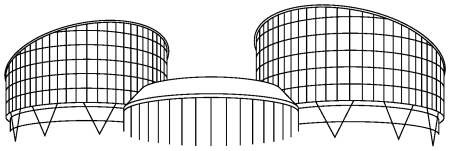

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF GÜÇ v. TURKEY

(Application no. 15374/11)

JUDGMENT

STRASBOURG

23 January 2018

FINAL

23/04/2018

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

COUNCIL OF EUROPE
CONSEIL DE L'EUROPE

In the case of Güç v. Turkey,

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

Robert Spano, *President,*
Ledi Bianku,
Işıl Karakaş,
Nebojša Vučinić,
Valeriu Grițco,
Jon Fridrik Kjølbro,
Stéphanie Mourou-Vikström, *judges,*
and Hasan Bakırcı, *Deputy Section Registrar,*

Having deliberated in private on 19 December 2017,

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

PROCEDURE

1. The case originated in an application (no. 15374/11) against the Republic of Turkey lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Turkish national, Mr Yaşar Güç, ("the applicant"), on 21 December 2010.

2. The applicant was represented by Mr T. Yanıkoğlu, a lawyer practising in Giresun. The Turkish Government ("the Government") were represented by their Agent.

3. The applicant alleged that his dismissal from the civil service and the reasoning employed by the administrative courts in reviewing his dismissal were incompatible with the guarantees of Article 6 § 2 of the Convention.

4. On 29 August 2013 the application was communicated to the Government.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

5. The applicant was born in 1960 and lives in Giresun.

6. The facts of the case, as submitted by the parties and as they appear from the documents submitted by them, may be summarised as follows.

A. Criminal proceedings against the applicant

7. On 8 February 2006 the applicant, a caretaker employed at the Public Education Centre (*Halk Eğitim Merkezi*) in Giresun, was taken into police custody on suspicion of child molestation, after being caught in an allegedly indecent position with X., a 9-year-old pupil at the primary school located in the same building as the Public Education Centre.

8. On 8 March 2006 the Espiye Public Prosecutor lodged an indictment with the Espiye Criminal Court of First Instance, charging the applicant with the sexual abuse, sexual assault and unlawful detention of a minor, pursuant to Articles 103 § 1 (a), 109 § 3 (f) (5) and 102 §§ 1 and 3 (a) of the Turkish Criminal Code.

9. During the ensuing criminal proceedings, the Espiye Criminal Court of First Instance heard statements from the applicant, the parents of X., the psychiatrist who had interviewed the girl after the incident, and the teachers and personnel at the Public Education Centre and the neighbouring primary school, including the teacher E.U., who was the sole eyewitness to the incident. Denying the allegations against him, the applicant stated that on the morning in question, he had entered one of the classrooms in the building for cleaning purposes, where the alleged victim was already present with another pupil. While he was busy cleaning, X. had asked for a *simit* (a type of bread roll) and had attempted to hug him, as a result of which gesture he had lost his balance and fallen onto a desk with X. It was at that point that the teacher E.U. had entered the classroom.

10. E.U., on the other hand, testified before the trial court that as she opened the door of the classroom in question, she saw the applicant sitting on a desk in the dark with his legs apart, hugging X. who was sitting on his lap, facing the blackboard. Within a matter of seconds, upon seeing her, the applicant threw X. away in panic. E.U. stated that while she had never witnessed similar behaviour by the applicant before, the scene she had seen on the day in question looked suspicious. She also confirmed that there was another pupil in the classroom at the time.

11. S.P., who worked in the same primary school and was also the uncle of X.'s mother, asserted before the court that although he had never witnessed any suspicious behaviour on the part of the applicant, he had heard a colleague, İ.K., say that the applicant had engaged in indecent behaviour towards some pupils at the school where he had worked previously. However, İ.K., who was the deputy principal at the applicant's previous school, denied giving S.P. any such information concerning the applicant or hearing any adverse rumours or complaints about him for that matter.

12. X.'s father alleged that according to the information he had received from M.Ö. and M.K. – respectively an employee and the manager at the Public Education Centre – the applicant had been dismissed from his

previous job for similar behaviour. M.Ö. denied this allegation, but M.K. confirmed that the above-mentioned S.P. had given him this information, although he himself had never witnessed any indecent behaviour by the applicant.

13. Another witness, B.A., confirmed that the applicant had apologised to him following the incident. There is no information in the case-file as to the exact content of this apology.

14. The psychiatrist who interviewed X. after the incident reported that the latter lacked the mental capacity to comprehend and recount what might have taken place on the relevant day and, for that reason, it would be futile, and possibly harmful for her well-being, for the trial court to question her.

15. On the basis of all the evidence before it, on 18 December 2008 the Espiye Criminal Court of First Instance ordered the applicant's acquittal, holding that it was not possible to establish beyond all reasonable doubt that he had committed the sexual acts forming the basis of the charge. The court observed that the statements of the sole eyewitness were contradictory in parts and that they included her personal interpretation of what had actually taken place on the relevant morning. It added that, despite E.U.'s allegation that the applicant had thrown X. to one side upon her entry in the room, no wounds or bruises had been detected on the girl's body.

16. On 13 January 2009 the acquittal judgment became final in the absence of any appeal.

B. Disciplinary proceedings against the applicant

17. Parallel to the criminal proceedings pending before the Espiye Criminal Court of First Instance, a disciplinary investigation was conducted against the applicant in relation to allegations of harassment.

18. The disciplinary investigation was carried out by two inspectors who took statements from X.'s father, from M.K., the manager of the Public Education Centre, from B.A., a teacher at the primary school, from A.T., the principal of the primary school, and from the applicant, who was being held in detention in relation to the criminal proceedings at the time. The inspectors also took two separate statements from the sole eyewitness, the teacher E.U., under oath and took into account a report from the guidance counsellors of the primary school regarding the psychological and physical development of the minor X. That report, dated 7 January 2003, described the physical and social developmental attributes of the girl as weak and very timid, respectively. The medical diagnosis was stated as autism.

19. The investigation report which was issued at the end of the disciplinary investigation on 3 April 2006 found the allegations of harassment against the applicant to be well-founded and recommended the dismissal of the applicant from the civil service on the grounds that his conduct constituted "shameful and disgraceful conduct incompatible with

the civil service" as provided under section 125 § E (g) of Law no. 657. In coming to this conclusion, the inspectors noted the following:

> "...The eyewitness, E.U., reported having seen the applicant in a position which made her suspect that he had been in the course of sexually harassing the student, [X.] She explained that the following facts – in particular, the room being dark as a result of the lights having been turned off, the applicant sitting at the desk right next to the door with his legs open with the minor on his lap and the desk in front having been pushed further away, coupled with the fact that he had been caressing the body of the minor and holding her tight around her waist – had led her to conclude that [the applicant] had been attempting to harass her. [She stated that] what she witnessed did not look like a regular display of affection and when she had entered the room, he had thrown the child off him in panic. In his statement, [the applicant] stated that the minor had attempted to hug him while he was cleaning the floor and that, as a result of that gesture he had lost his balance and the minor had sat on his lap. He added that when E.U. entered the room, he was trying to get the minor off him. [The applicant's] statement that he had fallen onto a desk with the minor as a result of the latter trying to hug him corroborates E.U.'s version of the events. However, the part about him having lost his balance as a result of the minor's attempt to hug him would be quite unusual given the physical attributes of the minor in question. Moreover, the consistent statements of E.U., taken under oath, who as a mother and an educator seems to have suffered a great deal of emotional distress from these events, give the impression that the allegations against the applicant are well-founded.
>
> [...]
>
> The event has shocked and distressed the town community as well as the school... The severity of this event is further exacerbated by the fact that the student in question is a mentally disabled child, ... unable to express or defend herself...This is a disgraceful thing for a civil servant. [The event] has also given rise to a criminal investigation instigated by the Espiye Public Prosecutor's office where [the applicant], is accused of sexually abusing a minor who was born on [...] February 1993 and who was unable to defend herself due to her mental incapacity, and to the remanding in custody of [the applicant].
>
> ...we are of the opinion that [the applicant] has harassed [X.] and that this conduct, which is proven, falls under situations provided for in section 125 § E (g) of law no. 657, that is to say, "shameful and disgraceful conduct that is incompatible with the civil service".

20. On 25 May 2006 the applicant submitted his written defence to the Supreme Disciplinary Council of the Ministry of Education ("the Supreme Disciplinary Council"). He requested at the outset that the investigation be postponed until the criminal proceedings against him on the same allegations had been finalised. Furthermore, denying all accusations, he challenged E.U.'s statements as being wholly subjective and distorting the facts, bearing particularly in mind that the whole incident had taken place within a matter of seconds, as she too had acknowledged, which did not realistically allow her to make the detailed observations that she had recounted to the authorities. He added that it was not logical that he would have committed the alleged act in the presence of another pupil in the classroom right before the start of the classes.

21. On 5 July 2006 the Supreme Disciplinary Council issued the following decision in relation to the applicant, in so far as relevant:

> "Upon examination of the file ... and of the defence statement duly taken [from the applicant], the following has been decided:
>
> On the basis of the information and documents in the file, the veracity of the act [harassment of X.] attributed to the applicant has been conclusively established... For this reason, it has been decided unanimously to accept the proposal to dismiss the applicant from the civil service in accordance with section 125 § E (g) of the Law no. 657 [on Civil Servants], ..."

22. On 30 October 2006 the applicant objected to the Supreme Disciplinary Council's decision before the Ordu Administrative Court. The applicant argued that his dismissal on the basis of a finding that he had committed the act of sexual harassment of a minor, which is a criminal act, while criminal proceedings were still pending in respect of that self-same allegation violated his right to the presumption of innocence.

23. On 3 July 2007 the Ordu Administrative Court dismissed the applicant's objection on the following grounds:

> "The case concerns the dismissal of the [applicant,], who worked as a caretaker, on the basis of the allegations that he harassed [X.] on the premises of the primary school.
>
> Section 125 E-g of Law no. 657 provides that shameful and disgraceful conduct that is incompatible with the civil service requires dismissal from the civil service.
>
> Section 131 of the same Law also provides that the commencement of criminal proceedings against a civil servant shall not suspend disciplinary proceedings arising out of the same facts and that acquittal or conviction in the criminal proceedings shall not prevent the execution of disciplinary sanctions."
>
> [...]
>
> Although it has been argued that the sole eyewitness's version of the events cannot be taken as a conclusive basis on which to deem that the applicant committed the act imputed to him, on the basis of the evidence in the case-file and in consideration of the position in which the applicant was found in the classroom, as well as the fact that the classroom's door had been shut and the lights had been turned off and the room was therefore dark as it was also very early in the morning and it was raining [...], having further regard to the statement by the principal of the neighbouring primary school, A.T., during the criminal proceedings acknowledging that the applicant had apologised to him after the incident and that he had also heard rumours about the applicant's similar indecent behaviour in other schools where he had previously worked, the applicant's argument has not been found to be credible.

24. This statement by A.T., referred to in the Ordu Administrative Court judgment, is not mentioned in the judgment of the Espiye Criminal Court of First Instance.

25. On 28 July 2007 the applicant appealed against the decision of the Ordu Administrative Court, which he considered to be based on groundless accusations. He argued firstly that, in circumstances where the act forming the basis of criminal and disciplinary investigations was one and the same,

the criminal proceedings would be better placed to shed light on the circumstances and to arrive at an accurate conclusion regarding the facts than would be those of the disciplinary bodies, whose findings would be at best hypothetical. He pointed out that the administrative court had ignored the presence of another pupil in the classroom at the time of the incident, as well as his explanation that the door had been shut as a result of the draught from the open window. The administrative court had similarly overlooked his service record (*sicil dosyası*) and the fact that it made no mention of any allegations of misconduct in his previous post, which would be unimaginable if he had really been dismissed from that post for indecent behaviour. He also referred in this connection to the statements of İ.K., the deputy principal at the previous school, denying any such allegations of indecent behaviour.

26. On 17 November 2009 the Supreme Administrative Court dismissed the applicant's appeal, endorsing the first-instance court's reasoning and not mentioning the acquittal judgment which had been delivered by the Espiye Criminal Court of First Instance in the meantime.

27. On 7 July 2010 the Supreme Administrative Court rejected the applicant's rectification request.

C. Request to reopen the proceedings

28. On 27 May 2013, that is to say after lodging his complaint with the Court, the applicant brought proceedings against the Ministry of Education and requested the reopening of the proceedings concerning his dismissal from the civil service. The applicant relied on the Espiye Criminal Court of First Instance's final judgment of 18 December 2008, which acquitted him of the charges of sexual abuse, sexual assault and the unlawful detention of a minor, and argued before the Ordu Administrative Court that his right to the presumption of innocence had been violated in the course of the dismissal proceedings because he had been dismissed on the basis of allegations that he had committed offences in respect of which the criminal proceedings had not yet become final. On 24 October 2013, the Ordu Administrative Court dismissed the case, holding that the arguments put forward by the applicant for reopening proceedings did not fall within the exhaustive list of permissible grounds for this extraordinary remedy.

29. In their observations on 14 March 2014, the Government informed the Court that appeal proceedings were pending before the Supreme Administrative Court.

II. RELEVANT DOMESTIC LAW

30. Section 125 § E (g) of the Law on Civil Servants (Law no. 657), in so far as relevant, provides as follows:

"E. ...The following acts and conduct entail expulsion from the civil service:

...

(g) Engaging in disgraceful and shameful conduct that is not compatible with the position of a civil servant;

..."

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 6 § 2 OF THE CONVENTION

31. The applicant alleged that his dismissal from the civil service and the reasoning employed by the administrative courts when reviewing his dismissal were incompatible with the guarantees of Article 6 § 2 of the Convention, which reads as follows:

"Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law."

A. Admissibility

32. Article 6 § 2 safeguards the right to be "presumed innocent until proved guilty according to the law". The Court has acknowledged in its case-law the existence of two aspects as regards the protection afforded by the presumption of innocence: a procedural aspect relating to the conduct of the criminal trial, and a second aspect which aims to ensure respect for the applicant's established innocence in the context of subsequent proceedings where there is a link with the criminal proceedings which have ended with a result other than a conviction (see, generally, *Allen v. the United Kingdom* [GC], no. 25424/09, §§ 93-94, ECHR 2013). Under its first aspect, the principle of the presumption of innocence prohibits public officials from making premature statements about a defendant's guilt and acts as a procedural guarantee to ensure the fairness of the criminal trial itself. However, it is not limited to a procedural safeguard in criminal matters: its scope is broader and requires that no representative of the State should say that a person is guilty of an offence before his guilt has been established by a court (*Konstas v. Greece*, no. 53466/07, § 32, 24 May 2011). In that respect the presumption of innocence may be infringed not only in the context of the criminal trial, but also in separate civil, disciplinary or other proceedings that are conducted simultaneously with the criminal proceedings (see *Kemal Coşkun v. Turkey*, no. 45028/07, § 41, 28 March 2017). While the scope of the first aspect under Article 6 § 2 of the Convention covers the period from the date on which a person is charged

with a criminal offence until the criminal proceedings are final, the second aspect of the protection of the presumption of innocence comes into play when the criminal proceedings end with a result other than a conviction, and requires that the person's innocence *vis-à-vis* the criminal offence is not called into doubt in subsequent proceedings (see *Allen*, cited above, § 94).

33. In the present case, the Court notes that the applicant's complaint concerns his dismissal from the civil service and the way in which his objection concerning the alleged violation of his right to presumption of innocence was treated by the administrative courts reviewing his dismissal. The Court will therefore first consider the point in time when the impugned statement was made in order to determine the applicability of Article 6 § 2 under its respective aspects. The Court observes in that connection that the disciplinary and criminal proceedings were lodged simultaneously following the allegations that the applicant had been seen in an inappropriate position with a minor. The disciplinary decision to dismiss the applicant from the civil service on the grounds that his behaviour amounted to disgraceful conduct was given on 5 July 2006, at a time when the criminal proceedings, based on the same facts and concerning the charges of sexual abuse, sexual assault and unlawful detention of a minor, were pending. The reasoning of the disciplinary decision was endorsed by the Ordu Administrative Court in its judgment of 3 July 2007, which held that the applicant's behaviour in harassing the minor amounted to shameful conduct incompatible with the civil service. Taking into account the fact that the impugned statements preceded the applicant's acquittal and the applicant's complaint that he had been presumed guilty before the criminal proceedings were final, the Court will confine its examination to the first aspect of Article 6 § 2 of the Convention and assess thereunder whether the reasoning adopted in the disciplinary proceedings, before the final decision in the criminal proceedings, violated the applicant's right to be presumed innocent (see, in particular, *Kemal Coşkun,* cited above, § 44). As a result, Article 6 § 2 is applicable in the context of the disciplinary proceedings at issue and the application is therefore not incompatible *ratione materiae* with the provisions of the Convention.

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

B. Merits

35. The applicant maintained his arguments.

36. The Government argued that a separate investigation had been conducted by the disciplinary bodies in the present application. They had heard the applicant, the witness and related parties, and had considered the

evidence before them to be sufficient to conclude that the applicant's conduct had been incompatible with that expected in the civil service, as provided for under section 125. The Government pointed out that the standard of evidence and burden of proof applicable in disciplinary proceedings were different from those applicable in criminal proceedings.

37. The Government further argued that the disciplinary bodies had not drawn any conclusion in relation to the applicant's conduct from the standpoint of criminal law.

38. The Court reiterates that Article 6 § 2 of the Convention safeguards first and foremost the way in which the accused is treated by public authorities in the context of criminal proceedings. The presumption of innocence is infringed if a judicial decision or a statement by a public official concerning a person charged with a criminal offence conveys the opinion that he is guilty before he has been proved guilty according to law. A fundamental distinction must be made between a statement that someone is merely suspected of having committed a crime and a clear declaration − in the absence of a final conviction − that an individual has committed the crime in question (see, among others, *Matijašević v. Serbia*, no. 23037/04, § 48, ECHR 2006‑X; *Garycki v. Poland*, no. 14348/02, § 71, 6 February 2007; and *Wojciechowski v. Poland*, no. 5422/04, § 54, 9 December 2008). The latter infringes the presumption of innocence, whereas the former has been regarded as unobjectionable in various situations examined by the Court (see, among others, *El Kaada v. Germany*, no. 2130/10, § 54, 12 November 2015). In this connection the Court has emphasised the importance of the choice of words by public officials in their statements before a person has been tried and found guilty of a particular criminal offence. While the use of language is of critical importance in this respect, the Court has also pointed out that the question of whether a statement by a public official has breached the principle of the presumption of innocence must be determined in the context of the particular circumstances in which the impugned statement was made (see *Daktaras v. Lithuania*, no. 42095/98, §§ 41-42, ECHR 2000-X; *Konstas*, cited above, § 33; *Allen*, cited above, §§ 125 and 126; and *El Kaada*, cited above, § 55).

39. In previous cases similar to the present one, the Court has held that it is neither the purpose nor the effect of the provisions of Article 6 § 2 to prevent the authorities vested with disciplinary power from imposing sanctions on a civil servant for acts with which he has been charged in criminal proceedings where such misconduct has been duly established (see *Allen*, cited above, § 124 and the cases cited therein). In that respect, the Court reiterates that the Convention does not preclude that an act may give rise to both criminal and disciplinary proceedings, or that two sets of proceedings may be pursued in parallel. The Court reiterates in that respect that even exoneration from criminal responsibility does not, as such,

preclude the establishment of civil or other forms of liability arising out of the same facts on the basis of a less strict burden of proof (see, for example, *Ringvold v. Norway*, no. 34964/97, § 38, ECHR 2003‑II; *Jakumas v. Lithuania*, no. 6924/02, § 57, 18 July 2006; *Çelik (Bozkurt) v. Turkey*, no. 34388/05, § 30, 12 April 2011; and *Vella v. Malta*, no. 69122/10, § 56, 11 February 2014). However, in the absence of a final criminal conviction, if the disciplinary decision were to contain a statement imputing criminal liability to the applicant for the misconduct alleged against him in the disciplinary proceedings, it would raise an issue under Article 6 § 2 (see *Kemal Coşkun*, cited above, § 53 and the cases cited therein).

40. In the present case the Court is called upon to determine whether disciplinary and administrative authorities through their reasoning or the language they used in their respective decisions allowed doubt to be cast on the applicant's innocence even though he had not been found guilty by a criminal court.

41. The Court notes at the outset that the legal basis for the applicant's dismissal was "shameful or unbecoming conduct that is incompatible with the reputation of official functions", which is a distinct disciplinary offence under section 125 § E (g) of the Law no. 657 on Civil Servants and which as such does not entail any criminal connotations. The Court also notes, however, that the disciplinary authorities described the factual basis that gave rise to this offence as the "harassment of a minor". The subsequent disciplinary investigation was set up to determine whether the allegations of harassment were sufficiently well-founded to describe the applicant's conduct as "shameful". The investigation was carried out by two inspectors who established the facts independently by taking statements from various parties concerned and took into account the guidance counsellors' report concerning the minor's psychological and social stage of development. There is nothing in the disciplinary report that suggests that the inspectors drew premature inferences from the criminal proceedings that were pending against the applicant. In that respect, the Court concludes that the disciplinary authorities conducted a separate inquiry into the facts of the case. At the end of their investigation, and on the basis of a less strict burden of proof, the inspectors concluded that they had the strong impression that the applicant had committed harassment against the minor. The Court notes in this respect that the disciplinary decision did not describe the harassment as sexual *per se* − as opposed to the classification of the offence in the criminal proceedings − and as such they did not pronounce the applicant guilty of a criminal offence. In their reasoning, they referred to the act by the term "harassment'" *("taciz"*) and not by "sexual abuse" (*"cinsel istismar"*) or "sexual assault" (*"ırza tasaddi"*). In the opinion of the Court, the use of the term "harassment" does not in itself present a problem, as the term is not used solely in connection with criminal law actions, but also in contexts where a person's private sphere, including

his or her bodily integrity, is violated by non-consensual physical or verbal contact. Read in the context of the present disciplinary proceedings, the choice of words implies that the disciplinary authorities formed the opinion that the applicant's physical contact with the minor amounted to harassment but they did not comment on whether it could also be classified as sexual harassment within the meaning of criminal law. Furthermore they noted that the event, which had caused shock and anxiety in the community, had created a state of suspicion against the applicant, which in the Court's view meant that the disciplinary authorities had taken account of the need to maintain public confidence in the education system and to dispel any appearance of tolerance of suspicious acts against minors. Against this background, the Court does not consider that the disciplinary investigation overstepped the bounds of its civil jurisdiction in such a way as to violate the applicant's right to be presumed innocent in the context of the parallel criminal proceedings.

42. As regards the reasoning of the Ordu Administrative Court's judgment of 3 July 2007 and whether it contained language that was incompatible with Article 6 § 2 of the Convention, the Court notes at the outset that the administrative court started out by summarising the investigation report and its conclusion. It then rejected the applicant's argument that a statement by the sole eyewitness to the event could not prove conclusively the veracity of the allegation. In its assessment of the facts it took into account certain factors, such as the lights being turned off and the door being shut when the applicant was found in the alleged position with X. However, unlike the disciplinary investigation report, it commented on the criminal proceedings by referring to a statement allegedly made by the principal of the neighbouring school that the latter had heard rumours regarding the applicant's indecent behaviour in other schools where he had previously worked. Although the reference to this particular statement − which was allegedly given in the context of the criminal proceedings – may have been unwarranted in the context of the disciplinary proceedings, the Court has held that even the use of some unfortunate language can be tolerated, taking into account the circumstances of the case and the nature of the task that was before the domestic courts (see *Allen*, cited above § 126, and *Vella*, cited above, §§ 57 and 61). Furthermore, the Court considers that a civil court's reliance on a statement made or evidence produced in the criminal proceedings is not itself incompatible with Article 6 § 2 of the Convention so long as such reliance does not result in the civil court commenting on the defendant's criminal responsibility or drawing inappropriate conclusions therefrom. Turning to the administrative court's reference to the statement made by the neighbouring school's principal in the present case, the Court observes that, if read on its own, that reference can be interpreted as the court considering the applicant guilty of child molestation because of his alleged past

behaviour. However, taking into account the administrative court's previous reference to the evidence available in the disciplinary case file and its following conclusion that it did not regard the applicant's explanations credible in so far as he had not discharged the burden of proof, the Court considers that that statement alone did not amount to an imputation of criminal guilt to the applicant. Nor did the administrative court comment on whether the applicant should be found guilty on the charges in the criminal proceedings (see, *mutatis mutandis*, *Vella*, cited above, § 61).

43. The foregoing considerations are sufficient to enable the Court to conclude that the language used in the disciplinary and administrative proceedings was compatible with the requirements of Article 6 § 2 under its first aspect.

There has accordingly been no violation of Article 6 § 2 of the Convention.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Declares* the application admissible;

2. *Holds* that there has been no violation of Article 6 § 2 of the Convention.

Done in English, and notified in writing on 23 January 2018, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı	Robert Spano
Deputy Registrar	President