CONSEIL DE L'EUROPE

COUNCIL OF EUROPE

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

THIRD SECTION

PARTIAL DECISION

AS TO THE ADMISSIBILITY OF

Application no. 5684/02
by Seyithan ALPAR
against Turkey

The European Court of Human Rights (Third Section), sitting on 22 March 2007 as a Chamber composed of:

Mr B.M. ZUPANČIČ, *President*,
Mr R. TÜRMEN,
Mrs E. FURA-SANDSTRÖM,
Mrs A. GYULUMYAN,
Mr E. MYJER,
Mr DAVID THÓR BJÖRGVINSSON,
Mrs I. BERRO-LEFÈVRE, *judges*,
and Mr S. QUESADA, *Section Registrar*,

Having regard to the above application lodged on 5 December 2001,

Having deliberated, decides as follows:

THE FACTS

The applicant, Mr Seyithan Alpar, is a Turkish national, who was born in 1972 and is currently serving his sentence in Midyat prison. He is represented before the Court by Mr Fethi Gümüş, a lawyer practising in Diyarbakır.

The facts of the case, as submitted by the applicant, may be summarised as follows.

On 22 December 1992 the applicant was taken into police custody by police officers from the anti-terrorism branch of the Nusaybin Security Directorate on suspicion of membership of the PKK (*Kurdish Workers'*

Party). He was held in detention in police custody for twenty-six days without being brought before a judge.

On 18 January 1993 the Diyarbakır State Security Court ordered his detention on remand. The public prosecutor filed a bill of indictment with the Diyarbakır State Security Court charging the applicant, under Article 125 of the Criminal Code, with membership of a terrorist organisation and with having been engaged in acts aimed at the separation of a part of the territory of the State.

On 26 April 1993 the State Security Court commenced the trial against the applicant and thirteen other suspects.

On 8 May 2000 the State Security Court found the applicant guilty as charged and sentenced him to life imprisonment. The applicant appealed against the judgment.

On 2 April 2001 the Court of Cassation upheld the judgment. This decision was served on the applicant on 22 October 2001.

COMPLAINTS

The applicant alleges a violation of Article 5 § 3 of the Convention in that he was kept in police custody for twenty-six days between 22 December 1992 and 18 January 1993 without being brought before a judge or other officer authorised by law to exercise judicial power.

The applicant complains under Article 6 § 1 of the Convention that he was denied a fair hearing on account of the presence of a military judge on the bench of the Diyarbakır State Security Court, which tried and convicted him. He further complains under the same heading that the criminal proceedings brought against him were not concluded within a "reasonable time", in violation of Article 6 § 1 of the Convention.

THE LAW

1. The applicant complains under Article 5 § 3 of the Convention that he was held in police custody for twenty-six days without being brought before a judge or other officer authorised by law to exercise judicial power.

The Court reiterates that pursuant to Article 35 § 1 of the Convention, the Court may only deal with a matter within a period of six months from the date on which the final decision was taken. In the absence of domestic remedies, the six-month period runs from the date of the act complained of.

The Court notes that the applicant was taken into police custody on 22 December 1992 and that his detention in police custody ended on 18 January 1993, when the judge ordered his detention on remand, whereas

the application was introduced with the Court on 5 December 2001, i.e. more than six months later.

It follows that this complaint has been introduced out of time and must be rejected in accordance with Article 35 §§ 1 and 4 of the Convention.

2. The applicant complains under Article 6 § 1 of the Convention that his right to a fair hearing was breached as he was tried and convicted by the Diyarbakır State Security Court, which lacked independence and impartiality. He further complains under the same heading that the length of the criminal proceedings against him was excessive.

The Court considers that it cannot, on the basis of the case file, determine the admissibility of these complaints and that it is therefore necessary, in accordance with Rule 54 § 2 (b) of the Rules of Court, to give notice of this part of the application to the respondent Government.

For these reasons, the Court unanimously

Decides to adjourn the examination of the applicant's complaints concerning the independence and impartiality of the Diyarbakır State Security Court and the length of the criminal proceedings brought against him;

Declares the remainder of the application inadmissible.

Santiago QUESADA
Registrar

Boštjan M. ZUPANČIČ
President