

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

SECOND SECTION

CASE OF SAYĞI v. TURKEY

(Application no. 37715/11)

JUDGMENT

STRASBOURG

27 January 2015

FINAL

27/04/2015

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Sayğı v. Turkey,

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

András Sajó, *President,*
Işıl Karakaş,
Nebojša Vučinić,
Helen Keller,
Egidijus Kūris,
Robert Spano,
Jon Fridrik Kjølbro, *judges,*
and Stanley Naismith, *Section Registrar,*

Having deliberated in private on 6 January 2015,

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

PROCEDURE

1. The case originated in an application (no. 37715/11) 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, Mrs Dursun Sayğı ("the applicant"), on 17 December 2010.

2. The applicant was represented by Mr Sedat Gözkıran, a lawyer practising in Şanlıurfa. The Turkish Government ("the Government") were represented by their Agent.

3. The applicant alleged, in particular, that the national authorities had failed to carry out an effective investigation into the disappearance of her husband, in breach of Article 2 of the Convention.

4. On 23 October 2012 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1966 and lives in Şanlıurfa.

6. The facts of the case as submitted by the parties and as they appear from the documents submitted by them, may be summarised as follows.

A. The investigation carried out between 2005 and 2006

7. On 4 March 2005 the applicant's mother-in-law, Mrs Aişe Sayğı, submitted a petition to Suruç prosecutor D.K., and informed him that on 3 June 1994 her son Mustafa Sayğı, - the applicant's husband - had been travelling home on his motorbike when he was stopped and apprehended by soldiers who had set up a temporary base in a public building near Yoğurtçu village. She described the motorbike as "Russian-made, red and with a basket". She told the prosecutor that nothing had been heard from her son since that date and that the complaint she had made to the authorities some six days after the disappearance had not elucidated any response. She gave the prosecutor the names of two villagers who, she claimed, had witnessed her son being apprehended, and asked the prosecutor to make enquiries in order to find her son.

8. The same day the Suruç prosecutor D.K. questioned Aişe Sayğı in relation to her above-mentioned petition. Mrs Sayğı confirmed the contents of her petition detailed above and added that the family had been informed about the incident some two days afterwards by villagers who had witnessed the incident. Her elder son, Mehmet Sayğı, had then gone to the military base near Yoğurtçu village where he was informed that his younger brother had been transferred to the gendarmerie station in Suruç. When Mehmet Sayğı had gone to the gendarmerie station in Suruç, he was told that his brother's questioning was continuing and that it would probably continue for another three days.

9. When Mustafa Sayğı was not released, Mehmet Sayğı had gone to the Suruç prosecutor's office and informed the prosecutor of the detention of his younger brother. When the prosecutor had contacted the military authorities he was told that Mustafa Sayğı had never been detained by the military. The family's subsequent attempts to find Mustafa Sayğı had not yielded any results.

10. A detailed investigation was carried out by Suruç prosecutor D.K. into the allegations made by Mrs Sayğı. In the course of that investigation the prosecutor questioned the two villagers named by Mrs Sayğı as eyewitnesses and identified and questioned as suspects fourteen soldiers who had been based at the temporary military station at the time of the disappearance. The prosecutor also questioned family members who informed the prosecutor about the steps they had taken to find Mustafa Sayğı. Both the police and the military authorities contacted by the prosecutor denied that Mustafa Sayğı had been detained as alleged.

11. The two eyewitnesses named by Mrs Sayğı told the prosecutor that on 3 June 1994 they had been travelling to their village when they were stopped by soldiers outside the temporary military base near Yoğurtçu village. While the soldiers were checking their identity documents, Mustafa Sayğı had arrived at the scene and had also been stopped by the soldiers.

After their identity papers had been checked they had been allowed to leave but Mustafa Sayğı had been detained. They had then informed Mustafa Sayğı's family about what had happened.

12. The security forces personnel questioned by the prosecutor as suspects confirmed that at the time of the events a disused public building outside Yoğurtçu village had been used as a temporary military base. The soldiers denied, however, that they had detained the applicant's husband.

13. The gendarmerie headquarters contacted by the prosecutor stated in a letter of 11 May 2005 that they had no information in their possession to show that Mustafa Sayğı had had any links with the PKK[1]. The police headquarters, on the other hand, informed the prosecutor that they had statements indicating that Mustafa Sayğı had been working as a courier for the PKK prior to his disappearance.

14. At the end of his investigation, the Suruç prosecutor D.K. concluded in his decision of 13 July 2006 that Mustafa Sayğı had been unlawfully detained by the military in the temporary military base near Yoğurtçu village. The prosecutor did not attach any weight to the denials of the military personnel who had been on duty at the time of Mustafa Sayğı's detention and considered that the military personnel's denials were outweighed by the consistent eyewitness accounts of civilian villagers. Nevertheless, as the end of the prescription period for the offence of false imprisonment had been reached, the prosecutor concluded that he could not indict the military personnel responsible for the unlawful detention of Mustafa Sayğı. The prosecutor also considered that there was insufficient evidence to prove that Mustafa Sayğı had been killed while in the hands of the soldiers.

15. The applicant lodged an objection against the prosecutor's decision with the Siverek Assize Court and submitted that nothing had been heard from her husband after his unlawful detention. She argued that similar unlawful detentions had peaked in that area in 1994 and that the relatives of those who had disappeared had been too frightened to complain to the authorities on account of their fears of the military. She invited the Assize Court to take into account the possibility that her husband, who had been suspected of having links with the PKK, would in all likelihood be subjected to "torture" by the soldiers. Torture was a criminal offence to which the statute of limitations was not applicable; thus, the decision of the prosecutor to close the investigation on account of the expiry of the statutory time-limit had been wrong.

16. The objection lodged by the applicant was rejected by the Siverek Assize Court on 29 November 2006.

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[1] The Kurdistan Workers' Party, an outlawed organisation.

B. The investigation carried out between 2009 and 2010

17. On 11 December 2009 a number of soldiers saw Mustafa Sayğı's elder brother Mehmet Sayğı digging in an area near Yoğurtçu village. Mehmet Sayğı told the soldiers that he had had a dream and that, according to his dream, his brother Mustafa Sayğı was buried in that place.

18. The same day Mehmet Sayğı also informed the Suruç prosecutor M.A., who went to the area and ordered that the site be dug up. During the digging a total of 30 bones, fabrics, a small axe and the remains of a red motorbike were found. The bones and the motorbike parts, together with soil samples, were taken away by gendarme soldiers for forensic examinations.

19. The same day the applicant also talked to prosecutor M.A. and told him about the disappearance of her husband Mustafa Sayğı. She asked the prosecutor to establish whether the bones found during the excavation belonged to her husband, who had disappeared while travelling on his red motorbike.

20. Mustafa Sayğı's brother Mehmet Sayğı told prosecutor M.A. that he had no doubts whatsoever that the items discovered during the excavation belonged to his brother. He said that he recognised the motorbike and the axe which had been given to Mustafa Sayğı by the family. Mehmet Sayğı also informed the prosecutor about the eyewitnesses who claimed to have seen his brother in the hands of the soldiers.

21. Gendarmerie forensic experts who examined the metal parts found in the area stated in their report that they belonged to a motorbike. The experts were not able, however, to identify the type or make of the motorbike due to corrosion, but considered that the motorbike resembled an "*Izh*" motorbike (a manufacturer at Izhevsk in Russia). The chassis numbers and letters of the motorbike – in Russian – are reproduced in the report of the experts.

22. The bones were examined at the Forensic Medicine Institute. It was established that the bones were animal bones.

23. According to a report drawn up on 1 February 2010 by the forensic laboratory of the police, the soil on the motorbike parts matched the soil samples taken from the place. However, the soil on the bones did not match the soil samples taken from the place. It was advised in this report that it had to be born in mind when evaluating the report's conclusions that the forensic examination had not been carried out in order to establish whether the soil samples taken from the bones and the soil samples obtained from the place of digging had come from the same place. Rather, the aim of the forensic examinations had been to establish whether the two soil samples had any physical and chemical similarities.

24. According to a report prepared by the police on 14 January 2010, no prior applications had been made to them about the disappearance of Mustafa Sayğı. According to a similar report prepared by the military, no

one had made any enquiries about any disappearance of a person with the name of Mustafa Sayğı and there had been no temporary or permanent military station at Yoğurtçu village at the time of the events.

25. On 7 April 2010 Suruç prosecutor M.A. decided to close his investigation on the basis that the bones were not human bones. He added that the model and make of the motorbike had not been established and that the basket attached to the motorbike had not been recovered. The prosecutor further stated in his decision that there was no evidence to show that Mustafa Sayğı had been arrested by the soldiers or to show that there had been a temporary military base near Yoğurtçu village at the time of the incident.

26. The applicant lodged an objection with the Siverek Assize Court against the prosecutor's decision and argued that the investigation had been incomplete. She submitted, in particular, that prosecutor M.A. had failed to take account of the conclusion reached by his predecessor in 2006, namely that her husband had been unlawfully detained by soldiers. She also submitted that the bones had been dug up in the presence of a prosecutor and secured by that prosecutor. Thus, having regard to the finding that the soil on the bones did not match the soil samples, the prosecutor should have considered the possibility that the bones might have been switched.

27. In her petition the applicant also referred to the Convention, and requested that the investigation be continued to find those responsible for the disappearance of her husband. She argued that carrying out an effective investigation was necessary in order to avoid "the State being put on trial before the European Court of Human Rights for its failure to protect the right to life of her husband".

28. The objection was rejected by the Siverek Assize Court on 7 June 2010. No mention was made in the decision about the points raised by the applicant in her objection. The Assize Court's decision was communicated to the applicant on 21 June 2010.

THE LAW

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

29. The applicant complained under Articles 6 and 13 of the Convention that no effective investigation had been conducted by the authorities into the disappearance of her husband in light of the new evidence discovered in 2009.

30. The Court considers that the complaints should be examined from the standpoint of Article 2 of the Convention, which 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;

(c) in action lawfully taken for the purpose of quelling a riot or insurrection."

31. The Government contested that argument.

A. Admissibility

32. The Government have not raised any objections to the admissibility of the application. In any event, the Court notes that the application is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention and that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The applicant's submissions

33. The applicant maintained that the national authorities had failed to conduct an effective investigation into the discoveries made in 2009 and that they had instead protected those responsible for the disappearance of her husband.

2. The Government's submissions

34. The Government rejected the applicant's allegations and submitted that an effective investigation had been conducted by their authorities into the discoveries made in 2009. An independent and impartial prosecutor had personally supervised the excavation and started an investigation the same day, questioned the witnesses and the complainants and sought and obtained expert reports. The investigation had started on the day of the excavation, 11 December 2009, and had ended when the applicant's objection to the prosecutor's decision to close the investigation was rejected by the Siverek Assize Court on 21 June 2010.

35. The investigation had been accessible to the applicant, who had exercised her right to file an objection against the prosecutor's decision to close the investigation. The fact that the investigation had lasted for a total

period of four months illustrated that the authorities had acted with the requisite diligence and expedition.

36. Although the investigation had been conducted in a manner conducive to allowing the authorities to recover the evidence and establish the facts, on account of the passage of the long period of time after the disappearance, only a very limited amount of evidence could be found. The national authorities had to take their decisions on the basis of that limited evidence. Thus, even though the prosecutor had followed all necessary formalities in the collection of the evidence, it had not been possible to establish the circumstances surrounding the disappearance or to find those responsible for it.

37. In relation to the discoveries during the excavation, the Government submitted that it had not been established during the forensic examinations that the motorbike discovered during the excavation had belonged to the applicant's husband.

38. In order to explain the finding that the soil on the bones and the soil samples taken from the place of excavation did not match, the Government referred to the expert report of 1 February 2010 and submitted that the purpose of that particular forensic examination had not been to establish whether the two soils had come from the same place, but to verify whether they had any physical and chemical similarities.

39. Even though it had been established that the bones were not human, the failure to investigate the cause of the differences between the two soils had not been so serious as to damage the effectiveness of the investigation. In any event, when taking into account the fact that some components of the bones had mixed with the soil, it was normal that the soil sample obtained from the place and the soil on the bones were not similar because it could not be excluded that the components of the bones could have modified the physical and chemical structure of the soil.

40. As for the investigation conducted between 2005 and 2006 (see paragraphs 7-16 above), the Government considered that there were plausible doubts concerning the existence of an unlawful detention. Nevertheless, pursuing this had not been possible on account of the statutory time-limit for the offence of unlawful deprivation of liberty. Furthermore, there was no evidence to suggest that the applicant's husband had been ill-treated or killed in custody.

41. There was nothing to indicate that the prosecutor who conducted the investigation between 2009 and 2010 had failed to take into account the conclusion reached by his predecessor at the end of the 2005-2006 investigation, namely that the applicant's husband had been unlawfully detained by the military. The newly discovered evidence had not proved that the disappeared person had been killed by soldiers. The existence of doubts in the 2005-2006 investigation about the disappearance had been taken into account in the 2009-2010 investigation.

42. In light of the foregoing, there had been nothing else the national authorities could have done. The national authorities had taken all reasonable steps concerning the discovery and collection of the evidence and conducted their investigation in an impartial, independent and diligent fashion. The obligation to carry out an effective investigation required under Article 2 of the Convention was not an obligation of result, but of means. The authorities could not be held responsible for their failure to identify the perpetrators.

3. The Court's assessment

43. The Court observes that the applicant's complaint relates solely to the effectiveness of the investigation carried out by the national authorities between 2009 and 2010 into the disappearance of her husband and, as such, should be examined from the standpoint of the procedural obligation to carry out effective investigations.

44. To that end, the Court reiterates that the obligation to protect the right to life under Article 2 of the Convention, read in conjunction with the State's general duty under Article 1 to "secure to everyone within [its] jurisdiction the rights and freedoms defined in [the] Convention", requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of force (see *McCann and Others v. the United Kingdom*, 27 September 1995, § 161, Series A no. 324; *Kaya v. Turkey*, 19 February 1998, § 105, *Reports of Judgments and Decisions* 1998-I). In that connection, the Court points out that this obligation is not confined to cases where it is apparent that the killing was caused by an agent of the State (see *Salman v. Turkey* [GC], no. 21986/93, § 105, ECHR 2000-VII).

45. The Court reiterates that the obligation to investigate is not an obligation of result, but of means; as such, not every investigation should necessarily be successful or come to a conclusion which coincides with the claimant's account of events. However, it should in principle be capable of leading to the establishment of the facts of the case and, if the allegations prove to be true, to the identification and punishment of those responsible (see *Mikheyev v. Russia*, no. 77617/01, § 107, 26 January 2006 and the cases cited therein). The authorities must have taken the reasonable steps available to them to secure the evidence concerning the incident, including, *inter alia*, eyewitness testimony. Any deficiency in the investigation which undermines its ability to establish the cause of death or the person responsible will risk falling foul of this standard (see *Aktaş v. Turkey*, no. 24351/94, § 300, ECHR 2003-V (extracts) and the cases cited therein).

46. Having regard to the facts of the present case, it must be stressed that the above-mentioned obligations apply equally to cases where a person has disappeared in circumstances which may be regarded as life-threatening. In this connection the Court observes that on a number of occasions it has

reached the conclusion that the disappearance of a person in south-east Turkey at the relevant time could be regarded as life-threatening (see *Osmanoğlu v. Turkey*, no. 48804/99, § 57, 24 January 2008 and the cases cited therein). Moreover, the Court has already accepted that the more time that goes by without any news of the person who has disappeared, the greater the likelihood that he or she has died (see *Tahsin Acar v. Turkey* [GC], no. 26307/95, § 226, ECHR 2004-III; see also *Bozkır and Others v. Turkey*, no. 24589/04, § 58, 26 February 2013). The Court thus considers that the national authorities were under an obligation to conduct an effective investigation into the applicant's husband's disappearance.

47. The Court notes at this juncture that, as stated above, the applicant's complaints relate solely to the effectiveness of the investigation conducted between 2009 and 2010 and the Court's examination will therefore be limited to examining that investigation. Thus, any references to "the investigation" below are to be understood to refer to the investigation conducted between 2009 and 2010.

48. In this connection the Court considers it noteworthy that the Government have not sought to argue that their authorities were not under an obligation to reopen the investigation into the disappearance of the applicant's husband some fifteen years after it had taken place. In any event, the Court acknowledges that in some cases information purportedly casting new light on the circumstances of a killing may come into the public domain at a later stage. The issue then arises as to whether, and in what form, the procedural obligation to investigate is revived. To that end, the Court considered in its judgment in the case of *Brecknell v. the United Kingdom* (no. 32457/04, § 71, 27 November 2007) that, where there is a plausible, or credible, allegation, piece of evidence or item of information relevant to the identification, and eventual prosecution or punishment of the perpetrator of an unlawful killing, the authorities are under an obligation to take further investigative measures. The steps which would be reasonable to take will vary considerably according to the facts of the situation. The lapse of time will, inevitably, be an obstacle as regards, for example, the location of witnesses and the ability of witnesses to recall events reliably. Such an investigation may in some cases reasonably be restricted to verifying the credibility of the source or of the purported new evidence (ibid., § 71; see also *Gasyak and Others v. Turkey*, no. 27872/03, §§ 61-63, 13 October 2009).

49. The Court also deems it appropriate to reiterate at this juncture that there is little ground to be overly prescriptive as regards the possibility of an obligation to investigate an enforced disappearance many years after the events, since the public interest in obtaining the prosecution and conviction of perpetrators is firmly recognised (see, *mutatis mutandis*, *Brecknell*, cited above, § 69).

50. Having regard to the applicant's allegations concerning the disappearance of her husband after his detention by soldiers stationed temporarily at the public building outside Yoğurtçu village, and having further regard to the conclusions reached by prosecutor D.K. in 2006 that the applicant's husband had indeed been detained there by the soldiers unlawfully, the Court considers that the subsequent discovery of the motorbike parts and bones was relevant to the disappearance. In this connection the Court notes that the bones and the motorbike parts were found in an area near the place where Mustafa Sayğı was last seen alive by two eyewitnesses (see paragraph 11 above). Secondly, the Court considers it important that Mustafa Sayğı's brother Mehmet Sayğı testified that he recognised the items discovered during the excavation (see paragraph 20 above). The Court considers, therefore, that the foregoing information and discoveries were significant enough to revive the obligation to carry out an effective investigation within the meaning of Article 2 of the Convention.

51. The Court has examined the investigation conducted between 2009 and 2010, and considers that three particular failures of the national authorities who conducted that investigation undermined the investigation's ability to clarify the circumstances surrounding the disappearance and to identify those responsible for it.

52. Firstly, contrary to what was suggested by the Government (see paragraph 41 above), there is no information or documents in the investigation file to show that the Suruç prosecutor M.A. took account of the important findings reached by his predecessor D.K. during the investigation conducted between 2005 and 2006. As noted above, the prosecutor D.K. had concluded at the end of a detailed investigation that the applicant's husband had been unlawfully detained by soldiers at the temporary military station, outside which he had last been seen by a number of civilian eyewitnesses. That finding had been reached after prosecutor D.K. had questioned the military personnel who had been based at that military station and the civilian eyewitnesses to the events. By contrast, in the 2009-2010 investigation the prosecutor M.A. not only failed to take into account those crucial findings, but also failed to identify and question any of the soldiers or the civilian witnesses despite the requests made by the applicant to do so.

53. The fact that the 2005-2006 investigation was not taken into account by the Suruç prosecutor M.A. is also apparent on account of his failure to question the incorrect information submitted to him by the police and the soldiers, according to which no previous enquiries had been made with the police or the military concerning the disappearance of the applicant's husband. As summarised above, the authorities had not only been well aware of the disappearance before the 2009-2010 investigation, but had also been questioned by the Suruç prosecutor D.K. and had provided that

prosecutor with information concerning the applicant's husband (see paragraph 13 above).

54. Moreover, had the prosecutor M.A. examined the documents in the file of the 2005-2006 investigation, he would have seen that the military had confirmed at the time that a disused public building had been used by soldiers as a temporary base (see paragraph 12 above), and realised that the military was providing him with incorrect information concerning the existence of that temporary military base (see paragraph 24 above).

55. Secondly, the Court is of the opinion that the Suruç prosecutor M.A. failed to appreciate the significance of the discovery of the Russian-made red motorbike found buried near the place where the applicant's husband had been unlawfully detained some years previously when travelling on his Russian-made red motorbike. It appears that the importance and relevance of that discovery was hastily discarded by that prosecutor because the forensic authorities had not established the brand name of the motorbike and the basket attached to the motorbike had not been recovered. For the Court, the discovery of the motorbike represents further support for the conclusion reached by prosecutor D.K. in 2006 that the applicant's husband had been unlawfully detained by the soldiers at that location.

56. Thirdly, and even taking account of the forensic report which specified that the aim of the forensic examinations had not been to establish whether the two soil samples had come from the same location but to verify whether they had chemical and physical similarities (see paragraph 23 above), the Court considers prosecutor M.A.'s failure to eliminate the inconsistency between the two soil samples to be serious enough to taint the effectiveness of the entire investigation. In this connection, the Court notes that the Government have not sought to support with any scientific evidence their explanation that the components of the bones had modified the physical and chemical structure of the soil (see paragraph 39 above).

57. That failure of prosecutor M.A., and the possibility that the bones found in the excavation might have been replaced by animal bones, were brought to the attention of the Assize Court by the applicant (see paragraph 26 above), but were not taken into account by that court in its examination. Thus, no national authority appears to have made any attempts to clarify the crucial discrepancies between the two soil samples.

58. The Court reiterates that, as pointed out by the Government (see paragraph 42 above), the obligation to investigate is not an obligation of result, but of means. Nevertheless, it must also reiterate that any deficiency in an investigation which undermines its ability to establish the cause of death or the person responsible will risk falling foul of the procedural obligation under Article 2 of the Convention (see paragraph 45 above and the cases cited therein). The Court considers that the failures highlighted above were serious enough to be regarded as such deficiencies, and concludes that there has been a violation of Article 2 of the Convention in

its procedural aspect on account of the failure to carry out an effective investigation into the evidence discovered in 2009.

II. 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 asked the Court to make an award for the Government's failure to carry out an effective investigation and left it to the Court's discretion to determine the amount.

61. The Government invited the Court not to make an award because they considered that the applicant had not made any claims. They also submitted that there was no causal link between the alleged violation and any pecuniary damage and that the applicant had also failed to prove that she had "suffered consequences which could lead to the awarding of non-pecuniary damage".

62. The Court observes that, contrary to what was submitted by the Government, the applicant did make a claim for compensation but left it to the Court's discretion to determine the amount. It considers that in so far as the applicant's claim may be interpreted as including a claim for pecuniary damage, there is no causal link between any such damage and the violation found. However, in so far as the applicant's claim can be understood as relating to non-pecuniary damage, it is to be noted that the Court has in a number of judgments entertained similar requests where the applicant left the determination of the amount to the Court's discretion (see, *inter alia*, *Lutsenko v. Ukraine,* no. 6492/11, §§ 112-114, 3 July 2012 and *Kaçiu and Kotorri v. Albania*, nos. 33192/07 and 33194/07, §§ 165-167, 25 June 2013).

63. As for the Government's argument that the applicant had not suffered any "consequences which could lead to the awarding of non-pecuniary damage", the Court considers that the applicant's suffering on account of the authorities' failure to carry out an effective investigation into her husband's disappearance does not require substantiation.

64. As held above, the Court does not discern any causal link between the violation found and any pecuniary damage; it therefore does not make any award for pecuniary damage. On the other hand, it awards the applicant 20,000 euros (EUR) in respect of non-pecuniary damage.

B. Costs and expenses

65. The applicant did not make a claim for costs and expenses.

C. Default interest

66. The Court considers it appropriate that the default interest rate 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 application admissible;

2. *Holds* that there has been a violation of Article 2 of the Convention in its procedural aspect;

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, EUR 20,000 (twenty thousand euros), in respect of non-pecuniary damage, plus any tax that may be chargeable, to be converted into the currency of the respondent State at the rate applicable at 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 amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points.

Done in English, and notified in writing on 27 January 2015, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stanley Naismith	András Sajó
Registrar	President