



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

SECOND SECTION

CASE OF FADİME AND TURAN KARABULUT v. TURKEY

(Application no. 23872/04)

JUDGMENT

STRASBOURG

27 May 2010

FINAL

27/08/2010

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

In the case of Fadime and Turan Karabulut v. Turkey,

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

Françoise Tulkens, *President*,

Ireneu Cabral Barreto,

Danutė Jočienė,

Dragoljub Popović,

Nona Tsotsoria,

Işıl Karakaş,

Kristina Pardalos, *judges*,

and Sally Dollé, *Section Registrar*,

Having deliberated in private on 4 May 2010,

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

PROCEDURE

1. The case originated in an application (no. 23872/04) 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 two Turkish nationals, Ms Fadime Karabulut and Turan Karabulut (“the applicants”), on 5 June 2004.

2. The applicants were represented by Ms Fatma Karakaş Doğan, a lawyer practising in Istanbul. The Turkish Government (“the Government”) were represented by their Agent.

3. The applicants alleged, in particular, that the killing of their daughter by gendarme soldiers had been in breach of Article 2 of the Convention.

4. On 21 January 2008 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 1963 and 1950 respectively and live in Sivas. They had two daughters, Nermin Karabulut and Serap Karabulut.

6. According to the applicants, on 29 July 1998 at about 1 p.m. the two girls were hitchhiking to Sivas when a military vehicle stopped and the soldiers who got out started shooting at them. Nermin Karabulut, who was

fourteen years old, was shot and died later in the day in a hospital. Serap Karabulut, who was sixteen, was beaten by the soldiers before being taken to a gendarmerie station. She was released the same evening.

7. The same day a scene of incident report was drawn up by the gendarmerie officers. According to that report, a person who wanted to remain anonymous telephoned the gendarmerie and stated that he had seen a female behaving suspiciously. A number of gendarme officers and soldiers arrived at the scene at around 2 p.m. and saw the female in question. When the female saw the soldiers she began to run away. The soldiers unsuccessfully called out to her to stop and then fired fifteen to twenty warning shots in the air. The female responded by throwing a hand grenade at the soldiers and the soldiers continued firing warning shots. When she attempted to throw another grenade, the soldiers shot her. When they searched her the soldiers found a stick, two knives, a screwdriver, a two-metre-long electricity cable, a syringe with a yellow liquid inside and a hand grenade. None of the soldiers were injured in the incident. Nermin Karabulut was then taken to a hospital in the city of Sivas where she died later the same day.

8. On 30 July 1998 the second applicant and his surviving daughter Serap Karabulut made statements to a prosecutor. The second applicant maintained that his two daughters had been trying to flag down a car in order to go to a hospital in Sivas where they had had operations previously. When no cars stopped, the girls had decided to walk to their uncle's house but then the soldiers arrived and told the two girls to stop. Serap Karabulut raised her hands and stopped but Nermin Karabulut started to run away from the soldiers because she was scared. The soldiers then shot her. The second applicant asked the prosecutor to find and prosecute those responsible for the killing of his daughter.

9. Serap Karabulut confirmed the version of the events described by her father and added that she would recognise the soldier who shot her sister. She also stated that the soldiers had beaten her up.

10. The same day Serap Karabulut was taken to the Sivas Numune Hospital where she was examined by a doctor. The medical report indicated that there was an area of bruising measuring 4 x 5 cm, on her right shoulder and a scratch measuring 3 x 4 cm on her left shoulder.

11. Also the same day an autopsy was conducted on Nermin Karabulut's body at the Cumhuriyet University Medical Department, with the attendance of a prosecutor. Just before the autopsy her mother formally identified her deceased daughter. She told those present at the hospital that her daughter Nermin Karabulut had been carrying the knives and the screwdriver in order to defend herself from any possible attacks while she was herding animals. She added that the syringe was hers and contained a tranquilliser which had been prescribed to her by her doctor; she did not

know why her daughter had taken it from the house. She asked for those responsible for the killing of her daughter to be prosecuted and punished.

12. According to the autopsy report drawn up the same day, Nermin Karabulut had died as a result of internal bleeding caused by a single bullet which had entered from the back at the level of the eleventh left rib and exited at the front at the level of the ninth rib. The prosecutor who was present during the autopsy observed that the hand grenade which was allegedly found on Nermin Karabulut (see paragraph 7 above) was not among the objects submitted to his office.

13. According to a report prepared the same day at the Gendarmerie Laboratories, the yellow liquid in the syringe was identified as heroin.

14. On 5 August 1998 a scene of incident report was drawn up by the prosecutor who went to the area where Nermin Karabulut was killed. The prosecutor was accompanied by Hafik district gendarmerie commander Mehmet Elagöz, the applicants' surviving daughter Serap Karabulut, the applicants' representative, the village headman (*muhtar*) and an expert on explosives. A search was carried out in the area, during which a spent bullet case and a grenade fuse were found. A hole, 25-30 cm wide and 8-10 cm deep, was observed by those present. According to the expert, the hole could have been caused by a hand grenade as well as by numerous other things. No pieces of the hand grenade allegedly thrown by Nermin Karabulut could be found in the area. The Hafik district gendarmerie commander Elagöz told the prosecutor that the second hand grenade which was found on Nermin Karabulut had been destroyed by the soldiers after the incident.

15. On various dates in August, the prosecutor took statements from six gendarmerie officers who had been involved in the incident. The officers stated that they had acted under the belief that Nermin Karabulut was a terrorist because she had thrown a hand grenade at them and also because they had thought that the wooden walking stick hidden under her jacket was a rifle. They had fired warning shots, and when she was about to throw the second hand grenade, they had fired shots at her, aiming below the waist and at the hand with which she had been holding the hand grenade. Their intention was not to kill but to injure her so that they could arrest her.

16. On 12 August 1998 the applicants lodged a complaint with the Sivas prosecutor and informed the prosecutor that the gendarmerie personnel responsible for the killing of their daughter had been issuing press releases in which claims such as “the suicide bomber was on heroin” were made.

17. On 31 August 1998 the Police Laboratory issued its report on the fuse and a sample of soil taken from the hole found at the scene. According to the report, the fuse belonged to a hand grenade of NATO standard, the origin of which could not be identified. It was also established that the soil sample contained traces of Trinitrotoluene (TNT).

18. On 29 September 1998 the Forensic Medicine Institute issued its report on the results of tests carried out on a blood sample taken from Nermin Karabulut's body and on the yellow liquid in the syringe found with her. According to the report, there were no drugs in Nermin Karabulut's blood. The liquid in the syringe was identified as chlorpromazine, a type of tranquilliser.

19. On 22 October 1998 gendarmerie lieutenant-colonel Sabri Semen was appointed as the investigator on the case and began questioning the gendarmerie personnel who had taken part in the incident. On 25 October 1998 the lieutenant-colonel concluded his investigation and recommended that no permission be given for the prosecution of the six gendarmerie personnel. The report contains a summary of the statements made by, *inter alia*, the six gendarmerie officers, the applicants and Serap Karabulut. The lieutenant colonel considered that the gendarmerie officers had had reason to believe that Nermin Karabulut, who had not stopped when warned and had thrown a hand grenade at the soldiers, was a terrorist. Referring to the applicable legislation according to which gendarmerie officers had the right to use firearms when confronted, the report concluded that there had been no intention to kill and therefore no prosecution should be brought against the six gendarmerie officers involved in the incident.

20. On 10 November 1998 the Commission on the Prosecution of Civil Servants ("the CPCS") held that the report prepared by the investigator concentrated solely on the issue of the killing and did not examine whether the soldiers had exceeded their powers. The CPCS also considered that the report lacked information on a number of issues. For example, the identity of the gendarmerie officer who shot Nermin Karabulut and the identity of the person who had informed the gendarmerie about "the suspicious female" had not been established. The soldiers' failure to preserve the purported second-hand grenade instead of destroying it had also not been questioned. The villagers had not been questioned about Nermin Karabulut's character, whether she had previously been involved in terrorist activities and where she could have obtained hand grenades.

21. On 8 December 1998 the investigator took additional statements from four of the gendarmerie officers who maintained that they had all fired at Nermin Karabulut at the same time and did not know which bullet had hit her. They had aimed below the waist in order to avoid killing her. Nevertheless, as the terrain was rough, she had received a lethal shot. The grenade found by her side had already been partially detonated by her and therefore would have posed a threat if preserved as evidence.

22. On the same day the lieutenant-colonel took statements from three villagers, who stated that Nermin Karabulut often took long walks in the countryside, sometimes with her father who was a shepherd, and sometimes alone. They did not know whether she had been involved in any terrorist activities before and they did not know from where she could have obtained

the hand grenades. A gendarmerie officer who worked as a telephone operator on the switchboard told the investigating lieutenant-colonel that the person who informed them about “the suspicious female” had not given his name.

23. On 9 December 1998 the lieutenant-colonel prepared an additional report. The CPCS decided on 22 December 1998 to decline permission to prosecute the gendarmerie personnel who had killed Nermin Karabulut. The CPCS's decision was quashed by the Council of State on 26 June 2002.

24. On 22 August 2002 the Sivas prosecutor filed a bill of indictment with the Sivas Assize Court and charged six gendarmerie personnel with unintentional homicide, contrary to Article 452 of the Turkish Criminal Code. On 16 October 2002 the applicants intervened in the criminal proceedings.

25. On 28 January 2004 the Sivas Assize Court issued a decision of non-jurisdiction, on the ground that the defendants were military personnel and the act complained of had taken place in the course of their military duties. The case file was sent to the Sivas Military Court.

26. On 14 April 2005 the Sivas Military Court also issued a decision of non-jurisdiction. This decision was upheld by the Military Court of Cassation on 18 October 2005 and on 6 March 2006 the Jurisdiction Disputes Court (*Uyuşmazlık Mahkemesi*) held that the case fell within the jurisdiction of the Sivas Assize Court since the offence by gendarmes had been committed in the course of their administrative and civil duties.

27. A new trial was conducted by the Sivas Assize Court, during which the defendants were questioned by different criminal courts pursuant to rogatory letters issued by the Sivas Assize Court.

28. On 7 December 2007 the Sivas Assize Court considered that the gendarmes had exceeded their powers on the use of firearms by firing at Nermin Karabulut's back rather than at non-vital parts of her body. The Assize Court also considered that alternative and non-lethal methods could have been employed by the gendarmes to catch Nermin Karabulut. It found the gendarmes guilty of manslaughter and sentenced them to one year and eight months' imprisonment. However, the sentences were then suspended pursuant to Article 51 of the Criminal Code, which gave criminal courts discretion to suspend prison sentences shorter than two years.

29. The applicants and the defendants appealed. On 22 December 2008 the Court of Cassation upheld the Sivas Assize Court's judgment of 7 December 2007 in so far as it concerned its conclusion concerning the finding of guilt. Nevertheless, it quashed the sentencing part of the judgment in so far as it concerned five of the six gendarmes, and remitted the case to the Sivas Assize Court so that the provisions of a new law which had entered into force in the meantime (Law no. 5728 of 23 January 2008) could be applied to them and the pronouncement of their sentences could thus be deferred. As the sixth gendarme already had a criminal record in respect

of another offence, the Court of Cassation held that he could not benefit from the favourable provisions of the new law, and upheld his suspended sentence handed down by the Sivas Assize Court on 7 December 2007.

30. A new trial was conducted by the Sivas Assize Court which reiterated on 17 December 2009 the conclusion it had reached on 7 December 2007, and found the remaining five gendarmes guilty of the offence of manslaughter. They were sentenced to one year and eight months' imprisonment but the execution of the sentences was suspended. The Sivas Assize Court observed that the defendants had no previous convictions and considered that they would not commit any such offences in future. The applicants lodged an appeal against the judgment, the outcome of which is unknown to the Court.

THE LAW

I. ALLEGED VIOLATIONS OF ARTICLES 2, 6, 13 AND 14 OF THE CONVENTION

31. The applicants complained that the force used by the gendarmerie officers against their daughter had not been absolutely necessary and that the excessive nature of the use of force showed that the officers had in fact intended to kill her. They further added that the investigation into the killing of their daughter had neither been impartial nor adequate for the purposes of the requirements of Article 2 of the Convention.

32. Relying on Article 13 of the Convention, the applicants complained that the domestic proceedings had not provided them with an effective remedy capable of providing redress for their complaints. Under Article 6 of the Convention, the applicants alleged that the criminal proceedings against the gendarmes had been excessively long. They maintained that they had not been given the opportunity to challenge the defendants, who had not appeared before the trial court in person and had instead given their evidence before other criminal courts in accordance with letters rogatory. This, they claimed, had deprived them of their right to a fair and public hearing. They added that they had been discriminated against because of the necessity to seek permission from an administrative body before the prosecutions could be brought against the soldiers. This, in the opinion of the applicants, had been in breach of Article 14 read in conjunction with Article 6 of the Convention.

33. The Court considers that the essence of the applicants' complaints concerns the deprivation of the right to life of their daughter and the alleged ineffectiveness of the investigation into her killing. The Court thus

considers it appropriate to examine all of the above complaints solely from the standpoint of Article 2 of the Convention, which in its relevant parts reads as follows:

“1. Everyone's right to life shall be protected by law. No one shall be deprived of his life intentionally save in the execution of a sentence of a court following his conviction of a crime for which this penalty is provided by law.

2. Deprivation of life shall not be regarded as inflicted in contravention of this article when it results from the use of force which is no more than absolutely necessary:

(a) in defence of any person from unlawful violence;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; ...”

34. The Government contested the applicants' arguments.

A. Admissibility

35. The Government were of the opinion that the applicants had not complied with the obligation to exhaust domestic remedies because they had not raised their complaints before the domestic courts (Article 35 §§ 1 and 4 of the Convention). Referring to the decision on inadmissibility in the case of *Uca v. Turkey* (no. 3743/06, 29 April 2008) the Government further submitted that the applicants could have brought an administrative action and claimed compensation from the State for the killing of their daughter.

36. The applicants maintained that they had complied with the obligation to exhaust domestic remedies by making official complaints to prosecutors, by intervening in the trial and by appealing against the domestic courts' decisions.

37. The Court rejects the first element of the Government's objection, because the applicants did indeed make official complaints to the competent authorities about the killing of their daughter (see paragraphs 8 and 11 above), intervened in the trial (see paragraph 24 above) and appealed against the judgments rendered by the domestic courts (see paragraphs 9 and 30 above).

38. Concerning the Government's objection based on the applicants' failure to seek compensation, the Court recalls that it has already examined and rejected the Government's reliance on the above-mentioned *Uca* decision in another case which also concerned the issue of the right to life (see, *mutatis mutandis*, *Gasyak and Others v. Turkey*, no. 7872/03, §§ 66-72, 13 October 2009).

39. In any event, the Court reiterates that, in cases concerning deprivations of life, Contracting States have an obligation under Article 2 of the Convention to conduct an effective investigation capable of leading to

the identification and punishment of those responsible. The Court considers that that obligation would be rendered illusory if, in respect of complaints under Article 2 of the Convention, an applicant's victim status were to be remedied by merely awarding damages (see, *mutatis mutandis*, *Yaşa v. Turkey*, 2 September 1998, § 74, *Reports of Judgments and Decisions* 1998-VI; see also, more recently, *Nikolova and Velichkova v. Bulgaria*, no. 7888/03, § 55, 20 December 2007 and the cases cited therein). Confining the authorities' reaction to incidents of deprivations of life to the mere payment of compensation would also make it possible in some cases for agents of the State to abuse the rights of those within their control with virtual impunity, and the general legal prohibitions on killing, despite their fundamental importance, would be ineffective in practice (*Leonidis v. Greece*, no. 43326/05, § 46, 8 January 2009).

40. In light of the foregoing the Court rejects the Government's objections to the admissibility of this complaint. The Court notes that the complaint is not manifestly ill-founded within the meaning of Article 35 § 3 of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

41. The applicants complained that their daughter Nermin Karabulut's right to life had been violated. The investigation and the trial had been nothing more than attempts to clear the gendarmes. Moreover, no criminal proceedings had been brought against the superiors of the gendarmes who had actually planned the operation.

42. The Court observes that the proceedings before the Court of Cassation, in so far as they concerned one of the six gendarmes, ended on 22 December 2008 when that court upheld the gendarme's conviction for the offence of manslaughter (see paragraph 29 above). The remaining five gendarmes were also found guilty of the same offence, namely manslaughter, and sentenced to one year and eight months' imprisonment. The execution of the sentences of all six gendarmes was suspended (see paragraphs 28 and 30 above).

43. The Court also observes that it has been established by the Sivas Assize Court on two occasions that the gendarmes had exceeded the limits of their powers and had unlawfully caused the death of Nermin Karabulut. Instead of aiming at non-vital parts of her body in order to avoid the risk to her life, the gendarmes had shot Nermin Karabulut in the back. Moreover, the gendarmes had failed to resort to alternative methods to catch her. For the Court that conclusion amounts to an acknowledgment in substance that the death of Nermin Karabulut had been in breach of Article 2 of the Convention. This conclusion makes it unnecessary for the Court to establish whether the force used by the gendarmes had been absolutely necessary and

justified under Article 2 § 2 of the Convention. The Court's examination of the applicants' complaint will therefore be limited to ascertaining whether or not the national authorities have afforded appropriate and sufficient redress for the violation. In this connection the Court notes that, although the gendarmes who killed Nermin Karabulut were found guilty of exceeding their statutory powers and causing an unlawful death, they were sentenced to one year and eight months' imprisonment which, in any event, was suspended.

44. The Court reiterates at this juncture that Article 2 imposes a duty on the State to secure the right to life by putting in place effective criminal-law provisions to deter the commission of offences against the person, backed up by law-enforcement machinery for the prevention, suppression and punishment of breaches of such provisions (see *Osman v. the United Kingdom*, 28 October 1998, § 115, *Reports* 1998-VIII; *Mastromatteo v. Italy* [GC], no. 37703/97, §§ 67 and 89, ECHR 2002-VIII; and *Menson v. the United Kingdom* (dec.), no. 47916/99, ECHR 2003-V). Compliance with the State's positive obligations under Article 2 requires the domestic legal system to demonstrate its capacity to enforce criminal law against those who have unlawfully taken the life of another (see *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, § 160, ECHR 2005-VII).

45. While there is no absolute obligation for all prosecutions to result in conviction or in a particular sentence, the national courts should not under any circumstances be prepared to allow life-endangering offences to go unpunished. This is essential for maintaining public confidence, ensuring adherence to the rule of law and for preventing any appearance of tolerance of or collusion in unlawful acts (see, *mutatis mutandis*, *Öneryıldız v. Turkey* [GC], no. 48939/99, § 96, ECHR 2004-XII; *Okkalı v. Turkey*, no. 52067/99, § 65, ECHR 2006-XII (extracts); and *Türkmen v. Turkey*, no. 43124/98, § 51, 19 December 2006).

46. Although the Court should largely defer to the national courts' choice of appropriate sanctions for ill-treatment and homicide by State agents, it must exercise a certain power of review and intervene in cases of manifest disproportion between the gravity of the act and the punishment imposed (see *Nikolova and Velichkova*, cited above, § 61).

47. In the present case, although the domestic law permitted the trial court to mete out higher sentences – up to a maximum of six years – it handed down the minimum sentence foreseen in the Criminal Code for the offence of manslaughter and then suspended the execution of the sentences altogether. By imposing such disproportionate sentences, aggravated by the length of the proceedings, the trial court used its power of discretion to lessen the consequences of a serious criminal act rather than to show that such acts could in no way be tolerated (see *Okkalı*, cited above, § 75).

48. In conclusion, the Court considers that the criminal-law system, as applied in the killing of Nermin Karabulut, proved to be far from adequate and would have had little dissuasive effect capable of ensuring the effective prevention of unlawful acts such as those complained of by the applicants.

There has accordingly been a violation of Article 2 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 3 OF THE CONVENTION

49. The applicants complained that the killing of their daughter by the gendarmerie officers subjected them to inhuman and degrading treatment contrary to Article 3 of the Convention which provides as follows:

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

50. The Government did not deal with this complaint in their observations.

51. While the Court does not doubt that the killing of their daughter caused the applicants profound suffering, it nevertheless finds no basis for finding a violation of Article 3 in this context (see, *a contrario*, disappearance cases; *Tanlı v. Turkey*, no. 26129/95, § 159, ECHR 2001-III (extracts)).

52. Consequently, the Court concludes that this complaint is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

53. 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

54. The applicants claimed that, in order to be able to attend the hearings before the Sivas Assize Court that they had incurred costs in the amount of 30,000 euros (EUR). They claimed this sum under the heading of pecuniary damage.

55. The Government were of the opinion that the applicants' claim was fictitious.

56. The applicants also claimed the sum of EUR 100,000 in respect of non-pecuniary damage.

57. The Government considered the sum claimed to be unacceptable and argued that it would lead to unjust enrichment if awarded.

58. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. However, deciding on an equitable basis, it awards the applicants, jointly, EUR 60,000 in respect of non-pecuniary damage.

B. Costs and expenses

59. The applicants also claimed the total sum of EUR 22,000 for the costs and expenses incurred before the domestic courts as well as for those incurred before the Court. In support of their claim the applicants submitted two fee agreements with their lawyer in the amount of 30,000 Turkish liras (TRL; approximately EUR 17,000). The remaining EUR 5,000 was claimed in respect of various expenses such as the legal representatives' travel costs in attending the hearings before the domestic courts as well as postal, stationery, photocopying, fax and translation costs. As regards this latter aspect of the claim, the applicants submitted bills in the amount of TRL 1,700 (approximately EUR 1,000).

60. The Government considered that an award could not be made in respect of the costs and expenses incurred at the domestic level. They also submitted that not all costs and expenses had been documented by the applicants.

61. 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 response to the Government's argument concerning the costs and expenses relating to the proceedings at the national level, the Court reiterates that, if it finds that there has been a violation of the Convention, it may award the applicant the costs and expenses incurred before the national courts for the prevention or redress of the violation (see *Société Colas Est and Others v. France*, no. 37971/97, § 56, ECHR 2002-III, and the cases cited therein). In the present case the applicants brought the substance of their Convention rights to the attention of both the first-instance court and the appeal court (see paragraphs 8, 11 and 29 above). In the light of the foregoing, the Court considers that the applicants have a valid claim in respect of part of the costs and expenses incurred at the national level.

62. Regard being had to the partial documentation in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 4,000 covering costs under all heads.

C. Default interest

63. 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 complaint under Article 2 of the Convention admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 2 of the Convention;
3. *Holds*
 - (a) that the respondent State is to pay the applicants, jointly, within three months of the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, EUR 60,000 (sixty thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage, and EUR 4,000 (four thousand euros) in respect of costs and expenses, plus any tax chargeable to the applicants, which sums are to be converted into Turkish liras at the rate applicable on 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 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 applicants' claim for just satisfaction.

Done in English, and notified in writing on 27 May 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Sally Dollé
Registrar

Françoise Tulkens
President