



KUZEY KIBRIS TÜRK CUMHURİYETİ
ŞEHİT AİLELERİ VE MALÛL GAZİLER DERNEĞİ

THE TURKISH REPUBLIC OF NORTHERN CYPRUS
ASSOCIATION OF MARTYR'S FAMILIES AND WAR VETERANS

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Dear Sir(s)/Madam(s),

Written information for the examination of the Report for Cyprus by the Committee against Torture of the OHCHR under article 19 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

We are hereby submitting written information with regard to Cyprus's report.

Background information

The disappearance of Turkish Cypriots happened in 1963-64 and in 1974, and unfortunately 502 families faced disappearance of their loved ones without being able to know what happened to them. This inhuman and cruel treatment continues to this day.

During the period of 1963-64, the Greek Cypriot officials bear the sole responsibility about the disappearance of 235 innocent Turkish Cypriot civilians who were abducted by the Greek Cypriot police forces from their houses and hospitals. These people at that time were under the responsibility of the Greek Cypriot authorities. Rather than protecting the innocent civilians or acknowledging the rights of these families, the Greek Cypriot authorities denied these disappearances on the island during that period. The displaced people faced poverty and had nothing to depend on, living in isolation and unable to ask for their rights. They could only fight for existence.

After the events in 1974, the number of Turkish Cypriot missing persons reached 502 resulting in more families to suffer and wait for answers about the whereabouts and fate of their loved ones.

The Greek Cypriot authorities continue with their failure to conduct effective investigations into the whereabouts and fate of Turkish Cypriot missing persons who disappeared in life-threatening circumstances in 1963/64 and in 1974 and to inform the relatives accordingly. There has not been any redress or reparation procedure that has been established for the relatives of the Turkish Cypriot missing persons either.

On the domestic level, when the relatives of missing persons resorted to Greek Cypriot courts on the grounds that the Greek Cypriot authorities failed to ascertain the fate of those who disappeared, did not conduct effective investigation to that end, and failed to return the remains of the disappeared nor to identify or prosecute the perpetrators, the Greek Cypriot courts rejected to look into the substance of these claims and declined jurisdiction. By deciding that the case was within the sphere of “act of government”, the Greek Cypriot courts gave immunity to its officials.¹

This is a continuing violation of the procedural obligation under article 2 of the European Convention on Human Rights to protect the right to life, and under article 5 of the Convention. Furthermore, as found by the European Court of Human Rights with respect to Greek Cypriot missing persons, the silence of the authorities...in the face of real concern of relatives of the missing persons attains a level of severity which can only be categorise as inhuman treatment withy in Article 3.

When the relatives of Turkish Cypriot missing persons tried to get justice from the European Court of Human Rights by lodging applications against the Greek Cypriot side, their applications were rejected because they were lodged too late.² This prevented the Court from finding a continuing violation of Articles 2, 3 and 5 of the European Convention on Human

¹ In a decision dated 16 October 2003, the Supreme Court in its appellate jurisdiction rejected the case on the basis that the case did not concern an administrative decision but was an act of government outside the court’s jurisdiction. Matters relating to missing persons were part of the Cyprus problem and fell within the power of the political authority (Please see, *Özalp Behiç, Ece Behiç and Suzan Behiç and others v. Republic of Cyprus Attorney-General, Council of Ministers, Ministry of Foreign Affairs, Ministry of Interior* (case nos. 589/06, 590/06, 591/06, 592/06, 593/06).

² The European Court of Human Rights found the applications by the relatives of Turkish Cypriot missing persons inadmissible on the ground that 2001 was too late to lodge their applications (Please see, for example, *Karabardak v. Cyprus* (76575/01) and *Baybora v. Cyprus* (77116/01) cases). The Court then clarified in the *Varnava and others* judgment that applications concerning missing persons should have been lodged by the end of 1990 at the latest. Thus, the European Court of Human Rights did not ever consider whether the Greek Cypriot side met its requirements under Articles 2,3 and 5 with respect to Turkish Cypriot missing persons.

Rights, on the same grounds that it found violations against Turkey relating to Greek Cypriot missing persons in the cases of *Cyprus v. Turkey* and *Varnava and others v. Turkey*.

At the same time, the applications of relatives of Turkish Cypriot missing persons lodged after the Committee of Missing Persons found the remains of their relatives have also been rejected by the European Court of Human Rights on the ground that there were ongoing criminal investigations.³

Subsequently, in a number of cases, the Greek Cypriot authorities allegedly completed the criminal investigations. In all cases, the Attorney-General decided to close the files not identifying a single perpetrator nor prosecuting anyone. The decision of the Attorney-General is also immune from judicial review.

On an international level, the absence of judgments from the European Court of Human Rights, due to procedural reasons, has been preventing the Committee of Ministers of the Council of Europe from examining whether the Greek Cypriot side is conducting any effective investigation into the whereabouts and fate of missing Turkish Cypriots at the Human Rights meeting (CM-DH) regarding the examination of the execution of judgments of the European Court of Human Rights (ECtHR).

So far as we can ascertain, there has not been any international monitoring organ that has been effectively pursuing the Turkish Cypriot missing persons issue with the Greek Cypriot side.

We understand that the Committee against Torture is pursuing this matter with respect to Greek Cypriot missing persons and it is one of the issues on its list that will be discussed within the framework of Turkey's fourth periodic report.

In a similar vein, the Committee against Torture is currently seized of this matter with respect to "Cyprus" and will examine its 4th-5th Periodic Report in May 2014.

We thus request the Committee to bring up the issue of Turkish Cypriot missing persons with the Greek Cypriot authorities and ask the following questions:

³ Please see, for example, *Emin and others v. Cyprus* (application no. 59623/08) and six other applications The European Court of Human Rights (Fourth Section), dated 3 April 2012.

Questions and remarks for the examination of the Report of Cyprus:

*What measures have been taken by the Greek Cypriot authorities to investigate into cases of disappearances from 1963/64 and 1974 bearing in mind that failure to effectively investigate disappearances constitute violations of Articles 2, 3 and 5 under the European Convention of Human Rights? In particular, please provide (a) information on the effective, independent and transparent investigations into cases of Turkish Cypriot missing persons, and if appropriate, prosecutions and convictions of perpetrators; and (b) due notification of the results of such investigations and prosecutions to family members of Turkish Cypriot individuals who have disappeared.

*What kind of redress and reparation for the relatives of the Turkish Cypriot missing persons have been set up by the Greek Cypriot authorities?



Ertan ERSAN

President

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