



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

SECOND SECTION

CASE OF GÜRAY GÜR v. TÜRKİYE

(Application no. 33372/19)

JUDGMENT

Art 6 § 1 (criminal) • Fair hearing • Reasoned judgment convicting the applicant of false imprisonment • Weight attached to the victim's consistent statements rather than the applicant's defence submissions not amounting to a failure to state the conviction grounds • No arbitrariness or manifest unreasonableness • Court of Cassation's endorsement of the applicant's conviction in compliance with the right to a reasoned judgment

Art 6 § 1 (criminal) • Fair hearing • Domestic courts' failure to discharge their duty to deliver a reasoned judgment in convicting the applicant of rape • Trial court's failure to duly address the doubt stemming from the change in the victim's statements – the main evidence against the applicant • Shortcoming not remedied by the higher courts

Prepared by the Registry. Does not bind the Court.

STRASBOURG

20 October 2026

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Güray Gür v. Türkiye,

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

Arnfinn Bårdsen, *President*,

Saadet Yüksel,

Péter Paczolay,

Oddný Mjöll Arnardóttir,

Gediminas Sagatys,

Stéphane Pisani,

Hugh Mercer, *judges*,

and Dorothee von Arnim, *Deputy Section Registrar*,

Having regard to:

the application (no. 33372/19) against the Republic of Türkiye 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 Güray Gür (“the applicant”), on 17 May 2019;

the decision to give notice to the Turkish Government (“the Government”) of the complaints under Article 6 § 1 of the Convention concerning the domestic courts’ alleged failure to give sufficient reasons for convicting the applicant, to address the essential issues of the case and to scrutinise the veracity and probative value of the evidence against him, in particular statements given by the victim, and to declare the remainder of the application inadmissible;

the Government’s observations;

Having deliberated in private on 29 September 2026,

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

INTRODUCTION

1. The application concerns the alleged unfairness of criminal proceedings against the applicant owing to the domestic courts’ failure to provide sufficient reasons for convicting him of rape and false imprisonment.

THE FACTS

2. The applicant was born in 1987 and was in detention in Istanbul at the time the present application was lodged. The applicant was represented by Mr Y. Erikel, a lawyer practising in Istanbul.

3. The Government were represented by their Agent at the time, Mr Hacı Ali Açıkgül, former Head of the Department of Human Rights of the Ministry of Justice of the Republic of Türkiye.

4. The facts of the case may be summarised as follows.

I. INVESTIGATION INTO THE ABDUCTION AND RAPE OF C.Ö.

5. On 27 August 2006 around 12.30 a.m. a person named Ce.Ö. contacted the gendarmerie in Silivri, Istanbul, indicating that although his daughter C.Ö. (“the victim”) had left home to attend a wedding at around 6 p.m., she had sent him two text messages at 11.34 p.m. and 11.40 p.m., which read as follows: “I have been abducted in Değirmenköy” and “Butcher E.[T] Değirmenköy”.

6. On the morning of 27 August 2006 the victim went to the gendarmerie and lodged a formal complaint against the applicant and certain other individuals. She stated that she and E.T., a butcher, had been friends for about six months and that she had refused to meet him when he had called her on 24 August 2006. When E.T. had continued to call her, the victim had told him that they could meet at a wedding, and they had subsequently met at the wedding venue. Although E.T. had said that he wished to talk to her, he had forced her into a car in which T. and A. had been present. E.T. had told the victim that they wished to have sexual intercourse with her and, when she had refused – stating that she was menstruating – he had attempted to forcibly remove her trousers to verify that. Thereafter, E.T. had taken her to Değirmenköy and placed her in the car of a certain İ.K., in which a certain D.E. had also been present. She stated that those two individuals had held her arms and, when she had cried out, they had grabbed her by the throat and told her to remain silent. During that time, the victim had managed to send the two text messages mentioned above to her father. In the meantime, E.T. had spoken to D. on the phone, asking him to take the victim’s mobile telephone and delete the text messages, stating that the gendarmerie had been to his house to enquire about the victim. When the victim had refused to hand over her mobile telephone, the individuals in the car had assaulted her and, two hours later, transferred her to another car in which the applicant, İ.B. and D.E. had been present.

7. The victim went on to state that she knew the applicant and İ.B., but not D.E., who had drawn a knife and threatened to kill or cut her if she refused to have sexual intercourse with him. She alleged that D.E., while holding her by the arm and throat, had raped her despite her pleas and her statement that she was menstruating. She further stated that İ.B. had then also sought to do the same and, when she had resisted, he had told her that she had already slept with D.E. and would have to do the same with him. According to the victim, İ.B. had forced her to lie on the ground by holding her wrists and had raped her. She added that the applicant had then held her by the arm, punched her in the mouth and raped her. The victim further alleged that D.E. had raped her a second time, followed by İ.B. also raping her again. She stated that, having become exhausted, she had fallen asleep in the car with the three men. When they had woken up, D.E. had forced her to take photographs with him as if they were a couple and later took her to Silivri. After leaving the

applicant there, D.E. had allegedly mocked her and told her that he would punch her in the mouth if she told anyone about the incident. The victim went directly to the gendarmerie and lodged a formal complaint against the applicant, İ.B. and D.E.

8. On the same day at around at 9.40 a.m. the victim underwent a medical examination at Silivri State Hospital and a medical report was drawn up. The report noted that the victim had the following lesions that were treatable with simple medical intervention: a haematoma on the left arm, superficial abrasions on the anterior tibial region and on the left knee, and lacerations on the upper and lower lips. The doctor referred the victim to a gynaecologist as she had indicated that she had been forced to have sexual intercourse.

9. Later the same day a gynaecologist examined the victim and detected no abrasions or bruises on her external genital organs owing to coercive acts. In addition, she was still on her menstrual period.

10. At around 5 p.m. on the same day the persons mentioned in the victim's statements, including the applicant, were arrested. In his statements to the gendarmerie, the applicant stated that, on the day of the incident, E.T. had asked D.E. to take the victim to Silivri and that, when they had picked her up, she had told them that it was too late for her to return home and that there would be an argument with her father, who would not have let her in. Accordingly, they had stayed together at the Değirmenköy water storage facility until the morning, at which point he had taken her to Silivri at her request. The applicant denied the allegations against him.

11. On 29 August 2006 the public prosecutor also took a statement from the victim. She reiterated the statements she had previously given to the law-enforcement authorities (see paragraphs 6 and 7 above) and stated that she had been forced to have non-consensual sexual intercourse with the applicant and the two other suspects, who had also subjected her to physical violence. The victim further stated that she had informed her father of the incident by sending him a text message. She subsequently lodged a complaint against the applicant and the other suspects.

12. On the same day, the Büyükçekmece Branch of the Forensic Medicine Institute drew up a report following the medical examination of the victim (see paragraph 8 above) at the request of the public prosecutor. The report noted the presence of the following injuries: a bruise measuring 3 by 2 cm on the anterior mid-portion of the right arm and a bruise measuring 1 cm that remained purple in colour; two parallel red bruises on the upper part of the right shoulder which, according to the victim's statement, had occurred as a result of biting; a linear red bruise measuring 0.5 cm on the anterior part of the left arm; two scabbed lacerations measuring 0.2 cm on the left gluteal region; and three scabbed lacerations measuring 0.3 cm on the upper part of the left patella. As the victim stated that she had been sexually assaulted and that the suspects' bodily fluids were present on her, she was referred, without

removing her clothes, to the Sixth Specialist Board of the Forensic Medicine Institute.

13. On the same day, 29 August 2006, the applicant, along with the other suspects, also made statements to the public prosecutor and the investigating judge and repeated the statements he had made to the gendarmerie (see paragraph 10 above). The Silivri 1st Magistrate's Court placed the applicant in pre-trial detention later that day.

14. By a report dated 25 September 2006 the Forensic Medicine Institute concluded that the DNA analysis of the bloodstains found on the victim's clothing showed that they matched the victim herself and the suspect D.E., while no DNA belonging to the other suspects had been identified either on the victim's clothes or on the vaginal swab samples collected from her. No blood traces or semen had been found on the victim's body or trousers.

15. On 23 May 2007 the victim underwent a medical examination at the Forensic Medicine Institute. On 27 June 2007 a panel of seven experts issued a report concluding that: (i) the examination conducted on the date of the incident contained evidence that the victim had been subjected to trauma; and (ii) her mental health had not been impaired as a result of the incident of 26 August 2006.

16. The public prosecutor's office also collected the historical traffic search records and data from the base station of the mobile telephones used by the victim and the suspects, which showed that the victim had sent text messages to her father between 11.34 p.m. and 11.41 p.m. on the night of the incident.

II. BILL OF INDICTMENT

17. On 29 May 2008 the Bakırköy Chief Public Prosecutor's Office issued a bill of indictment against the applicant and his co-defendants on charges of rape and false imprisonment under Articles 102 and 109 of the Turkish Criminal Code, respectively.

III. THE APPLICANT'S TRIAL

18. At the first hearing held on 24 November 2009 the victim gave evidence before the Thirteenth Division of the Bakırköy Assize Court ("the trial court"), explaining in detail the incident forming the basis of the bill of indictment in a manner that was quite similar to the statements she had previously made (see paragraphs 6, 7 and 11 above). However, at that hearing she stated that it had only been D.E. who had raped her and that, although İ.B. had subsequently attempted to rape her, he had hit her when she had refused. When describing the acts of rape, the victim did not mention the applicant. Nevertheless, when the trial court asked her about the statements she had made during the investigation stage, the victim specified that the

applicant and İ.B. had also wanted to have sexual intercourse with her, but that she had refused. The victim also responded to some questions asked by the defendants and their lawyers.

19. At the same hearing, the applicant also gave evidence in person, stating, in particular, that they had stayed together on the night in question since the victim had not wanted to go home because it had been late, and that none of the defendants had had sexual intercourse with the victim.

20. At a hearing held on 3 February 2011 in the Bakırköy Juvenile Assize Court during the trial of the co-defendant İ.B. (who was tried by that court as he had been a minor at the material time), the victim gave evidence in person in the presence of a social worker. Her statements were largely in line with the statements she had made during the investigation stage (see paragraphs 6, 7 and 11 above). However, the victim stated that after D.E. had raped her, the applicant had approached her and had expressed his wish to have sexual intercourse with her, but that for a reason unknown to her, he had refrained from doing so and had left her there. The victim further stated that, subsequently, İ.B. had wanted to have sexual intercourse with her, that he had attacked her and had forced her to the ground. She said that she had resisted and that they had begun struggling, and that he had been on top of her and had been trying to rape her. However, she explained that she had managed to free herself, push him off and stand up. She further stated that İ.B. had not been able to have sexual intercourse with her, and that after that he had begun beating her. She said that he had assaulted her by hitting her in the face, slapping and punching her. She also stated that she had not remembered the events exactly, and that she had not been able to recall whether the applicant or İ.B. had attacked her first, although she had previously thought that the applicant had attacked first. When the court asked about the inconsistency between the statements she had made during the investigation stage and her evidence at the hearing, the victim indicated that she no longer accepted her previous statements, explaining that her current statements were more accurate.

21. At the hearings of 12 April and 14 July 2011, the trial court obtained the criminal case file from the Bakırköy Juvenile Assize Court relating to İ.B. It further transpires from the documents in the Court's possession that the criminal proceedings against İ.B. were joined to those before the trial court in the period between the two hearings.

IV. JUDGMENT OF THE BAKIRKÖY ASSIZE COURT

22. On 1 November 2012 the trial court found the applicant guilty as charged and sentenced him to (i) eight years and nine months' imprisonment for raping the victim and to (ii) three years and nine months' imprisonment for falsely imprisoning her. In doing so, the trial court attached weight to "the civil registry and criminal records of the parties; the submissions made by the

defendants, the victim and intervening parties; the information in the case file; the items used during the offence; the Forensic Medicine Institute's reports dated 25 September 2006 and 27 June 2007 (see paragraphs 14 and 15 above); the telecommunications data; and the content of the whole case file." The trial court did not provide any reasons for the weight attached to the statements the victim had made at the investigation stage (see paragraphs 6, 7 and 11 above), as opposed to those she had made subsequently (see paragraphs 18 and 20 above).

23. The part of the trial court's reasoned judgment entitled "Assessment and conclusion" reads as follows:

"[It has been understood that] the victim and the defendant E.T. met a while before and became friends. E.T. called the victim to meet her and the victim accepted that invitation. E.T. went to the meeting place together with co-defendants T.K. and A.E. When the victim saw that there were other persons with E.T., she did not want to get in the car. E.T. held the victim's arms and forcibly made her get in the car and they drove away. When they stopped the car in an unknown location, T.K. and A.E. got out of the car and moved away. While E.T. and the victim were alone in the car, E.T. asked the victim to have sexual intercourse with them and the victim refused. After E.T. insisted further, the victim said that she was on her period and E.T. accordingly gave up on the idea of having sexual intercourse. [Afterwards,] the other two defendants returned. They drove away from the scene of the incident together [and] went to Değirmenköy Square. The defendants told the victim that the car had run out of petrol and that they would send her home in another car. She [therefore] got in the car driven by the defendant İ.K., in which the defendant D.E. was also sitting. They went to a petrol station and the victim asked the defendants to let her go, but the defendants refused. The victim found an opportunity to send her father a text message saying 'I have been abducted in Değirmenköy. Butcher [E.T.] Değirmenköy.' Subsequently the defendants went to an oak forest near the Değirmenköy Pond. [The applicant] and İ.B. ... also went to the scene of the incident. Firstly the co-defendant D.E. raped the victim. Later İ.B. went up to the victim and asked to have sexual intercourse. When the victim resisted, he held her wrists and got her on the ground, saying, 'You slept with [D.E.], you will also sleep with me.' Subsequently he raped the victim. After a while [the applicant] approached the victim, punched her and raped her. They stayed the night in the car together after all the defendants had raped the victim. In the morning they took the victim to Silivri and let her go, threatening her by saying, 'If you tell anyone about this, you will regret it.'

According to a report of the Sixth Specialised Board of the Institute of Forensic Medicine dated 27 June 2007, the victim had sustained trauma on account of the incident. She had presented no psychopathological symptoms. The victim's mental health had not been negatively affected as a result of the incident.

Since it has been understood that the incident took place as summarised above, the co-defendants D.E., [the applicant] and İ.B. raped the victim and committed the offence of false imprisonment; ... therefore, D.E., [the applicant] and İ.B. must be sentenced for the offences of rape and depriving another person of his or her liberty ..."

V. APPEAL LODGED BY THE APPLICANT

24. The applicant lodged an appeal and, in his submissions dated 28 February 2013, he stated that it had been inappropriate to convict him

despite the victim's contradictory statements and the absence of any findings against him in the forensic report. He asked the Court of Cassation to quash the trial court's judgment on those grounds.

25. On 2 March 2016 the Court of Cassation upheld the applicant's convictions.

VI. INDIVIDUAL APPLICATION TO THE CONSTITUTIONAL COURT

26. On 27 September 2016 the applicant lodged an individual application with the Constitutional Court, alleging, among other things, that there had been a violation of his right to a fair trial on the grounds that in its judgment the trial court had failed to (i) discuss the victim's contradictory statements and (ii) take into account the forensic reports in his favour.

27. On 17 December 2018 the Constitutional Court summarily found the application inadmissible, holding that the applicant's complaints had concerned the assessment of evidence and the interpretation of the domestic law, thereby taking the form of an appeal. The Constitutional Court therefore declared the applicant's complaints inadmissible as being manifestly ill-founded.

RELEVANT LEGAL FRAMEWORK

28. The relevant domestic legal framework concerning the right to a reasoned judgment in the context of criminal proceedings can be found in *Mustafa Aydın v. Türkiye* (no. 6696/20, §§ 27-30, 18 March 2025).

29. Article 230 of the Code of Criminal Procedure (Law no. 5271 of 4 December 2004), entitled "Compulsory points to be indicated in the reasoning of [the] judgment[s]" read, so far as relevant, as follows:

"The following elements shall be stated in the reasoning of the conviction:

(b) A discussion and assessment of the evidence; an indication of the evidence relied on for the conviction and that which has been rejected;

..."

THE LAW

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

30. The applicant complained that the domestic courts had failed to give adequate reasons for their decision to convict him. He invoked Article 6 § 1 of the Convention, which reads as follows in its relevant parts:

"1. In the determination of ... any criminal charge against him ... everyone is entitled to a fair ... hearing ... by [a] tribunal ..."

A. Admissibility

1. The parties' submissions

31. The Government invited the Court to declare the application inadmissible as being manifestly ill-founded, for the following reasons. Firstly, the applicant's main complaint in the application form was the lack of sufficient evidence provided as a basis to convict him, which, in his view, should have led to his acquittal. However, it was not for the Court to assess the evidence in the case file or to determine whether an applicant was guilty or not. Moreover, the Constitutional Court had examined the applicant's individual application and declared it manifestly ill-founded on the grounds that it took the form of an appeal (see paragraph 27 above); there was no reason for the Court to depart from those findings. Secondly, the Government argued that the application must be declared inadmissible as it essentially concerned the domestic courts' assessment of the facts and application of the domestic law.

32. The applicant did not submit any observations on the admissibility or the merits of the case.

2. The Court's assessment

33. The Court notes that in the application form the applicant complained that the reasons for his conviction could not be ascertained from the domestic courts' judgments. Moreover, the applicant alleged that the trial court had failed to take into account (i) the contradictions between the initial and subsequent statements made by the victim and (ii) the evidence in his favour, such as the forensic reports (see also the applicant's complaints at domestic level, summarised in paragraphs 24 and 26 above). The Court is therefore not convinced that the applicant's main complaint concerned the sufficiency of the evidence or that he had otherwise failed to clearly raise the substance of his complaint concerning the right to a reasoned judgment under Article 6 § 1 of the Convention (see, for the general principles in this respect, *Grosam v. the Czech Republic* [GC], no. 19750/13, §§ 89-90, 1 June 2023).

34. The Court considers that the application raises complex issues of facts and law which cannot be determined without an examination on the merits. It finds that the application is neither manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention nor inadmissible on any other grounds and must therefore be declared admissible.

B. Merits

1. The parties' submissions

35. The applicant complained under Article 6 § 1 of the Convention that the domestic courts had failed to give adequate reasons for their decision to convict him.

36. The Government argued that (i) the trial court had taken into account all of the evidence in the case file and had given sufficient reasons for its judgment, which were clear and comprehensible and had explained in detail why it had found the applicant guilty of rape (see paragraphs 22 and 23 above). As the Court of Cassation had agreed with the trial court's assessment (see paragraph 25 above), it endorsed the judgment without finding it necessary to indicate separate reasons in that regard.

37. In the Government's view, the victim had consistently stated at all stages of the proceedings that the applicant and the two other defendants had physically assaulted and raped her. Even though the applicant had denied those allegations, the Forensic Medicine Institute's report dated 29 August 2006 identified several injuries (see paragraph 12 above) and supported her version of the events. Similarly, the trial court had drawn attention to the report on the historical traffic search records and base station data in its reasoned judgment and indicated the content of the text messages the victim had sent to her father on the date of the incident (see paragraphs 22 and 23 above). Accordingly, the trial court had found that the applicant had punched and raped the victim, and had included the Forensic Medicine Institute's above-mentioned report in its judgment.

38. The Government further stressed that the applicant had failed to explain why the victim would have messaged her father that night, stating that she had been abducted, if she had voluntarily spent the night with the defendants as alleged by the applicant. Moreover, and more importantly, the applicant had made no explanation as regards the origins of the signs of ill-treatment that had been found on the victim – which had also been established in the medical report drawn up the day after the incident (see paragraph 8 above) – with whom he had spent the previous night. Significantly, those findings had been corroborated by the victim's statement in so far as they concerned her contention that the applicant had punched her before raping her. On that basis, the Government submitted that the trial court had simply regarded the applicant's statements as completely groundless. In any event, no significant submission by the defence had been left unanswered by the domestic courts.

39. Moreover, even though three years had passed since the incident question, the victim had given the same version of the events in her evidence at the trial court (see paragraph 18 above). In the Government's view, it was significant that the victim had consistently reiterated the statements that she had made at the investigation stage (see paragraphs 6, 7 and 11 above), even

though there had been no hostility between her and the applicant which could have led her to cast aspersions on him. Lastly, the reliability of the statements made by the victim had been tested by asking her questions when she had given evidence at the trial in the presence of the defendants and their lawyers (see paragraph 18 above).

40. Consequently, the trial court delivered a judgment after assessing all the relevant evidence along with the victim's statement. There was nothing in the case file suggesting that the trial court had acted arbitrarily or exceeded its margin of appreciation in terms of the assessment and admissibility of evidence. Accordingly, the Government submitted that the criminal proceedings against the applicant, taken as a whole, were not contrary to the requirements of a fair trial.

2. The Court's assessment

(a) General principles

41. The general principles concerning the right to a reasoned judgment under Article 6 § 1 of the Convention may be found in *Moreira Ferreira v. Portugal* (no. 2) ([GC], no. 19867/12, §§ 83-84, 11 July 2017), *Bochan v. Ukraine* (no. 2) ([GC], no. 22251/08, § 61, ECHR 2015) and *Ayetullah Ay v. Turkey* (nos. 29084/07 and 1191/08, § 128, 27 October 2020).

42. The Court further reiterates that where the domestic judicial authorities are confronted with several conflicting versions of the truth offered by the same person, the final preference for a statement given at the pre-trial stage over one given in open court does not in itself raise an issue as regards the overall fairness of the proceedings where that preference is substantiated and the statement itself was given of the person's own volition (see *Makeyan and Others v. Armenia*, no. 46435/09, § 47, 5 December 2019, with a further reference). In the Court's view, the same holds true when the different or conflicting statements by the same person are all given during the trial stage, including when they are given before different courts, as in the present case.

43. Where a trial court fails to indicate or address, in any manner whatsoever, fundamental discrepancies in a statement which was decisive for a conviction, an issue may arise in terms of the right to a reasoned judgment under Article 6 § 1 of the Convention (see *Ilgar Mammadov v. Azerbaijan* (no. 2), no. 919/15, §§ 220-221, 16 November 2017). In that connection, the Court stresses that the right to be heard includes not only the opportunity to make submissions to the court, but also a corresponding duty of the court to show, in its reasoning, the reasons for which the relevant submissions were accepted or rejected. This duty is always subject to the proviso that a court may consider it unnecessary to respond to arguments which are clearly irrelevant, unsubstantiated, abusive or otherwise inadmissible owing to clear legal provisions or well-established judicial practice in respect of similar

types of arguments (see *Fomin v. Moldova*, no. 36755/06, § 31, 11 October 2011).

(b) Application of those principles to the instant case

44. Turning to the circumstances of the present case, the Court notes that the applicant has been convicted for two criminal offences, namely false imprisonment and rape (see paragraph 22 above). As the conviction for each offence was based on different considerations, the Court will examine separately the respect of the fair trial guarantees.

(i) The applicant's conviction for false imprisonment

45. The Court notes at the outset that the victim consistently stated at all stages that she had been held against her will by the applicant and the other two co-defendants during the night of the incident. Moreover, the trial court heard evidence from the applicant and the victim in person (see paragraphs 18 and 19 above) and had the opportunity to assess first hand their credibility and trustworthiness.

46. The Court further notes that, although the applicant stated that he and the other defendants had spent the night with the victim because she had allegedly considered it too late to return to her home (see paragraphs 10 and 19 above), it is significant that the applicant's defence provided no explanation as to why she sent a text message to her father on the same night, informing him that she had been abducted (see paragraph 5 above). Similarly, as the Government correctly pointed out (see paragraph 38 above), the applicant had no explanation whatsoever as to why the victim had lodged a criminal complaint with the police the following day with specific injuries on her body after a night on which nothing untoward had supposedly happened. Significantly, and as was also emphasised by the Government, the victim's initial statements in which she had asserted that the applicant had punched her (see paragraph 7 above) were corroborated by the findings contained in the medical report drawn up in respect of her.

47. In such circumstances, the Court finds that the fact that the trial court attached weight to the victim's statements, which were consistent on this point throughout the proceedings, rather than the applicant's defence submissions cannot be taken as a failure to discharge its duty to state the grounds on which it convicted the applicant of the offence of false imprisonment. In the Court's view, such preference cannot be regarded as arbitrary or manifestly unreasonable either. As the applicant's appeal (see paragraph 24 above) did not contain any new argument capable of raising an issue as to the lack of any factual and/or legal basis of the trial court's decision, the Court of Cassation's decision to endorse the applicant's conviction for false imprisonment (see paragraph 25 above) was in keeping

with the requirements of the right to a reasoned judgment under Article 6 § 1 of the Convention.

48. In view of the above, the applicant's complaint concerning the alleged lack of sufficient reasons in the trial court's decision to convict him for the false imprisonment of the victim does not give rise to a breach of Article 6 § 1 of the Convention.

(ii) The applicant's conviction for rape

49. The Court is further called upon to assess whether the domestic courts discharged their duty to deliver a reasoned judgment under Article 6 § 1 of the Convention in convicting the applicant for raping the victim, including in particular the question whether they addressed the essential issues of the case.

50. It transpires from the trial court's reasoned judgment (see paragraph 23 above) that the applicant's conviction for rape rested on the statements made by the victim, even though the trial court also referred to the Forensic Medicine Institute's reports dated 25 September 2006 and 27 June 2007; the telecommunications data; and the content of the whole case file (see paragraph 22 above). This is because the report dated 25 September 2006 contained no findings implicating the applicant, as it found that the bloodstain found on the victim's clothes matched that of D.E., but that no DNA belonging to the applicant was identified on the victim's clothing or vaginal swab samples, and no blood or semen was found on her body or trousers (see paragraph 14 above). Accordingly, the victim's statements were the only evidence directly implicating the applicant in the rape and thus crucial to his conviction for rape.

51. In that regard, the Court reiterates that Article 6 of the Convention does not preclude domestic courts from relying on the testimony of a single witness, including that of the victim of a sexual assault, provided that the accused must have had a genuine opportunity to challenge and oppose such evidence in proceedings respecting the principles of adversarial procedure and equality of arms. Furthermore, the domestic courts must properly examine any objections raised against that evidence, including those concerning its admissibility, lawfulness, reliability and accuracy. In particular, domestic courts must ensure that the applicant was effectively heard and that their decisions are supported by relevant and sufficient reasoning (see *Erkapić v. Croatia*, no. 51198/08, §§ 74-89, 25 April 2013, and *Dilek Genç v. Türkiye*, nos. 74601/14 and 78295/14, § 83, 21 January 2025).

52. In the present case, the Court notes that in her statements to the gendarmerie immediately after the incident, the victim described the incident in detail and indicated, among other things, that she had been raped by D.E., İ.B. and the applicant (see paragraphs 6 and 7 above). She remained consistent in her account in her statement to the public prosecutor (see paragraph 11 above). However, when giving evidence before the trial court

on 24 November 2009, the victim only named D.E. as the person who had raped her. As regards İ.B., the victim stated that he had attempted to rape her, but that she had resisted. In the main part of her evidence, the victim did not mention the applicant in relation to the rape allegation. When the trial court reminded her of the statements she had made during the investigation stage, the victim indicated that the applicant and İ.B. had also wanted to have sexual intercourse with her, but that she had refused (see paragraph 18 above).

53. Moreover and more importantly, in her evidence at the Bakırköy Juvenile Assize Court where İ.B. was initially tried, the victim stated that the applicant had also wished to have sexual intercourse with her, but that he had refrained from doing so. The victim reiterated at the same time that D.E. had raped her and that İ.B. had attempted to rape her, but that she had resisted and got herself free. The victim also said that her statements before the Juvenile Assize Court were more accurate than her previous declarations, which she no longer accepted (see paragraph 20 above). Crucially, the proceedings against İ.B. were later joined to the case before the trial court which delivered a judgment in respect of all the defendants (see paragraph 21 above).

54. In view of the above, the Court observes that the victim's statements in respect of the applicant evolved from stating that he had raped her, to stating that he had wanted to have sexual intercourse with her but that she had refused, and finally that the applicant had refrained from doing so. It was therefore imperative for the trial court, in order to keep with the requirements of the right to a reasoned judgment under Article 6 § 1 of the Convention, to duly address the doubt stemming from the change in the victim's statements – the main evidence against the applicant.

55. Nevertheless, the Court notes with concern that the trial court took no steps in this regard and did not mention in its reasoned judgment the differences in the statements made by the victim throughout the different stages of the proceedings (see paragraph 23 above) on an issue that went to the heart of the case. That was so, even though the Code of Criminal Procedure required the courts to discuss and assess the evidence and specify the evidence to which they attached weight and that which they rejected (see paragraph 29 above). Similarly, neither the Court of Cassation nor the Constitutional Court remedied this shortcoming (see paragraphs 25 and 27 above).

56. In view of the above, the Court concludes that the domestic courts failed to discharge their duty to deliver a reasoned judgment in convicting the applicant of rape.

57. There has accordingly been a violation of Article 6 § 1 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

58. 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.”

59. 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), that warrants making an award in that respect.

60. Moreover, it does not follow from the Court’s finding of a violation of Article 6 § 1 of the Convention in the applicant’s case that he was wrongly convicted, and it is impossible to speculate as to what might have occurred had there been no breach of the Convention (see *Dvorski v. Croatia* [GC], no. 25703/11, § 117, ECHR 2015). That being said, and bearing in mind that Article 311 of the Code of Criminal Procedure allows for the reopening of the domestic proceedings in the event that the Court finds a violation of the Convention, the Court considers that the most appropriate form of redress would be a retrial in accordance with the requirements of Article 6 of the Convention, should the applicant so request (see *Ayetullah Ay v. Turkey*, nos. 29084/07 and 1191/08, § 203, 27 October 2020).

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;
2. *Holds* that there has been no violation of Article 6 § 1 of the Convention in respect of the applicant’s conviction for false imprisonment;
3. *Holds* that there has been a violation of Article 6 § 1 of the Convention in respect of the applicant’s conviction for rape.

Done in English, and notified in writing on 20 October 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Dorothee von Arnim
Deputy Registrar

Arnfinn Bårdsen
President