filed an application for divorce. The court ordered that the file concerning this case be obtained from the relevant court. It further ordered that M.Y. be brought before the court in order to give further evidence.

16. On 22 July 1997 the applicant requested the first-instance court to broaden the scope of the investigation. In particular, he requested that two additional witnesses be heard by the court and that the financial links between K.Y., the deceased and the deceased's brother İ.Y. be investigated.

17. On 27 August 1997 the assize court reiterated its order that M.Y. be brought before the court in order to give additional evidence. It further requested the public prosecutor to submit his opinion on the applicant's request to broaden the scope of the investigation.

18. On 20 October 1997 the first-instance court once again heard the applicant and K.Y. At the end of the hearing, it dismissed the applicant's request holding that it was not necessary to broaden the scope of the investigation. The court once again ordered that M.Y. be brought before it.

19. On the same day, the Third Chamber of the Bakırköy Assize Court again dismissed the applicant's request to be released pending trial.

20. On 30 October 1997 the applicant filed an objection with the Fourth Chamber of the Bakırköy Assize Court against the decision of 20 October 1997.

21. On 3 November 1997 the Fourth Chamber of the Bakırköy Assize Court dismissed his objection.

22. On 5 December 1997 M.Y.'s statements which had been taken by another court were read out. The assize court issued a summons requiring İ.Y. to testify before it.

23. On 4 February 1998 the Bakırköy Assize Court heard İ.Y. and issued summonses requiring İ.Y.'s brothers and one of his neighbours to give evidence.

24. On 13 March 1998 the first-instance court heard İ.Y.'s neighbour and postponed the hearing in order to await the statements of İ.Y.'s brothers.

25. On 27 April 1998 the statements of İ.Y.'s brothers were read out. On the same day, the court decided to investigate whether K.Y., İ.Y. and the deceased had rented a common safe-deposit box in a bank. It further requested a relative of İ.Y. to give evidence.

26. On 8 June 1998 the court heard İ.Y.'s relative, the applicant and K.Y. The latter gave evidence concerning a certain T.Ç. The assize court subsequently decided to investigate possible financial links between T.Ç. and K.Y. It further ordered that T.Ç. be summoned to give evidence.

27. On 15 July 1998 the court heard N.G., a former co-prisoner of K.Y. It reiterated its summons concerning T.Ç. but withdrew its decision to investigate the financial links between T.Ç. and K.Y.

28. On 11 September 1998 the assize court heard T.Ç. and in the light of the latter's statements ordered a bank to provide information concerning K.Y.'s account with them.

29. On 4 November 1998 the first-instance court decided to send the case file to the public prosecutor and requested him to submit his observations on the merits of the case.

30. On 16 December 1998 the public prosecutor's submissions were read out. The court requested the applicant to submit his defence submissions.

31. On 8 February 1999 the first-instance court postponed the trial in order to prepare its judgment in the case.

32. On 19 March 1999 the court heard the applicant. It requested that the tapes and the transcripts of two television programmes concerning the murder, during which the applicant had made statements, be submitted to it.

33. On 12 May 1999 the court withdrew its order of 19 March 1999.

34. On 21 June 1999 the first-instance court once again heard K.Y. and the applicant. Furthermore, letters from the television channels informing the court that the requested tapes had been destroyed were read out. On the same day, the court ordered that blood samples be taken from the applicant, K.Y., İ.Y. and another person, T.Ç., and that a comparative analysis of these blood samples and the blood stains found at the scene of incident be carried out.

35. On 11 August 1999 the court postponed the trial as the results of the blood analysis had not been sent to them.

36. On 6 October 1999 the court ordered İ.Y. and T.Ç. to give blood samples.

37. On 1 December 1999 the first-instance court once again postponed the trial as the results of the blood tests concerning İ.Y. and T.Ç. had not been sent to them.

38. On 30 December 1999 experts from the Forensic Medicine Institute concluded that the blood found at the scene of the incident did not match that of the applicant. They considered that it might belong to T.Ç. The experts were of the view that a DNA analysis was necessary in order to determine whether the blood found at the scene of the incident matched that of T.Ç.

39. On 24 January 2000 the court postponed the trial as the results of the examination carried out by the experts from the Forensic Medicine Institute had not been received by the court.

40. On 22 March 2000 the report of 30 December 1999 was read out. On the same day, the court issued a summons requiring T.Ç. to give a blood sample for DNA analysis.

41. On 17 May 2000 the first-instance court went back on its decision to obtain a blood sample from T.Ç. for DNA analysis. The court requested the applicant and K.Y. to make their defence submissions at the next hearing.

42. On 7 June 2000 the applicant and K.Y. made their submissions. On the same day, the Bakırköy Assize Court acquitted the applicant, holding that there was insufficient evidence to convict him. It further ordered the applicant's release from detention.

43. The Third Chamber of the Bakırköy Assize Court held thirty hearings. Throughout these hearings the applicant requested to be released pending trial. He also filed several petitions with the first-instance court to

be released on bail. The applicant submitted in his petitions that he had a permanent domicile and that he would not try to abscond. At the later stages of the proceedings, he further maintained that all the evidence had been obtained and that, therefore, there was no risk that it would be tampered with it. During the first hearing, the court dismissed the applicant's request to be released having regard to the content of the case file and the state of the evidence. The court dismissed his requests on all subsequent occasions with reference to the content of the case file.

44. On an unspecified date İ.Y. appealed against the judgment of 7 June 2000.

45. On 3 May 2001 the Court of Cassation upheld the judgment of 7 June 2000 in respect of the applicant.

46. On 9 October 2001 the applicant brought an action before the Eyüp Assize Court against the Treasury, pursuant to Law No. 466. He requested compensation for his unjustified detention on remand.

47. On 18 April 2003 the Eyüp Assize Court awarded the applicant 3,372,421,663 Turkish liras (TRL)¹ and TRL 10,000,000,000² in respect of pecuniary and non-pecuniary damage respectively. The applicant appealed, arguing that the amount of compensation awarded was not sufficient.

48. On 2 June 2004 the Court of Cassation upheld the judgment of 18 April 2003.

II. RELEVANT DOMESTIC LAW

49. Article 104 of the Code of Criminal Procedure in force at the material time provided that a person could be remanded in custody where there was a fear that the accused would abscond, or there were attempts by the accused to remove evidence or interfere with witnesses. When the offence was a felony, it was presumed that the suspect was planning to escape. The last paragraph of Article 104 provided that detention on remand could not be imposed if another measure was adequate.

Articles 117-122 of the Code of Criminal Procedure in force at the material time provided for the conditions for release on bail.

50. Relevant parts of Article 1 of Law no. 466 on the Payment of Compensation to Persons Unlawfully Arrested or Detained provide:

“Compensation shall be paid by the State in respect of all damage sustained by persons:

...

(6) who, after being arrested or detained in accordance with the law, are not subsequently committed for trial ..., or are acquitted or discharged after standing trial;

¹ Approximately 1,950 euros (EUR)

² Approximately EUR 5,780

...”

THE LAW

I. ALLEGED VIOLATIONS OF ARTICLES 3, 5 § 1 AND 6 §§ 1 AND 3 OF THE CONVENTION

51. In his submissions of 5 January 2006, the applicant complained under Articles 3 and 5 § 1 of the Convention that there had been no reasonable suspicion for his arrest and that he had been subjected to ill-treatment while in police custody. The applicant further alleged a violation of Article 6 §§ 1 and 3 of the Convention.

52. The Court reiterates that it may only deal with a matter within a period of six months from the date on which the final decision was taken at the domestic level. When the acts of an authority are not amenable to challenge by means of an effective remedy, the six-month period runs from the date on which the impugned act took place.

53. The Court observes that the applicant's detention in police custody and the criminal proceedings against him ended on 27 May 1996 and 7 June 2000 respectively, whereas these complaints were lodged with the Court on 5 January 2006 i.e. more than six months later.

It follows that these complaints have been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 5 § 3 OF THE CONVENTION

54. The applicant complained that his detention on remand had exceeded the “reasonable time” requirement as provided for in Article 5 § 3 of the Convention, which reads, in so far as relevant, as follows:

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

A. Admissibility

55. The Government argued that the applicant had lost his “victim status” following the Eyüp Assize Court's decision awarding him compensation pursuant to Law No. 466.

56. The Court reiterates that an applicant is deprived of his or her status as a victim if the national authorities have acknowledged, either expressly or in substance, and then afforded redress for, a breach of the Convention (see *Dalban v. Romania* [GC], no. 28114/95, § 44, ECHR 1999-VI).

57. In the instant case, the applicant complained under Article 5 § 3 of the Convention that the length of his detention on remand had been excessive.

58. The Court has already held that Law No. 466, which provides for an action for damages taken against the State in respect of the detention of a person who is subsequently acquitted, concerns Article 5 § 5 only (see, among many others, *Yağcı and Sargin v. Turkey*, judgment of 8 June 1995, Series A no. 319-A, § 44). Therefore, the compensation awarded to the applicant cannot be considered to constitute recognition of or a redress for the specific violation alleged by the applicant, namely the excessive length of his detention on remand.

59. The Court accordingly dismisses the Government's objection.

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

B. Merits

61. The Government submitted that the Bakırköy Assize Court had not unduly prolonged the applicant's detention on remand. The offence with which the applicant was charged was of a serious nature. His detention on remand was also necessary in view of the statements of his co-accused and the latter's son.

62. The applicant submitted that the grounds given by the Bakırköy Assize Court for his continued detention on remand had been insufficient.

63. The Court reiterates that it is for 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 in the public interest justifying, with due regard to the principle of the 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 primarily on the basis of the reasons given in these decisions and of the established facts mentioned by an applicant in his or her appeals, that the Court must determine whether or not there has been a violation of Article 5 § 3 of the Convention (see *Assenov and Others v. Bulgaria*, judgment of 28 October 1998, *Reports of Judgments and Decisions* 1998-VIII, § 154; and, more recently, *McKay v. the United Kingdom* [GC], no. 543/03, § 43, 3 October 2006).

64. The persistence of reasonable suspicion that the person arrested has committed an offence is a *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 (see, among other authorities, *Ilijkov v. Bulgaria*, no. 33977/96, § 77, 26 July 2001, and *Labita v. Italy* [GC], no. 26772/95, §§ 152-153, ECHR 2000-IV).

65. The Court notes that, in the instant case, the period to be taken into consideration began on 22 May 1996, when the applicant was taken into police custody and ended on 7 June 2000, when the first-instance court ordered the applicant's release following his acquittal. The applicant's detention on remand thus lasted more than four years.

66. During this period, the Bakırköy Assize Court considered the applicant's continued detention at the end of each hearing, either of its own motion or upon the request of the applicant. However, the first-instance court ordered the applicant's continued detention on remand on all occasions, using an identical expression, i.e. "having regard to the content of the case file".

67. The Court acknowledges the seriousness of the offence with which the applicant was charged and the severity of the sanction which he faced if found guilty. However, it reiterates that the gravity of the charges cannot by itself serve to justify long periods of detention pending trial (see, among others, *Vayıç v. Turkey*, no. 18078/02, § 37, 20 June 2006, and *Ječius v. Lithuania*, no. 34578/97, § 94, ECHR 2000-IX).

68. In this connection, the Court observes that the first-instance court does not appear to have addressed itself to the pertinent facts of the case. In particular, it did not take into consideration the applicant's submissions that he had a permanent residence and therefore he would not abscond and that after the passage of time there was no risk of removing evidence since the latter had already been gathered. Furthermore, the first-instance court never gave consideration to the application of a preventive measure other than continued detention of the applicant, such as prohibition on leaving the country or release on bail, if need be, subject to police supervision. The Court observes, in this connection, that there was insufficient reasoning in the domestic court's decisions to prolong the applicant's detention pending trial.

69. Moreover, although, in general, the expressions "the state of evidence" and "the content of the case file" may be relevant factors for the existence and persistence of serious indications of guilt at the beginning of the proceedings, it nevertheless, alone, cannot justify the length of the detention of which the applicant complains (see *Gökçe and Demirel v. Turkey*, no. 51839/99, § 43, 22 June 2006; *Demirel v. Turkey*, no. 39324/98, § 59, 28 January 2003; and *Karagöz v. Turkey*, no. 5701/02, § 42, 20 October 2005).

70. The aforementioned considerations are sufficient to enable the Court to conclude that the length of the applicant's detention on remand, which lasted over four years, has not been shown to have been justified by relevant and sufficient reasons.

71. There has accordingly been a violation of Article 5 § 3 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

72. The applicant complained that the length of the proceedings had been incompatible with the “reasonable time” requirement, provided in Article 6 § 1 of the Convention, which reads as follows:

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

73. The period to be taken into consideration began on 22 May 1996, when the applicant was arrested and taken into police custody and ended on 3 May 2001, when the Court of Cassation upheld the judgment of the Bakırköy Assize Court in respect of the applicant. The period under consideration thus lasted approximately five years before two instances.

A. Admissibility

74. The Government argued that the applicant could not be considered a victim of a violation of Article 6 § 1 since he had been awarded compensation pursuant to Law No. 466.

75. In view of its considerations concerning the admissibility of the complaint under Article 5 § 3 of the Convention (see paragraphs 56-59 above), the Court dismisses the Government's objection.

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

B. Merits

77. The Government maintained that, in the circumstances of the present case, the length of the criminal proceedings could not be considered unreasonably long. In this respect, they referred to the time spent gathering evidence. The Government pointed out that the first-instance court heard several witnesses, investigated financial links between the deceased, the deceased's brother and the applicant's co-accused and ordered that blood samples be taken for forensic analysis.

78. The applicant disputed the Government's arguments. He maintained that the requests he had made in 1996 and 1997 for an examination of the blood stains found at the scene of the incident, for the hearing of additional witnesses and for the investigation of financial links between the deceased, the deceased's brother and his co-accused had been dismissed by the court. However, in 1998 and 1999 the first-instance court decided to investigate these issues and therefore unreasonably prolonged the proceedings.

79. The Court reiterates that the reasonableness of the length of proceedings must be assessed in the light of the circumstances of the case and with reference to the criteria established by its case-law, particularly the complexity of the case, the conduct of the applicant and of the relevant authorities and what was at stake for the applicant in the dispute (see *Kiper v. Turkey*, no. 44785/98, § 36, 23 May 2006).

80. Although the Government have pointed to the number of witnesses and the seriousness of the charge as indicative of complexity, the Court considers that it is not apparent that the case presented any special difficulty. It cannot therefore be said that the complexity of the case in itself justified the total length of the proceedings.

81. As regards the conduct of the applicant, the Court observes that it does not appear that he contributed to the prolongation of the proceedings. The Government have not argued to the contrary.

82. As to the conduct of the domestic authorities, the Court observes that there were significant periods of delay which were attributable to the authorities. In this respect, the Court observes that between 18 September 1996 and 16 May 1997 and 27 June and 5 December 1997 the first-instance court postponed hearings mainly on account of the absence of two of K.Y.'s children despite the fact that one of these witnesses, M.Y. had already been heard twice by the court. The Court further observes that the assize court postponed the trial five times between 21 June 1999 and 22 March 2000 in order to await the results of a blood analysis (see paragraphs 34 to 40 above) as the intervening party and a witness who had been ordered to give blood had failed to do so.

83. Furthermore, as alleged by the applicant, in 1998 and 1999 the first-instance court issued orders for the obtaining of certain evidence such as the analysis of the blood stains found at the scene of the incident and evidence concerning the financial links between the deceased and the applicant's co-accused, although it had rejected the applicant's requests for these investigations in 1996 and 1997 at the beginning of the trial.

84. Recalling that Article 6 § 1 of the Convention imposes on the Contracting States the duty to organise their legal systems in such a way that their courts can meet each of the requirements of that provision, including the obligation to decide cases within a reasonable time (see *Arvelakis v. Greece*, no. 41354/98, § 26, 12 April 2001), the Court considers that the assize court could have applied stricter measures to speed up the

proceedings. In particular, it could have shown greater diligence in determining possible witnesses and the relevant evidence at the beginning of the trial.

85. The Court further notes that, throughout the proceedings, the applicant was detained on remand – a fact which required particular diligence on the part of the courts dealing with the case to administer justice expeditiously (see *Kiper*, cited above, § 40 and *Kalashnikov v. Russia*, no. 47095/99, § 132, ECHR 2002-VI).

86. In the circumstances of the case, the Court finds that the proceedings in the instant case were unnecessarily prolonged as the national court failed to act with the necessary diligence in conducting the proceedings against the applicant. The length of the proceedings therefore cannot be considered to have complied with the reasonable time requirement laid down under Article 6 § 1.

87. There has accordingly been a breach of Article 6 § 1 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

88. 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

89. The applicant claimed EUR 280,000 in respect of non-pecuniary damage. As regards pecuniary damage, the applicant submitted that he had requested TRL 100,000,000,000 pursuant to Law No. 466 and had been awarded TRL 3,372,421,663 by the Eyüp Assize Court. He contended that he had lodged another application with the Court under application no. 25048/05 complaining about the aforementioned award.

90. The Government submitted in reply that the amount claimed in respect of non-pecuniary damage was excessive. As regards the applicant's submissions concerning pecuniary damage, the Government maintained that the applicant had failed to make any claim.

91. On the question of pecuniary damage, the Court observes that the applicant has not produced any document in support of his claim. It accordingly dismisses the claim.

92. As regards the alleged non-pecuniary damage, the Court accepts that the applicant must have suffered non-pecuniary damage which cannot be sufficiently compensated by the finding of a violation alone. Having regard

to the awards made by the Court in similar cases and taking into account the fact that the applicant was awarded approximately EUR 5,780 by the Eyüp Assize Court in respect of non-pecuniary damage to compensate him for the period he had spent in detention (see paragraph 47 above), the Court awards the applicant EUR 1,000 under this head.

B. Costs and expenses

93. The applicant also claimed EUR 17,000 for the costs and expenses incurred before the domestic courts and EUR 10,575 for those incurred before the Court.

94. The Government contested these claims.

95. According to the Court's jurisprudence, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court rejects the claim for costs and expenses in the domestic proceedings and considers it reasonable to award the sum of EUR 1,000 for the proceedings before the Court.

C. Default interest

96. The Court considers it appropriate that the default interest 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. *Declares* the complaints concerning the length of the applicant's detention on remand and the criminal proceedings against him admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 5 § 3 of the Convention;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
4. *Holds*
 - (a) that the respondent State is to pay the 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 new Turkish liras at the rate applicable at the date of settlement:

- (i) EUR 1,000 (one thousand euros) in respect of non-pecuniary damage;
- (ii) EUR 1,000 (one thousand euros) in respect of costs and expenses;
- (iii) any tax that may be chargeable on the above amounts;
- (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;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 27 March 2007, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş ARACI
Deputy Registrar

Nicolas BRATZA
President