Second section

Avcio■lu c.Türki■ye

(Request no 59564/16)

STOP

Art 3 (procedural) • failure of national authorities to their obligation to

conduct an adequate and effective investigation into the applicant's allegations

to have been a victim of ill -treatment during his police custody

Strasbourg

October 17, 2023

This judgment will become final under the conditions defined in article 44 § 2 of the

Convention.He can undergo formation of shape.

Avcio■lu judgment c.Türki■ye

1

In the Avc■o■lu c.Türkiye,

The European Court of Human Rights (second section), sitting

In a room made up of:

Arnfinn Bårdsen, president,

Jovan Ilievski,

Pauliine Koskelo,

Saadet Yüksel,

Lorraine Schembri Orland,

Frédéric Krenc,

Davor Deren■inovi■, judges,

and Hasan Bak■rc■, section clerk,

Considering the request (no 59564/16) directed against the Republic of Türkiye and

Including a national of this state, Mr. Mustafa Avc■o■lu ("the applicant"), A

seized the Court under article 34 of the rights safeguarding agreement

of man and fundamental freedoms ("the Convention")

September 27, 2016,

Given the decision to bring to the attention of the Turkish government ("the

Government ") The grievance based on the quality of victim of the applicant, in the sense

of article 34 of the Convention, as well as the grievance drawn from insufficiency

alleged from the investigation carried out by the internal authorities in relation to

ill -treatment he says he had suffered during his police custody 30 and

May 31, 2003 in the premises of the gendarmerie of Yayladere, in the sense of

Article 3 of the Convention,

Given the decision to declare inadmissible for non-exhaustion of

internal recourse the applicant's grievance according to which the prosecutor of the

Republic had not opened an investigation, following the decision rendered the

March 31, 2016 by the Constitutional Court,

Given the observations of the parties,

After having deliberated it in the Council Chamber on September 26, 2023,

Make the stop that here, adopted on this date:

INTRODUCTION

1. The request concerns allegations according to which the investigation carried out

In this case by the competent internal authorities concerning the allegations of

ill -treatment - suffered by the applicant during his police custody on 30 and

May 31, 2003 in the premises of the Yayladere gendarmerie - did not

meets the requirements of Article 3 of the Convention.

ACTUALLY

2. The applicant was born in 1972 and resides in London.It was represented by

Me C. ESDAILE.

3. The government was represented by his agent, Mr. Hac■ Ali Aç■kgül,

Head of the Human Rights Department of the Ministry of Justice.

I.

Arrest of the applicant

4. May 30, 2003, suspected of help and belonging to an organization

Armed terrorist, the applicant was placed in police custody.

5. On May 31, 2003, he was placed in pre -trial detention.

6. On an unclear date, the Public Prosecutor of Yayladere

opened before the Diyarbak■r state court, on the basis of

Article 169 of the old penal code, a criminal action against the applicant

For help and belonging to an illegal terrorist organization.

7. On July 22, 2003, the Diyarbak■r State Court ordered the

Liberation of the applicant.

8. On September 30, 2003, the Diyarbak■r State Safety Court Acquitta

The applicant of the charges weighed on him.She noted that the

members of the PKK terrorist organization seized food at the

home of the applicant by threatening it with a weapon and that the person concerned

had brought the event to the attention of the police.She in

concluded that the applicant had not helped the terrorist organization of its full

grateful and that there was no evidence confirming that he would have helped

The organization in question.

9. The applicant's declarations emerge that he obtained asylum at

United Kingdom on February 10, 2004, then British citizenship on March 10

2004.

II.Applicant complaint for ill -treatment

10. On March 9, 2012, the applicant filed a criminal complaint against Ad.at.

CO.and A.A., gendarmes on the date of the facts, for acts of torture that he
allegedly had suffered during his police custody on May 30 and 31, 2003 in Yayladere.
He argued that he would have been threatened with death with a weapon.He would have been struck violently.He would have undergone the falaka (sitting on the soles of the feet) and
received electric shocks.

11. Observations of the parties appear and the establishment of the facts
by the Constitutional Court that the applicant was not examined by a
doctor during his placement and at the end of his police custody.

12. On January 11, 2013, the Karakoçan Republic prosecutor returned
A decision to do not to continue.In the expectations of the decision, the
prosecutor indicated that:

- C. O. had declared during his hearing of July 18, 2012 that the
allegations of the applicant were unrealistic and claimed that he did not
did not
inflicted on ill -treatment,

- A.A. had challenged the allegations during his hearing of July 27, 2012
of torture formulated by the applicant,
- M.S., who lived in the same village as the applicant and had been arrested
with this one, had not done during his hearing of December 4, 2012 of
Declarations capable of confirming the allegations of the person concerned.

13. The public prosecutor concluded that there was no element
evidence, apart from allegations and abstract declarations of
applicant, which could lead to a criminal action against the alleged
authors of the alleged facts.

14. On June 11, 2013, the Malatys Assize Court confirmed the dismissal.

III.APPEAL

INDIVIDUAL

IN FRONT

THERE

COURT

Constitutional

15. On August 28, 2013, the applicant filed an individual appeal before the Constitutional Court ("CC").He maintained that he had been the victim of acts of psychological and physical torture during his police custody and claimed 150,000 Turkish pounds (TRL), the equivalent of around 56,594 euros (EUR), For moral damage.

16. A training of five CC judges examined the individual appeal of the applicant and rendered his decision on March 31, 2016. The CC establishes the facts as following.

17. It thus appears from the said decision that the applicant, after his release, first went to Istanbul, then to the United Kingdom where he obtained on February 10 2004, refugee status.Six years later, on February 9, 2010, he was examined by the medical foundation for care for victims of torture ("medical Foundation for the Care of Victim of Torture "," MFVT ").The report medical, established on this occasion, noted in the applicant the shift a lumbar intervertebral disc as well as around seven wounds located in the front of the two legs and compatible with irregular trauma resulting from blows given by means of a bruising object.The report medical noted pain and sensitivity in the soft tissue of Two heels.All these findings were considered to be consistent with acts of torture as reported by the applicant.As for the state

psychological of this one, the medical report reported a stress disorder post-traumatic and emotional deregulation.

18. Still according to the CC decision, the applicant filed on March 9 2012 before the Bingöl Republic prosecutor, through his lawyer, a complaint directed against gendarmerie officials following: C.O., who had signed the deposition that the applicant had made during police custody;Ad.at., the manager of the premises in which had taken place his police custody;officials who had signed the trial verbal of his arrest;The members of the gendarmerie and the JITEM ("Jandarma ■stihbarat Terörle Mücadele" - Intelligence and

the gendarmerie anti -terrorist fight) in office on the date of the facts and present at the scene of events;finally another civil servant of which he then gave the report.

19. The applicant explained in his complaint - as evokes the CC in the aforementioned decision - that from 2000 to 2003 he was a driver of Minibus and lived in the village of Zeynelli (Bingöl).According to him, the military then regularly led operations in this village.He declared especially that on May 28, 2003 around 4 p.m. when he was seated in front of the door of his house, around forty vehicles of the gendarmerie had surrounded the village.Would have approached three officials in him in uniform which he declared he knew one personally (he would have act of commander N.) and the other two of view, and two officials in Civil unknown to him and who, according to him, were JITEM agents.One of them would have struck it violently in the lumbar vertebrae with the underside

of his boot.He would have fallen to the ground, plagued by acute pain.We would have it
Then get in a vehicle;He would have been conducted with M.S., a
Another resident of the village, at the Yayladere gendarmerie, where it would have been placed
In a cell after threatening him with death with a weapon.It would have been
Questioned by five civil servants, including two plain clothes;he would have been struck
violently and would have undergone the falaka and received electric shocks.Finally, he
would have signed a preoredged deposition of twelve pages.The applicant added
that it had been heard by the public prosecutor and then by the judge having
ordered his placement in detention.He declared that civil servants
to which he reproached acts of torture then present, he could not
Explain to the prosecutor or the judge that he had suffered from their fact.He
could not inform his lawyers either following his transfer to the
Bingöl prison.The guards of the house D
'Judgment being according to his
Says present in the room where he had maintained himself with said lawyers.He
said that after his release he went to the United Kingdom where he had
requested asylum.Still according to the applicant, as part of this
Application, the legal organization Rédress had it examined by the MFVT.
He explained that fear had prevented him from going to Türkiye until
2011. On this date he returned to the advice of Rédress, after having
started medical treatment at MFVT.He finally asked that the
managers of acts of torture which he alleged to have suffered were identified
and punished.

20. According to the CC decision on March 21, 2013, the prosecutor of the
Republic of Bingöl declared himself incompetent ratione LOCI in favor of his
Karakoçan counterpart.

21. The same document reveals that at the request of the prosecutor of

The Republic of Karakoçan, the addresses of C.O.and A.A.(but not the one

of Ad.at.) were determined and that these two officials were heard.

22. Regarding A.A., it appears from the CC decision, that it was

heard on July 27, 2012 on commission rogatory by the prosecutor of the

Republic of Hopa.In his deposition, he declared that in 2003 he had, at the

following a denunciation from a member of the terrorist organization

previously arrested, arrested of the inhabitants of the village before driving them

to the gendarmerie for the purposes of a hearing.He didn't know if the applicant

found among the people placed in police custody.He said these

people had not been ill -treatment.

23. As for C.O., he was - still according to the CC's decision - heard

July 18, 2012 on commission rogatory by the public prosecutor

from Kartal (Istanbul).In his deposition, he declared that on the date of the facts

Litigious The applicant exercised the profession of minibus driver.He had been

arrested on the grounds that it was suspected of providing food provisions to

The above -mentioned terrorist organization.CO.would have added that the applicant

had not been tortured and had not suffered ill -treatment.

24. The same document indicates that on an unclear date, M.S. was

also heard on commission rogatory by the Department of Security

D'Aümraniye (Istanbul).He declared that from 2000 to 2003, the applicant and him

Even lived in the aforementioned village.The gendarmes were going to

time in time in the village to ask them for help and information

Regarding the above -mentioned terrorist organization.On denunciation, the

applicant, himself and other residents of the village had been placed in

police custody by gendarmes.They had deposed.After having been
heard by the public prosecutor and by the judge, they had been placed
in detention at the remand center.M.S. - A resident of the same village as the
applicant - declared that he had not suffered ill -treatment or summer
torture.He knew nothing about the applicant's allegations.
25. It also appears from the establishment of the facts by the CC that on
request from the Karakoçan Republic prosecutor, the command of
The Yayladere gendarmerie indicated that there was no guards register
on sight for the period from May 28 to June 1, 2003.
26. It always emerges from the establishment of the facts by the CC that the
January 11, 2013, the Karakoçan Republic prosecutor made a
dismissal decision to continue.He motivated, arguing that C.O.and A.A.
had challenged the applicant's allegations and that M.S. had not made any
declarations capable of confirming said allegations.He concludes that the investigation
has not provided any evidence capable of confirming the allegations of
applicant;These remained abstract and did not justify that we
began a public action against the alleged permanent authors
bad treatments.
27. On June 11, 2013, according to the same document, the Assize Court of
Malatya confirmed the decision of the Karakoçan Republic prosecutor.
28. turning to the examination of the facts thus established, the CC noted in
his decision of March 31, 2016 that nor the file presented by the applicant in
his individual appeal nor the file of the investigation carried out by the prosecutor of the
Republic contained enough evidence to drive

to examine the allegations of the person concerned from the angle of the substantial component of

Article 3 of the Convention.She concludes that she could only examine them
from the angle of the procedural component of article 3, that is to say by fixing for
task of determining whether the defendant state had carried out an investigation in this case
effective.

29. In the expectations of his decision, the CC noted that the applicant had,
In 2012, filed a complaint for acts of torture that would have been
perpetrated during its PL
custody in police custody in 2003;that an investigation had
been opened immediately;that within the framework of the investigation, two officials in
service at the time of the facts at the police station where the applicant had been placed
in police custody had been heard, as well as the individual who had been put into
police custody with the interested party;that the public prosecutor finally
competent had in this case a decision of dismissal to continue.

30. The CC noted that the applicant recognized that he had not done before the
different public authorities to which he had been presented after his guard
On sight no statement relating to the ill -treatment he would have suffered.
She specified that he had not allegedly allegedly allegedly
suffered ill -treatment.She observed that he was not established either
that the applicant's body would have presented, when it had been heard by
different authorities during the criminal procedure initiated against him,
traces such as bruises that could suggest that he had been submitted
to torture or ill -treatment.

31. The CC noted that the acts of torture that the applicant alleged
suffered were, to suppose them proven, produced on a date very prior to
The one to which he had filed his complaint.While admitting that difficulties
relating to the establishment of facts could arise during an investigation,

The CC recalled that to determine if the defendant state had satisfied
The obligation which incumbent up on him to conduct an effective investigation, it was necessary to
Check if the competent internal authorities had taken all measures
necessary for confirming or invalidating the applicant's allegations.
32. The CC had obtained a copy of the depositions of the suspects C.O.and A.A.
as well as the declaration of the witness M.S. it had requested communication
the police custody for the period during which the applicant had
been placed in police custody, but in vain, such a register no longer exist.
33. For his part, the applicant, to support his allegations according to which
He had been tortured and had suffered ill -treatment during his guard at
View, had paid a medical report drawn up by the MFVT to the investigation file.
34. The CC observed that the findings made in the medical report that
The MFVT, located in the United Kingdom, had been established on a very after date
that of the disputed facts.To verify whether these findings were likely to
Confirm the allegations of the applicant's ill -treatment, she pointed out
that the competent authorities should have sought if the applicant had been
Examined by a doctor at the entrance and exit of his police custody.Now, noted the
CC, no act of investigation had been carried out in this direction.The applicant had

Not been examined by an official health establishment at the time of the facts.
She pointed out that in his dismissal decision to continue, the prosecutor of
the Republic had not spoken on the medical report presented by the
applicant.
35. The CC noted that the investigation file which had been carried out in this case
demonstrated that she was limited to the hearing of the two indicated individuals
by the applicant and another public agent whose signature appeared on the

report of deposition.However, she noted that no research has been
led to identify public officials who were in service during the
Placement in police custody and the applicant's hearing.
36. The CC specified that the public prosecutor was content
to question the other suspects about the official who, according to the
applicant, was particularly active during the ill -treatment
that the interested party said he had suffered.The prosecutor had taken no
another initiative for identifying the said official, even though
The applicant had given his report.
37. The CC also noted that Ad.at.had been identified as having been
at the time of the facts the manager of the Center for the Detention of Persons
Keeped at police.He had been named by the applicant in his
complaint.However, this agent had not been auditioned by the prosecutor of the
Republic.She nevertheless observed that he emerged from the investigation file
that in 2005 Ad.at.had been transferred to the gendarmerie of çank■r■, without
The investigation had been carried out further in this regard.
38. The CC observed that the file of the investigation in this case did not demonstrate
not that one could obtain other elements of evidence capable of doing the
Light on allegations of ill -treatment formulated by the applicant.
In short, an examination of the entire investigation in question made it possible to
Conclude that it had not been carried out with all the diligence required.In
effect, she considered that the investigation had not been sufficient to allow
shed light on the litigious facts and identify any responses
Translation Error: The read operation timed out
Cision Cezmi Demir and others (no 2013/293, July 17, 2014),
The CC has concluded that a violation of substantial and procedural components of

Article 3 of the Convention at the rate of acts of torture inflicted on applicants
During their police custody.She granted each of them to each of them
(around 13,909 EUR) for moral damage as well as 198.35 TRL (approximately
69 EUR) under the costs and costs incurred within the framework of the procedure
question, and she sent a copy of the decision to the competent court to
information.

47. In his decision Deniz Yaz■c■ (no 2013/6359, July 10, 2014), the CC
concluded that a substantial and procedural component of article 3 of
the convention at the rate of acts of torture and inhuman treatments inflicted
to the interested party during his arrest and during his police custody.She has him
granted 20,000 TRL (approximately 6,915 EUR) for moral damage as well as
1,698.35 TRL (approximately 587 EUR) for the costs and costs incurred in the
framework of the procedure in question, and she sent a copy of the decision to
competent court for information.

48. In his decision ■enol Gürkan (no 2013/2438, September 9, 2015),
The CC concluded that the substantial component of article 3 of the
Convention at the rate of acts of torture inflicted on the interested party during his guard
on sight.She judged that there was no legal interest in asking for the

reopening of the procedure, the facts being prescribed and the collection of new
evidence being compromised.She granted the victim 55,000 TRL
(around 16,286 EUR) for moral damage and 1698.35 TRL (approximately
503 EUR) under the costs and costs incurred within the framework of the procedure
in question.

49. In his decision Zeki Bingöl (2) (no 2013/6576, November 18, 2015),
The CC has concluded that a violation of substantial and procedural components of

Article 3 of the Convention on account of the inhuman treatment inflicted on
The interested party during his police custody.She sent a copy of her decision to
competent republic prosecutor for the opening of a new
Criminal investigation.She granted the victim 4,000 TRL (around 1,307 EUR)
For moral damage and 1,698.35 TRL (approximately 555 EUR) for costs
And expense incurred within the framework of the procedure in question.
50. In his decision Hamdiye Aslan (no 2013/2015, November 4, 2015),
The CC has concluded that a violation of substantial and procedural components of
Article 3 of the Convention on the basis of ill -treatment inflicted on
The interested party during his police custody.She granted him 30,000 TRL (about
9,646 EUR) for moral damage and 1,698.35 TRL (approximately 546 EUR) at
title of costs and costs incurred within the framework of the procedure in question.
51. In his decision Feride Kaya (2) (no 2016/13895, June 9, 2020), the CC
concluded that a substantial and procedural component of article 3 of
the convention at the rate of acts of torture inflicted on the applicant during her
jail.She granted the interested party 90,000 TRL (approximately 11,737 EUR)
For moral damage and 3,239.50 TRL (approximately 422 EUR) for costs
And expense incurred within the framework of the procedure in question.Due to
prescription of the facts, she judged that there was no legal interest in
Order a new trial in this case.She sent for information
Copy of his decision to the competent assize court.
52. In its decision Deniz ■ah (2) (No 2018/29836, April 14, 2022), the CC
concluded that a procedural component of article 3 of the Convention was concluded
reason for ill -treatment suffered by the person concerned in the remand center where
He was detained.She sent a copy of her decision to the prosecutor of the
Competent Republic for the opening of a new criminal investigation.

She granted the victim 45,000 TRL (around 2,839 EUR) for damage

moral.

Relevant international texts

United Nations Istanbul Protocol

53. The "manual to investigate effectively on torture and other sorrows

or cruel, inhuman or degrading treatments "(" the Istanbul protocol ")

was subject to the United Nations High Commissioner for the Rights

man (HCDH) on August 9, 1999, and the principles stated there

then received the support of the United Nations through various resolutions

of the Human Rights and General Assembly Commission.This

manual constitutes the first set of guidelines relating to

investigations and the appreciation of evidence in alleged cases of

torture.It contains a set of practical instructions on how

to examine people who declare that they have been victims of torture or

ill -treatment, to conduct an investigation in alleged cases of

torture and notify the competent authorities the conclusions drawn from these

Investigations.Principles relating to means of effectively investigating

in alleged cases of torture or

Other sorrows or cruel treatments,

inhuman or degrading and to establish the reality of such facts are summarized in

Annex 1 of the manual (the relevant passages of this document are reproduced

in Bat■ stop and other c.Türkiye, nos 33097/96 and 57834/00, § 100,

ECDH 2004-IV (Extracts)).

PLACE

I.

Preliminary observations

54. The request concerns the ill -treatment that the applicant says he has
suffered during his police custody on May 30 and 31, 2003. Examining these allegations
From the only angle of the procedural component of article 3 of the Convention, the CC
concluded that a violation of this provision is due to the breach of
internal authorities competent to their obligation to carry out an investigation
effective on the ill -treatment that the applicant declared that he had suffered
During his police custody.She sent a copy of her decision to the prosecutor of the
Competent Republic for the opening of a new criminal investigation.
She granted the applicant 5,000 TRL for moral damage (about
EUR 1,556, at the time of the facts) and 1998.35 TRL (about 622 EUR, in
the facts of the facts) under the costs incurred within the framework of the procedure
led in front of her.

55. The court first noted that the applicant raises, in his
observations, a new complaint drawn from article 34 of the Convention because
that the public prosecutor would have made pressure on him for the
Disourage to continue his request before the Court.

56. The government fights this allegation of the applicant by making
Affect that he was not able to support him.

57. The Court recalls that for the individual appeal mechanism
established in article 34 of the agreement is effective, it is the highest
importance that applicants, declared or potential, are free to
communicate with the court, without the authorities pressing them in any
way of withdrawing or modifying their grievances (see, among many others,
Akdivar and others c.Türkiye, September 16, 1996, § 105, collection of judgments and
1996-IV decisions, Aksoy c.Türkiye, December 18, 1996, § 105, collection 1996-

VI, and Ergi c.Turkey, July 28, 1998, § 105, 1998-IV collection).In this
context, by the word "press [r]", it is necessary to hear not only coercion
direct and flagrant acts of intimidation of declared applicants or
potential, their family or their representative in court, but also
indirect acts or contacts and bad quality tending to dissuade them or
To discourage them from claiming the appeal offered by the Convention.The courtyard
notes that to determine if contacts between the authorities and a
declared or potential applicant constitute unacceptable practices of
point of view of article 34, it is necessary to take into account the particular circumstances
of the cause (Kurt v. Turkey, May 25, 1998, §§ 160 and 164, collection 1998-III, and
■arli c.Türkiye, no 24490/94, § 84, May 22, 2001).

58. In this case, the Court notes that the applicant does not pretend that
competent internal authorities, in this case the public prosecutor
competent, would have questioned him about his request hanging before her for
argue that he would have done pressure on him to discourage him from
Continue her request ahead of her.He does not give any information
factual or even any invitation to support such
allegation.In addition, the Court does not raise any threats of criminal proceedings
uttered against the applicant or his lawyers due to the request
Pendant before her (compare with ■arli, cited above, §§ 85-86).Furthermore, the
applicant does not provide any details on the date of the occurrence of such
pressure.It is not based on concrete evidence such as a
convening or hearing proving that the goal of the prosecutor of the
Republic responsible for conducting the investigation was to put pressure on him for the
Disourage to continue his request before the Court (compare with Colibaba

vs.Moldova, no 29089/06, §§ 68-69, October 23, 2007, threatens from a
Attorney General to initiate prosecution against a member of
bar having subject to "false" allegations in matters of rights of
man to international organizations;Lopata c.Russia, no 72250/01,
§§ 156-159, July 13, 2010, intimidation and pressures exerted on the
applicant by internal authorities because of his request before the Court).
59. Consequently, the Court does not note the existence of any interference,
incompatible with regard to article 34 of the Convention, on the part of the State
defendant in the exercise by the applicant of his individual right of appeal.
It follows that this grievance is manifestly poorly founded and must be rejected in
Application of article 35 §§ 3 a) and 4 of the Convention.
60. Then the court took a good note from the various developments
factual and legal in domestic law after the decision of the CC of
31 m
ARS 2016. In this regard, she recalls that during the communication of the
request to the parties, she rejected for non-exhaustion of the remedies
internal the applicant's grievance according to which the public prosecutor
competent had not opened a new criminal investigation into the bad
Treatments he complained, following the decision rendered by the CC.
Avcio■lu judgment c.Türki■ye
13
61. The applicant also raises, in his observations, a new
grievance drawn from the fact that the compensation which was granted to it by the CC would not have
Still not paid by the competent internal authorities.But the courtyard
notes that the applicant did not expose in the request he has introduced
in front of her such a complaint which he formulates for the first time in his

Observations.It also notes that it appears from the documents paid to the file of the case that this grievance was not raised before the competent internal jurisdictions to argue that the compensation which has been granted by the CC would not have been paid to him.

62. However, she underlines in this regard that the rule of exhaustion prerequisite of internal remedies is an important aspect of principle of subsidiarity, as registered in the preamble to the Convention Since the entry into force on August 1, 2021 of the Protocol No. 15 (m c. France (Dec.), no 42821/18, § 73, April 26, 2022), according to which the mechanism of safeguard established by the convention has a subsidiary character by relation to national human rights guarantee systems (Vu■kovi■ and others c.Serbia (preliminary exception) [GC], nos 17153/11 and 29 others, §§ 69-70, March 25, 2014).The applicant will have the opportunity to challenge before the CC its allegation according to which the compensation which was granted to it by The latter would not have been paid to him by the competent internal authorities.

63. This part of the request for non-exhaustion should be rejected internal remedies, within the meaning of article 35 §§ 1 and 4 of the Convention.

II.On the alleged violation of article 3 of the Convention

64. The applicant alleges that the investigation carried out in this case by the authorities competent internal did not meet the requirements of article 3 of the Convention.He invokes articles 3 and 13 of the Convention.

65. having regard to the formulation and substance of the grievances presented by the Affairs (Radomilja and others c. Croatia [GC], nos 37685/10 and 22768/12, § 126, March 20, 2018), the Court will examine them only from the angle of Article 3 of the Convention, which is thus labeled:

"No one may be subject to torture or inhuman sorrows or treatments or

degrading.»»

A. On admissibility

1. Government

66. The government excites a lack of quality of victim of the

applicant.He recalls that the CC concluded that article 3 of the

Convention with the failure of the internal authorities competent to their

obligation to conduct an effective survey on the abuse that the

Avcio■lu judgment c.Türki■ye

14

applicant said he had suffered during his police custody.She sent a copy of

His decision to the competent public prosecutor for opening purposes

of a new criminal investigation.She granted the applicant 5,000 TRL to

moral damage (about 1,556 EUR) and 1998.35 TRL (about approximately

622 EUR) under the costs incurred within the framework of the procedure carried out

in front of her.

67. Referring to Article 50 § 2 of Law No. 6216 establishing the CC and its

rules of procedure, the government argues that if the violation noted

Results from a court decision, the file is referred to the competent court

for the opening of a new trial capable of putting an end to said

violation and erase its consequences.In the event that there is no interest

legal to keep a new trial, compensation may be granted to

applicant or procedure may be initiated before ordinary courts.

The court responsible for holding a new trial rules, if possible, on file

in order to remedy the observed violation and to erase its consequences

as exposed by the CC in the decision concerned.

68. The government explains that article 50 of law no 6216
corresponds to article 41 of the agreement.He refers to the decision rendered
by the CC sitting in plenary assembly in the Mehmet do■an case
(No 2014/8875, §§ 54-60, June 7, 2018), in which the High Jurisdiction has
presentation the general principles governing the recovery of a violation
noted by her in a case subject to her appreciation.He explains that
The CC grants compensation to the applicant party for damage
Material and moral.It is also possible that no compensation is
granted to the applicant party if the consequences of the violation are
entirely erased following the holding of a new trial by the court
comp
Be.
69. Referring to the jurisprudence of the CC exposed above
(paragraphs 45-52), the government develops its argumentation in
explaining that the high jurisdiction grants an important compensation when it
There is no legal interest in making a new trial.She grants a
compensation of a lower amount when she decides that a new trial
must be held.
70. With regard to the jurisprudence of the Court relating to the loss of
quality of victim, the government refers first to several cases
Regarding the duration of the procedure with regard to Article 6 of the Convention.
In this regard, he explains that the Court admits the granting of compensation for
less important moral damage than that which she grants herself in
similar affairs.Then referring to the Gäfgen v.Germany
([GC], no 22978/05, §§ 115, 116 and 130, ECDH 2010), he indicates that when he
is a case concerning a violation of article 3 of the Convention,
An indemnity must be granted to the applicant.In addition, the internal authorities

competent must, if necessary, conduct an effective investigation capable of

To identify and judge the authors of the ill -treatment in question.

Avcio■lu judgment c.Türki■ye

15

71. To determine whether the amount of the compensation granted by the CC is

sufficient, the government illustrates its point by giving three examples

court stops that can be summed up as follows.

72. In the Da■l■k c.Türkiye (no 38305/07, June 13, 2017), the courtyard

concluded that a procedural component of article 3 of the Convention concluded,

And she granted the interested party for 5,000 EUR for moral damage and 2,000 EUR

For the costs and costs incurred within the framework of the procedure in question.

This case concerned allegations of ill -treatment suffered by the

Request during his police custody and the acquittal of the police concerned.

73. In the ■ltümür Ozan case and others c.Türkiye (no 38949/09,

February 16, 2021), the Court concluded that a violation of the procedural component of

Article 3 of the Convention.She granted the interested party 3,000 EUR to

Moral damage.This case concerned allegations of bad

treatments suffered by the applicant of this case during his arrest and

His police custody

74. In the Alkaya c.Türkiye ([Committee], no 70932/10, November 27

2018), the Court concluded a violation of the procedural component of article 3 of

the agreement on the grounds that the prescription of the blunders allegedly

police officials had resulted from the excessive duration of the

procedure.She then judged that the observation of violation represented a

sufficient equitable satisfaction to repair moral damage

possibly suffered by the applicant.This affair concerned allegations

ill -treatment suffered by the applicant during his arrest and his
jail.The government derives from this that the Court may not
grant the compensation applicant for moral damage even if it
notes a violation of the procedural component of article 3 of the Convention,
when it considers that the observation of violation is enough to repair the damage
morale suffered by the applicant.

2. The applicant

75. The applicant disputes the exception of defect in the quality of victim, at
sense of article 34 of the Convention, raised towards it by the
Government.Referring to the Gäfgen case (aforementioned, §§ 115, 116 and 119),
He explains that an investigation capable of allowing the identification and punishment of
authors of ill -treatment must be carried out.He stresses that compensation
Given to the victim for moral damage must be appropriate.Gold,
he maintains, none of these conditions is fulfilled in this case.

76. The applicant argues that according to the jurisprudence of the court as it
Results for example from Kopylov c.Russia, (no 3933/04, §§ 144
and 146, July 29, 2010) and Shestopalov c.Russia, (no 46248/07, § 62, March 28
2017), the amount of the compensation granted to it by the CC is lower
to that which the Court gives in similar cases.He disputes in
particular the argument drawn in this regard by the government of the Alkaya affair
aforementioned.He explains that the facts of this affair different from those of his cause
Avcio■lu judgment c.Türki■ye

Because the interested party had attacked a police officer and refused to be examined by a
doctor.On the other hand, he recognizes that a similarity exists between his business
and the other two cases cited by the government.

77. The applicant, however, indicates that his case is rather comparable to

The Amine Güzel c.Turkey (no 41844/09, §§ 40, 41 and 49, September 17
2013).In this case, the Court concluded that a violation of the procedural component
of article 3 of the Convention and granted the applicant 12,500 EUR to
Moral damage.In any event, he argues that the sum that he
granted the CC for moral damage is good
lower than that that has
Appended the court in the Da■l■k affairs, ■ltümür ozan and others, and amine
Güzel, aforementioned.
3. Assessment of the Court
has)
Relevant general principles
78. The Court recalls that it is primarily belonging to the authorities
national to straighten an alleged violation of the Convention.In this regard,
The question of whether an applicant can claim to be a victim of the violation
alleged arises at all stages of the procedure on the ground of the
Convention (Gäfgen, aforementioned, § 115).A favorable decision or measurement
to the applicant is not enough in principle to deprive him of his quality as "victim"
for the purposes of article 34 of the Convention unless the national authorities
recognize, explicitly or in substance, then repair the violation of the
Convention (Kuri■ and others c. Slovenia [GC], no 26828/06, § 259,
CEDH 2012 (extracts)).It is only when they are satisfied with these two
conditions that the subsidiary nature of the mechanism of protection of
Convention is opposed to an examination of the request (Eckle c. Germany,
July 15, 1982, §§ 69 et seq.
vs.Turkey, nos 14350/05, 15245/05 and 16051/05, § 157, November 17, 2015).
79. With regard to the "appropriate" and "sufficient" repair for

remedy internally to the violation of a right guaranteed by the Convention,
the court generally considers that it depends on all
circumstances of the cause, having in particular the nature of the violation of
The convention that is at stake (Gäfgen, aforementioned, § 116, Kuri■ and others,
aforementioned, § 260, and Jeronovi■s c.Latvia [GC], no 44898/10, § 116, 5 July
2016).
b)
Application of these principles to this request
80. In the present case, it is up to the court to check, on the one hand, if there has been
recognition by the national authorities, at least in substance, of a
violation of a right protected by the Convention and, on the other hand, if the repair
can be considered to have been appropriate and sufficient (see, between
Others, Gäfgen, cited above, § 127, Kopylov c.Russia, no 3933/04, §§ 144-146,
July 29, 2010, Tamuçu and others c.Türkiye (Dec.), no 37930/09, § 41,
Avcio■lu judgment c.Türki■ye
17
January 24, 2017, and Shmorgunov and other c.Ukraine, nos 15367/14 and 13
Others, § 399, January 21, 2021, mutatis mutandis MURAT AKSOY c.Türkiye,
No 0/17, § 90, April 13, 2021, and ■lker Deniz Yücel c.Türkiye, no 27684/17,
§ 72, January 25, 2022).
81. She recalls that in this case the applicant alleges a
violation of a fundamental right of the Convention, namely article 3 of the
Convention.In particular, the applicant maintains that the investigation carried out by
internal authorities - about the ill -treatment he says he suffered
During his police custody on May 30 and 31, 2003 - did not meet the requirements
of article 3 of the Convention.Consequently, it is in the light of its
jurisprudence relating to article 3 of the convention that it will examine

the exception that the government derives from a lack of quality of victim of the
applicant.
82. The court noted that by examining the allegations of the applicant under the
The only angle of the procedural component of article 3 of the Convention, the CC concluded
to a violation of this provision at the rate of the failure of the authorities
competent internal to their obligation to conduct an effective investigation into
ill -treatment that the applicant declared having suffered during his guard at
view.She sent a copy of her decision to the public prosecutor
Competent for the opening of a new criminal investigation.She granted
to the applicant 5,000 TRL under moral damage (about 1,556 EUR,
at the time of the facts).
83. Regarding the first condition, the Court observes that it appears
of the decision of March 31, 2016 of the CC that these are the shortcomings noted
by this in the investigation carried out by the public prosecutor
competent who led the high court to conclude that a violation of the
Procedural component of article 3 of the Convention.The CC has thus recognized the
ignorance of the procedural component of the law protected by article 3 of the
Convention.
84. It remains to be determined whether the repair granted to the applicant by the CC
can be considered "appropriate" and "sufficient" (see, mutatis
Mutandis, Otgon c.Republic of Moldova, no 22743/07, § 16, 25 October
2016 as well as the affairs cited there, and s.f.k.vs.Russia, no 5578/12,
§ 72, October 11, 2022).In this regard, the Court observes that the CC has granted to
requiring the sum of approximately 1,556 EUR in terms of moral damage that he
had suffered.She took note of the government's explanations according to
which the CC grants significant compensation when there is no

of legal interest to keep a new trial.And she grants a

compensation for a lower amount when she decides that a new

trials must be held or that, as in the present case,

The prosecutor of the

Competent republic must open a new criminal investigation, concerning the

allegations formulated by the applicant in the field of article 3 of the

Convention (paragraph 44 above).

Avcio■lu judgment c.Türki■ye

18

85. The Court notes that the government refers in particular to the judgment

that she returned to the aforementioned Alkaya affair, where she concluded a violation

of article 3 of the Convention.In this case, she considered that given

the specific circumstances in which the applicant had been arrested, the

observation of violation represented sufficient equitable satisfaction to

repair the moral damage possibly suffered by the person concerned, under

Article 41 of the Convention.Also, the government derives from this

case to conclude that in this species the amount of moral damage

granted to the applicant by the CC cannot be considered as

unreasonable.The court recalls that particularly in terms of

equitable satisfaction for moral damage, it is guided by the principle of

equity, which implies a certain flexibility and an objective examination of what

is fair, fair and reasonable given the set of

circumstances of the case she has to know, that is to say not only of the

situation of the applicant, but also of the general context in which the violation

was committed.The compensation which she allocates for moral damage have for

object to recognize the fact that moral damage resulted from the violation

of a fundamental right and they are encrypted in order to reflect

approximately the severity of this damage (Varnava and others c. Türkiye [GC], Nos 16064/90 and 8 others, § 224, ECDH 2009, Al-Jedda c.United Kingdom [GC], no 27021/08, § 224, ECDH 2011, and Nagmetov c.Russia [GC], No 35589/08, § 73, March 30, 2017).

86. In addition, with regard to a grievance drawn from article 3 of the Convention, it is only in exceptional circumstances that the court consider, as she did in the aforementioned Alkaya affair, that the observation A violation is in itself sufficient equitable satisfaction.She adopts this approach in particular in cases where the violation noted by the court only concerns procedural failures (Hilal v. Kingdom-UNI, no 45276/99, § 83, ECDH 2001-II, Wenner c.Germany, no 62303/13, § 86, September 1, 2016, and Marcello Viola c.Italy (no 2), no 77633/16, § 148, June 13, 2019).Furthermore, she does not grant, under satisfaction equitable for moral damage, of compensation greater than that which The applicant (Sonkaya v. Turkey, no 11261/03, §§ 33 and 35, February 12, 2008). She does not grant any when the applicant did not apply to This respect (Da■abakan and Y■ld■r■m v. Turkey, no 20562/07, § 68, April 9, 2013). However, even in the absence of a "request" formed in a way appropriate in compliance with its regulations, the Court remains competent under certain conditions to grant, in a reasonable and measured manner, a equitable satisfaction for moral damage arising from circumstances Exceptional of a given case (nagmetov, cited above, §§ 76 and 77).

87. The court recalls that when national authorities have granted to an applicant of compensation in recovery of the observed violation, it Sight to examine the amount.To do this, she takes into account her own practice in similar cases.She wonders, on the basis of

elements that she has, what she would have granted in a situation
comparable, which does not mean that the two amounts must necessarily
correspond.In addition, it takes into account all the circumstances of
the case, including the recovery means chosen and speed with
which the national authorities proceeded to the recovery in question.She
recalls that it is the responsibility of the competent national authorities to satisfy
the essential obligation to ensure respect for the rights and freedoms guaranteed by
The Convention.That said, the sum granted at the national level should not
be manifestly insufficient having regard to the circumstances of the case
that she examines (see, among many, Kopylov, cited above, § 146,
Shestopalov c.Russia, no 46248/07, § 62, March 28, 2017, and Cestaro c.Italy,
No 6884/11, § 231, April 7, 2015).

88. In this case, the Court recalls that it has, in circumstances
comparable, allocated for moral damage the sum of EUR 8,000
respectively with each applicant of the Dönmü■ affair and Kaplan v.Türkiye
(No 9908/03, § 59, January 31, 2008);The sum of EUR 5,000
- corresponding to the amount claimed by the person concerned - to the applicant of the case
Sonkaya (aforementioned, § 35);and the sum of EUR 9,750 to the applicant of the case
Mimta■ c.Türkiye (no 23698/07, § 65, March 19, 2013).The Court considers that
in this case the sum of 1,55
About EUR allocated by the CC to
applicant in compensation for moral damage suffered is less than the amount
generally granted by her in cases where she concluded that
violation of article 3 of the Convention (Darraj v. France, no 34588/07, § 50,
November 4, 2010, and GRECU c.Republic of Moldova, no 51099/10, § 21,

May 30, 2017).She estimates that in this case the sum of 1,556 EUR
approximately granted to the applicant by the CC does not constitute a recovery
Adequate and sufficient (Mili■ and Nikezi■ v. Montenegro, nos 54999/10 and
10609/11, § 75, April 28, 2015, in which the Court judged that compensation
of 1,500 EUR granted to each applicant under moral damage does not
could be considered an appropriate repair for violation
denounced of article 3;For a similar approach see also i■lker
Deniz Yücel, aforementioned, § 73 as well as the affairs cited there, concerning
insufficient compensation offered by the CC for the duration of the detention
provisional suffered by the applicant).Therefore, the defendant state has not
sufficiently rectified the treatment contrary to article 3 of the agreement
that the applicant suffered.

89. It follows that the applicant can always claim to be a victim of a
Violation of article 3 within the meaning of article 34 of the Convention.The court rejects
Consequently the exception drawn by the government of a loss of
quality of the applicant's victim.

90. noting that this grievance is not clearly poorly founded or
inadmissible for another reason referred to in article 35 of the Convention, the Court
declares it admissible.

Avcio■lu judgment c.Türki■ye

20

B. Basically

1. The applicant

91. While taking note of the CC decision of March 31, 2016, the
applicant persists to say that the investigation carried out by the internal authorities
competent was not effective.He complains about a lack of promptness of

said investigation.He explains that the public prosecutor should have
trigger as soon as he had been brought to his knowledge of the evidence
relating to ill-treatment that would have been inflicted on it, that is to say before
Even the filing of his complaint in March 2012.
92. He explains that the competent internal authorities have not identified
And hear all the alleged perpetrators of the ill -treatment he suffered.
Thus, when he had appointed the gendarmes C.O., Ad.at.and N. (the
commander of the gendarmerie), the public prosecutor limited his
Investigations to the hearing of C.O., Ad.at.and A.A.In addition, he supports
that outside of M.S., no other witness placed in police custody with him has
was heard, nor the nurse who had treated him for her injuries.He
Also criticizes the public prosecutor for not having sought
If a medical report had been established when it entered its entry and its release
on sight.The Public Prosecutor did not ask either if he had been
Examined by a doctor during the investigation.He declares that he could not
participate in the investigation carried out by the public prosecutor because he had
omitted to inform him of the decision he had rendered in this case.He explains
that it was not heard by the competent internal authorities.
93. He adds that the investigation was not independently carried out.Se
referring to the argument he has developed with regard to a lack
of the investigation of the investigation, he maintains that the internal authorities did not have
Using independent means to hear the gendarmes authors
presumed ill -treatment in question.
94. The applicant challenges the government's argument that he
would not have shown the diligence required to file a complaint
Before the competent public prosecutor.He maintains that the authorities
competent internal knew or should have known that he had undergone

bad treatments.Referring to the Mocanu affair and others c.Romania

([GC], nos 10865/09 and 2 others, §§ 274, ECDH 2014 (extracts)), he supports

that it is necessary to read his complaint in the light of the psychological effects caused on his

person by the ill -treatment and torture he suffered during his

jail.According to him, it emerges from the medical report established by the MVFT that he

suffers from post-traumatic stress and depression and that it is prey

suicidal thoughts, which would have faded from 2007

approximately.He recalls that he had explained that he had been able to, due to the presence of

supervisors during the visits he received, inform his family or his lawyers

ill -treatment he had suffered.He adds that after his release,

His lawyers had told him that fear led them to refuse to be

involved in his business.

95. Finally, referring to the Baranin and Vuk■evi■ case c.Montenegro,

(nos 24655/18 and 24656/18, §§ 138-149, March 11, 2021), he disputes the argument

of the government according to which the

individual recourse before the CC would be a

Effective internal remedy.

2. Government

96. referring to the Uzun affair (aforementioned, §§ 52, 68, 69 and 70), where the court

judged that the individual appeal before the CC was an internal remedy

Effective, the government argues that it is the same in this case.He attracts

The attention of the court to the fact that the CC, in its decision of March 31, 2016,

noted a violation of the procedural component of article 3 of the Convention.

97. Furthermore, referring to the Mocanu and others (aforementioned, §§ 263

and 264), the government explains that in terms of ill -treatment,
applicants must demonstrate a certain diligence and file a complaint without
delay.He maintains that this is an obligation that the applicant of the species did not
not satisfied.Indeed, the applicant remained inactive between May 2003 - date of
his placement in police custody - and on March 9, 2012, when he filed
A complaint before the public prosecutor.The government adds
that the applicant did not raise such a grievance or before the judge who heard him in
police custody, nor before the court which examined its cause.He notices that a
long period has passed between February 10, 2004, the date on which the person concerned
obtained refugee status in the United Kingdom, and on February 9, 2010, date at
which was examined by the MVFT.According to the government, the applicant
cannot explain why he waited six years before depositing
a complaint before the public prosecutor when he could have filed
complaint earlier.Finally, the government maintains that in this case an investigation
effective was led by the competent internal authorities.

3. Assessment of the Court

has)

Relevant general principles

98. The Court refers to general principles relevant in the matter, such as
that they are stated in particular in the El-Masri c stops.the ex-
Republic Yugoslav of Macedonia ([GC], no 39630/09, §§ 182-185,
CEDH 2012), Mocanu and others (cited above, §§ 316-326), and Jeronovi■s (aforementioned,
§§ 103-106).

99. It emerges from these judgments that, for the general ban, aiming
in particular public officials, torture and sorrows and treatments
inhuman or degrading is effective in practice, there must be a
procedure to investigate the allegations of ill -treatment

inflicted on a person in their hands.

Avcio■lu judgment c.Türki■ye

22

100. It is essentially, through such an investigation, to ensure
the effective application of laws that prohibit torture and sorrows and
inhuman or degrading treatments in business where agents or
state bodies are involved and guarantee that they have to make
accounts concerning the ill -treatment under their responsibility.

101. Whatever the terms of the investigation, the authorities must
act automatically.In addition, to be effective, the investigation must make it possible to identify
and to sanction those responsible.It must also be enough
vast to allow the authorities who are responsible for taking in
consideration not only the acts of state agents who have had
directly and illegally recourse to force, but also all the
circumstances having surrounded them.

102. Although it is an obligation not of a result but of
means, any deficiency of the investigation weakening its ability to establish the
circumstances of the case or the identity of the officials risks
Conclude that it does not meet the required effectiveness standard.

103. Finally, the investigation must be deepened, which means that
authorities must always endeavor to discover what
past and that they should not rely on hasty or bad conclusions
Founded to close the investigation (Bouyid v. Belgium [GC], no 23380/09,
§§ 115-123, ECDH 2015).

b)

Application of general principles aforementioned to the case

104. The Court must now examine the investigation carried out by the prosecutor of
the Republic of Karakoçan following the complaint filed by the applicant
March 9, 2012. She recalls that she does not have the task of examining the
legal developments in domestic law after the decision of
CC of March 31, 2016. In this regard, she recalls that she rejected these
legal developments for non-remedy
internal, within the meaning of article 35 § 1 and 4 of the Convention (paragraph 60 below
above and kuši■ and others c.Croatia (Dec.), no 71667/17, §§ 106-108,
December 10, 2019).However, the Court makes the findings established by the CC
in its decision of March 31, 2016 in relation to the failures of the survey
in question (paragraphs 16-37 above).
105. However, in addition to the fact that the CC considered that the investigation in question
had not been carried out with all the diligence required and that it had not been
sufficient for pe
to identify the possible responsible, the courtyard
underlines other notable shortcomings in the way in which the investigation was
Led by the Karakoçan Republic prosecutor.Thus, he has
conducted any research in order to determine if the applicant had been
examined by a doctor during his placement in police custody or after
this one.The file of the criminal investigation carried out by the prosecutor of the
Republic contains no medical report established in the name of the applicant.THE
applicant does not seem to have been examined by a doctor during his

Placement in police custody or after it.Besides, the Court notes
that no part of the file also indicates that the applicant was submitted
to a medical examination during his placement in detention at the remand center

de Bingöl, where he remained until his release on July 22, 2003. In addition, she
note that the public prosecutor heard witnesses and authors
alleged ill -treatment without drawing from these hearings of
consequences relating to the reality of the facts.In addition, the Court observes
that the hearing of the nurse by whom the interested party declares to have been treated would have
could make it possible to determine whether such a care was linked to any
ill -treatment he would have suffered during his police custody.Moreover,
The public prosecutor did not hear the members of the
family of the applicant nor the people living in the same village as the interested party,
except M.S. the Court considers that such hearings could have made it possible to
Confirm or deny the applicant's deposition and allegations.THE
Public prosecutor did not undertake either to hear the lawyers
of the applicant for the purpose of checking if he was telling the truth when he claimed that
The police were present when he had maintained himself with
his lawyer and with his family.In the same vein, the court observes
finally that the public prosecutor could have sought to know why
The applicant's lawyers had not filed a complaint at the time - again
Close to the facts-of the release of it.
106. In short, in view of the elements of evidence subject to its appreciation,
the court notes that many acts of communication, notification,
information and transmission of documents were made by the
Karakoçan Republic prosecutor following the complaint filed by
the applicant on March 9, 2012 (paraphe 12 above), by the various
police authorities and other judicial authorities (paragraphs 18, 21-
26, and 35-37 above).These different acts make it possible to affirm that
Obviously the efforts were made by the national authorities.But the

Court notes that these acts were not able to shed light on the
allegations of the applicant according to which he had been the victim of bad
Treatments during police custody (compare with Bi■kin c. Türkiye,
No 45403/99, § 70, January 10, 2006).
107. Having regard to the conclusion of the CC in its decision of March 31, 2016,
to which the Court subscribes, and in the light of the failures it has noted
above, the Court considers that the competent national authorities have
failed in their obligation to conduct an adequate and effective investigation in the
Looking at the procedural component of Article 3 of the Convention.
108. As a result, there was a violation of the procedural component of article 3 of the
Convention.
III.On the application of article 41 of the agreement
109. Under the terms of article 41 of the Convention:
Avcio■lu judgment c.Türki■ye
24
"If the Court declares that there has been a violation of the Convention or its protocols, and if
The domestic law of the high contracting part only allows to erase imperfectly
The consequences of this violation, the Court grants the injured part, if applicable, a
fair satisfaction.»»
A. Too bad
110. The applicant requests 11,500 euros (EUR) for damage
morale he considers to have suffered.
111. The government considers this excessive sum.It would indeed be
According to him contrary to the jurisprudence of the court as he presented it in
his observations.
112. The Court judged that the sum allocated to the applicant by the Court
constitutional was lower than that which it grants for its part in

similar circumstances.In addition, she recalls that when the applicant has

Already, as part of an internal appeal, given recognized by the courts

national violation of which he complains and obtained compensation from them, the

amount allocated by the Court under moral damage may be less than

The one who emerges from his case law (Darraj, aforementioned, § 59, Mili■ and Nikezi■,

aforementioned, § 110, and ■lker Deniz Yücel, cited above, § 170).Having regard to the amount already

granted to the applicant by the Constitutional Court, the Court therefore considers

that there should be to the R

Equesting EUR 10,000 for moral damage, more

Any amount that can be due to a tax on this amount.

B. Fees and expenses

113. The applicant does not claim any sums for costs and expenses

that he would have engaged in the procedure carried out before the Court.

114. Consequently, the government proposes that no sum

be granted.

115. noting that the applicant does not make any request in this regard,

The Court does not grant him any amount under the costs and expenses.

C. Another recovery

116. The applicant's lawyer invites the Court, from the angle of article 46 § 1

of the Convention, to make several declarations and to give several

directives to the committee of ministers.So he asks the court to enjoin

in particular the government: a) to apologize and recognize

the failures of the survey conducted concerning the allegations of his client;

b) to order the defendant state to conduct a prompt, effective and

complete.He also asked to enjoin the Türkiye to apologize

public due to violations observed in this case (McMichael

vs.United Kingdom, February 24, 1995, § 105, series A No 307-B, Kavala c.Türkiye

(Sackage) [GC], no 28749/18, § 175, July 11, 2022).

Avcio■lu judgment c.Türki■ye

25

117. Although the court may in some cases indicate the precise measurement,

compensatory or other, that the defendant state must take, it is at the Committee

ministers, under Article 46 § 2 of the Convention, which

to assess the implementation of these measures (Ilgar Mammadov

vs.Azerbaijan (failure in failure) [GC], no 15172/13, §§ 154 and 155,

May 29, 2019 as well as the references mentioned).

118. In this case, she noted a violation of the procedural component of

Article 3 of the Convention.Beyond that, the Convention does not conduct the Court to

formulate the injunctions and declarations claimed by the applicant's lawyer

(McMichael, aforementioned, § 106, and compare with Moreira Ferreira v. Portugal

(no 2) [GC], no 19867/12, § 102, July 11, 2017 and Bochan v.Ukraine (no. 2)

[GC], no.22251/08, § 33, ECHR 2015).

By these reasons, the court, unanimously,

1. declares the request admissible as to the grievance drawn from article 3 of the

Convention and relating to the effectiveness of the criminal investigation and inadmissible for

the extra ;

2. said that there was a violation of the procedural component of article 3 of the

Convention;

3. Say

a) that the defendant state must pay to the applicant, within three

months from the date on which the judgment will have become final

In accordance with article 44 § 2 of the Convention, EUR 10,000 (ten

a thousand euros), the more any amount that can be due as a tax on this sum, for moral damage, to be converted into state currency defendant at the rate applicable on the date of the settlement;

b) that from the expiration of the said period and until payment, this amount will be increased by simple interest at a rate equal to that of the Ease of marginal loan from the applicable European Central Bank During this period, increased by three percentage points;

4. Reject the equitable satisfaction request for the surplus.

Made in French, then communicated in writing on October 17, 2023, in Application of article 77 §§ 2 and 3 of the regulation.

Hasan Bak■rc■

Arnfinn Bårdsen

Clerk

President