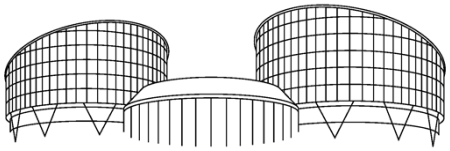

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF AFET SÜREYYA EREN v. TURKEY

(Application no. 36617/07)

JUDGMENT

STRASBOURG

20 October 2015

FINAL

14/03/2016

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

In the case of Afet Süreyya Eren v. Turkey,

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

Paul Lemmens, *President,*
Işıl Karakaş,
Nebojša Vučinić,
Helen Keller,
Ksenija Turković,
Egidijus Kūris,
Jon Fridrik Kjølbro, *judges,*
and Stanley Naismith, *Section Registrar,*

Having deliberated in private on 22 September 2015,

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

PROCEDURE

1. The case originated in an application (no. 36617/07) 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, Ms Afet Süreyya Eren ("the applicant"), on 25 July 2007.

2. The applicant was represented by Mrs G. Tuncer, a lawyer practising in Istanbul. The Turkish Government ("the Government") were represented by their Agent.

3. The applicant alleged, in particular, that the ill-treatment inflicted on her by a number of police officers in police custody was in breach of her rights guaranteed by Articles 3, 6 and 13 of the Convention.

4. On 20 September 2010 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1974 and lives in Istanbul.

6. On 7 June 1999 the applicant and a number of other suspects were taken into police custody by officers from the Security Branch of the Istanbul Security Headquarters (*Güvenlik Şube Müdürlüğü*) on suspicion of membership of the DHKP-C (the abbreviation for the Revolutionary

People's Liberation Party/Front, an illegal organisation). The applicant alleges that she was subjected to torture by police officers for four days.

7. On 9 June 1999 the applicant was taken to a forensic doctor, who noted that the applicant had complained that she had been hung by her arms for approximately ten minutes and that her head had been banged against a wall. The medical report indicates that she had a scrape under her left armpit, a 7-8 cm-long large brown macule on her right forearm and a 3 cm-long oedema on her forehead above the nose.

8. On 11 June 1999 the applicant was brought before the Istanbul public prosecutor and then before a judge at the Istanbul State Security Court. Before both authorities she denied all accusations against her and complained that she had been subjected to ill-treatment while in police custody. She was subsequently detained pending trial.

9. On 14 June 1999 the applicant was examined by the prison doctor, who reported a 4x5 cm mark on her right forearm and a swelling on her right clavicle. According to the medical report, the applicant had stated that her arms felt painful and she had a headache.

10. On 18 June 1999 the applicant filed a complaint with the public prosecutor's office in Istanbul against the police officers of the Security Branch of the Istanbul Security Headquarters, accusing them of having tortured her. She stated in particular that she had been hung by her arms and had received blows to her head.

11. On 8 June 2001 the Fatih public prosecutor issued a decision not to prosecute. The public prosecutor considered that the applicant had not been questioned as a suspect and that there was no evidence showing that the accused police officers had committed the crime of torture. The applicant claims that she was not notified of this decision.

12. On an unspecified date the investigation was reopened. Accordingly, on 18 April 2003 the applicant's statement was taken by a public prosecutor in the prison where she was detained on remand. The applicant stated that at some time in June 1999 she had been taken into custody at the Anti-Terror Branch of the Istanbul Security Headquarters, where she had been ill-treated for seven to eight days. She noted in particular that she had been undressed, threatened with rape, beaten and hung by her arms by the police officers. The applicant stated that she had been unable to use her arms for approximately one month subsequent to her detention in police custody. She further stated that she could identify the police officers in question.

13. On 6 August 2003 the Fatih public prosecutor filed an indictment with the Fatih Criminal Court, charging two police officers, A.T. and Z.T., under Article 245 of the former Criminal Code with inflicting ill-treatment on the applicant while in police custody between 7 and 10 June 1999.

14. On 8 September 2005 the Fatih Criminal Court considered that it lacked jurisdiction to hear the case. The court held that the accusations against A.T. and Z.T. could not be qualified as ill-treatment within the

meaning of Article 245 of the former Criminal Code but should be qualified rather as torture under Article 243 of the same Code. The court therefore ordered the transfer of the case to the competent court.

15. The case was referred to the Istanbul Assize Court, which on 22 November 2005 also held that it lacked jurisdiction. It held that in order for Article 243 of the former Criminal Code to apply, the acts of ill-treatment or torture had to be inflicted with the intention to extract information. The court held that the applicant had complained about having been subjected to torture, but she had not alleged that the intent behind such acts had been to extract information from her. The complaint therefore fell under Article 245 of the former Criminal Code and accordingly within the jurisdiction of the Fatih Criminal Court. Consequently, the court referred the case to the Court of Cassation to resolve the jurisdictional dispute.

16. On 2 October 2006 the Court of Cassation held that the case fell within the jurisdiction of the Istanbul Assize Court.

17. On 6 March 2007 the Istanbul Assize Court held a hearing in the case during which the applicant joined the proceedings as a civil party. At the same hearing, the applicant made statements to the court. During her examination, she identified Z.T. in the courtroom as one of the police officers who had interrogated and tortured her. The applicant stated that she had been held at two different facilities while in custody. According to her statements to the court, at the first facility she had been beaten; at the second facility, she had been subjected to various forms of torture, including reverse hanging and sexual harassment by around ten police officers. She had been stripped naked and threatened with rape in front of her sister, and she had been sprayed with pepper gas. At the end of the hearing, the Istanbul Assize Court discontinued the proceedings against the accused police officers on the ground that the prosecution of the offences proscribed by Articles 243 and 245 of the former Criminal Code had become time-barred (the period being seven years and six months at the relevant time).

18. On an unspecified date the applicant lodged an appeal against the judgment of 6 March 2007.

19. On 31 January 2008 the Court of Cassation rejected the applicant's appeal and upheld the judgment of the Istanbul Assize Court.

II. RELEVANT DOMESTIC LAW AND PRACTICE

20. A description of the domestic law and practice concerning prosecution for ill-treatment in force at the material time can be found in *Batı and Others v. Turkey*, nos. 33097/96 and 57834/00, §§ 96-98, ECHR 2004-IV (extracts).

THE LAW

I. ALLEGED VIOLATION OF ARTICLES 3, 6 AND 13 OF THE CONVENTION

21. The applicant alleged under Articles 3, 6 and 13 of the Convention that she had been subjected to ill-treatment while in police custody first at the Security Branch and subsequently at the Anti-Terrorism Branch of the Istanbul Security Headquarters, and that the authorities had failed to carry out an effective investigation into her allegations of ill-treatment.

22. The Court considers that these complaints should be examined from the standpoint of Article 3 alone (see *Mesut Deniz v. Turkey*, no. 36716/07, § 36, 5 November 2013, and *Uğur v. Turkey*, no. 37308/05, §§ 77-78, 13 January 2015). Article 3 of the Convention reads:

> "No one shall be subjected to torture or to inhuman or degrading treatment or punishment."

A. Admissibility

23. The Government argued that the application should be rejected for non-exhaustion of domestic remedies, on the ground that the applicant had failed to raise her complaints before the domestic courts.

24. The applicant stated that she had lodged a criminal complaint against the perpetrators, upon which criminal proceedings were instituted. She further maintained that she had lodged an appeal against the judgment of the Istanbul Assize Court with the Court of Cassation.

25. The Court observes that, contrary to the Government's assertion, the applicant brought her complaints to the attention of the national authorities on many occasions (see paragraphs 8, 10, 12, 17 and 18 above). The Court therefore rejects the Government objection.

26. The Court notes that the application 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

1. The responsibility of the respondent State in the light of the substantive aspect of Article 3 of the Convention

27. The applicant submitted that she had been subjected to various forms of ill-treatment amounting to torture while detained in police custody. She submitted, in particular, that she had been beaten, hung by her arms, threatened with rape and subjected to sexual harassment.

28. The Government submitted that the applicant's allegations of ill-treatment were unsubstantiated. They maintained that the injuries observed on the applicant's body had originated in the legitimate use of force by the police as the applicant had resisted the police officers' attempts to arrest her. They further argued that the applicant had herself inflicted certain injuries on her body during an uproar which broke out in the custody suite in which she had been placed following her arrest, when the detainees hit the walls with their hands and attempted to break the iron partitions.

29. The Court reiterates that allegations of ill-treatment must be supported by appropriate evidence (see, in particular, *Tanrıkulu and Others v. Turkey* (dec.), 45907/99, 22 October 2002). In assessing evidence, the Court has generally applied the standard of proof "beyond reasonable doubt" (see *Avşar v. Turkey*, no. 25657/94, § 282, ECHR 2001-VII (extracts)). Such proof may, however, follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar unrebutted presumptions of fact (see *Ireland v. the United Kingdom*, judgment of 18 January 1978, § 161, Series A no. 25). Where the events in issue lie wholly, or in large part, within the exclusive knowledge of the authorities, as in the case of persons within their control in custody, strong presumptions of fact will arise in respect of injuries occurring during detention. Indeed, the burden of proof may be regarded as resting on the authorities to provide a satisfactory and convincing explanation (see *Salman v. Turkey* [GC], no. 21986/93, § 100, ECHR 2000-VII).

30. In that respect, where an individual is taken into custody in good health but is found to be injured by the time of release, it is incumbent on the State to provide a plausible explanation of how those injuries were caused and to produce evidence casting doubt on the victim's allegations, particularly if those allegations were corroborated by medical reports, failing which a clear issue arises under Article 3 of the Convention (see *Tomasi v. France*, 27 August 1992, §§ 108-111, Series A no. 241-A; *Ribitsch v. Austria*, 4 December 1995, § 34, Series A no. 336; *Aksoy v. Turkey*, 18 December 1996, § 62, *Reports of Judgments and Decisions* 1996-VI; and *Selmouni v. France* [GC], no. 25803/94, § 87, ECHR 1999-V).

31. Turning to the circumstances of the present case, the Court observes that the applicant was not medically examined at the beginning of her detention. On 9 June 1999, two days after being taken into custody, the applicant was examined by a doctor who noted that she had a scrape under her left armpit, a 7-8 cm-long large brown macule on her right forearm and a 3 cm-long oedema on her forehead above the nose (see paragraph 7 above). Moreover, according to the medical report of 14 June 1999, which was drafted after the applicant's transfer to prison, the applicant had a 4x5 cm mark on her right forearm and swelling on her right clavicle and complained about pain in her arms and a headache.

32. The Court notes that neither the Government nor the applicant disputed the authenticity or the findings of these medical reports. However, they put forward different explanations as to how the applicant had sustained those injuries. The applicant claimed that she had been beaten: in particular, she had received blows to her head and had been hung by her arms by police officers; the Government alleged that the injuries had occurred when she had attempted to resist the police officers in the course of her arrest and during a disturbance which had taken place in the detention facility where the applicant had been held in custody.

33. In this connection, the Court notes that the Government did not adduce any document in support of their claims that the applicant's injuries had occurred as a result of the use of force or on account of her own conduct while detained in police custody. Moreover, no arrest report describing the alleged use of force or incident report giving details of the alleged disturbance at the detention facility was prepared. The Court therefore does not find it convincingly proved that the applicant had sustained the injuries noted in the reports of 9 and 14 June 1999 as a result of a legitimate use of force (see *Demirbaş and Others v. Turkey*, nos. 50973/06, 8672/07 and 8722/07, § 59, 9 December 2008). Besides, considering the gravity and nature of the injuries, the Court does not find it likely that they were self-inflicted (compare *Nevruz Koç v. Turkey*, no. 18207/03, § 44, 12 June 2007).

34. The Court observes that the applicant did not bring her complaints of sexual harassment and rape threats until the investigation was re-opened in 2003. Nonetheless, the Court considers that the findings contained in the medical reports were consistent with at least the applicant's allegations of having been hung by her arms and having received blows to her head. In the circumstances of the present case, and in view of the absence of a plausible explanation from the Government, the Court finds that these injuries were the result of ill-treatment for which the Government bore responsibility.

35. Having regard to the nature and degree of the ill-treatment and to the strong inferences that can be drawn from the evidence that it was inflicted in order to obtain information from the applicant about her suspected connection with the DHKP/C, the Court finds that the ill-treatment involved very serious and cruel suffering that can only be characterised as torture (see, among other authorities, *Salman*, cited above, § 115; *Aksoy*, § 64, cited above; *Abdülsamet Yaman v. Turkey*, no. 32446/96, § 47, 2 November 2004; *Koçak v. Turkey*, no. 32581/96, § 48, 3 May 2007; and *Ateşoğlu v. Turkey*, no. 53645/10, § 20, 20 January 2015).

36. Accordingly, there has been a violation of Article 3 of the Convention under its substantive limb.

2. The responsibility of the respondent State in the light of the procedural aspect of Article 3 of the Convention

37. The applicant maintained that the criminal proceedings brought against the police officers had been ineffective as initially on 8 June 2001 the public prosecutor issued a decision not to prosecute the perpetrators due to lack of evidence and the case was closed without the decision being notified to her. The criminal proceedings were instituted almost two years later, on 6 August 2003, before the Fatih Criminal Court and were not conducted with due diligence.

38. The Government submitted that the applicant's allegations of ill-treatment had been the subject of an effective investigation. In this regard they maintained that a criminal investigation had been instituted into the applicant's allegations and that the subsequent criminal proceedings had been conducted with due diligence.

39. The Court reiterates that Article 3 of the Convention requires the authorities to investigate allegations of ill-treatment when they are "arguable" and "raise a reasonable suspicion" (see, in particular, *Ay v. Turkey*, no. 30951/96, §§ 59-60, 22 March 2005). The minimum standards of effectiveness defined by the Court's case-law include the requirements that the investigation be independent, impartial and subject to public scrutiny. It is beyond doubt that a requirement of promptness and reasonable expedition is implicit in this context. A prompt response by the authorities in investigating allegations of ill-treatment may generally be regarded as essential in maintaining public confidence in their adherence to the rule of law and in preventing any appearance of collusion in or tolerance of unlawful acts (see *Batı and Others*, cited above, § 136). When the official investigation has led to the institution of proceedings in the national courts, the proceedings as a whole, including the trial stage, must satisfy the requirement of the prohibition of ill-treatment. While there is no absolute obligation for all prosecutions to result in conviction or in a particular sentence, the national courts should not under any circumstances be prepared to allow grave attacks on physical and moral integrity to go unpunished (see *Okkalı v. Turkey*, no. 52067/99, § 65, ECHR 2006-XII (extracts)).

40. The Court has found above that the respondent State was responsible, under Article 3 of the Convention, for the injuries sustained by the applicant. An effective investigation was therefore required.

41. In this connection, the Court observes that an investigation into the applicant's allegations of ill-treatment was initiated upon the criminal complaint lodged by the applicant, albeit that it was concluded with a decision not to prosecute. Moreover, as it transpires from the documents in the case-file, in 2003 the domestic authorities reopened the investigation on their own motion.

42. The Court observes, however, serious shortcomings in the investigation and in the ensuing criminal proceedings. The initial investigation resulted in a decision of 8 June 2001 not to bring any proceedings. Even though the investigation was reopened at a later date and criminal proceedings into the applicant's allegations were finally instituted before the Fatih Assize Court on 6 August 2003, it took the domestic court almost two years to determine that it lacked jurisdiction. The Court further notes that the Istanbul Assize Court did not hold its first hearing until 6 March 2006, approximately five months after the Court of Cassation designated it as the competent court. Therefore, the Court cannot but find that there were substantial delays in the criminal proceedings in question: they lasted approximately seven years and eight months and were eventually discontinued on account of prescription.

43. In a number of its judgments in cases against Turkey, the Court has observed that the judicial authorities' failure to show diligence in expediting criminal proceedings against police officers for ill-treatment-related offences has resulted in those proceedings becoming time-barred (see, *inter alia*, *Mustafa Taştan v. Turkey*, no. 41824/05, §§ 50-51, 26 June 2012; *İzci v. Turkey*, no. 42606/05, § 72, 23 July 2013; and *Yerli v. Turkey*, no. 59177/10, § 63, 8 July 2014). As it has done in those judgments, the Court considers in the present application that on account of the inordinate delays the criminal law system has proved to be far from rigorous and to be lacking in the dissuasive effect capable of ensuring the effective prevention of unlawful acts such as those complained of by the applicant (see *Yazıcı and Others v. Turkey (no. 2)*, no. 45046/05, § 27, 23 April 2013 and the cases cited therein).

44. The Court has also held that in cases concerning torture or ill-treatment inflicted by State agents, criminal proceedings ought not to be discontinued on account of a limitation period, and also that amnesties and pardons should not be tolerated in such cases (see *Mocanu and Others v. Romania* [GC], nos. 10865/09, 45886/07 and 32431/08, § 326, ECHR 2014 (extracts); see also *Abdülsamet Yaman*, cited above, § 55).

45. Furthermore, there is nothing in the case-file to indicate that the accused police officers were suspended from duty while they were under investigation. On this point, the Court underlines the importance of the suspension from duty of the agent under investigation in order to prevent any appearance of collusion in or tolerance of unlawful acts (*ibid*.).

46. Thus, in view of the aforementioned shortcomings, and in particular the substantial delay in the conduct of the proceedings, the Court finds that the perpetrators of acts of violence enjoyed virtual impunity, despite the evidence at hand (see *Uğur*, cited above, § 105). The Court therefore considers that the investigation and the ensuing criminal proceedings were inadequate and therefore in breach of the State's procedural obligations under Article 3 of the Convention.

47. Accordingly, there has been a violation of Article 3 of the Convention under its procedural limb.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

48. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Damage

49. The applicant claimed 100,000 euros (EUR) in respect of non-pecuniary damage.

50. The Government submitted that the amount claimed by the applicant was excessive.

51. In view of the violations found under Article 3 of the Convention, the Court finds that the applicant must have suffered pain and distress which cannot be compensated for solely by the Court's finding of a violation. It therefore awards the applicant EUR 45,000 in respect of non-pecuniary damage.

B. Costs and expenses

52. The applicant also claimed EUR 5,190 for the costs and expenses incurred before the domestic courts and the Court. In support of her claims, the applicant submitted a legal fees agreement concluded with her lawyer demonstrating that she should pay 200 Turkish liras (TRY, approximately EUR 89 at the time of submission of the claims) to her representative per hour for the legal advice and representation provided before the Court. The applicant further submitted to the Court a breakdown of the hours spent by her lawyer in representing her both in Turkey and before the Court. According to that breakdown, the lawyer spent a total of twenty six hours during the proceedings at the national level and thirty hours in the course of the proceedings before the Court, charged at an hourly rate of 200 TRY. The applicant further claimed EUR 213 for translation, postal and photocopying costs. In this connection she submitted a table of costs.

53. The Government submitted that the amounts claimed by the applicant were excessive and unsubstantiated.

54. 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. The Court notes at the outset that no invoice has been

submitted to substantiate the costs. It therefore rejects those claims. As regards the lawyers' fees, the Court considers that the applicant's claim for her lawyers' fees in respect of the fifty six hours of legal work carried out in the course of the proceedings before the domestic courts and the Court may be regarded as reasonable. Therefore, in view of the documents in its possession and the above criteria, the Court considers it reasonable to award the applicant the sum of EUR 4,900 in respect of costs and expenses.

C. Default interest

55. 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

1. *Declares*, unanimously, the application admissible;

2. *Holds*, unanimously, that there has been a violation of Article 3 of the Convention under its substantive limb;

3. *Holds*, unanimously, that there has been a violation of Article 3 of the Convention under its procedural limb;

4. *Holds*,
   (a) by six votes to one, 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 45,000 (forty five thousand euros) in respect of non-pecuniary damage, plus any tax that may be chargeable, to be converted into the currency of the respondent State at the rate applicable at the date of settlement;
   (b) unanimously, 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 4,900 (four thousand nine hundred 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;
   (c) unanimously, that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

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

Done in English, and notified in writing on 20 October 2015, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court."

Stanley Naismith	Paul Lemmens
Registrar	President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Kjølbro is annexed to this judgment.

P.L.
S.H.N.

PARTLY DISSENTING OPINION OF JUDGE KJØLBRO

1 Like my colleagues, I find it proven that the applicant was ill-treated while she was in police custody and that there has been a violation of Article 3 of the Convention. However, in my view the ill-treatment should not be characterised as torture, but as inhuman and degrading treatment. Therefore, I voted against awarding the applicant EUR 45,000 euros (EUR) in respect of non-pecuniary damage (point 4(a) of the operative provisions). The applicant should, in my view, have been awarded EUR 20,000 as compensation for non-pecuniary damage.

2. Torture is the most serious kind of ill-treatment prohibited by Article 3 of the Convention, and it has to be proven beyond reasonable doubt in order for the Court to find a violation of that limb of Article 3.

3. I agree with my colleagues that the Government have not been able to provide a plausible explanation for the injuries sustained by the applicant while she was in detention and consequently that there has been a violation of Article 3 of the Convention. However, the evidence is insufficient to find it proven beyond reasonable doubt that the ill-treatment amounts to torture.

4. Two days after the arrest, when the applicant was examined by a doctor, the doctor noted that the applicant "had a scrape under her left armpit, a 7-8 cm-long large brown macule on her right forearm and a 3 cm-long oedema on her forehead above the nose" and that she had complained that she "had been hung by her arms for approximately ten minutes and that her head had been banged against a wall" (see paragraph 7 of the judgment). Furthermore, a week after the arrest, when the applicant was examined by a prison doctor, the doctor noted that the applicant had "a 4x5 cm mark on her right forearm and a swelling on her right clavicle" and that she had stated that "her arms felt painful and she had a headache" (see paragraph 9 of the judgment).

5. In my view, the applicant's allegation that she had been "hung by her arms for approximately ten minutes" while she was being ill-treated is not sufficiently supported by the medical information in the file. There is no mention of signs consistent with the applicant having been hanging by the arms for ten minutes. Nor does the investigation at domestic level support her allegations in that regard. Therefore, I disagree with my colleagues that "the findings contained in the medical reports were consistent with at least the applicant's allegations of having been hung by her arms" while she "received blows to her head" (see paragraph 34 of the judgment).

6. Furthermore, I find no basis in the file for saying that the ill-treatment "was inflicted in order to obtain information from the applicant about her suspected connection with" an illegal organisation (see paragraph 35 of the judgment). There is simply insufficient factual basis for that statement. As the facts have been presented to the Court, the Court does not even know for a fact that the applicant was questioned by the police in the period after the

arrest on 7 June 1999 and before the medical examination on 9 June 1999. This may very well have been the case, but it is not apparent from the facts of the case (see paragraphs 6-7). Therefore, there is insufficient basis for saying that the ill-treatment was inflicted "in order to obtain information" from the applicant.

7. As I do not find it proven that the applicant was hung by her arms for ten minutes while she was being ill-treated, or that she was ill-treated in order to obtain information, I cannot find it proven beyond reasonable doubt that the applicant was the victim of torture. However, as already mentioned, I agree with my colleagues that there has been a violation of Article 3 of the Convention.