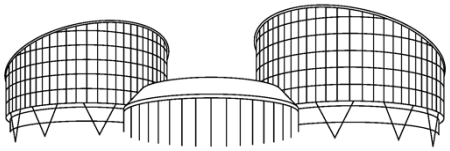

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF SOYTEMİZ v. TURKEY

(Application no. 57837/09)

JUDGMENT

STRASBOURG

27 November 2018

FINAL

27/02/2019

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 Soytemiz v. Turkey,

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

Robert Spano, *President,*
Ledi Bianku,
Işıl Karakaş,
Valeriu Griţco,
Jon Fridrik Kjølbro,
Stéphanie Mourou-Vikström,
Ivana Jelić, *judges,*

and Stanley Naismith, *Section Registrar,*

Having deliberated in private on 6 November 2018,

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

PROCEDURE

1. The case originated in an application (no. 57837/09) against the Republic of Turkey lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Turkish national, Mr Hakan Soytemiz ("the applicant"), on 8 October 2009.

2. The applicant was represented by Mr F.A. Tamer, a lawyer practising in Istanbul. The Turkish Government ("the Government") were represented by their Agent.

3. The applicant alleged, in particular, that he had not had a fair trial, in that police officers had unlawfully removed his officially appointed lawyer and subsequently coerced him into making incriminatory statements which had later been used by the trial court to secure his conviction.

4. On 25 November 2010 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1971 and lives in Çorum.

6. On 17 March 2004 the applicant was arrested and taken into police custody along with another person, on suspicion of aiding and abetting an illegal organisation, the TDP (*Turkish Revolutionary Party*).

7. On 18 March 2004, before his police statement was taken, the applicant asked for the assistance of a lawyer. In accordance with Article 138 of the former Code of Criminal Procedure, in force at the relevant time, a defence lawyer, A.E.D., was appointed by the Bar Association to represent him. He arrived at the police station where the applicant was being held. The applicant and A.E.D. had a private meeting to discuss the case that lasted for eight minutes. The applicant agreed to A.E.D. representing him.

8. On 18 March 2004 the applicant's police interview took place in the presence of A.E.D. at the Anti-Terrorist Branch of the Istanbul Security Headquarters. According to the written interview record, the applicant replied to certain questions concerning his background and his alleged affiliation to the TDP. He did not admit to any affiliation to the organisation. Following the last question, the applicant stated that M.K., one of the alleged members of the TDP at the time, had asked him to provide him with a fake identity card in order to escape abroad and he had provided him with the identity information of his brother. The police officers terminated the interview at that point as they believed that the lawyer was interfering with the applicant's free will by saying "remain silent, do not make such statements, do not answer this question". The lawyer, alleging that the police officers were recording phrases that had not been said by the applicant, also requested that the police officers remove that part of the applicant's statement.

9. Following the lawyer's intervention the police officers took him out of the interview room allegedly under threat and would not allow him to represent the applicant any more. As a result, the lawyer did not sign the interview record. According to the applicant's submissions to the Court, after his lawyer was forced to leave, the police officers coerced him into signing self-incriminating statements which he had made while his lawyer was present, by indicating to him that they would involve his brother in the case if he refused to sign the statements. The applicant signed his statements.

10. On 20 March 2004 at the request of the police officers, a new lawyer was appointed for the applicant. On the same day, the police resumed the interview and took additional statements from the applicant in the presence of his new lawyer. The applicant once again denied his affiliation to an illegal organisation. He stated that M.K. had stayed at his house on several occasions. On 16 March 2004, when at his house, M.K. had wanted to visit a friend. Having explained that the police were looking for him, he had asked if the applicant's wife could accompany him so he would not be noticed by the police. Subsequently, the applicant had allowed them to visit the friend together.

11. On 21 March 2004 the applicant was brought before the public prosecutor and investigating judge respectively. He exercised his right to

remain silent before the public prosecutor. He then gave statements to the investigating judge in the presence of a lawyer and retracted his police statements, alleging that he had been compelled by police officers to make self-incriminating statements. The investigating judge ordered the applicant's release.

12. On 22 March 2004 the applicant's detention was ordered *in absentia*.

13. On 29 March 2004 the public prosecutor at the Istanbul State Security Court filed a bill of indictment against the applicant, charging him with aiding and abetting an illegal organisation under Article 169 of the former Criminal Code.

14. On 20 April 2004 the applicant was remanded in custody.

15. At a hearing held on 24 November 2004 the applicant gave evidence in the presence of his lawyer and denied the charges against him, arguing that he had not aided any member of an armed organisation. He accepted the statements he had given to the investigating judge and the fact that he had exercised his right to remain silent before the public prosecutor. However, he denied his statements to the police, stating that they had frequently recorded things he had not said, as a result of which his lawyer had confronted them and had then been removed from the interview. According to the applicant, after his lawyer's removal, the police had added to his statements the fact that he had passed the identity information of his brother to his co-defendant M.K. At the same hearing, the court noted that the investigation file relating to the allegations that the police officers had ill-treated the accused and had not allowed them to see their lawyers had been sent to the Fatih public prosecutor's office. It accordingly decided to request a copy of that investigation file.

16. At a hearing held on 6 July 2005 the Istanbul Assize Court decided to join the case pending before it to proceedings before the Erzurum Assize Court, to which it sent the case file.

17. On 4 March 2005 the applicant was released pending trial.

18. On 16 March 2006 the Erzurum Assize Court acquitted the applicant, finding that there was insufficient evidence to convict him.

19. On 20 November 2006 the Court of Cassation quashed the judgment, concluding that the elements of the crime had been established. The case was accordingly remitted to the Erzurum Assize Court.

20. A document provided by the PTT (the postal, telegraph and telephone service) to the Erzurum Assize Court shows that on 26 January 2007 the forthcoming hearing date was served on the secretary of the applicant's lawyer.

21. At a hearing held on 24 December 2007 the applicant, at his request, made his final submissions to the Erzurum Assize Court about the decision of the Court of Cassation. At the end of the hearing the court notified him that the next hearing would take place on 27 December 2007.

22. On 27 December 2007 the first-instance court convicted the applicant as charged and sentenced him to three years' imprisonment in the absence of both him and his lawyer. In delivering its judgment, the court relied on his partial confession, the false identity card drawn up in his brother's name, the arrest and identification reports. The court held that the applicant had harboured a member of an illegal organisation, M.K., and had provided him with the identity information of his brother, E.S. It further noted that on 27 February 2004 police officers had arrested M.K. at Adana Airport in possession of a false identity card, drawn up in the applicant's brother's name, while he had been trying to escape to the Turkish Republic of Northern Cyprus.

23. In his appeal, the applicant alleged that he had not been notified of the hearing date and argued that he had been convicted on the basis of abstract police statements obtained under coercion.

24. On 2 March 2009 the Court of Cassation upheld the conviction.

25. On 8 April 2009 the judgment was deposited with the registry of the first-instance court.

Criminal proceedings against the police officers

26. On an unspecified date the applicant, along with the lawyer concerned, lodged a complaint alleging that the police officers who had participated in his interview had unlawfully interfered with the questioning and had therefore breached his defence rights.

27. On 22 October 2004 the Fatih public prosecutor filed a bill of indictment against the relevant police officers, accusing them of ill-treatment and misconduct in office. The prosecutor stated that they had ill-treated the applicant and other suspects in police custody between 17 and 21 March 2004. It further held that they had not allowed the lawyers to examine certain documents, had not given them copies of those documents and had terminated the interviews on the grounds that the lawyers had interfered with the free will of the suspects and reminded them of their right to remain silent in the course of the interviews.

28. At a hearing held on 2 March 2005 before the Fatih Criminal Court of General Jurisdiction, the applicant's officially appointed lawyer A.E.D. was heard as a complainant. He stated that on the day in question he had been representing another suspect and the police had told him that he could not look that suspect in the face. Subsequently, during the course of the applicant's interview when he had informed him that he had the right to remain silent, one of the officers had shouted at him saying that he was "ill-mannered" (*terbiyesizlik*). Another police officer had allegedly told him that he had "overstepped the mark" (*çizmeyi aşmak*) and had taken him out of the interview room. Two other lawyers also testified as complainants and

stated that the police had either not allowed them to see the suspects or had prevented them from examining certain documents in the investigation file.

29. On 29 September 2010 the Fatih Criminal Court of General Jurisdiction discontinued the case, finding that it was time-barred pursuant to Article 102 of the former Criminal Code (Law no. 765) and Article 223 of the new Code of Criminal Procedure (Law no. 5271). The parties did not appeal and the judgment became final on 14 December 2010.

II. RELEVANT DOMESTIC LAW

30. A description of the relevant domestic law concerning the right of access to a lawyer may be found in *Salduz v. Turkey* ([GC] no. 36391/02, §§ 27-31, ECHR 2008).

31. On 15 July 2003 Law no. 4928 repealed Article 31 of Law no. 3842, thus the restriction on an accused's right of access to a lawyer in proceedings before the State Security Courts was lifted.

32. The relevant provisions of the former Code of Criminal Procedure (Law no. 1412), in force at the time of the applicant's arrest, provided as follows:

Article 136

"At all stages of the proceedings the suspect or accused is entitled to seek the advice of, and be represented by, one or more counsel. Where he or she has a legal guardian, he or she may also select counsel for the accused.

During questioning by a senior police officer [or] officers, only one defence lawyer may be present. During procedures conducted by the public prosecutor's office, this number shall not exceed three.

The right of the lawyer to communicate with the suspect or accused, and to be present and provide him [or her] with legal assistance during the taking of a statement or during questioning shall not be impeded or restricted at any stage of the investigation, including investigations carried out by the police."

Article 137

"Counsel may be chosen from those persons having the right to act as advocates or solicitors (*dava vekili*)."

Article 138

"In cases where the suspect or accused declares that he or she is unable to choose his or her own counsel, counsel shall be appointed by the Bar on his or her behalf, if he or she so requests. If the suspect or accused who does not have counsel is a child or an individual who is disabled to the extent that he or she cannot make his own defence, or is deaf or mute, then counsel shall be appointed [on his or her behalf]."

Article 139

"Where the accused later appoints a lawyer [of his or her own choosing], the duties of the State-funded counsel previously appointed by the Bar Association will come to an end."

Article 144

"Arrested or detained individuals may have a meeting with their lawyers at any time and in an environment where other individuals are unable to hear the conversation, without power of attorney being required. Correspondence between such persons and their lawyers shall not be monitored."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 §§ 1 and 3 (c) OF THE CONVENTION

33. The applicant complained of a violation of Article 6 § 3 (c) of the Convention, submitting that the police had unlawfully removed his officially appointed lawyer and had coerced him into making incriminatory statements in the absence of that lawyer which had later been used by the trial court to convict him.

34. The relevant parts of Article 6 §§ 1 and 3 (c) of the Convention read as follows:

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

3. Everyone charged with a criminal offence has the following minimum rights:

...

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;"

35. The Government contested that argument.

A. Admissibility

36. The Court notes that this complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

37. The applicant alleged that he had been coerced into signing incriminatory statements in the absence of a lawyer after the police had unlawfully removed his officially appointed lawyer and terminated his interview. He further maintained that the trial court had relied on the statements made in the absence of a lawyer to secure his conviction.

38. The Government submitted that the applicant had had the assistance of his officially appointed lawyer in private before giving statements to the police. Even after the lawyer's removal, he had been assisted by another lawyer during his second interview with the police. Moreover, those two lawyers had been present when he had given statements to the public prosecutor and investigating judge on 21 March 2004. Furthermore, he had been represented by a lawyer throughout the trial stage, had been entitled to submit evidence on his behalf, could comment on the evidence introduced in the case file and could request that the trial court collect further evidence. Moreover, the trial court had taken into account not only his statements to the police, but a number of pieces of strong evidence proving that he was guilty. As a result, no harm had been done on account of the removal of the first officially appointed lawyer.

1. General principles

39. The general principles with regard to access to a lawyer, the right to remain silent, the privilege against self-incrimination, and the relationship of those rights to the overall fairness of the proceedings under the criminal limb of Article 6 of the Convention can be found in the recent judgment in the case of *Ibrahim and Others v. the United Kingdom* ([GC], nos. 50541/08 and 3 others, §§ 255-74, 13 September 2016).

2. The Court's assessment

40. The Court observes at the outset that the present case differs from *Salduz* (cited above), where the restriction on the applicant's right of access to a lawyer stemmed from Law no. 3842 and was thus systemic. In other words, there was no blanket restriction on the applicant's right of access to a lawyer during his police custody since at the time of his arrest Law no. 3842, which provided for a systemic restriction on access to a lawyer in respect of people who were accused of committing an offence that fell within the jurisdiction of the State Security Courts, had already been amended. For that reason, from 15 July 2003 onwards it was legally possible for suspects to have a lawyer when giving statements to the police, public prosecutor and investigating judge provided that they had asked for representation.

41. Turning to the circumstances of the present case, the Court notes that it is undisputed that the Bar Association appointed the lawyer A.E.D. to

represent the applicant in line with Article 138 of the former Code of Criminal Procedure, as the applicant had asked for the assistance of a lawyer when giving statements to the police on 18 March 2004. Following their meeting held in private which lasted for eight minutes, A.E.D. took part in the applicant's police interview as his lawyer.

42. Furthermore, it is also undisputed between the parties that the police officers terminated the interview when the applicant's officially appointed lawyer reminded him of his right to remain silent and advised him not to answer a certain question or respond in a certain way (see *Yaremenko v. Ukraine*, no. 32092/02, § 78, 12 June 2008). Subsequently, the police officers removed the officially appointed lawyer A.E.D. from the case and allegedly forced the applicant to sign the previously recorded incriminatory statements. On 20 March 2004 another lawyer was appointed for the applicant and that lawyer attended his second police interview which took place on the same day.

43. The Court recalls that the right of everyone "charged with a criminal offence" to be effectively defended by a lawyer requires that, as a rule, access to a lawyer should be provided as from the moment that a "criminal charge" exists within the meaning of the Court's case-law (see *Ibrahim and others*, cited above, § 253, and *Simeonovi v. Bulgaria* [GC], no. 21980/04, § 114, 12 May 2017). The Court has also recognised that the presence of a lawyer during the investigative actions, including police questioning, is an inherent aspect of the safeguard enshrined in Article 6 § 3 (c) of the Convention (see *Karabil v. Turkey*, no. 5256/02, § 44, 16 June 2009; *Ümit Aydın v. Turkey*, no. 33735/02, § 47, 5 January 2010; *Boz v. Turkey*, no. 2039/04, § 34, 9 February 2010; and *Navone and Others v. Monaco*, nos. 62880/11 and 2 others, §§ 78-79, 24 October 2013) as it is difficult to see how the specific services associated with "legal assistance", which Article 6 § 3 (c) of the Convention speaks of, may be exercised in the absence of a lawyer.

44. Therefore, the right to be assisted by a lawyer requires not only that the lawyer is permitted to be present, but also that he is allowed to actively assist the suspect during, *inter alia*, the questioning by the police and to intervene to ensure respect for the suspect's rights (see *Brusco v. France*, no. 1466/07, § 54 *in fine*, 14 October 2010; *Aras v. Turkey (no. 2)*, no. 15065/07, §§ 39-42, 18 November 2014; and *A.T. v. Luxembourg*, no 30460/13, § 87, 9 April 2015) as a person charged with a criminal offence should be able to obtain the whole range of services specifically associated with legal assistance, not only in the course of trial but also during the pre-trial stage given its particular importance for the preparation of the criminal proceedings (see *Dvorski v. Croatia* [GC], no. 25703/11, § 78, ECHR 2015).

45. Moreover, the right to be assisted by a lawyer applies throughout and until the end of the questioning by the police, including when the statements

taken are read out and the suspect is asked to confirm and sign them, as assistance of a lawyer is equally important at this moment of the questioning. The lawyer's presence and active assistance during questioning by police is an important procedural safeguard aimed at, among other things, preventing the collection of evidence through methods of coercion or oppression in defiance of the will of the suspect and protecting the freedom of a suspected person to choose whether to speak or to remain silent when questioned by the police.

46. The Court also recalls that the police are, in principle, under an obligation to refrain from or adjourn questioning in the event that a suspect has invoked the right to be assisted by a lawyer during the interrogation until a lawyer is present and is able to assist the suspect. The same considerations also hold true in case the lawyer has to – or is requested to – leave before the end of the questioning of the police and before the reading out and the signing of the statements taken (see *Pishchalnikov v. Russia*, no. 7025/04, §§ 74 and 79, 24 September 2009, and *Kulik v. Ukraine* [Committee], no. 34515/04, §§ 186-87, 2 February 2017).

47. Turning back to the circumstances of the present case, the police terminated the interview of the applicant and took the applicant's lawyer out of the interview room. This was done after the lawyer had tried to assist the applicant during the questioning and after the lawyer had alleged that the police were recording phrases that had not been said by the applicant. It was only after the lawyer had left the interview room and the applicant was no longer assisted by a lawyer that the applicant was made to sign the interview record, according to the applicant as a result of coercion from the police. In other words, the statements were signed by the applicant in the absence of the lawyer chosen by him. In these circumstances, the Court will treat the present application as one of denial of access to a lawyer and apply the principles developed in *Ibrahim and Others* (cited above, §§ 255-274).

(a) Whether there were compelling reasons to restrict the applicant's right to a lawyer

48. In circumstances such as those obtaining in the present case, the Court will first ascertain whether there were compelling reasons to restrict the applicant's right of access to a lawyer which took the form of the removal and replacement of the applicant's lawyer A.E.D. on 18 March 2004. In that connection, it notes that the Government did not dispute the applicant's contention that the removal had been unlawful as there was no basis in Turkish law allowing the police to remove and replace an officially appointed lawyer. At this point, the Court points to Article 136 § 3 of the former Code of Criminal Procedure, in force at the time of the applicant's interview, which clearly stipulated that "... legal assistance during the taking of a statement or during questioning shall not be impeded or restricted at

any stage of the investigation, including investigations carried out by the police."

49. In the instant case, however, the officially appointed lawyer was removed and replaced for what appears to be a lawful exercise of his profession, a fact which has not been contested by the Government.

50. In the same vein, the Court also attaches importance to the fact that the Fatih public prosecutor indicted the police officers, *inter alia*, for their interference with the applicant's questioning and charged them with misconduct in office on the basis of those acts.

51. In view of the above, the Court considers that the Government have failed to demonstrate that there were compelling reasons for the removal and replacement of the applicant's officially appointed lawyer.

(b) The fairness of the proceedings as a whole

52. The Court will now examine whether the overall fairness of the criminal proceedings against the applicant was prejudiced by the restriction of the applicant's right of access to a lawyer on 18 March 2004 when he had given statements to the police and the subsequent admission by the trial court of those statements to secure his conviction. As there were no compelling reasons to restrict the applicant's right of access to a lawyer when he was giving statements to the police, the Court must apply a very strict scrutiny to its fairness assessment (see *Dimitar Mitev v. Bulgaria*, no. 34779/09, § 71, 8 March 2018). More importantly, the onus is on the Government to demonstrate convincingly why, exceptionally and in the specific circumstances of the case, the overall fairness of the trial was not irretrievably prejudiced by the restriction on access to legal advice (see *Simeonovi*, cited above, § 132, and *Ibrahim and Others*, cited above, § 265).

53. The Court reiterates that in determining whether the proceedings as a whole were fair, regard must be had to whether the rights of the defence have been respected (see *Ibrahim and Others*, cited above, § 274 for a list of non-exhaustive list of factors when assessing the impact of procedural failings at the pre-trial stage on the overall fairness of the criminal proceedings), in particular whether the applicant was given the opportunity of challenging the admissibility and authenticity of the evidence and of opposing its use (see *Panovits*, cited above, § 82). In addition, the quality of the evidence must be taken into consideration, including whether the circumstances in which it was obtained cast doubt on its reliability or accuracy. Indeed, where the reliability of evidence is in dispute the existence of fair procedures to examine the admissibility of the evidence takes on an even greater importance (see *Pavlenko*, cited above, § 116).

54. In the present case, the Court's examination will focus on two of those factors, namely the applicant's privilege against self-incrimination and the trial court's use of statements given by him to the police.

55. In that connection, it observes once again that the Fatih public prosecutor indicted the police officers for ill-treating the applicant and other suspects held in custody from 17 to 21 March 2004. This fact alone is sufficient of itself to constitute a *prima facie* case in support of the applicant's above contention and necessitates an answer by the trial court, irrespective of the fact that the criminal proceedings against the police officers became time-barred on 29 September 2010, that is, after the applicant's conviction became final. All the more so as the trial court relied on, *inter alia*, the applicant's police statements when convicting him.

56. Nevertheless, neither the trial court nor the Court of Cassation mentioned the removal of A.E.D. or the applicant's allegations that he had been coerced into signing his first police statements. Thus, the applicant was stripped of the important procedural safeguards that are, at least in theory, capable of providing a meaningful response to his grievances and thus remedying his situation at the domestic level. In addition to that, in convicting him, the trial court relied on his statements to the police without examining their admissibility at the trial. Likewise, the Court of Cassation dealt with this issue in a formalistic manner and failed to remedy this shortcoming (see *Bayram Koç v. Turkey*, no. 38907/09, § 23 *in fine*, 5 September 2017). Therefore, neither the assistance provided subsequently by a lawyer nor the adversarial nature of the ensuing proceedings were sufficient to remedy the defects which had occurred earlier. In view of the above, the Court considers that the Government have not demonstrated that the procedural shortcomings at the initial stage of the investigation did not irretrievably prejudice the applicant's defence rights (*Salduz*, cited above, § 58; and *Ibrahim and Others*, cited above, § 274).

57. Consequently, the Court considers that the use by the trial court of the applicant's first statements to the police without subjecting them to scrutiny or operating the necessary procedural safeguards unduly encroached upon the applicant's right to silence and privilege against self-incrimination, irretrievably prejudiced his defence rights and undermined the fairness of the proceedings as a whole.

58. The Court therefore finds that there has been a violation of Article 6 §§ 1 and 3 (c) of the Convention.

II. ALLEGED VIOLATION OF ARTICLE 6 § 1 OF THE CONVENTION

59. The applicant alleged under Article 6 § 1 of the Convention that neither he nor his lawyer had been notified of the hearing date and consequently they had not been given an opportunity to discuss the reversal decision of the Court of Cassation or to make final submissions before the conviction.

60. The Government contested the allegations.

61. The Court considers that this complaint is admissible. However, having regard to the facts of the case and its finding of a violation of Article 6 §§ 1 and 3 (c) of the Convention above, the Court considers that it has examined the main legal question raised in the present application. It concludes therefore that there is no need to give a separate ruling on the applicant's complaint under this head (see, *mutatis mutandis*, *İrmak v. Turkey*, no. 20564/10, § 58, 12 January 2016).

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

62. 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."

63. The applicant did not submit any claim for just satisfaction as required under Rule 60 of the Rules of Court. In the circumstances of the present case, the Court considers that there is no exceptional situation, within the meaning of its case-law (see *Nagmetov v. Russia* [GC], no. 35589/08, §§ 61 and 78-82, 30 March 2017), warranting the making of an award in that respect.

64. The Court notes that Article 311 of the Code of Criminal Procedure provides for the possibility to reopen proceedings. It considers that the most appropriate form of redress would be a retrial of the applicant in accordance with the requirements of Article 6 of the Convention, should he so request (see *Bayram Koç*, cited above, § 29).

65. The applicant claimed 1,670 euros (EUR) for the costs and expenses incurred before the Court. In support of those claims, he submitted a time sheet showing that his legal representative had carried out eight hours' legal work and had incurred postal and translation expenses.

66. The Government contested those claims, arguing that the applicant had failed to submit any documents, receipts or a fee agreement in support of his claims.

67. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum. In this connection, the Court reiterates that time sheets have been accepted in the past as supporting documents in a number of cases (see *Beker v. Turkey*, no. 27866/03, § 68, 24 March 2009; *Çoşelav v. Turkey*, no. 1413/07, § 89, 9 October 2012; *Amine Güzel v. Turkey*, no. 41844/09, § 50, 17 September 2013; and *Yiğitdoğan v. Turkey* (no. 2), no. 72174/10, § 76, 3 June 2014). In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to

award the sum claimed in full covering costs for the proceedings before the Court.

Default interest

68. The Court considers it appropriate that the default interest rate should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been a violation of Articles 6 §§ 1 and 3 (c) of the Convention;

3. *Holds* that there is no need to examine the complaint under Article 6 § 1 of the Convention;

4. *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 1,670 (one thousand six hundred and seventy euros), plus any tax that may be chargeable to the applicant, in respect of costs and expenses, 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 November 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stanley Naismith	Robert Spano
Registrar	President