

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

SECOND SECTION

CASE OF İNAL v. TURKEY

(Application no. 28359/08)

JUDGMENT

STRASBOURG

18 January 2022

This judgment is final but it may be subject to editorial revision.



In the case of İnal v. Turkey,

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

Carlo Ranzoni, *President,*
Egidijus Kūris,
Pauliine Koskelo, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*

Having regard to:

the application (no. 28359/08) 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 Hişar İnal ("the applicant"), on 5 June 2008;

the decision to give notice of the complaints concerning the alleged unfairness of the criminal proceedings against the applicant to the Turkish Government ("the Government"), and to declare the remainder of the application inadmissible, including in so far as it concerns the complaints of the applicant's brother;

the parties' observations;

Having deliberated in private on 14 December 2021,

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

INTRODUCTION

1. The application mainly concerns the alleged unfairness of criminal proceedings owing to the alleged failure of the domestic courts to examine the applicant's challenges to the evidence in a manner compliant with the principle of equality of arms as protected by Article 6 § 1 of the Convention.

THE FACTS

2. The applicant was born in 1974 and lives in Şırnak. He was represented before the Court by Mr M. Tek, a lawyer practising in Mardin.

3. The Government were represented by their Agent, Mr Hacı Ali Açıkgül, Head of the Department of Human Rights of the Ministry of Justice of the Republic of Turkey.

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

5. According to a physical surveillance report drawn up by five police officers on 10 August 2006, a certain N.T. left his house in Mardin, at around 10.30 a.m., on the same day and later met with the applicant at a park in Kızıltepe for forty-five minutes. N.T. then left the applicant and went to the Mardin Organised Industrial Zone in a car driven by a certain S.Y. Because N.T. was constantly looking around in a suspicious manner, the police officers stopped pursuing him. Later on the same day, N.T. went to his house

with a bag which he carried with difficulty. Subsequently, the police officers carried out a search at N.T.'s house and found eighteen pistols, nine magazines and several other items used with pistols.

6. On 12 August 2006 the applicant was arrested on suspicion of being involved in firearms trafficking. In a police interview carried out the next day in the presence of his lawyer, the applicant denied the accusations against him, but acknowledged that he had used a mobile telephone with the number 0535 771 43 50 for about one week. The next day the applicant was questioned by the Mardin Magistrate's Court in the presence of his lawyer, and stated that he had been using that number since 11 August 2006. When the questioning was over, the applicant was placed in pre-trial detention.

7. According to a summary investigation report drawn up by the police superintendent (*fezleke*) in August 2006, which formed the basis of the criminal case, the applicant had been involved in two incidents of firearms trafficking: the first took place on 4 May 2006 in Istanbul and the second took place in Mardin on 10 August 2006.

8. As regards the first incident, the report stated that the police officers had found and seized eleven pistols and twenty-two magazines hidden in oil cans which had been loaded onto a bus in which the applicant's brother had travelled to Istanbul. Before the seizure of these materials in Istanbul, the applicant's brother had called a certain E.A. asking him to come and collect the materials, and it was found that the mobile telephone number of the applicant's brother had been saved in E.A.'s mobile telephone. As the applicant's brother denied ownership of the materials when the police officers arrived at the scene, he was initially arrested and later released. However, E.A. was arrested and later tried for firearms trafficking in a separate set of criminal proceedings leading to a conviction for the same offence. During those proceedings, the bus conductor was examined as a witness, attesting that the oil cans had been loaded onto the bus by the applicant's brother in Silopi, Şırnak.

9. As regards the second incident, the report stated that the applicant had had several telephone conversations with N.T., on 9 August 2006, in which he informed the latter that he had delivered certain "things" to a third person and had urged him to meet a certain person at 7 a.m. the following day. It was noted that in one of the telephone calls, made at 4.39 p.m. on the same day, N.T. had used the word "sheep" to describe the weapons, to which the applicant had replied "The sheep have arrived, why do you mention it on the telephone?" ("telephone conversation no. 1"). The next day, at around 7.30 a.m., N.T. called the applicant asking him where he was, to which the applicant answered "Okay, okay, we are coming". Citing another telephone conversation which N.T. had had, at 8.24 a.m., on the same day with an unknown person who had used the mobile telephone number 0535 617 48 46, the police report concluded that N.T. had obtained the weapons from that person, designated as X ("telephone conversation no. 2").

10. When giving notice of the present application, the Court invited the Government to submit evidence against the applicant including transcripts of the telephone conversations he had had. The Government submitted two undated and unsigned transcripts which were of direct relevance for the applicant as annexes to their observations on the admissibility and merits of the application dated 9 November 2020. The first transcript concerned the telephone conversation – which lasted for one minute and fifty-eight seconds – cited in the police report as having been held between N.T. and the applicant (telephone conversation no. 1). However, the transcript indicated that it had been a conversation between the applicant's brother and N.T. Significantly, the parts of the transcript indicating the mobile telephone numbers of the parties to the call were left blank.

11. The second transcript concerned the telephone conversation – which lasted for thirty-five seconds – cited in the police report as having been held between N.T. and the unknown person designated as X, on 10 August 2006 (telephone conversation no. 2). However, the transcript indicated that the conversation had been between the applicant, who had apparently been using the mobile telephone number 0535 617 48 46, and N.T. The applicant did not submit any other transcripts of intercepted telephone conversations, nor did he allege that the Government had failed to submit all the transcripts relevant to the criminal case against him.

12. On 20 October 2006 the public prosecutor filed a bill of indictment against certain individuals, including the applicant, in respect of firearms trafficking committed in the context of an organisation established for the purpose of committing criminal offences. The public prosecutor asserted that the applicant had made a telephone call to N.T., at 4.39 p.m., on 9 August 2006 in which he had used the word "sheep" instead of weapons, and that he had made other calls on the morning of 10 August 2006, the same day the firearms were found and seized at N.T.'s house. Similarly, the applicant and his brother had also made telephone calls to unknown third parties, on 1 May 2006, in which they had once again used the word "sheep" when talking about pistols. Furthermore, on 4 May 2006, eleven pistols had been found on and seized from the bus in which the applicant's brother had travelled to Istanbul.

13. Subsequently, the applicant was committed to stand trial before the Mardin Assize Court (hereinafter referred to as "the trial court"). At a hearing held on 15 November 2006 the applicant gave evidence in person and denied the accusations levelled against him.

14. Throughout the proceedings before the trial court, the applicant's lawyer filed written submissions on different dates in which he submitted, *inter alia*, that certain telephone calls had not been made either by the applicant or by his brother, and asked the trial court to (i) hear the police officers who had transcribed the intercepted telephone conversations and (ii) play back the CDs containing their audio recordings and specify which of them would be admitted as evidence. In the same vein, the applicant's

lawyer also insisted that the person designated as X be identified and examined as a witness before the trial court, submitting that that person had been the principal actor in the case, as the person who had procured the weapons for N.T.

15. At a hearing held on 1 March 2007 the trial court rejected those requests, holding that (i) the applicant had failed to disprove the veracity of the recordings by producing a document of equal validity, (ii) it was not possible to play the recordings in view of their length and the fact that the conversations had been held in Kurdish, and (iii) the identification and determination of evidence would be made when it delivered its judgment. Lastly, the trial court ordered that a copy of the CDs and the transcripts should be provided to the applicant or his lawyer, if they so requested.

16. On 15 May 2007 the public prosecutor submitted his written opinion on the merits of the case, requesting the trial court, *inter alia*, to convict the applicant of firearms trafficking on the basis of essentially the same grounds as those indicated in the bill of indictment in respect of him.

17. At a hearing held on 13 June 2007 the applicant's lawyer filed his defence submissions on the merits of the case, asking the trial court, *inter alia*, not to hold against the applicant the evidence of the person designated as X or the physical surveillance report, given that his requests for the examination of the former had been dismissed and that it was the police officers who had drawn up the latter. At the end of the hearing the trial court found the applicant guilty under section 12 of Law no. 6136 on firearms, knives and other offensive weapons ("the Firearms Act") of carrying out firearms trafficking jointly with other co-defendants. In its reasoned judgment the trial court held, *inter alia*, that the applicant and his brother were responsible for selling weapons smuggled by N.T. from Northern Iraq to different persons in Turkey. The court also held that the intercepted telephone communications of all the defendants had almost exclusively concerned conversations about firearms trafficking, in which they had referred to the weapons as "sheep", "cows" and "partridges" in order to avoid being detected by the police. In that connection, the trial court went on to hold that the applicant had had telephone conversations with his brother and N.T., without specifying either the telephone calls or the details of those conversations. It then summarised certain incidents forming part of the bill of indictment and held that the applicant had committed the offence attributed to him owing to his involvement with the trafficking of the pistols and magazines found in Istanbul on 4 May 2006 and those found at N.T.'s house in Mardin on 10 August 2006. The trial court sentenced him to twelve years and six months' imprisonment and a fine. Even though the judgment against the applicant was based mainly on the telephone conversations he had held, it did not include any details of those calls.

18. On 4 July 2007 the applicant lodged an appeal against the trial court's judgment, essentially reiterating the arguments he had raised before it. In

addition, he argued that the trial court had failed to clarify the discrepancy between, on the one hand, the finding in the police superintendent's report to the effect that it was the person designated as X who had used the mobile telephone number 0535 617 48 46 to call N.T. on 10 August 2006, and, on the other hand, the transcript of that call, according to which it was the applicant who was the user of that number and the person who had called N.T.

19. On 12 March 2008 the Court of Cassation upheld the trial court's judgment, holding that E.A. had been arrested on 4 May 2006 while in possession of several pistols and magazines which had been sent to him by the applicant's brother following the telephone conversations between the applicant, his brother and N.T., and that they had also talked to one another later the same day following the arrest of E.A. As regards the second incident, the Court of Cassation found that eighteen pistols, magazines and other relevant materials had been found and seized at N.T.'s house after the conversations between him, the applicant and his brother concerning the purchase and delivery of certain weapons.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 §§ 1 AND 3 (d) OF THE CONVENTION

20. The applicant complained that he had been denied a fair trial as provided for in Article 6 of the Convention owing to the trial court's refusal to play the audio recordings containing the intercepted telephone conversations at the hearings, thus preventing the truth from being ascertained. Article 6 § 1 of the Convention, in so far as relevant, reads as follows:

> "1. In the determination of ... any criminal charge against him, everyone is entitled to a fair ... hearing by [a] ... tribunal ...
>
> ..."

A. Admissibility

21. The Government invited the Court to declare the application inadmissible on the ground that the applicant's complaints were aimed at challenging the domestic courts' assessment of the evidence and the outcome of the proceedings; hence, they were of a fourth-instance nature.

22. The applicant filed no observations on this point.

23. The Court notes that in the determination of whether the proceedings were fair, it is not called upon to review either the domestic courts' assessment of the evidence or the outcome of the trial against an applicant, as those issues are, in line with the principle of subsidiarity, the province of the domestic courts and it is generally not appropriate for the Court to rule on

them. Instead, the Court's task is to determine whether the criminal proceedings against the applicant were conducted fairly and were compatible with the Convention (see *Murtazaliyeva v. Russia* [GC], no. 36658/05, § 149, 18 December 2018); this task is slightly different from that described by the Government. Accordingly, the Court rejects their objection.

24. The application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant

25. The applicant submitted that he had not been able to compare the audio recordings of the intercepted telephone conversations and their transcripts owing to the fact that they had been stored at the trial court's archives and in a safe; he had thus been deprived of the possibility of ascertaining whether those calls had been made by him.

26. Furthermore, the applicant complained that the trial court had dismissed his requests that the person designated as X – who had allegedly been the principal offender, as the person who had procured the weapons for N.T. – be identified and examined in person, without giving any reasons for that decision. The applicant also complained of the trial court's refusal to hear evidence from the police officers who had prepared the transcripts of the covertly recorded calls and the physical surveillance report attesting to his meeting with N.T. on 10 August 2006. Despite this refusal, the mobile telephone used by X had been interpreted as having been used by the applicant.

(b) The Government

27. The Government submitted that the mobile telephone with the SIM card number 0535 771 43 50 had been found on the applicant as a result of the body search performed during his arrest and that, in his statements to the police, the applicant had acknowledged using it. Therefore, there was nothing to call into question the fact that the intercepted telephone calls had been made by the applicant. More importantly, the trial court had granted the applicant access to the audio recordings of those conversations and their transcripts, thus enabling him to challenge the authenticity of that evidence and to oppose its use. In fact, the applicant did not assert before the Court that he had been unable to avail himself of that possibility. He had likewise not attempted to have an analysis made of the content of the audio recordings for submission to the trial court.

28. The Government further submitted that the trial court had assessed one by one each of the applicant's requests regarding the collection and examination of evidence and had provided sufficient reasons in rejecting them. As a result, the trial court had acted in compliance with the principles of equality of arms and adversarial proceedings by examining the applicant's requests in a detailed manner, granting him time to present the evidence he had deemed relevant and providing him with the facilities necessary to prepare his defence submissions.

29. Moreover, the applicant's conviction had not been based solely on the intercepted telephone conversations. Indeed, the physical surveillance of the applicant had revealed that he had received the weapons that had been smuggled into Şırnak through the Habur Customs Gate and had handed them over to N.T. On 10 August 2006 the police officers had searched N.T.'s house following the delivery of the weapons by the applicant and had found the smuggled weapons. The applicant's telephone conversations had corroborated those findings as they showed that he had met N.T. on an empty plot of land and had informed him about the smuggled weapons.

2. The Court's assessment

(a) The scope of the case

30. The Court notes that the applicant's complaints concerning the fairness of the criminal proceedings were solely directed against the evidence forming the basis for his conviction in respect of the second incident dated 10 August 2006. As the applicant did not complain that the domestic courts' findings as regards his involvement in the first incident dated 4 May 2006, which were based only on the covertly recorded call in which he had informed his brother on the same day that he could not reach E.A. (who had been found with several pistols and magazines), were arbitrary or otherwise lacked sufficient reasons, there is no call for the Court to ascertain whether there has been a breach of the guarantees of the right to a fair trial as protected under Article 6 of the Convention with regard to that incident.

31. The Court's assessment will thus be limited to ascertaining whether the purported shortcomings in the way the domestic courts collected and examined the evidence in respect of the second incident – on 10 August 2006 – prejudiced the overall fairness of the criminal proceedings against the applicant from the standpoint of Article 6 of the Convention (see *Mirilashvili v. Russia*, no. 6293/04, § 164 *in fine*, 11 December 2008).

(b) The general principles

32. In deciding whether applicants have received a fair hearing, the Court does not take the place of the domestic courts, who are in the best position to assess the evidence before them, establish facts and interpret domestic law

(see, among other authorities, *Navalnyy and Ofitserov v. Russia*, nos. 46632/13 and 28671/14, § 97, 23 February 2016, with further references therein, and *Nemtsov v. Russia*, no. 1774/11, § 87, 31 July 2014).

33. Similarly, as a general principle, the weight attached by the national courts to particular items of evidence or to findings or assessments submitted to them for consideration are matters that fall within the remit of the national courts, unless and in so far as they may have infringed rights and freedoms protected by the Convention or the courts' findings can be regarded as arbitrary or manifestly unreasonable, and provided that the proceedings as a whole were fair, as required by Article 6 § 1 of the Convention (see *Moreira Ferreira v. Portugal (no. 2)* [GC], no. 19867/12, § 83, 11 July 2017, and *Nemtsov*, cited above, § 92).

34. The Court must, however, determine whether the proceedings, considered as a whole, including the way in which evidence was taken, were fair as required by Article 6 § 1 of the Convention. From the perspective of the rights of the defence, issues under Article 6 may therefore arise in terms of whether the evidence produced for or against the defendant was presented in such a way as to ensure a fair trial (see *Erkapić v. Croatia*, no. 51198/08, § 73, 25 April 2013), because a fair trial presupposes adversarial proceedings and equality of arms; thus, possible flaws in the process of administration of evidence may be examined under Article 6 § 1 (see *Mirilashvili*, cited above, § 157 *in fine*).

35. The principle of equality of arms is one feature of the wider concept of a fair trial, which also includes the fundamental right that criminal proceedings should be adversarial. The right to an adversarial trial means, in a criminal case, that both prosecution and defence must be given the opportunity to have knowledge of and comment on the observations filed and the evidence adduced by the other party (see *Zahirović v. Croatia*, no. 58590/11, § 42, 25 April 2013).

36. Although it is not the Court's task to verify whether the domestic courts made any substantive errors in their assessment of evidence, it is nevertheless required to review whether the courts gave reasons for their decisions in respect of any objections concerning the evidence produced (see *Huseyn and Others v. Azerbaijan*, nos. 35485/05, 45553/05, 35680/05 and 36085/05, § 211, 26 July 2011). Indeed, in cases where the defence is able to lay the basis of an arguable claim capable of calling into question the reliability or authenticity of a piece of evidence, the Court's case-law under Article 6 of the Convention requires the domestic courts to conduct a thorough assessment, in an adversarial manner, of all the circumstances of the case with a view to allaying any doubts as to the reliability and authenticity of evidence (see *Budak v. Turkey*, no. 69762/12, § 78 *in fine*, 16 February 2021).

(c) Application of those principles to the present case

37. The reasoned judgment given by the trial court did not specifically mention the intercepted telephone conversations of the applicant, but rather contained a general reference to the calls made by all the defendants in the case and the trial court's inference that all those conversations had concerned firearms trafficking. When notice of the present application was given, the Court invited the Government to submit the evidence against the applicant including the transcripts of the intercepted telephone conversations. In reply, the Government provided the Court with the transcripts of telephone conversations nos. 1 and 2, arguing that they supported the findings of the applicant's physical surveillance, which showed that he had smuggled weapons and delivered them to N.T.

38. However, the physical surveillance report was not amongst the evidence used by the trial court in convicting the applicant and in any event, that report only stated that the applicant had met N.T. and did not contain any finding to the effect that the applicant had delivered weapons to him. Furthermore, N.T. had not made any statements in respect of the applicant either. In view of the above, the Court concludes that the intercepted telephone conversations were decisive for the applicant's conviction in relation to the second incident.

39. That being said, the Court notes that the applicant had access to the audio recordings and the transcripts of the intercepted telephone conversations as of the hearing of 1 March 2007 at the latest, at the end of which the trial court ordered that he be given a copy of the CDs containing the audio recordings and the transcripts of the intercepted telephone conversations. In the Court's view, that was an important procedural possibility capable of enabling the applicant to prepare his defence and effectively challenge the audio recordings and transcripts of the intercepted telephone conversations (compare *Matanović v. Croatia*, no. 2742/12, § 165, 4 April 2017). On that basis, the present case is distinguishable from that of *Cevat Soysal v. Turkey* (no. 17362/03, § 67, 23 September 2014), where the applicant had had no such access to the intercepted material.

40. Indeed, some of the transcripts formed part of the attachments to the written submissions of the applicant's lawyer before the domestic courts, where he also raised his objections to the use of that evidence, putting forward arguments challenging the veracity and authenticity of the transcripts (see paragraphs 14 and 18). It thus remains to be ascertained whether the domestic courts carried out a thorough assessment, in an adversarial manner, of the two telephone conversations (see *Budak*, cited above, § 78).

41. As regards the transcript relied on by the prosecution (telephone conversation no. 1), the Court notes that while the police superintendent's report, the bill of indictment and the public prosecutor's written opinion on the merits of the case indicated that it was the applicant who had made the phone call on 9 August 2006, the transcript of that call indicated that the

conversation had been between the applicant's brother and N.T. What is more, the mobile telephone numbers used by the parties to the conversation were simply not indicated in the transcript of that call. In other words, it is not clear on what basis the domestic courts concluded that it was the applicant's brother who had made the call. Indeed, the fact that the erroneous assessment of that phone call as contained in the police superintendent's report found its way into the public prosecutor's opinion on the merits of the case, coupled with the trial court's subsequent failure to clarify this point in its reasoned judgment, appears to support the view that insufficient consideration was given to this crucial matter by the domestic courts.

42. As regards the telephone conversation the applicant allegedly had with N.T. on the morning of 10 August 2006 (telephone conversation no. 2), the Court makes the following observations. Although the police superintendent asserted in his report that N.T. had obtained the weapons (which had later been found at his house) from a third person, X, after speaking to him on the telephone, at 8.24 a.m. on 10 August 2006, the transcript of that telephone conversation indicated the applicant and N.T. as the parties to that conversation. Moreover, the applicant's telephone number was indicated as 0535 617 48 46 in the transcript, in contrast to the police report dated 12 August 2006, in which his mobile telephone number had been cited as 0535 771 43 50 (the number of the SIM card found on him at the time of his arrest). While the Government asserted that the discovery on the applicant of the SIM card of the intercepted telephone (with the number 0535 771 43 50) had been proof that the applicant had made the telephone conversations nos. 1 and 2, the Court notes that the transcripts of the two contested telephone conversations – which were submitted by the Government – showed that the calls had been made from telephones with numbers different from that found on him. No weight can thus be accorded to the Government's contention on this point.

43. The Court considers that the discrepancies and missing information as regards the parties to the calls constituted sufficiently well-founded arguments aimed at challenging the quality of the central pieces of evidence upon which the applicant's conviction in respect of the second incident was grounded; as such, they required a proper answer from the trial court which, however, was not forthcoming. The trial court did not explore the applicant's connection, if any, with the mobile telephone number indicated on the transcript as being his. In fact, when the applicant's lawyer asked the trial court to play back the audio recordings of the intercepted calls at a hearing, the trial court dismissed that request, having regard to the length of the calls and the language used (compare *Matanović*, cited above, § 166), despite the fact that the above-mentioned calls lasted for approximately one minute and fifty-eight seconds and thirty-five seconds respectively. The trial court also held that the applicant had failed to disprove the veracity of those calls with "a document of equal validity [compared with the transcripts of the

intercepted telephone conversations]". On this basis, the Court cannot share the Government's view that the applicant could have obtained an analysis of the recordings himself.

44. When the applicant raised that point in his appeal, the Court of Cassation did not elucidate that point either and merely held that the telephone calls made by the applicant, leading to the discovery of the pistols at N.T.'s house, showed that he had conspired with N.T. in the commission of the offence of firearms trafficking.

45. In view of the above, the Court concludes that the domestic courts neither examined the audio recordings at the hearing nor subjected the transcripts of those recordings to meaningful scrutiny in line with the requirements as regards adversarial proceedings before relying on the intercepted telephone conversations, which constituted the central elements of evidence against the applicant, in an apparently indifferent manner in order to convict him. This rendered the proceedings unfair as a whole in so far as they concerned the applicant's conviction for the second incident (see *Botea v. Romania*, no. 40872/04, §§ 42 *in fine* and 43, 10 December 2013).

46. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 §§ 1 AND 3 (d) OF THE CONVENTION

47. The applicant further complained that the dismissal by the domestic courts of his requests to summon as witnesses (i) the police officers who had transcribed the intercepted telephone conversations, (ii) the police officers who had carried out his surveillance on 10 August 2006 before the discovery and seizure of certain pistols and magazines at N.T.'s house, and (iii) the person designated as X who had allegedly procured those weapons for N.T., had been contrary to the requirements of a fair trial.

48. Having regard to the facts of the case, the submissions of the parties and its findings above, the Court considers that it has examined the main legal questions raised in the present application. It thus considers that the applicant's remaining complaints are admissible but that there is no need to give a separate ruling on them.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

49. 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

50. The applicant claimed 30,000 euros (EUR) in respect of pecuniary damage and EUR 30,000 in respect of non-pecuniary damage.

51. The Government contested those claims.

52. The Court does not discern any causal link between the violation found and the pecuniary damage alleged; it therefore rejects this claim. As to non-pecuniary damage, the Court considers that the finding of a violation of Article 6 § 1 of the Convention in the instant case constitutes sufficient just satisfaction. Given the possibility under Article 311 of the Code of Criminal Procedure of having the domestic proceedings reopened in the event that the Court finds a violation of the Convention, the Court makes no award under this head.

B. Costs and expenses

53. The applicant also claimed EUR 15,000 for the costs and expenses incurred before the domestic courts, without producing any document in support of his claim.

54. The Government objected to that claim, submitting that it had not been documented.

55. 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 were 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 owing to the applicant's failure to submit any documentary proof in support of his claim.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Article 6 § 1 of the Convention;

3. *Holds* that there is no need to examine the remainder of the complaints under Article 6 of the Convention;

4. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant;

5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 18 January 2022, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı	Carlo Ranzoni
Deputy Registrar	President