



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

SECOND SECTION

CASE OF MEHMET EREN v. TURKEY

(Application no. 32347/02)

JUDGMENT

STRASBOURG

14 October 2008

FINAL

14/01/2009

This judgment may be subject to editorial revision.

In the case of Mehmet Eren v. Turkey,

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

Françoise Tulkens, *President*,

Ireneu Cabral Barreto,

Vladimiro Zagrebelsky,

Danutė Jočienė,

András Sajó,

Nona Tsotsoria,

Işıl Karakaş, *judges*,

and Sally Dollé, *Section Registrar*,

Having deliberated in private on 23 September 2008,

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

PROCEDURE

1. The case originated in an application (no. 32347/02) 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 Mehmet Eren (“the applicant”), on 27 July 2002.

2. The applicant was represented by Mr S. Çınar, a lawyer practising in Diyarbakır. The Turkish Government (“the Government”) were represented by their Agent.

3. On 14 September 2007 the President of the Second Section decided to give notice of the application to the Government. It was also decided to examine the merits of the application at the same time as its admissibility (Article 29 § 3).

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

4. The applicant was born in 1968 and lives in Diyarbakır.

5. On 17 November 1998 at 3.30 p.m. the applicant, a journalist working for a biweekly newspaper, was taken into custody by police officers from the Anti-Terrorist Branch of the Diyarbakır Police Headquarters along with 108 other persons. At the time of the arrest, the applicant and the other arrestees were in the Diyarbakır branch of the People’s Democracy Party (HADEP), where demonstrations and hunger strikes were allegedly being

organised, in order to protest about the arrest of Abdullah Öcalan, the leader of the PKK (the Workers' Party of Kurdistan), an illegal organisation.

6. At 7.30 p.m. on the same day the applicant was taken to the Diyarbakır State Hospital. The doctor who examined him noted that there was no sign of recent physical violence on the applicant's person.

7. On 20 November 1998 the applicant made statements to the police. According to the report signed by two police officers and the applicant, the applicant stated that he had been in the Diyarbakır branch of HADEP in order to participate in the demonstration.

8. The applicant alleges that he was subjected to various forms of ill-treatment while in police custody. In particular, he was kept in a dark cell with insufficient ventilation, deprived of food and water and was prevented from going to the toilet. He was forced to stand, handcuffed, in the same position for long hours. During the questioning, he was stripped naked, insulted and threatened with death and rape. The applicant was beaten on various parts of his body. In particular, he received repeated blows to his abdomen. His testicles were squeezed and he was subjected to sexual abuse. Finally, he was forced to watch a female detainee being sexually abused.

9. On 23 November 1998 the applicant, along with nine other persons, was taken to a clinic in Diyarbakır and examined there by a medical expert, who drafted one document in respect of all ten people, and noted that none of them had sustained any injuries.

10. On 25 November 1998 the applicant, along with 110 other persons, was taken to the same clinic and examined there by another doctor, Mr A.O. On a document of the police headquarters in which the names of all 111 persons were put, Mr A.O. noted the same sentence below every name:

"No sign of physical violence has been observed".

The applicant claimed that there had been police officers present in the examination room and that although he had described the type of ill-treatment to which he had been subjected in police custody, the doctor did not note any of his complaints.

11. On 25 November 1998 the applicant was brought before the public prosecutor at the Diyarbakır State Security Court. He maintained that he had been in the HADEP building as a journalist and that he had not participated in the demonstration or the hunger strike. He stated that he had been made to sign his police statements without reading them.

12. At 9 p.m. on the same day, the applicant was released upon the decision of the public prosecutor.

13. On 26 November 1998 the applicant was examined by a doctor from the Diyarbakır branch of the Human Rights Foundation of Turkey, Mr R.A., who recorded the following¹:

“There is a bruise measuring 10 x 0.5 cm on the right side of the hypogastrium². He has sensitivity and pain upon palpation behind his knees, pain in the ankles, sensitivity and pain in the toe muscles in both feet. He also has sensitivity in his testicles and epididymis, swelling in the groin (may be the beginning of a hernia), sensitivity and pain in the epigastrium³. An eruption on the occipital region has been observed.”

14. On an unspecified date the Diyarbakır branch of the Human Rights Foundation of Turkey referred the applicant to the İzmir branch of the Turkish Medical Association. Between 7 and 11 December 1998 the applicant underwent various medical examinations, the results of which were noted in a medical report of 4 August 1999. According to this report, the applicant was suffering from a hernia in the groin, pain in various parts of his body and from major depression and an acute stress disorder, two psychiatric conditions that normally are caused by traumatic experiences such as rape and torture. The doctors concluded that the applicant's complaints were consistent with his allegations of ill-treatment. While reaching this conclusion, the doctors from the İzmir branch of the Turkish Medical Association also noted the findings of the report of 26 November 1998 drawn up by Mr R.A.

15. On 17 December 1998 the applicant underwent surgery for the hernia in his groin, which had allegedly occurred as a result of the ill-treatment he had suffered in police custody.

16. On 17 January 1999⁴ the applicant drafted a document for his lawyers in which he described in detail the alleged ill-treatment that he had suffered during his police custody between 17 and 25 November 1998. At the end of the document, he noted that the applicant's representative before the Court and another advocate would bring proceedings on his behalf as his legal representatives.

17. On 11 May 2000 the applicant's lawyer lodged a complaint with the Diyarbakır public prosecutor's office that the applicant had been subjected to ill-treatment during his police custody. He submitted a copy of the medical report of 4 August 1999 along with his petition.

18. On 9 January 2002 the Diyarbakır public prosecutor invited the applicant's representative to his office in order to make statements.

1. It is to be noted that the original of this report was not submitted to the Court by the parties. The applicant submitted medical notes (*tıbbi epikriz*) drafted by the Human Rights Foundation containing the findings of Mr R.A. The text of this report is also included in the report of 4 August 1999 (see paragraph 14 below).

2. The lower part of the abdomen.

3. The upper central region of the abdomen.

4. The date on the document appears as 17 January 1998.

19. On 10 January 2002 the applicant's representative made statements to the public prosecutor. He contended that the applicant had requested him to initiate proceedings on his behalf a few days before 11 May 2000¹, the date on which he had lodged a complaint on behalf of the applicant. The representative further noted that the applicant's allegations were consistent with the findings of the report of 26 November 1998.

20. On 23 January 2002 the Diyarbakır public prosecutor invited the applicant to his office in order to make statements.

21. On 1 February 2002 the applicant made statements to the public prosecutor. He noted that he had requested his lawyer to lodge a complaint against the persons who had inflicted ill-treatment on him. He contended that his lawyer had told him that he had initiated proceedings. The applicant stated that he had not applied to the public prosecutor's office himself. He finally requested that the police officers who had ill-treated him be punished.

22. On the same date the Diyarbakır public prosecutor issued a decision not to prosecute in respect of the applicant's allegations of ill-treatment. In his decision, the public prosecutor noted that the applicant had been detained in police custody between 17 and 23 November 1998 and that the relevant medical reports did not reveal any sign of violence on the applicant's person. The public prosecutor further noted that the applicant had applied to the Turkish Medical Association at the end of his custody period and that he should have lodged a complaint with the public prosecutor's office instead.

23. On 26 February 2002 the applicant's lawyer lodged an objection with the Siverek Assize Court against the Diyarbakır public prosecutor's decision of 1 February 2002. He requested that persons who had been in police custody at the same time as the applicant be summoned to make statements. He further requested that the doctors who had drawn up the report of 4 August 1999 and Mr A.O., the doctor who had examined the applicant along with 110 other persons on 25 November 1998, be heard. The lawyer also requested that the police officers who had been on duty during the applicant's detention in custody be determined and the photos of the applicant taken during his detention be included in the file, if there were any.

24. On 14 March 2002 a single judge at the Siverek Assize Court dismissed the applicant's objection. In his decision, the judge noted that the applicant had been in police custody between 17 and 23 November 1998 and that the medical report of 23 November 1998, the date on which he was released, did not reveal any sign of violence on the applicant's person². He

1. The date on the document appears as 11 May 2001.

2. The judgment of 14 March 2002 states that the applicant was released from police custody on 23 November 1998 whereas all other documents indicate that the applicant was kept in police custody between 17 and 25 November 1998.

further observed that the applicant had not alleged ill-treatment before the public prosecutor at the Diyarbakır State Security Court on 25 November 1998, immediately after his detention in police custody. The judge finally noted that the applicant had applied to the Turkish Medical Association on 4 August 1999, and had lodged his complaint on 11 May 2000. The judge considered that the applicant's allegations were dubious, since he had lodged his application a long time after his release from police custody.

II. RELEVANT DOMESTIC LAW AND PRACTICE

25. A full description of the domestic law and practice at the relevant time may be found in *Batı and Others v. Turkey* (nos. 33097/06 and 57834/00, §§ 95-99, ECHR 2004-IV (extracts)).

THE LAW

I. ADMISSIBILITY

26. The Court notes that the application 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.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

27. The applicant alleged under Article 3 of the Convention that he had been subjected to ill-treatment while in police custody. He further complained under Articles 6 and 13 of the Convention that the domestic authorities had failed to conduct an effective investigation into his allegations.

28. The Court considers that these complaints should be examined from the standpoint of Article 3 alone, which reads as follows:

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

A. The responsibility of the respondent State in the light of the substantive aspect of Article 3 of the Convention

1. The parties' submissions

29. The Government maintained that the applicant's allegations of ill-treatment were not substantiated. They contended that the applicant had not brought his allegations of ill-treatment to the attention of the national authorities until May 2000, a fact which cast doubt on the seriousness of his claim. They pointed to the statements of the applicant's representative made to the Diyarbakır public prosecutor on 10 January 2002 in this respect.

30. The Government further maintained that the medical reports of 17, 23 and 25 November 1998 had disclosed no sign of ill-treatment on the applicant's body. They submitted that it was not proven beyond reasonable doubt that the applicant had been ill-treated. The Government noted in this respect that there was no finding of ill-treatment in the report of 4 August 1999.

31. The applicant submitted, in reply, that he had maintained before the public prosecutor, who had questioned him on 25 November 1998, that he had been ill-treated. However, the prosecutor had ignored his allegations. In his submissions of 28 March 2007, the applicant's representative also stated that the applicant had authorised him and another advocate, by the document dated 17 January 1999, to bring proceedings on his behalf. He noted that the applicant had first contacted the other advocate. Subsequently, as the latter had failed to lodge an application with the Court within six months of the end of the applicant's detention in police custody, in May 2000 the applicant had contacted him.

32. The applicant further submitted that the medical examination of 25 November 1998 could not be relied on in the assessment of the applicant's allegations of ill-treatment, since there had been police officers in the doctor's room and no examination had actually been carried out. Had it taken place, the doctor would have seen that there were signs of old injuries and traces of operations on his body. The applicant contended that the medical reports issued by the Human Rights Foundation and the Izmir branch of the Turkish Medical Association revealed the signs of ill-treatment to which he had been subjected.

2. The Court's assessment

33. The Court reiterates that Article 3 enshrines one of the most fundamental values of democratic societies, making no provision for exceptions, and no derogation from it is permissible under Article 15 § 2 (see *Selmouni v. France* [GC], no. 25803/94, § 95, ECHR 1999-V).

34. It further reiterates that where an individual is taken into custody in good health but is found to be injured by the time of release, it is incumbent

on the State to provide a plausible explanation of how those injuries were caused and to produce evidence casting doubt on the veracity of the victim's allegations, particularly if those allegations are supported by medical reports. Failing this, a clear issue arises under Article 3 of the Convention (see, among many others, *Selmouni*, cited above, § 87; *Çelik and İmret v. Turkey*, no. 44093/98, § 39, 26 October 2004).

35. In assessing evidence, the Court has generally applied the standard of proof "beyond reasonable doubt" (see *Avşar v. Turkey*, no. 25657/94, § 282, ECHR 2001-VII, (extracts)). Such proof may, however, follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar un rebutted presumptions of fact (see, among many others, *Labita v. Italy* [GC], no. 26772/95, § 121, ECHR 2000-IV; *Süleyman Erkan v. Turkey*, no. 26803/02, § 31, 31 January 2008)).

36. Turning to the circumstances of the present case, the Court observes at the outset that the applicant was released from police custody on 25 November 1998 but that his representative did not lodge a formal criminal complaint of ill-treatment until 11 May 2000, some 18 months later. However, on 25 November 1998 the applicant had informed the public prosecutor at the Diyarbakır State Security Court that he had been made to sign his police statements without reading them, but no action was taken in respect of this allegation. The public prosecutor did not even ask the applicant to detail his statements. Furthermore, the applicant demonstrated his intention to bring proceedings in respect of his allegations of ill-treatment by the document dated 17 January 1999, prepared for his lawyers, whose authenticity was not challenged by the respondent Government, and by applying to the Human Rights Foundation the day after his release from police custody. The Court therefore considers that it is not its role to speculate on the reasons for the inactivity of the applicant's representatives in respect of the formal complaint. In any event, under Article 102 of the former Criminal Code, in force at the material time, taken together with Articles 243 and 245 of the same Code, there was a five-year time-limit for prosecuting offences of ill-treatment committed by civil servants. Indeed, the public prosecutor could not and did not dismiss the criminal complaint on the ground that it had been submitted too late. Consequently, the Court cannot accept the Government's submission that the applicant's allegations were unsubstantiated as he had failed to lodge a complaint earlier.

37. As regards the Government's arguments concerning the medical reports (see paragraph 30 above), the Court notes that there are five medical reports drafted in respect of the applicant concerning his detention in police custody between 17 and 25 November 1998. The first medical report was drafted at the beginning of his detention and indicated no sign of recent physical violence on the applicant's person. The second and third medical reports, dated 23 and 25 November 1998, were made by two doctors at a

health clinic in Diyarbakır and they too indicated that there was no sign of physical violence on the applicant's body. The fourth medical report was issued one day after the applicant's release from police custody by a doctor from the Human Rights Foundation in Diyarbakır and referred to injuries and pain. The fifth report was drafted on 4 August 1999 and reflected the findings of a committee of doctors from the İzmir Branch of the Turkish Medical Association, who had examined the applicant between 7 and 11 December 1998. This report recorded a number of physical and psychological findings which were deemed to be consistent with the applicant's allegations of ill-treatment (see paragraphs 8 and 14 above).

38. The Court observes that there exists a major discrepancy between the report of 25 November 1998, on which the Government based their submissions to the Court, and the reports of 26 November 1998 and 4 August 1999, which constituted the basis of the applicant's allegations: While the latter reports indicate findings of physical and psychological violence, according to the former the applicant was not subjected to ill-treatment. The Court should therefore determine the weight to be attached to these reports.

39. In this connection, the Court observes, as regards the medical report of 25 November 1998, that the doctor put his findings in a letter sent to him by the police headquarters, requesting the medical examination of the applicant and other arrestees. Furthermore, the medical report in question did not solely concern the applicant. It was drafted in respect of 111 persons including the applicant, and made the same observation about all of them. The applicant alleged that there had been police officers in the room and that he had not actually been examined by the doctor, who had failed to note his complaints of ill-treatment.

40. Although the Court is unable to verify the applicant's aforementioned allegations, it nevertheless refers to the European Committee for the Prevention of Torture's (CPT) standards on the medical examination of persons in police custody. The CPT held that all medical examinations should be conducted out of the hearing, and preferably out of the sight, of police officers. Further, the results of every examination as well as relevant statements by the detainee and the doctor's conclusions should be formally recorded by the doctor (see "The CPT Standards" – CPT/Inf/E (2002) 1 - Rev. 2006, paragraph 38).

41. Even if the applicant's allegations are inaccurate, that is to say if a medical examination was indeed carried out, no decisive importance can be attributed to the resultant report, since the Court has already held that collective medical examinations can only be described as superficial and cursory (see *Akkoç v. Turkey*, nos. 22947/93 and 22948/93, § 118, ECHR 2000-X; *Elci and Others v. Turkey*, nos. 23145/93 and 25091/94, § 642, 13 November 2003). The CPT has confirmed that every detained person should be examined on his or her own (see the report of the CPT following

its visit to Turkey between 5 and 10 October 1997 (CPT/Inf (99) 2, paragraph 36). The same principle was also enunciated in the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, “the Istanbul Protocol”, submitted to the United Nations High Commissioner for Human Rights (9 August 1999, paragraph 164).

42. In the light of the above, the Court attaches no weight to the findings of the report dated 25 November 1998.

43. As regards the report of 26 November 1998, the Court observes at the outset that the applicant was released from police custody at 9 p.m. on 25 November 1998 and applied to the Human Rights Foundation where he underwent a medical examination the next day. The Court further observes that the physical findings in the report of 26 November 1998 are at least consistent with the applicant’s allegations that he had received repeated blows to his abdomen and that his testicles had been squeezed. As to the report of 4 August 1999, the Court observes that it was drafted following very detailed medical examinations which were conducted over five days. It included not only physical but psychological findings, and an interpretation as to the probable relationship of these findings to possible torture or ill-treatment (see, in this respect, the “Istanbul Protocol”, cited above, paragraph 81). The findings of the medical examination of 26 November 1998 were also taken into consideration by the doctors who drafted it in reaching their conclusion. The Court therefore considers that the reports of 26 November 1998 and 4 August 1999 should be regarded as conclusive evidence, and finds that the injuries noted in the report of 26 November 1998, which were supported by the conclusions of the report of 4 August 1999, were the result of treatment which had occurred during the applicant’s detention in the Diyarbakır Police Headquarters between 17 and 25 November 1998.

44. In this connection, the Court observes that the Government did not challenge the accuracy of the content of the medical reports of 26 November 1998 and 4 August 1999. Nor did they provide a plausible explanation for the physical and psychological findings contained therein.

45. In the light of the above, in particular the absence of a plausible explanation from the respondent Government as to the cause of the injuries sustained by the applicant, the Court finds that these injuries were the result of the applicant’s serious ill-treatment while he was in police custody, for which the State bore responsibility.

46. There has accordingly been a violation of Article 3 of the Convention under its substantive limb.

B. The responsibility of the respondent State in the light of the procedural aspect of Article 3 of the Convention

1. The parties' submissions

47. The Government submitted that the domestic authorities fulfilled their obligation to conduct an effective investigation into the applicant's allegations. However, they maintained that a period of 18 months had elapsed until the applicant lodged his complaint. The authorities were thus deprived of the opportunity to verify the applicant's allegations. The Government further stated that the applicant should have applied to the domestic authorities instead of the Izmir branch of the Turkish Medical Association.

48. The applicant replied that both the Diyarbakır public prosecutor and the Assize Court had failed to take into consideration the medical report of 4 August 1999. He further submitted that persons who had been in police custody between 17 and 25 November 1998 should have been heard by the public prosecutor. The applicant contended that the doctors who had drawn up the report of 4 August 1999 and the doctor who had drafted the report of 25 November 1998 should also have been heard. He finally maintained that the Diyarbakır public prosecutor had failed to determine the identity of the police officers who had been on duty at the material time.

2. The Court's assessment

49. The Court reiterates that Article 3 of the Convention also requires the authorities to investigate allegations of ill-treatment when they are "arguable" and "raise a reasonable suspicion" (see, in particular, *Ay v. Turkey*, no. 30951/96, §§ 59-60, 22 March 2005). The minimum standards of effectiveness defined by the Court's case-law include the requirements that an investigation be independent, impartial and subject to public scrutiny, and that the competent authorities act with exemplary diligence and promptness (see, for example, *Çelik and İmret*, cited above, § 55).

50. In addition, the Court recalls that the rights enshrined in the Convention are practical and effective, and not theoretical and illusory. Therefore, in such cases, an effective investigation must be able to lead to the identification and punishment of those responsible (see, *mutatis mutandis*, *Nevruz Koç v. Turkey*, no. 18207/03, § 53, 12 June 2007).

51. The Court has found above that the respondent State was responsible, under Article 3 of the Convention, for the injuries sustained by the applicant. An effective investigation was therefore required.

52. Turning to the present case, the Court observes, at the outset, that a preliminary investigation was indeed conducted by the Diyarbakır public

prosecutor. However, the Court is not persuaded that this investigation was conducted either diligently or effectively.

53. The Court notes that neither the police officers who had been on duty during the applicant's detention in the Diyarbakır police headquarters nor the doctors who had drafted the reports of 23, 25 and 26 November 1998 and 4 August 1999 were heard by the Diyarbakır public prosecutor. The only step taken by him was to obtain statements from the applicant's representative and the applicant himself. Moreover, the public prosecutor took their statements some 20 months after the lodging of the criminal complaint and, the same day, issued his decision not to prosecute.

54. The Court rejects the Government's submission that the applicant had deprived the prosecuting authorities of the opportunity of obtaining medical evidence by only lodging his complaint 18 months after his release from police custody. The applicant submitted, in support of his criminal complaint, a medical report drawn up by six specialists from the İzmir branch of the Turkish Medical Association, a public professional organisation established by Law no. 6023, in accordance with Article 135 of the Constitution of the Republic of Turkey. In the Court's view, a report drawn up by this organisation could and should have constituted the basis of an investigation. In any event, the Diyarbakır public prosecutor did not attempt to obtain other medical opinions.

55. In the light of the above, the Court concludes that the applicant's allegations of ill-treatment were not the subject of an effective investigation by the domestic authorities as required by Article 3 of the Convention.

56. There has accordingly been a violation of Article 3 under its procedural limb.

III. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

57. Relying on Article 6 of the Convention, the applicant complained that he had had no opportunity, in the absence of an effective investigation, to bring compensation proceedings against the officers who had ill-treated him.

58. The Government contested that argument.

59. Having regard to the facts of the case, the submissions of the parties and its finding of a violation under Article 3 under both its substantive and procedural limbs, the Court considers that it has examined the main legal question raised in the present application. It concludes therefore that there is no need to make a separate ruling under this head (see, for example, *Uzun v. Turkey*, no. 37410/97, § 64, 10 May 2007; *Mehmet and Suna Yiğit v. Turkey*, no. 52658/99, § 43, 17 July 2007; *K.Ö. v. Turkey*, no. 71795/01, § 50, 11 December 2007).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

60. 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

61. The applicant claimed 1,500 euros (EUR) in respect of pecuniary damage. This sum related to his loss of earnings and medical costs and expenses between 26 November and 12 December 1998. He also claimed EUR 35,000 in respect of non-pecuniary damage.

62. The Government submitted that the applicant's claims were unsubstantiated.

63. As regards the alleged pecuniary damage sustained by the applicant, the Court observes that the applicant did not produce any document in support of his claim, which the Court, accordingly, dismisses.

64. However, in the circumstances of the case as a whole the Court finds that the applicant must have suffered pain and distress which cannot be compensated solely by the Court's finding of a violation. Having regard to the nature of the violation found in the present case and, ruling on an equitable basis, it awards the applicant EUR 7,500 in respect of non-pecuniary damage.

B. Costs and expenses

65. The applicant also claimed EUR 2,670 for the costs and expenses incurred before the Court.

66. The Government contested this claim.

67. 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, the applicant has not substantiated that these costs were actually incurred. Accordingly, it makes no award under this head.

C. Default interest

68. 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 application admissible;
2. *Holds* that there has been a violation of Article 3 of the Convention under both its substantive and procedural limbs;
3. *Holds* that there is no need to examine separately the applicant's complaint under Article 6 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, EUR 7,500 (seven thousand five hundred euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, to be converted into new Turkish liras at the rate applicable at the date of settlement;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount 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 14 October 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President