



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

SECOND SECTION

CASE OF HAKAN DUMAN v. TURKEY

(Application no. 28439/03)

JUDGMENT

STRASBOURG

23 March 2010

FINAL

23/06/2010

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

In the case of Hakan Duman 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,

Dragoljub Popović,

Nona Tsotsoria,

Işıl Karakaş, *judges*,

and Sally Dollé, *Section Registrar*,

Having deliberated in private on 2 March 2010,

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

PROCEDURE

1. The case originated in an application (no. 28439/03) 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 a Turkish national, Mr Hakan Duman (“the applicant”), on 12 May 2003.

2. The applicant was represented by Mrs N. Bener, a lawyer practising in Bursa. The Turkish Government (“the Government”) were represented by their Agent.

3. On 9 January 2009 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 1983 and lives in Bursa.

5. The applicant had been previously convicted of burglary on 21 March 2001 and his prison sentence had been commuted to a fine.

6. On 11 January 2002 at approximately 12.40 a.m. the applicant was arrested, together with a friend, and taken into custody on suspicion of having committed several burglaries. The arrest was effected on the basis of incriminating information received regarding the applicant and his friend.

7. Later, at approximately 2.40 a.m., the applicant was examined by a doctor, who noted a 2 x 2 cm graze on his left shoulder and a graze under his right knee.

8. It appears that at some point the applicant and his friend confessed¹ to committing a number of burglaries and, as a result, on 11 and 12 January 2002, were required to participate in a number of reconstructions of events. According to the record drafted by police officers and signed by the applicant, the latter indicated one by one the houses and other premises he had broken into, the times of the incidents, the methods used to enter the buildings and the exact amount of goods which had been stolen from each place.

9. On 11 January 2002 the police heard evidence from the applicant's father. It appears from Mehmet Duman's police statement and the seizure report drafted on that day that the applicant's father helped the police recover two stolen guns, one from his own basement and another near a bus stop, on the basis of information he had received from a certain Mr H.P., who had participated in burglaries with his son.

10. On 12 and 13 January 2002 the police heard evidence from the owner of one of the guns and the person to whom the suspects had sold it.

11. In the meantime, on an unspecified date, the applicant signed a pre-printed form explaining the rights of arrested persons, including the right to remain silent and the right to legal assistance.

12. On 13 January 2002 the applicant was questioned by two police officers in respect of five incidents he had confessed to during the reconstruction of events. According to the verbatim records signed by the applicant, he was reminded of his legal rights, including his right to remain silent and his right to legal assistance.

13. On the same day the applicant's friend was also questioned. He admitted committing two offences with the applicant. The statements provided by him regarding these incidents were worded in similar fashion to the applicant's statements.

14. Between 11 January and 14 January 2002, the police heard evidence from the owners of the houses and businesses which had been robbed. It appeared that some of the owners had not made any prior complaints to the police about the burglaries committed in their houses.

15. On 14 January 2002 the police returned a watch found on the applicant's friend to its owner.

16. On 14 January 2002, on the release of the applicant from police custody, the Bursa Forensic Medicine Institute issued a medical report indicating that no signs of beating or violence had been observed on his body and that the applicant did not have any complaints.

1. There is no official verbatim record of this confession.

17. On the same date the Bursa Magistrates' Court heard evidence from the applicant. According to the minutes of the hearing he was reminded of his legal rights and his statements to the police were read out to him and accepted by him. He further stated that, at that juncture, he did not remember with whom and where he had committed the burglaries. The reports and other documents in the case file were read out to him. The applicant did not contest their veracity.

18. On 21 February 2002 the Bursa public prosecutor filed a bill of indictment against the applicant with the Bursa Criminal Court, accusing him of having committed five burglaries.

19. At the hearing held on 28 February 2002, the applicant retracted his earlier statements, claiming that when he had given evidence to the Bursa Magistrates' Court he had been in custody for more than six days, during which time he had been electrocuted, hosed and beaten with a stick in order to force him to confess to the offences. The applicant claimed that he did not remember how he had been brought before the Bursa Magistrates' Court and that before the judge he had just sat there while the verbatim record was written, which he had not signed. The court heard evidence from the other accused and five complainants, who all stated that the accused had accepted the accusations during the reconstruction of events.

20. In the hearing held on 25 April 2002, the prosecutor submitted his opinion on the merits. The applicant's legal representative submitted that some of the evidence in the case file had been unlawfully obtained.

21. At the hearing held on 2 May 2002, the applicant reiterated that he did not accept the charges against him. When asked about the medical reports, the reports of the reconstruction of events and the arrest and seizure form, the applicant submitted that he had nothing to say.

22. On 9 May 2002 the Bursa Criminal Court, relying on the evidence in the case file and, in particular, on the statements made by the applicant and Mr I.Ö. before the police and the Magistrates' Court, found the applicant guilty as charged and sentenced him in total to nine years, two months and five days' imprisonment.

23. On 27 May 2002 the applicant appealed against the trial court's judgment. In particular, he claimed that there was no evidence to demonstrate his guilt and that his statements to the police had been written in accordance with the complainants' testimonies. The applicant submitted that he had not been reminded of his legal rights under Article 135 of the Code of Criminal Procedure and that his statements before both the police and the Magistrates' Court had not been given of his own free will. In part of his appeal petition the applicant submitted that he had not been in a fit condition to give a statement before the Magistrates' Court since he had been exhausted from the torture, coercion and duress he had been subjected to in police custody.

24. On 26 September 2002 the Court of Cassation, relying on Article 318 of the Code of Criminal Procedure, dismissed the applicant's request for an oral hearing and upheld the judgment of the first-instance court. The opinion of the principal public prosecutor submitted to this court was not communicated to the applicant.

25. On 16 December 2002 the decision of the Court of Cassation was returned to the registry of the Bursa Criminal Court.

26. A request by the applicant dated 26 December 2002 for a rectification of the Court of Cassation's judgment was dismissed by the principal public prosecutor at the Court of Cassation on 19 February 2003.

27. On 17 December 2004 the Bursa Criminal Court, taking into account the relevant provisions of the new Criminal Code (Law no. 5237), ordered the applicant's release from prison. By an additional judgment dated 29 June 2005 the first-instance court adjusted the applicant's sentence in accordance with the provisions of the new Criminal Code (Law no. 5237).

II. RELEVANT DOMESTIC LAW AND PRACTICE

28. The relevant domestic law and practice in force at the material time as well as recent developments can be found in the following judgments: *Kolu v. Turkey* (no. 35811/97, §§ 42 and 44, 2 August 2005), *Göç v. Turkey judgment* ([GC], no. 36590/97, § 34, ECHR 2002-V), and *Demirci v. Turkey* (no. 21843/02, § 14, 3 June 2008).

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

29. In the application form the applicant alluded to having been subjected to torture while he was held in police custody.

30. The Court considers that the applicant's submission should be examined under Article 3, which reads as follows:

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

31. The Government maintained that the applicant had not exhausted domestic remedies, as required by Article 35 § 1 of the Convention, as he had failed to make proper use of the administrative-law remedy available to him in domestic law. They further asked the Court to dismiss this part of the application for failure to comply with the six-month time-limit under Article 35 § 1 of the Convention.

32. The Court considers it unnecessary to determine whether the applicant exhausted domestic remedies or complied with the six-month rule, within the meaning of Article 35 § 1 of the Convention, since this complaint is in any event inadmissible for the following reasons.

33. The Court reiterates that allegations of ill-treatment must be supported by appropriate evidence (see, in particular, *Tanrikulu and Others v. Turkey* (dec.), no. 45907/99, 22 October 2002). To assess this evidence, the Court adopts the standard of proof “beyond reasonable doubt”, but adds that such proof may follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see, among many other authorities, *Labita v. Italy* [GC], no. 26772/95, § 121, ECHR 2000-IV, and *Süleyman Erkan v. Turkey*, no. 26803/02, § 31, 31 January 2008).

34. In the instant case the Court observes that the applicant was held in detention for approximately three days. It further notes that the medical report issued following his arrest indicated a 2 x 2 cm graze on his left shoulder and a graze under his right knee. However, the Court observes that the applicant never specifically set out in his application and subsequent observations to the Court any details of the alleged ill-treatment which could confirm or corroborate the minor findings noted in the above medical report.

35. Likewise, the Court observes that in the course of the criminal proceedings the applicant, who was assisted by a lawyer, simply claimed in general terms to have been subjected to torture and ill-treatment, apart from at the hearing held on 28 February 2002, when he maintained in general terms that he had been electrocuted, hosed and beaten with a stick. He did not provide the authorities with any physical or other identifying details of the alleged perpetrators. Moreover, the Court observes that the medical reports drawn up at the end of the applicant's detention do not contain any indication that he was physically ill-treated as alleged. The Court is aware that this report lacks details and falls significantly short of 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), as well as the guidelines set out 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 (see *Bati and Others v. Turkey*, nos. 33097/96 and 57834/00, § 100, ECHR 2004-IV (extracts)). Nevertheless, it notes that there is no material in the case file which could call into question the findings in this report or add probative weight to the applicant's allegations. In this connection, the Court also notes that the applicant did not contest the medical reports drawn up

during his detention and that there is no indication in the case file that the applicant requested and was refused permission to see another doctor during or at the end of his detention.

36. Consequently, the Court considers that the applicant has not submitted any medical evidence of either physical injuries to his person or mental trauma consistent with having been tortured and ill-treated as alleged (see, among other authorities, *Yaşar v. Turkey* (dec.), no. 55938/00, 22 June 2006; *Künkül v. Turkey* (dec.), no. 57177/00, 30 November 2006; *S.T. v. Turkey* (dec.), no. 28310/95, 9 November 1999; and, by converse implication, *Mehmet Eren v. Turkey*, no. 32347/02, § 43, 14 October 2008).

37. Moreover, the Court considers that a mere allegation of ill-treatment, without any credible details, is insufficient to constitute an arguable claim giving rise to a positive obligation. Therefore, the applicant could not legitimately demand that an in-depth investigation be carried out into his complaints of ill-treatment when neither he nor his lawyer had provided the relevant authorities with a reliable starting-point for their inquiries (see, for example, *Yıldırım v. Turkey* (dec.), no. 33396/02, 30 August 2007).

38. In view of the above considerations, the Court finds that the applicant has not laid the basis of an arguable claim that he was subjected to ill-treatment in custody. It follows that he has not made out a case that the authorities failed in their procedural obligation under Article 3 of the Convention to investigate his claim (see *Assenov and Others v. Bulgaria*, 28 October 1998, § 117, *Reports of Judgments and Decisions* 1998-VIII). For these reasons the complaint is inadmissible as being manifestly ill-founded within the meaning of Article 35 §§ 3 and 4 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 OF THE CONVENTION

39. The applicant complained under Article 6 § 1 that the written opinion of the principal public prosecutor submitted to the Court of Cassation had not been communicated to him. Under Article 6 § 2 the applicant maintained that his conviction had been based on unlawful evidence obtained during his detention in police custody.

40. The Court will examine these complaints under Article 6 § 1 of the Convention, which provides, as relevant:

“In the determination ...of any criminal charge against him, everyone is entitled to a fair ...hearing”

A. Admissibility

41. The Government asked the Court to dismiss the applicant's complaints as being inadmissible for failure to comply with the six-month rule because he had failed to lodge his application within six months of the

date on which the Court of Cassation had rendered its decision or, alternatively, within six months of the date of the incident.

42. The Court observes that the Court of Cassation's decision of 26 September 2002 was returned to the registry of the first-instance court on 16 December 2002 and that the application was lodged with the Court within six months of that date, on 12 May 2003. The Court therefore rejects the Government's preliminary objection regarding the six-month rule under Article 35 § 1 of the Convention.

43. It further notes that this part of the application is not inadmissible on any other grounds and must, therefore, be declared admissible.

B. Merits

1. Use by the Bursa Criminal Court of statements allegedly taken unlawfully

a) The parties' observations

44. The Government maintained that the applicant had not been convicted solely on the basis of his statements since, in convicting the applicant, the domestic courts had also had regard to the statements of the co-accused and had evaluated the other evidence.

45. The applicant submitted that he had been subjected to ill-treatment while in police custody and that the pressure he felt from the police had continued up until the trial court hearings and after he had hired a lawyer. In this connection, the applicant submitted that it would have been illogical for him to incriminate himself. Moreover, he pointed out that the police had interrogated him prior to informing him of his rights under domestic law.

b) The Court's assessment

46. The Court reiterates that the taking of evidence is governed primarily by the rules of domestic law and that it is in principle for the national courts to assess the evidence before them. The Court's task under the Convention is to ascertain whether the proceedings in their entirety, including the way in which evidence was taken, were fair (see, among other authorities, *Edwards v. the United Kingdom*, 16 December 1992, § 34, Series A no. 247-B). All the evidence must normally be produced in the presence of the accused at a public hearing with a view to adversarial argument. However, the use as evidence of statements obtained at the stage of the police inquiry and the judicial investigation is not in itself inconsistent with paragraph 1 of Article 6, provided that the rights of the defence have been respected. On this point, the Court relies on the basic principles laid down in its judgments concerning the notion of a fair procedure under Article 6 (see, in particular,

Imbrioscia v. Switzerland, 24 November 1993, § 36, Series A no. 275; *Öcalan v. Turkey* [GC], no. 46221/99, § 131, ECHR 2005-IV, § 131; *Salduz v. Turkey* [GC], no. 36391/02, § 55, 27 November 2008; and *Jalloh v. Germany* [GC], no. 54810/00, § 100, ECHR 2006-...).

47. Moreover, the Court reiterates that the privilege against self-incrimination or the right to remain silent are generally recognised international standards which lie at the heart of a fair procedure. Their aim is to provide an accused person with protection against improper compulsion by the authorities and thus to avoid miscarriages of justice and secure the aims of Article 6 (see *John Murray v. the United Kingdom*, 8 February 1996, § 45, *Reports* 1996-I). This right presupposes that the prosecution in a criminal case seek to prove their case against the accused without resort to evidence obtained by coercion or oppression in defiance of the will of the accused (see *Jalloh*, § 100, and *Kolu*, § 51, both cited above). Early access to a lawyer is part of the procedural safeguards to which the Court will have particular regard when examining whether a procedure has extinguished the very essence of the privilege against self-incrimination (see *Salduz*, cited above, § 54).

48. Finally, the Court recalls that Article 6 of the Convention does not prevent a person from waiving of his own free will, either expressly or tacitly, the entitlement to certain guarantees of a fair trial (see *Kwiatkowska v. Italy* (dec.), no. 52868/99, 30 November 2000, and *Pishchalnikov v. Russia*, no. 7025/04, § 77, 24 September 2009). However, if it is to be effective for Convention purposes, a waiver of the right to take part in the trial must be established in an unequivocal manner and be attended by minimum safeguards commensurate to its importance (see *Poitrimol v. France*, 23 November 1993, § 31, Series A no. 277-A). Furthermore, it must not run counter to any important public interest (see *Håkansson and Sturesson v. Sweden*, 21 February 1990, § 66, Series A no. 171-A). The Court has also pointed out that, before an accused can be said to have implicitly, through his conduct, waived an important right under Article 6 of the Convention, it must be shown that he could reasonably have foreseen what the consequences of his conduct would be (see *Jones v. the United Kingdom* (dec.), no. 30900/02, 9 September 2003).

49. In the instant case the applicant was arrested on 11 January 2002 and taken into police custody, where he remained until 14 January 2002. It appears that following his arrest the applicant confessed to committing a number of burglaries, as a result of which he was required to participate in reconstructions of events during which he made a number of detailed incriminating statements (see paragraph 8 above). On 13 January 2002 the applicant was questioned by two police officers in respect of five incidents to which he had confessed during the reconstruction of events. Finally, on 14 January 2002 the applicant was brought before a judge where he accepted, without any further details, his statements given to the police. On

none of these occasions did the applicant benefit from the assistance of a lawyer. Since, on the basis of the case file, it cannot be concluded beyond reasonable doubt that the applicant was subjected to ill-treatment or was otherwise coerced into making statements in police custody, the Court considers that the examination of this part of the application should be confined to the use by the trial court of the statements made at the pre-trial stage in the absence of a lawyer (see *Öngün v. Turkey*, no. 15737/02, § 32, 23 June 2009).

50. In the instant case the Court observes that, in accordance with the relevant provisions of the former Code of Criminal Procedure applicable at the time of the events, namely Articles 135, 136 and 138, the applicant had a right of access to a lawyer from the moment he was taken into police custody. The Court further notes that when the applicant was questioned by two police officers on 13 January 2002 and subsequently by the judge at the Bursa Criminal Court on 14 January 2002 he was informed of his legal rights, including his right to remain silent and his right to legal assistance, which he appears *prima facie* to have waived. However, prior to that time the applicant had already confessed in circumstances unknown to the Court owing to the absence of a verbatim record, and had as a consequence participated in a number of reconstructions of events during which he made detailed incriminating statements. These statements were later used to convict him. In this connection, the Court is not convinced that the presence of an undated, pre-printed and signed document in the case file demonstrates with certainty that the applicant was properly informed of his right to a lawyer and his right to remain silent (see paragraph 11 above) prior to his confession and subsequent participation in a number of reconstructions of events. In such circumstances it cannot be said, therefore, that the applicant had unequivocally and intentionally waived his rights under Article 6 (see, *mutatis mutandis*, *Seyithan Demir v. Turkey*, no. 25381/02, § 41, 28 July 2009, and *Savaş v. Turkey*, no. 9762/03, § 70, 8 December 2009). The fact that the applicant was subsequently informed of his rights and decided not to act on them immediately does not alter this finding.

51. The Court further observes that the applicant had access to a lawyer during the ensuing criminal proceedings, when he had the possibility of challenging the prosecution's arguments. Nevertheless, in convicting the applicant, the Bursa Criminal Court gave weight to the applicant's statements which he had later retracted and which had been obtained during the pre-trial investigation in the absence of a lawyer. Neither the assistance subsequently provided by a lawyer nor the adversarial nature of the ensuing proceedings could cure the defects which had occurred while the applicant was in custody (see, in particular, *Kolu*, cited above, § 62). In this connection, the Court attaches importance to the fact that, despite the severity of the applicant's sentence and the fact that the information

obtained from the applicant during the reconstruction of events served to convict him, there appears to have been no close scrutiny on the part of the domestic courts as to whether it could be said that the applicant had unequivocally waived his right to a lawyer and to remain silent prior to his undocumented confession.

52. In sum, even though the applicant had the opportunity to challenge the evidence against him at the trial and subsequently on appeal, the fact that no lawyer was present while he was in police custody, in the absence of an unequivocal and intentional waiver on his part, irretrievably damaged his defence rights.

53. There has therefore been a violation of Article 6 § 1 of the Convention on account of the applicant's conviction on the basis of statements which had been obtained during the preliminary investigation in the absence of legal assistance.

2. Unfairness of the proceedings on account of the non-communication of the written opinion of the principal public prosecutor at the Court of Cassation

54. The Court notes that it has already examined the same grievance in the past and has found a violation of Article 6 § 1 of the Convention (see, in particular, *Göç*, cited above, § 58; *Abdullah Aydın v. Turkey* (no. 2), no. 63739/00, § 30, 10 November 2005; and *Ayçoban and Others v. Turkey*, nos. 42208/02, 43491/02 and 43495/02, 22 December 2005).

55. The Court has examined the present case and finds no particular circumstances which would require it to depart from its findings in the aforementioned cases.

56. There has accordingly been a violation of Article 6 § 1 of the Convention on account of the non-communication to the applicant of the written opinion of the principal public prosecutor at the Court of Cassation.

III. OTHER ALLEGED VIOLATIONS OF THE CONVENTION

57. In the application form the applicant further complained under Article 5 §§ 1, 2 and 3 of the Convention that there had been no reasonable suspicion warranting his arrest, that he had not been informed promptly of the reasons for his arrest, that his detention in police custody had breached the reasonable-time requirement and that the decision to prolong his detention in police custody had been taken by the court in his absence. The applicant further complained under Article 6 §§ 1 and 2 that his request to be heard by the Court of Cassation had not been granted to him, that the failure to serve the written decisions of the Court of Cassation on him had breached his right to a fair trial and that he had not been asked to sign the statements he had given to the Bursa Magistrates' Court.

58. However, in the light of all the material in its possession, the Court finds that the applicants' submissions outlined above do not disclose any appearance of a violation of the rights and freedoms set out in the Convention or its Protocols. It follows that this part of the application must be declared inadmissible as being manifestly ill-founded, pursuant to Article 35 §§ 3 and 4 of the Convention.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

59. 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

60. The applicant claimed 150,000 euros (EUR) in respect of non-pecuniary damage together with statutory interest running from the date of his arrest.

61. The Government contested the amount.

62. Deciding on an equitable basis, the Court awards the applicant EUR 1,800 in respect of non-pecuniary damage.

63. It further considers that the most appropriate form of redress would be the retrial of the applicant in accordance with the requirements of Article 6 of the Convention, should he so request (see *Salduz*, cited above, § 72).

B. Costs and expenses

64. The applicant also claimed EUR 15,000 for the costs and expenses incurred before the domestic courts and the Court. In support of his claims the applicant submitted some receipts for postal and translation costs.

65. The Government contested the amount.

66. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court rejects the claim for costs and expenses in the domestic proceedings and considers it reasonable to award the sum of EUR 250 for the proceedings before the Court.

C. Default interest

67. 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* admissible the complaints under Article 6 § 1 of the Convention concerning the non-communication to the applicant of the written opinion of the principal public prosecutor at the Court of Cassation and the alleged unfairness of the proceedings on account of the applicant's conviction on the basis of statements obtained during the preliminary investigation, and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;
3. *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 Turkish liras at the rate applicable at the date of settlement:
 - (i) EUR 1,800 (one thousand eight hundred euros) in respect of non-pecuniary damage, plus any tax that may be chargeable;
 - (ii) EUR 250 (two hundred and fifty euros) in respect of costs and expenses, plus any tax that may be chargeable to the applicant;
 - (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;
4. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 23 March 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President