



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

SECOND SECTION

CASE OF GÜLBAHAR AND OTHERS v. TURKEY

(Application no. 5264/03)

JUDGMENT

STRASBOURG

21 October 2008

FINAL

21/01/2009

This judgment may be subject to editorial revision.

In the case of Gülbahar and Others 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 Françoise Elens-Passos, *Deputy Section Registrar*,

Having deliberated in private on 30 September 2008,

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

PROCEDURE

1. The case originated in an application (no. 5264/03) 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 four Turkish nationals, Mr Süleyman Gülbahar, Mr Nuri Akalın, Mr Ömer Berber and Mr İdris Yiğit (“the applicants”), on 28 August 2002.

2. The applicants were represented by Ms Gülizar Tuncer, Mr Yüksel Can and Mr Celal Güngördü, lawyers practising in Istanbul. The Turkish Government (“the Government”) were represented by their Agent. Two of the applicants, namely Mr İdris Yiğit and Mr Nuri Akalın, were granted legal aid.

3. The applicants alleged, in particular, that, in the course of their transfer from one prison to another, they had been subjected to ill-treatment amounting to torture and that their allegations of ill-treatment had not been adequately investigated by the national authorities.

4. On 14 November 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

THE CIRCUMSTANCES OF THE CASE

5. The applicants were born in 1973, 1977, 1975 and 1975 respectively. The first applicant lives in Antakya and the third applicant lives in Adana. The second and fourth applicants were in Kandıra Prison at the time of making their applications.

6. On various dates the applicants were arrested and subsequently placed in pre-trial detention in Ümraniye Prison in Istanbul, with the exception of the first applicant Süleyman Gülbahar, who was placed in Gebze prison.

7. On 19 December 2000 a security operation was conducted at the Ümraniye Prison and a number of other prisons, including Gebze Prison, where the first applicant was being detained. During the operation scores of detainees were killed and hundreds injured. After the operation a decision was made to transfer the detainees to other prisons.

8. According to an indictment prepared on 29 March 2004, a prosecutor in the Üsküdar district of Istanbul asked the Üsküdar Assize Court to prosecute a total of 267 members of the security forces for ill-treating and killing a number of prisoners during the operations carried out in the prisons between 19 and 22 December 2000. The names of the second, third and fourth applicants are listed as having been ill-treated among the 408 victims.

A. The facts as submitted by the first applicant Süleyman Gülbahar

9. The first applicant, who was on his 235th day of hunger strike in protest against the attacks on the detainees during the operations of 19 December 2000, was transferred from Gebze Prison to Kandıra F-type Prison on 27 July 2001.

10. On arrival at Kandıra Prison he was kept waiting in the prisoner-transport van for a number of hours before he was taken into the prison where he was put in a room on his own.

11. While in that room the first applicant, who refused to take off his clothes, was stripped naked by soldiers, who were wearing gloves, and subjected to an internal body search. During the search he was punched by the soldiers. He was then told to put his clothes back on.

12. He was then stripped by prison guards down to his pants and had to move from one office to another in that condition to complete his prison registration process. He was then dragged into his cell.

13. The same day the first applicant informed a doctor about his ordeal but the doctor did not examine him because of the applicant's hunger strike. The doctor then gave his reason for not examining the applicant, saying that the applicant "would die of his own accord anyway so there was no point in

getting someone else into trouble”. According to a report drawn up by that doctor the same day, “[the applicant] was on his 230th day of hunger strike and a physical examination did not reveal any findings”.

14. On 15 August 2001 the first applicant, with the assistance of his lawyer, submitted a formal complaint to the prosecutor’s office, informed the prosecutor of the ill-treatment to which he had been subjected and asked the prosecutor to identify and prosecute those responsible. He and his lawyer also asked, unsuccessfully, for him to be referred to the Forensic Medicine Institute for a detailed medical examination.

15. The first applicant was released from the prison on 9 October 2001.

16. On 26 April 2002 the Kandıra prosecutor decided not to prosecute anyone in relation to the allegations of ill-treatment made by the first applicant and 42 other detainees. In his decision the prosecutor referred to a decision not to prosecute that had been given on 16 July 2001, in which similar complaints had already been examined and found to be unsubstantiated.

17. The first applicant lodged a formal objection to the decision on 20 May 2002 and pointed to the fact that, when the decision not to prosecute of 16 July 2001 was adopted, he had not even been transferred to Kandıra Prison. Referring to Article 3 of the Convention, the first applicant argued in his petition setting out the grounds for his objections that the prosecutor had failed to carry out an effective investigation into his allegations of ill-treatment.

18. On 11 June 2002 the objection lodged by the first applicant against the decision not to prosecute was rejected by the Sakarya Assize Court, which considered that the prosecutor’s decision had been “in compliance with the applicable legislation”.

B. The facts as submitted by the second applicant Nuri Akalın

19. The second applicant was transferred from Ümraniye Prison to Kandıra F-type Prison on 22 December 2000.

20. While being transferred to Kandıra Prison he was beaten up in the transport van. On his arrival at the prison he was put in a room on his own, stripped, punched, kicked, the soles of his feet were beaten, and he was raped with a stick. He was then subjected to a cursory examination by a doctor, who did not even ask him any questions.

21. According to a medical report prepared the same day there was an ecchymosed area with oedema on the left of his torso and a number of other ecchymosed areas and cuts on his back. There were also cuts and grazes on the lower extremity (legs).

22. A few days after he was brought to Kandıra Prison the second applicant submitted a written complaint to the prosecutor and informed the prosecutor of his allegations. His lawyer presented another complaint to the

prison prosecutor and told the prosecutor that his client's body bore a number of injuries and that he had been raped with a stick. The lawyer asked the prosecutor to have his client examined at the Forensic Medicine Institute. The prosecutor told the lawyer that he had witnessed the transfer of the prisoners and that everything had been normal. The prosecutor said that that was the only way to deal with terrorists.

23. After he was placed in Kandıra Prison the second applicant suffered health problems as a result of having been raped with the stick. On one occasion, when he went to bed, he realised that he had been bleeding and was taken to Kocaeli State Hospital.

24. On 25 and 28 December 2000 the second applicant and his lawyer made unsuccessful requests for him to be examined by a doctor at the Forensic Medicine Institute so that the injuries caused by the rape would be recorded in a medical report. These requests were rejected by the prison prosecutor who was of the view that "the authorities could not be expected to refer everyone to the Forensic Medicine Institute just like that". Nevertheless, the second applicant was finally examined by a forensic doctor at the prison infirmary on 9 January 2001. According to the report drawn up after that examination, there were no torn areas in the anus and there was no sign of penetration. The tissue inside the anus was intact.

25. The prosecutors gave three decisions not to prosecute anyone in relation to the second applicant's allegations. According to the decision given on 16 July 2001, there was no evidence in support of the second applicant's allegations. In the decision of 20 November 2001 the prosecutor relied on the decision not to prosecute which had been given on 16 July 2001. In the decision given on 26 April 2002 the prosecutor stated that there was no evidence in support of the second applicant's allegations.

26. The second applicant lodged objections to the decisions; these were rejected on 27 February 2002 and 11 June 2002 on the ground that the decisions had been in compliance with domestic legislation.

C. The facts as submitted by the third applicant Ömer Berber

27. The third applicant was transferred from Ümraniye Prison to Kandıra F-type Prison on 22 December 2000.

28. While being transferred to Kandıra Prison the third applicant was beaten up in the transport van. On his arrival at the prison he was stripped, punched and kicked and the ill-treatment continued for hours, even after he was placed in his cell. The injuries on various parts of his body and head were recorded by a doctor in a medical report on 23 December 2000. According to this report, there were hyperaemic (congestion of blood) areas on the back of his body, neck, left shoulder, and wrists. There were also cuts and grazes on both wrists.

29. The third applicant was released from prison on 28 June 2001.

30. The complaints made by the third applicant were rejected by the prosecutor on 16 July 2001 and 20 November 2001. The objections lodged against those decisions were rejected on 27 February 2002.

D. The facts as submitted by the fourth applicant İdris Yiğit

31. The fourth applicant was transferred from Ümraniye Prison to Kandıra F-type Prison on 22 December 2000.

32. While being transferred to Kandıra Prison the fourth applicant was beaten up in the transport van. On his arrival at the prison he was stripped, punched in the face and kicked. The ill-treatment continued for hours, even after he was placed in his cell. As a result of the ill-treatment a number of his teeth were broken. The injuries on various parts of his body and head were recorded by a doctor in a report on 23 December 2000. According to this report, there were a large number of lesions on his nose and other parts of his face. His nose had been bleeding and there were also a number of cuts and other injuries on the insides of his lips. There was a congestion of blood (hyperaemia) on his face, lesions on the chest and back of his body and cuts and grazes on the lower extremity (legs).

33. The complaints made by the fourth applicant were rejected by the prosecutor on 27 July 2001 and 20 November 2001. The objections lodged against these decisions were rejected on 27 February 2002.

34. In the meantime, the fourth applicant was released from prison on 24 January 2002.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

35. The applicants complained that the ill-treatment to which they had been subjected amounted to torture within the meaning of Article 3 of the Convention, which reads as follows:

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

36. The Government contested that argument.

A. Admissibility

1. Exhaustion of domestic remedies

37. The Government argued that the applicants had failed to comply with the requirement to exhaust domestic remedies, contrary to the requirement in Article 35 § 1 of the Convention. In this connection the Government submitted that the criminal proceedings instigated by the Üsküdar prosecutor on 29 March 2004 (see paragraph 8 above) had been ongoing, but the applicants had introduced their application with the Court without waiting for those proceedings to come to an end.

38. The Government also argued that the applicants had failed to bring an action against the Ministry of the Interior.

39. The applicants maintained that they had exhausted the relevant domestic remedies by making formal complaints to the prosecutors and by lodging objections against the latter's decisions not to prosecute.

40. As regards the proceedings brought by the Üsküdar prosecutor, the applicants pointed to the fact that those proceedings concerned only the events which had taken place in the course of the operations carried out in the prisons from which they were transferred, and not the ill-treatment to which they were subjected during and after their transfers from those prisons.

41. Concerning their failure to bring an action against the Ministry of the Interior, the applicants argued that their obligation to exhaust domestic remedies extended only to those remedies which provided for a prompt and effective investigation in the course of which those responsible for the ill-treatment could be identified and punished. In the absence of a criminal investigation stemming from the prosecutors' failure to investigate their allegations of ill-treatment, it would be unrealistic to expect an administrative or a civil court to investigate their allegations and to identify those responsible.

42. The Court observes that the proceedings referred to by the Government were brought against 267 members of the security forces and concern the events which took place in a number of prisons, including the prisons from which the applicants were transferred on 22 December 2000 and 27 July 2001. There is no mention of the applicants' allegations of ill-treatment in the indictment with which those proceedings were instigated. In these circumstances, the Court considers that the applicants had no reason to await the outcome of those proceedings, which concerned entirely different events.

43. As for the Government's argument that the applicants had failed to bring an action against the Ministry of the Interior, the Court reiterates that it has already examined and rejected the Government's preliminary objections in similar cases (see, in particular, *Nevruz Koç v. Turkey*,

no. 18207/03, § 31, 12 June 2007 and the case cited therein). It reiterates that the remedy referred to by the Government cannot be regarded as sufficient for a Contracting State's obligations under Article 3 of the Convention, as it is aimed at awarding damages rather than identifying and punishing those responsible. The Court finds no particular circumstances in the instant case which would require it to depart from its findings in the above-mentioned case.

44. The Court considers that, in the circumstances of the present case, the relevant remedy for the applicants was to approach the domestic authorities which had the power to initiate criminal investigations, i.e. prosecutors. Having regard to the fact that the applicants brought their allegations to the attention of the competent prosecutors and that they subsequently lodged objections against those prosecutors' negative decisions, the Court considers that the applicants complied with the obligation to exhaust domestic remedies.

45. It therefore rejects the Government's objections on this point.

2. Compliance with the six-month rule

46. The Government also argued that, in so far as the applicants claimed that the domestic remedies were ineffective, the application should have been introduced with the Court within six months from the dates of the incidents complained of. In the opinion of the Government the applicants failed to comply with the six-month rule because they were transferred to Kandıra Prison on 22 December 2000 and 27 July 2001, but the application was not introduced until 28 August 2002, that is, more than six months later.

47. The Court considers that, as noted above, the complaints made by the applicants to the prosecutors and the objections lodged by them against the prosecutors' negative decisions were relevant remedies within the meaning of Article 35 § 1 of the Convention (see, *mutatis mutandis*, *Epözdemir v. Turkey* (dec.) no. 57039/00). The objections lodged by the first and second applicants were rejected on 11 June 2002 and the objections lodged by the third and the fourth applicants were rejected on 27 February 2002. The application was introduced on 28 August 2002, that is, within six months.

48. It follows that the Government's objection in this connection must also be rejected.

49. The Court notes that the complaint under Article 3 of the Convention 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

1. Complaints made by the first applicant Süleyman Gülbahar

50. The Government argued that, according to the medical report drawn up in relation to the first applicant's medical examination, there were no signs of any injuries on his body.

51. The first applicant maintained his allegations and submitted that the doctor at the prison had refused to examine him (see paragraph 13 above). He further maintained that he had done all he could to have himself medically examined at the Forensic Medicine Institute but that all his requests had been refused.

52. The Court notes that the first applicant consistently maintained his allegations of ill-treatment, not only when he complained to the national authorities but also in his submissions to the Court. Nevertheless, as the Government pointed out, the medical report drawn up by the doctor on 27 July 2001 does not support his allegations.

53. The Court cannot but note that the medical report of 27 July 2001 (see paragraph 13 above) lacks detail and falls significantly short of both the standards recommended by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), which are regularly taken into account by the Court in its examination of cases concerning ill-treatment (see, *inter alia*, *Akkoç v. Turkey*, nos. 22947/93 and 22948/93, § 118, ECHR 2000-X), and the guidelines set out in the Istanbul Protocol (see *Batı and Others v. Turkey*, nos. 33097/96 and 57834/00, § 100, ECHR 2004-IV (extracts)). As such, the Court considers that the medical report in question cannot be relied on as evidence for proving or disproving that the applicant was ill-treated.

54. Nevertheless, in the absence of any other evidence in support of the first applicant's allegations, the Court concludes that there has been no violation of Article 3 of the Convention in its substantive aspect in respect of the alleged ill-treatment to which he was subjected.

2. Complaints made by the remaining three applicants

55. In the opinion of the Government, the three applicants' injuries detailed in the medical reports (see paragraphs 21, 28 and 32 above) were not sufficiently severe as to be qualified as ill-treatment within the meaning of Article 3 of the Convention. In support of their submissions the Government referred to a number of judgments in which the concept of "minimum level of severity" was explained by the Court.

56. As for the second applicant Nuri Akalın's allegations of sexual assault with a truncheon, the Government referred to the medical report of 9 January 2001 (see paragraph 24 above), according to which a rectal examination had not revealed any injuries.

57. The three applicants maintained their allegations of ill-treatment. The second applicant Nuri Akalın further maintained that he had been raped with a truncheon and that, as a result of the authorities' delay in referring him to a doctor, the injuries caused as a result of the rape had healed and disappeared.

58. The Court notes the second applicant's claim that, as a result of having been raped with a truncheon, he had become ill and had to be taken to Kocaeli State Hospital (see paragraph 23 above). At the time of giving notice of the application to the respondent Government on 14 November 2007 the parties were requested to provide the Court with documentation concerning the second applicant's treatment at that hospital. However, neither the Government nor the second applicant complied with that request or provided any explanations for their failure to do so.

59. In light of that failure, and on account of the lack of evidence supporting his allegations, the Court finds that the second applicant's allegations of rape with a truncheon are not sufficiently proven.

60. As for the three applicants' injuries detailed in the medical reports, the Court disagrees with the Government that the nature of those injuries were such that they could not be regarded as having resulted from ill-treatment within the meaning of Article 3 of the Convention.

61. As pointed out by the Government, according to the Court's case-law, ill-treatment must attain a minimum level of severity if it is to fall within the scope of Article 3 of the Convention. The assessment of this minimum level of severity is relative; it depends on all the circumstances of the case, such as the duration of the treatment, its physical and mental effects and, in some cases, the sex, age and state of health of the victim (see, most recently, *N. v. the United Kingdom* [GC], no. 26565/05, § 29, 27 May 2008).

62. In the present case the three applicants were transferred to Kandıra Prison only three days after having survived a major security operation in the prison where they were being detained. During that operation a number of their fellow inmates were killed and injured. The Court thus considers that the applicants were already in a vulnerable position at the time of their transfers and that the ill-treatment to which they were subjected at that time exacerbated their mental and physical health. Indeed, the extent of their injuries alone indicates that they were subjected to ill-treatment which was sufficiently serious as to fall within the scope of Article 3 of the Convention.

63. The Government have not disputed that the injuries detailed in the medical reports of the three applicants had been caused while they were in the hands of agents of the State. In the absence of any explanation by the Government, who bear the burden of providing a plausible explanation for those injuries (see, in this connection, *Salman v. Turkey* [GC], no. 21986/93, § 100, ECHR 2000-VII), the Court concludes that there has been a violation

of Article 3 of the Convention in its substantive aspect in respect of the three applicants.

II. ALLEGED VIOLATION OF ARTICLES 6 AND 13 OF THE CONVENTION

64. The applicants complained of a violation of Articles 6 and 13 of the Convention on account of the authorities' failure to investigate their allegations of ill-treatment and to punish those responsible.

65. The Government contested that argument.

A. Admissibility

66. The Court considers that these complaints should be examined solely from the standpoint of the procedural aspect of Article 3 of the Convention and, as such, they are linked to the one examined above and must therefore likewise be declared admissible.

B. Merits

67. The Government referred to the decisions not to prosecute by the prosecutors (see paragraphs 16, 25, 30 and 33 above) and argued that, upon receiving the applicants' complaints, the national authorities had immediately started their investigations. In the opinion of the Government, the fact that in the end those national authorities decided not to prosecute the police officers did not render the investigations ineffective; the obligation to investigate was an obligation of means and not of result.

68. The applicants maintained that no meaningful investigation had been carried out into their allegations and that the authorities had been trying to cover up the actions of those responsible for the ill-treatment.

69. The Court reiterates that where an individual raises an arguable claim that he or she has been subjected to ill-treatment by the police or other such agents of the State and in breach of Article 3, that provision, read in conjunction with the State's general duty under Article 1 of the Convention to "secure to everyone within their jurisdiction the rights and freedoms defined in ... [the] Convention", requires by implication that there should be an effective official investigation.

70. The method of an effective investigation may vary according to the facts of the case. In any event, however, it should be capable of leading to the identification and punishment of those responsible (see, *inter alia*, *Assenov and Others v. Bulgaria*, judgment of 28 October 1998, *Reports of Judgments and Decisions* 1998-VIII, § 102).

71. In the present case the Court has found that the second, third and fourth applicants had been subjected to ill-treatment in violation of Article 3

of the Convention. These applicants had, therefore, arguable claims for the purposes of this Article.

72. However, on account of a lack of evidence, the Court has not found it proved that the first applicant was ill-treated. Nevertheless, as it has held in previous cases, that does not preclude his complaint in relation to Article 3 from being “arguable” for the purposes of the positive obligation to investigate (see *Yaşa v. Turkey*, judgment of 2 September 1998, *Reports* 1998-VI, § 112). In reaching this conclusion the Court has had particular regard to the consistency of the first applicant’s allegations both when he approached the national authorities and in his submissions to the Court.

73. At the time of giving notice of the application, the respondent Government were requested to clarify whether an effective official investigation had been conducted into the applicants’ complaints of ill-treatment. The Government were also requested to submit documentary evidence in support of their replies to that question. The only documents submitted to the Court by the Government, however, were the medical reports referred to above and the decisions taken by the prosecutors not to prosecute.

74. According to those decisions, the prosecutors decided not to investigate the allegations of ill-treatment and not to prosecute any members of the security forces because they were of the opinion that the allegations were abstract and uncorroborated by any evidence. The Court observes that, at the time of rendering their decisions, those prosecutors were in possession of the medical reports detailing the three applicants’ injuries. In spite of that, no references were made to those injuries in the decisions and no attempt appears to have been made to inquire as to how they were sustained.

75. Furthermore, there is no information in those decisions as to whether any members of the security forces were questioned by the authorities in relation to the applicants’ allegations.

76. As for the first applicant’s allegations of ill-treatment, which were not supported by medical evidence but were nonetheless arguable, the Court observes that no thought appears to have been given by the investigating authorities to questioning him with a view to ascertaining the veracity of his allegations.

77. In the light of the above it appears, therefore, that no investigation was carried out at the national level into the applicants’ allegations. It follows that there has been a violation of Article 3 of the Convention in its procedural aspect in respect of the four applicants.

III. ALLEGED VIOLATION OF ARTICLE 6 § 2 OF THE CONVENTION

78. The applicants complained, under Article 6 § 2 of the Convention, that they had been treated like terrorists, which was a violation of their right to the presumption of innocence, and that they had been subjected to the ill-treatment described above on account of their political opinions.

79. An examination by the Court of the materials submitted to it does not disclose any appearance of a violation of this provision. It follows that this part of the application is manifestly ill-founded and must be declared inadmissible pursuant to Article 35 §§ 3 and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

80. 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

81. The second applicant Mr Nuri Akalın claimed 40,000 euros (EUR) and each of the remaining three applicants claimed EUR 25,000 in respect of non-pecuniary damage.

82. The Government were of the opinion that the sums claimed were excessive.

83. Having regard to the violations found above, the Court awards the first applicant Mr Süleyman Gülbahar EUR 4,000 and each of the remaining three applicants EUR 10,000 in respect of non-pecuniary damage.

B. Costs and expenses

84. The applicants claimed EUR 9,850 for the fees of their lawyers, who represented them both at the national level and before the Court. The applicants also claimed the sum of EUR 165 for the postal, stationery and translation expenses. In support of their claims the applicants submitted a schedule of the hours worked by their legal representatives which shows that a total of 98 hours were spent by them interviewing the applicants in the prison, researching the case-law of the Court, preparing the application forms and observations and conducting correspondence with the Court.

85. The Government considered the sums claimed to be excessive and unsupported by evidence.

86. 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 were reasonable as to quantum. In the present case, regard being had to the information in its possession and the above criteria, the Court considers it reasonable to award the four applicants, jointly, the sum of EUR 4,000 covering costs under all heads, less the EUR 850 which two applicants received in legal aid from the Council of Europe (see paragraph 2 above).

C. Default interest

87. 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 under Article 3 of the Convention admissible and the remainder of the application inadmissible;
2. *Holds* that there has been no violation of Article 3 of the Convention in its substantive aspect in respect of the applicant Süleyman Gülbahar;
3. *Holds* that there has been a violation of Article 3 of the Convention in its substantive aspect in respect of the applicants Nuri Akalın, Ömer Berber and İdris Yiğit;
4. *Holds* that there has been a violation of Article 3 of the Convention in its procedural aspect in respect of all four applicants;
5. *Holds*
 - (a) that the respondent State is to pay the applicants, 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, plus any tax that may be chargeable to the applicants:
 - (i) EUR 4,000 (five thousand euros) to the first applicant Mr Süleyman Gülbahar in respect of non-pecuniary damage;
 - (ii) EUR 10,000 (ten thousand euros) to each of the remaining three applicants in respect of non-pecuniary damage; and

- (iii) EUR 4,000 (four thousand euros) to the four applicants jointly in respect of costs and expenses, less EUR 850 (eight hundred and fifty euros) granted by way of legal aid;
- (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;

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

Done in English, and notified in writing on 21 October 2008, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Françoise Elens-Passos
Deputy Registrar

Françoise Tulkens
President