



















34. The applicant alleged that the police had intervened without waiting for the public statement to be read out, on the pretext that the meeting was disrupting public order.

35. The Court refers in the first place to the fundamental principles underlying its judgments relating to Article 11 (see *Djavit An v. Turkey*, no. 20652/92, §§ 56-57, ECHR 2003-III; *Piermont v. France*, 27 April 1995, §§ 76-77, Series A no. 314; and *Plattform "Ärzte für das Leben" v. Austria*, 21 June 1988, § 32, Series A no. 139). It is clear from this case-law that the authorities have a duty to take appropriate measures with regard to lawful demonstrations in order to ensure their peaceful conduct and the safety of all citizens.

36. The Court also notes that States must not only safeguard the right to assemble peacefully but also refrain from applying unreasonable indirect restrictions upon that right. Finally, it considers that, although the essential object of Article 11 is to protect the individual against arbitrary interference by public authorities with the exercise of the rights protected, there may in addition be positive obligations to secure the effective enjoyment of these rights (see *Djavit An*, cited above, § 57).

37. As a preliminary point, the Court considers that these principles are also applicable with regard to demonstrations and processions organised in public areas (see *Djavit An*, cited above, § 56). It notes, however, that it is not contrary to the spirit of Article 11 if, for reasons of public order and national security, *a priori*, a High Contracting Party requires that the holding of meetings be subject to authorisation and regulates the activities of associations (see *Djavit An*, cited above, §§ 66-67).

38. Having regard to the domestic legislation, the Court observes that no authorisation is required for the holding of public demonstrations; at the material time, however, notification was required seventy-two hours prior to the event. In principle, regulations of this nature should not represent a hidden obstacle to the freedom of peaceful assembly as it is protected by the Convention. It goes without saying that any demonstration in a public place may cause a certain level of disruption to ordinary life and encounter hostility; this being so, it is important that associations and others organising demonstrations, as actors in the democratic process, respect the rules governing that process by complying with the regulations in force.

39. The Court considers, in the absence of notification, the demonstration was unlawful, a fact that the applicant does not contest. However, it points out that an unlawful situation does not justify an infringement of freedom of assembly (see *Cisse v. France*, no. 51346/99, § 50, ECHR 2002-III). In the instant case, however, notification would have enabled the authorities to take the necessary measures in order to minimise the disruption to traffic that the demonstration could have caused during rush hour. In the Court's opinion, it is important that preventive security measures such as, for example, the presence of first-aid services at the site

of demonstrations, be taken in order to guarantee the smooth conduct of any event, meeting or other gathering, be it political, cultural or of another nature.

40. It appears from the evidence before the Court that the group of demonstrators was informed a number of times that their march was unlawful and would disrupt public order at a busy time of day, and had been ordered to disperse. The applicant and other demonstrators did not comply with the security forces' orders and attempted to force their way through.

41. However, there is no evidence to suggest that the group in question represented a danger to public order, apart from possibly disrupting traffic. There were at most fifty people, who wished to draw attention to a topical issue. The Court observes that the rally began at about 12 noon and ended with the group's arrest within half an hour. It is particularly struck by the authorities' impatience in seeking to end the demonstration, which was organised under the authority of the Human Rights Association.

42. In the Court's view, where demonstrators do not engage in acts of violence it is important for the public authorities to show a certain degree of tolerance towards peaceful gatherings if the freedom of assembly guaranteed by Article 11 of the Convention is not to be deprived of all substance.

43. Accordingly, the Court considers that in the instant case the police's forceful intervention was disproportionate and was not necessary for the prevention of disorder within the meaning of the second paragraph of Article 11 of the Convention.

44. There has accordingly been a violation of that provision.

#### IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

45. 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**

46. The applicant claimed 1,190.83 euros (EUR) in respect of pecuniary damage for having been prevented from working for six hours on the day of the demonstration and EUR 20,000 in respect of the non-pecuniary damage which she alleged she had sustained.

47. The Government contested these amounts.

48. The Court finds no causal link between the violation found and the pecuniary damage alleged, and dismisses this claim. In addition, with regard

to the non-pecuniary damage, it considers that the applicant is sufficiently compensated by the finding of a violation of Article 11 of the Convention.

### **B. Costs and expenses**

49. The applicant also claimed EUR 8,051.77 for the costs and expenses incurred before the Court.

50. The Government considered that sum exorbitant.

51. According to the Court's case-law, an award can be made in respect of costs and expenses only in so far as they have been actually and necessarily incurred by the applicant and are reasonable as to quantum (see *Nikolova v. Bulgaria* [GC], no. 31195/96, § 79, ECHR 1999-II). In this connection, it notes that the applicant has not furnished any evidence in support of the costs and expenses incurred. It remains the case, however, that preparation of the instant judgment necessarily incurred certain costs. Accordingly, ruling on an equitable basis, the Court considers it reasonable to award the applicant EUR 1,000 under this head.

### **C. Default interest**

52. The Court considers it appropriate that the default interest 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 remainder of the application admissible;
2. *Holds* that there has been no violation of Article 3 of the Convention;
3. *Holds* that there has been a violation of Article 11 of the Convention;
4. *Holds* that the finding of a violation constitutes in itself sufficient just satisfaction for the non-pecuniary damage sustained by the applicant;
5. *Holds*
  - (a) that the respondent State is to pay the applicant, within three months from the date on which the judgment becomes final according to Article 44 § 2 of the Convention, EUR 1,000 (one thousand euros) in respect of costs and expenses, plus any tax that may be chargeable on that amount, to be converted into new Turkish liras at the rate applicable on 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;

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

Done in French, and notified in writing on 5 December 2006, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Stanley Naismith  
Deputy Registrar

Jean-Paul Costa  
President