

**ANALYSIS OF THE  
CASE OF TALAT TEPE V. TURKEY**

**JUDGMENT OF THE EUROPEAN COURT OF  
HUMAN RIGHTS**

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## **Introduction**

This is an analysis of the judgment of the European Court of Human Rights (hereinafter referred to as the “European Court”) on the case of *Talat Tepe v. Turkey*, issued on 21 March 2005. The case concerns violations of Articles 3 (prohibition of torture), 5 (right to liberty and security), 6 (right to a fair trial), 13 (right to an effective remedy) and 14 (prohibition of discrimination) of the European Convention on Human Rights (hereinafter referred to as “ECHR”).

This analysis aims to study the facts of the case, including a thorough examination of the applicant’s complaints and the arguments of the Turkish Government. The analysis will also provide an overview of the specific approaches of the European Court regarding the interpretation of the rights and freedoms in question.

This analysis is educational in character and is primarily designed to enable legal professionals, including judges, lawyers, advocates, legal service providers and others involved in the protection of human rights - including law students - to identify the criteria and the standards that the European Court follows when interpreting the rights and freedoms guaranteed by the European Convention.

## PART I – CASE OF TALAT TEPE V. TURKEY

### A. Short summary of the facts of the case

Mr. Talat Tepe (the applicant), a Turkish national of Kurdish origin, was born in 1961 and lives in Istanbul. On 6 August 1992, based on statements given by two members of the PKK to the police, the public prosecutor at the Diyarbakır State Security Court ordered the arrest of five people, including the applicant, on suspicion of aiding and abetting an illegal terrorist organization. Several terrorist acts, including an attack on the Hersan Police Station, carried out by the PKK were mentioned in the order.

On 9 July 1995 the applicant was arrested at Istanbul Atatürk Airport on suspicion of aiding and abetting a terrorist organisation and was taken to the Gayrettepe Office for the Enforcement of Judgments in Istanbul. On 11 July 1995 the applicant was taken into custody at the Istanbul Security Directorate. On 17 July 1995, the applicant was examined by a doctor at the Haseki Hospital in Istanbul. The doctor noted in his report that no pathological findings had been found on the applicant's body. On 18 July 1995 he was transferred to the Bitlis Security Directorate. On 20 July 1995 a judge at the Diyarbakır State Security Court ordered his release pending trial. On 24 November 1995 he was charged under Articles 31 and 169 of the Criminal Code and Article 5 of Law No. 3713 on the Prevention of Terrorism. On 6 June 1996 the Diyarbakır State Security Court acquitted the applicant of the charges due to lack of evidence. The Applicant was kept in custody for twelve days. During his detention, Mr. Talat Tepe was seen by a doctor on two occasions and another doctor examined him on 23 July 1995, after his release. The following is an excerpt from the report of the doctor dated 15 August 1995.

“...In Bitlis, he [the applicant] was subjected to physical and psychological torture for almost 40 hours. He was interrogated while he was completely naked. He was held in a cold and dirty cell which had a stone floor. His access to the toilet and sanitary materials were restricted. He was subjected to offensive language and behaviour. He was threatened with death. He endured psychological pressure which led to desperation and destroyed his self-confidence (he was repeatedly told that he would be put on trial and subsequently be sentenced to death; he would be killed even if he was released, etc.). He was beaten up four to five times during this interrogation. As a result of moving cables around his body, he was subjected to electric shocks six times in succession, mainly on his legs and feet. He was hosed down with cold water. His testicles were squeezed. He was basically subjected to a kind of torture which endangers the victim's life and causes extreme pain, but does not always leave marks on the body...”

The chronology of events and legal proceedings, which were held in the case of *Talat Tepe* are described in Table No. 1 below.

**Table .1**

THE DOMESTIC JUDICIAL INVESTIGATION	
12 July 1995	The applicant's lawyers filed petitions with the Ministry of Justice complaining about the excessive length of the applicant's detention in police custody.
18 July 1995	The Ministry of Interior requested the Istanbul Public Prosecutor to investigate the complaints made by the applicant's lawyers.
17 August 1995	The Istanbul Public Prosecutor took the applicant's statements. The applicant complained about the length of his detention and criticised the public prosecutor at the Istanbul State Security Court who had unlawfully authorised the prolongation of his detention. Moreover, he gave details of the alleged ill-treatment in Bitlis Security Directorate. He gave a description of the two police officers who were allegedly responsible for this treatment. He stated that the doctor who examined him on 20 July 1995 did not ask him any questions and only checked the upper part of his body. However, he contended that the treatment that he had been subjected to was not the type

	of treatment which would necessarily leave traces on the body. Moreover, he was unable to complain to the doctor because police officers were present in the room. He further maintained that, apart from the documents in the case file before the Diyarbakır State Security Court, he did not have any evidence or witnesses to substantiate his allegations.
<b>8 September 1995</b>	The Bitlis Security Directorate informed the Bitlis Public Prosecutor of the names of the police officers who drove the applicant from the airport to the Security Directorate as well as those of the officers who questioned him during his detention. On 14 September 1995 five police officers were summoned before the Bitlis Public Prosecutor. In their statements to the public prosecutor all five police officers refuted the applicant's allegations.
<b>8 January 1996</b>	The Bitlis Public Prosecutor issued a decision of non-jurisdiction in respect of the prosecution of the police officers. He transferred the case file to the office of the Bitlis Governor pursuant to the provisions of the Law on the Prosecution of Civil Servants.
<b>18 April 1996</b>	The Provincial Administrative Council in Bitlis decided that charges should not be brought against the five police officers. It noted in its decision that the applicant was interrogated on 19 July 1995 and seen by a doctor in the Bitlis State Hospital on 20 July 1995; a medical report drafted on the same day found no traces of blows to the applicant's body and mentioned that, subsequently, on 20 July 1995, the applicant was released following a decision of the Diyarbakır State Security Court. The Council consequently held that, contrary to what was claimed by the applicant, he had not been subjected to torture.
<b>18 March 1998</b>	The court upheld the decision of the administrative council holding that there was no evidence to substantiate the applicant's claim that the police officers had committed the alleged crime.

### **B. The applicant's complaints under the European Convention**

- The applicant complained that he had been subjected to various forms of ill-treatment and torture in police custody, in violation of **Article 3** of the Convention.
- The applicant alleged that his detention in police custody breached Article 5 §§ 1 (c) and 3 of the Convention.
- The applicant complained under Article 5 § 3 of the Convention that he was held in police custody for twelve days without being brought before a judge or other officer authorised by law to exercise judicial power.
- The applicant complained that the Turkish authorities failed to initiate proceedings before an independent and impartial tribunal in relation to his allegations of torture, in violation of Article 6 § 1 of the Convention.
- The applicant complained that there were no effective remedies in domestic law in respect of his allegations of torture and the unlawfulness of his detention, in breach of **Article 13** of the Convention.
- The applicant alleged that he was subjected to discrimination on the ground of his Kurdish origin, in breach of **Article 14** of the Convention.

**Table 2** highlights the complaints of the applicant under the European Convention and the Turkish Government's arguments against the alleged violations raised by the applicant before the European Court.

#### **Table 2**

<b>Articles allegedly violated</b>	<b>The applicant's complaints</b>	<b>The arguments of the</b>
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		<b>Government of Turkey</b>
<p><b>Article 3</b> of the Convention, provides:</p> <p>No one shall be subjected to torture or to inhuman or degrading treatment or punishment.</p>	<p>Mr. Talat Tepe alleged that while in custody, he was ill-treated and tortured by police officers, which included beatings, electric shock treatment, blindfolding, verbal insults, hosing with cold water, being stripped naked, deprived of food, being threatened with death.</p> <p>The applicant also contended that the third medical examination that he arranged himself on 23 July 1995, after his release from custody shows that he was ill-treated by police officers. He also pointed to the fact that Diyarbakır State Security Court acquitted him of the charges because his statements to the police were made under duress, in other words the court itself admitted the fact of his being tortured.</p>	<p>The Government argued that the applicant did not present any evidence showing the inadequacy of previous medical examinations that were done when he was under arrest. Also the Government argued that the third medical report was drafted almost one month after the applicant was released and that in the report some important information was missing, such as the name of the medical institution, the doctor's diploma number and details, when the patient was examined, how, etc.</p>
<p><b>Article 5§1(c)</b> of the Convention provides:</p> <p>1. Everyone has the right to liberty and security of person. No one shall be deprived of his liberty save in the following cases and in accordance with a procedure prescribed by law:</p> <p>...</p> <p>(c) the lawful arrest or detention of a person effected for the purpose of bringing him before the competent legal authority on reasonable suspicion of having committed an offence or when it is reasonably considered necessary to prevent his committing an offence or fleeing after having done so;</p>	<p>The applicant complained that there was no reasonable suspicion on which to arrest him and that his detention was unlawful. He contended that the incriminating statements of the two members of the PKK dated back to 1992, over three years before his arrest. These statements were subsequently withdrawn by the suspects before the trial court since they were given under duress.</p>	<p>The Turkish Government contended that both suspects gave a detailed description of the attack on the Hersan Police Station in Bitlis carried out by PKK members with the applicant's assistance. Although they withdrew their statements, alleging that they were given under duress, their differing statements cannot remove the existence of a reasonable suspicion against the applicant.</p>
<p><b>Article 5§3</b> of the Convention provides:</p> <p>Everyone arrested or detained in accordance with the provisions of paragraph 1 (c)</p>	<p>The applicant complained that he was held in police custody for twelve days without being brought before a judge or another officer authorised by law to exercise judicial power.</p>	<p>The Turkish Government argued that the length of the applicant's detention in police custody was in conformity with the legislation in force at the time. Given that the relevant law had since been amended in accordance with the</p>

<p>of this Article shall be brought promptly before a judge or other officer authorised by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release pending trial. Release may be conditioned by guarantees to appear for trial.</p>		<p>case-law of the Court, the applicant's allegations were groundless.</p>
<p><b>Article 5§4</b> of the Convention provides as follows:</p> <p>Everyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings by which the lawfulness of his detention shall be decided speedily by a court and his release ordered if the detention is not lawful.</p>	<p>The applicant complained under Article 13 of the Convention that he was not able to initiate proceedings to challenge the lawfulness and the length of his detention in police custody.</p>	
<p><b>Article 6§1</b> of the Convention, reads as follows:</p> <p>In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interests of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.</p>	<p>The applicant complained that the Turkish authorities failed to initiate proceedings before an independent and impartial tribunal in relation to his allegations of torture, in violation of Article 6 § 1 of the Convention.</p>	
<p><b>Article 13</b> of the Convention reads as follows:</p> <p>Everyone whose rights and</p>	<p>The applicant complained that there were no effective remedies in domestic law in respect to his allegations of torture and the unlawfulness of his detention.</p>	

<p>freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.</p>		
<p><b>Article 14</b> of the Convention provides:</p> <p>The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.</p>	<p>The applicant alleged that he was subjected to discrimination on the ground of his Kurdish origin.</p>	

### **C. The Judgment of the European Court**

Table 3 below underlines the European Court’s assessments of the Applicants complaints and the Turkish Government’s arguments. It also explains the judgment of the European Court, highlighting the reasoning set forth with respect to the complaints of the applicant and the alleged violations of his rights guaranteed by the relevant Articles of ECHR.

**Table 3**

<p><b>ALLEGED VIOLATION OF ARTICLE 3</b></p>
<p>The court held that in assessing evidence in a claim of violation of Article 3 the standard of proof is “beyond reasonable doubt.” The court noted that the applicant did not present the medical report to any of the domestic authorities and found it strange that the applicant failed to present the only evidence that could substantiate his allegations of ill-treatment. In conclusion the Court held that the evidence before it does not allow finding beyond reasonable doubt that the applicant was subjected to ill-treatment. Therefore, the Court found no violation of Article 3.</p>
<p><b>ALLEGED VIOLATION OF ARTICLE 5§1(c)</b></p>
<p>The Court noted that the “reasonableness” of the suspicion on which an arrest must be based forms an essential part of the safeguard against arbitrary arrest and detention. Having a reasonable suspicion presupposes the existence of facts or information which would satisfy an objective observer that the person concerned may have committed the offence. The reasonableness will depend on all circumstances. Reasonable suspicion does not mean that the suspected person's guilt must at that stage be established. It is precisely the purpose of the investigation that the reality and nature of the offences laid against the accused should definitely be proved.</p>
<p>Furthermore any deprivation of liberty must not only have been effected in conformity with the substantive and procedural rules of national law but must equally be in keeping with the very purpose of Article 5, namely to protect the individual from arbitrary detention</p>
<p>The Court held that having regard to the specific circumstances of the case and that the applicant’s</p>

arrest was in conformity with the domestic law, there was no violation of Article 5(1c).
<b>ALLEGED VIOLATION OF ARTICLE 5§3</b>
The Court recalls that Article 5, in general, aims to protect the individual against arbitrary interference by the State with his right to liberty. Article 5 § 3 intends to avoid arbitrariness and to secure the rule of law by requiring a judicial control of interferences by the executive.
To be in accordance with Article 5 § 3, judicial control must be prompt. Promptness has to be assessed in each case according to its special features.
The court held that even though the investigation of terrorist offences involves some special problems, the twelve day detention of the applicant without bringing him before the judge constituted a breach of Article 5(3).
<b>ALLEGED VIOLATION OF ARTICLE 5§4</b>
The Court pointed to its previous case-law where it had already noted that in the material time there did not exist an effective remedy before State Security Court by which an applicant could challenge the lawfulness of his detention. The Court saw no reason to depart from that conclusion in the present case and therefore found that there was a breach of Article 5(4) of the Convention.
<b>ALLEGED VIOLATION OF ARTICLE 6§1</b>
The Court found it appropriate to examine the allegations of the applicant concerning his torture and ill-treatment in relation to the more general obligation on States under Article 13 to provide an effective remedy in respect of violations of the Convention. Therefore the Court did not find it necessary to determine whether there had been a violation of Article 6 (1) of the Convention.
<b>ALLEGED VIOLATION OF ARTICLE 13</b>
The Court again made a reference to its previous case-law and noted that the investigation carried out by the administrative council cannot be regarded as independent since they are chaired by the governors, or their deputies, and are composed of local representatives of the executive, who are hierarchically dependent on the governors. And because of this the investigation into the applicant's allegations could not be properly described as thorough, effective and independent such as to meet the requirements of Article 13. There has accordingly been a violation of Article 13 of the Convention.
<b>ALLEGED VIOLATION OF ARTICLE 14</b>
Based on the materials before it and the facts established in the case the Court was not convinced that there had been a violation of Article 14 of the Convention.

**Table 4**

<b>ARTICLES ALLEGEDLY VIOLATED AND DAMAGE</b>	<b>COURT'S JUDGMENT</b>
<b>Article 3 of ECHR</b>	No violation (unanimous)
<b>Article 5§1 of ECHR</b>	No violation (unanimous)
<b>Article 5§3 of ECHR</b>	There has been a violation (unanimous)
<b>Article 5§4 of ECHR</b>	There has been a violation (unanimous)
<b>Article 6§1 of ECHR</b>	It is not necessary to consider the applicant's complaint (unanimous)
<b>Article 13 of ECHR</b>	There has been a violation (unanimous)
<b>Article 14 of ECHR</b>	No violation (unanimous)
<b>Pecuniary damage</b>  Mr. Talat Tepe claimed 100,000 US dollars (USD) in respect of the loss of his past earnings.	The Court considered that the applicant clearly incurred some loss of earnings during his detention which was found to violate Article 5 of the Convention, and that the applicant needed time to recover after his stressful experience in order to restore his health and his confidence  Under these circumstances, the Court, deciding on an equitable basis as required by Article 41 of the Convention, awarded the applicant

He claimed a further USD 196,000 in respect of his future earnings.	1,000 euros (EUR) for pecuniary damage.
<b>Non-pecuniary damage</b>  The applicant claimed the sum of USD 100,000 for non-pecuniary damage.	The Court considered that the applicant must have suffered distress, which cannot solely be compensated by the finding of a violation. Having regard to the nature of the violations found in the present case the Court, deciding on an equitable basis, awarded the applicant EUR 5,000 under the head of non-pecuniary damage.
<b>Costs and Expenses</b>  The applicant sought the reimbursement of USD 38,694 for his costs and expenses incurred in the domestic and Convention proceedings as well as for his medical expenses.	It was noted that the Court was unable to award the totality of the amount claimed; deciding on an equitable basis and having considered the details of the claims submitted by the applicant, the Court awarded the applicant the sum of EUR 7,000.

## PART II -- STUDY OF THE JUDGMENT OF THE EUROPEAN COURT

1. In general it should be said that Article 3 makes no provision for exceptions and that no derogation from it is permitted under Article 15 in time of war or other national emergency. This absolute prohibition of torture and of inhuman or degrading treatment and punishment under the terms of the Convention indicates that Article 3 enshrines one of the fundamental values of democratic societies making up the Council of Europe. It is also found in other international instruments such as the 1966 International Covenant on Civil and Political Rights and the 1969 American Convention on Human Rights and it is generally recognised as an international standard.<sup>1</sup>

The first case in which the European Court found the most serious form of ill-treatment: torture, to have taken place, was *Aksoy v. Turkey* (judgment of December 10, 1996). Torture implies suffering of a particular intensity and cruelty. The notions of inhuman and degrading treatment or punishment involve less serious situations; however this is also a violation of Article 3 of the ECHR.<sup>2</sup>

In the case of *Talat Tepe v. Turkey*, the European Court once more stressed several important issues concerning complaints under Article 3 (prohibition of torture).

I. The Court stated that Article 3 enshrines one of the most fundamental values of democratic societies. Even in the most difficult circumstances, such as the fight against terrorism and organised crime, the Convention prohibits in absolute terms torture and inhuman or degrading treatment or punishment. Unlike most of the substantive clauses of the Convention and of Protocols Nos. 1 and 4, Article 3 makes no provision for exceptions and no derogation from it is permissible under Article 15 § 2 even in the event of a public emergency threatening the life of the nation.<sup>3</sup>

II. The Court further noted that in assessing evidence in a claim of violation of Article 3 of the Convention, it adopted the standard of proof "beyond reasonable doubt."<sup>4</sup> Such proof may, however,

<sup>1</sup> see *Soering v. the United Kingdom*, judgment of 7 July 1989, ECHR series A vol. 161, par. 88

<sup>2</sup> see for example *Tyrer v. the United Kingdom*, judgment of 25 April 1978, ECHR series A vol. 26

<sup>3</sup> see *Selmouni v. France* [GC], no. 25803/94, § 95, ECHR 1999-V

<sup>4</sup> see *Ayar v. Turkey*, no. 25657/94, § 282, ECHR 2001-VII

follow from the coexistence of sufficiently strong, clear and concordant inferences or of similar un rebutted presumptions of fact.<sup>5</sup>

III. It was also noted that the Court is sensitive to the subsidiary nature of its task and recognises that it must be cautious in taking on the role of a first-instance tribunal of fact, where this is not rendered unavoidable by the circumstances of a particular case.<sup>6</sup> Nonetheless, where allegations are made under Article 3 of the Convention, as in the present case, the Court must apply a particularly thorough scrutiny.<sup>7</sup>

IV. The Court stated that the nature of the right safeguarded under Article 3 has implications for Article 13. Where an individual has an arguable claim that he has been tortured or subjected to serious ill-treatment by agents of the State, the notion of an “effective remedy” entails, in addition to the payment of compensation where appropriate, a thorough and effective investigation capable of leading to the identification and punishment of those responsible and including effective access for the complainant to the investigatory procedure.

V. The Court noted that for an investigation by State officials into alleged torture or ill-treatment to be effective, it might be necessary for the persons responsible for carrying out the investigation to be independent from those implicated in the events. This means that there should be not only a lack of hierarchical or institutional connection but also a practical independence.<sup>8</sup>

## 2. Article 5: Right to liberty and security

The essential aim of Article 5 of the ECHR is to prevent arbitrary deprivation of liberty. Any form of arrest or detention without legal basis and judicial control is prohibited. The right to liberty plays an important role in a democratic society. Article 5§1 defines the conditions under which a person may be deprived of his liberty and paragraphs 2 to 5 provide certain rights for those who are detained.

In the case of *Talat Tepe v. Turkey*, the European Court stressed several important issues concerning the complaints under Article 5 (right to liberty and security).

I. The Court noted that the “reasonableness” of the suspicion on which an arrest must be based forms an essential part of the safeguard against arbitrary arrest and detention which is laid down in Article 5 § 1 (c). Having a “reasonable suspicion” presupposes the existence of facts or information which would satisfy an objective observer that the person concerned may have committed the offence.<sup>9</sup> What may be regarded as reasonable will, however, depend on all the circumstances.<sup>10</sup>

II. The reasonable suspicion referred to in Article 5 § 1 (c) of the Convention does not mean that the suspected person's guilt must at that stage be established. It is precisely the purpose of the investigation that the reality and nature of the offences laid against the accused should definitely be proved.<sup>11</sup> Sub-paragraph (c) of Article 5 § 1 does not even presuppose that the police should have obtained sufficient evidence to bring charges, either at the point of arrest or while the applicant was in custody.<sup>12</sup>

III. Any deprivation of liberty must not only have been effected in conformity with the substantive and procedural rules of national law but must equally be in keeping with the very purpose of Article 5, namely to protect the individual from arbitrary detention<sup>13</sup>

<sup>5</sup> *Ireland v. the United Kingdom*, judgment of 18 January 1978, Series A no. 25, p. 65, § 161

<sup>6</sup> see, for example, *McKerr v. the United Kingdom* (dec.), no. 28883/95, 4 April 2000

<sup>7</sup> see, *mutatis mutandis*, *Ribitsch v. Austria*, judgment of 4 December 1995, Series A no. 336, § 32

<sup>8</sup> see, among other authorities, *Oğur v. Turkey*[GC], no. 21594/93, § 91, ECHR 1999-III

<sup>9</sup> *Labita v. Italy*[GC], no. 26775/95, § 155, ECHR 2000-IV

<sup>10</sup> see *Fox, Campbell and Hartley v. the United Kingdom*, judgment of 30 August 1990, Series A no. 182, p. 16, § 32

<sup>11</sup> see *Murray v. the United Kingdom*, judgment of 28 October 1994, Series A no. 300-A, p. 27, § 55

<sup>12</sup> see *Erdagiz v. Turkey*, judgment of 22 October 1997, Reports 1997-VI, p. 2314, § 51

<sup>13</sup> see *Chahal v. the United Kingdom*, judgment of 15 November 1996, Reports 1996-V, p. 1864, § 118

**IV.** Article 5 § 3 intends to avoid arbitrariness and to secure the rule of law by requiring a judicial control of interferences by the executive.<sup>14</sup>

**V.** To be in accordance with Article 5 § 3, judicial control must be prompt. Promptness has to be assessed in each case according to its special features.<sup>15</sup> However, the scope of flexibility in interpreting and applying the notion of promptness is very limited.<sup>16</sup>

**VI.** The Court stresses again that the investigation of terrorist offences undoubtedly presents the authorities with special problems.<sup>17</sup> This does not mean, however, that the investigating authorities have carte blanche under Article 5 to arrest suspects for questioning, free from effective control by the domestic courts and, ultimately, by the Convention supervisory institutions, whenever they choose to assert that terrorism is involved.<sup>18</sup>

**VII.** The Court reiterates that the existence of a remedy must be sufficiently certain, failing which it will lack the accessibility and effectiveness required for the purposes of Article 5 § 4.<sup>19</sup>

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<sup>14</sup> see *Sakık and Others v. Turkey*, judgment of 26 November 1997, *Reports* 1997-VII, p. 2623, § 44

<sup>15</sup> see *De Jong Baljet and Van den Brink v. the Netherlands*, judgment of 22 May 1984, Series A no. 77, pp. 24-25, §§ 51-52

<sup>16</sup> see *Brogan and Others v. the United Kingdom*, judgment of 29 November 1988, Series A no. 145-B, pp. 33-34, § 62

<sup>17</sup> see for example *Aksoy v. Turkey*, judgment of 18 December 1996, *Reports* 1996-VI, p. 2282, § 78

<sup>18</sup> see *Murray v. the United Kingdom*, judgment of 28 October 1994, Series A no. 300-A, p. 27, § 55

<sup>19</sup> see *Van Droogenbroeck v. Belgium*, judgment of 24 June 1982, Series A no. 50, p. 30, § 54