

European Court of Human Rights
Case of Cyprus v. Turkey
(Application no. 25781/94)

THE COURT

I. Preliminary issues

1. *Holds* unanimously that it has jurisdiction to examine the preliminary issues raised in the proceedings before the Commission (paragraphs 56-58);
2. *Holds* unanimously that the applicant Government have *locus standi* to bring the application (paragraph 62);
3. *Holds* unanimously that the applicant Government have a legitimate legal interest in having the merits of the application examined (paragraph 68);
4. *Holds* by sixteen votes to one that the facts complained of in the application fall within the "jurisdiction" of Turkey within the meaning of Article 1 of the Convention and therefore entail the respondent State's responsibility under the Convention (paragraph 80);
5. *Holds* by ten votes to seven that, for the purposes of former Article 26 (current Article 35 § 1) of the Convention, remedies available in the "TRNC" may be regarded as "domestic remedies" of the respondent State and that the question of the effectiveness of these remedies is to be considered in the specific circumstances where it arises (paragraph 102);
6. *Holds* unanimously that situations which ended more than six months before the date of introduction of the present application (22 May 1994) fall outside the scope of the Court's examination (paragraph 104).

II. Alleged violations of the rights of Greek-Cypriot missing persons and their relatives

1. *Holds* unanimously that there has been no breach of Article 2 of the Convention by reason of an alleged violation of a substantive obligation under that Article in respect of any of the missing persons (paragraph 130).
2. *Holds* by sixteen votes to one that there has been a continuing violation of Article 2 of the Convention on account of the failure of the authorities of the respondent State to conduct an effective investigation into the whereabouts and fate of Greek-Cypriot missing persons who disappeared in life-threatening circumstances (paragraph 136);
3. *Holds* unanimously that no breach of Article 4 of the Convention has been established (paragraph 141);

4. *Holds* by sixteen votes to one that there has been a continuing violation of Article 5 of the Convention by virtue of the failure of the authorities of the respondent State to conduct an effective investigation into the whereabouts and fate of the Greek-Cypriot missing persons in respect of whom there is an arguable claim that they were in Turkish custody at the time of their disappearance (paragraph 150);

5. *Holds* unanimously that no breach of Article 5 of the Convention has been established by virtue of the alleged actual detention of Greek-Cypriot missing persons (paragraph 151);

6. *Holds* unanimously that it is not necessary to examine the applicant Government's complaints under Articles 3, 6, 8, 13, 14 and 17 of the Convention in respect of the Greek-Cypriot missing persons (paragraph 153);

7. *Holds* by sixteen votes to one that there has been a continuing violation of Article 3 of the Convention in respect of the relatives of the Greek-Cypriot missing persons (paragraph 158);

8. *Holds* unanimously that it is not necessary to examine whether Articles 8 and 10 of the Convention have been violated in respect of the relatives of the Greek-Cypriot missing persons, having regard to the Court's conclusion under Article 3 (paragraph 161).

III. Alleged violations of the rights of displaced persons to respect for their home and property

1. *Holds* by sixteen votes to one that there has been a continuing violation of Article 8 of the Convention by reason of the refusal to allow the return of any Greek-Cypriot displaced persons to their homes in northern Cyprus (paragraph 175);

2. *Holds* unanimously that, having regard to its finding of a continuing violation of Article 8 of the Convention, it is not necessary to examine whether there has been a further violation of that Article by reason of the alleged manipulation of the demographic and cultural environment of the Greek-Cypriot displaced persons' homes in northern Cyprus (paragraph 176);

3. *Holds* unanimously that the applicant Government's complaint under Article 8 of the Convention concerning the interference with the right to respect for family life on account of the refusal to allow the return of any Greek-Cypriot displaced persons to their homes in northern Cyprus falls to be considered in the context of their allegations in respect of the living conditions of the Karpas Greek Cypriots (paragraph 177);

4. *Holds* by sixteen votes to one that there has been a continuing violation of Article 1 of Protocol No. 1 by virtue of the fact that Greek-Cypriot owners of property in northern Cyprus are being denied access to and control, use and enjoyment of their property as well as any compensation for the interference with their property rights (paragraph 189);

5. *Holds* by sixteen votes to one that there has been a violation of Article 13 of the Convention by reason of the failure to provide to Greek Cypriots not residing in northern Cyprus any remedies to contest interferences with their rights under Article 8 of the Convention and Article 1 of Protocol No. 1 (paragraph 194);

6. *Holds* unanimously that it is not necessary to examine whether in this case there has been a violation of Article 14 of the Convention taken in conjunction with Articles 8 and 13 of the Convention and Article 1 of Protocol No. 1, by virtue of the alleged discriminatory treatment of Greek Cypriots not residing in northern Cyprus as regards their rights to respect for their homes, to the peaceful enjoyment of their possessions and to an effective remedy (paragraph 199);

7. *Holds* unanimously that it is not necessary to examine whether the alleged discriminatory treatment of Greek-Cypriot displaced persons also gives rise to a breach of Article 3 of the Convention, having regard to its conclusions under Articles 8, 13 and 14 of the Convention and Article 1 of Protocol No. 1 (paragraph 203);

8. *Holds* unanimously that it is not necessary to examine separately the applicant Government's complaints under Articles 17 and 18 of the Convention, having regard to its findings under Articles 8 and 13 of the Convention and Article 1 of Protocol No. 1 (paragraph 206).

IV. Alleged violations arising out of the living conditions of Greek Cypriots in northern Cyprus

1. *Holds* by sixteen votes to one that no violation of Article 2 of the Convention has been established by reason of an alleged practice of denying access to medical services to Greek Cypriots and Maronites living in northern Cyprus (paragraph 221);

2. *Holds* by sixteen votes to one that there has been no violation of Article 5 of the Convention (paragraph 227);

3. *Holds* by eleven votes to six that no violation of Article 6 of the Convention has been established in respect of Greek Cypriots living in northern Cyprus by reason of an alleged practice of denying them a fair hearing by an independent and impartial tribunal in the determination of their civil rights and obligations (paragraph 240);

4. *Holds* by sixteen votes to one that there has been a violation of Article 9 of the Convention in respect of Greek Cypriots living in northern Cyprus (paragraph 246);

5. *Holds* unanimously that no violation of Article 9 of the Convention has been established in respect of Maronites living in northern Cyprus (paragraph 247);

6. *Holds* by sixteen votes to one that there has been a violation of Article 10 of the Convention in respect of Greek Cypriots living in northern Cyprus in so far as school-books destined for use in their primary school were subject to excessive measures of censorship (paragraph 254);

7. *Holds* unanimously that no violation of Article 11 of the Convention has been established by reason of an alleged practice of denying Greek Cypriots living in northern Cyprus the right to freedom of association (paragraph 263);
8. *Holds* unanimously that the applicant Government's complaint under Article 8 of the Convention in respect of an alleged practice of restricting the participation of Greek Cypriots living in northern Cyprus in bi-communal or inter-communal events falls to be considered in the context of the global assessment of whether or not there has been a violation of that Article (paragraph 262);
9. *Holds* by sixteen votes to one that there has been a continuing violation of Article 1 of Protocol No. 1 in respect of Greek Cypriots living in northern Cyprus in that their right to the peaceful enjoyment of their possessions was not secured in case of their permanent departure from that territory and in that, in case of death, inheritance rights of relatives living in southern Cyprus were not recognised (paragraphs 269-70);
10. *Holds* unanimously that no violation of Article 1 of Protocol No. 1 has been established by virtue of an alleged practice of failing to protect the property of Greek Cypriots living in northern Cyprus against interferences by private persons (paragraph 272);
11. *Holds* by sixteen votes to one that there has been a violation of Article 2 of Protocol No. 1 in respect of Greek Cypriots living in northern Cyprus in so far as no appropriate secondary-school facilities were available to them (paragraph 280);
12. *Holds* by sixteen votes to one that, from an overall standpoint, there has been a violation of the right of Greek Cypriots living in northern Cyprus to respect for their private and family life and to respect for their home, as guaranteed by Article 8 of the Convention (paragraphs 296 and 301);
13. *Holds* unanimously that no violation of Article 8 of the Convention has been established by reason of an alleged practice of interference with the right of Greek Cypriots living in northern Cyprus to respect for their correspondence (paragraph 298);
14. *Holds* unanimously that it is not necessary to examine separately the applicant Government's complaint under Article 8 of the Convention concerning the effect of the respondent State's alleged colonisation policy on the demographic and cultural environment of the Greek Cypriots' homes, having regard to its overall assessment of the latter population's living conditions under that Article (paragraph 301);
15. *Holds* by sixteen votes to one that there has been a violation of Article 3 of the Convention in that the Greek Cypriots living in the Karpas area of northern Cyprus have been subjected to discrimination amounting to degrading treatment (paragraph 311);
16. *Holds* unanimously that it is not necessary to examine whether there has been a violation of Article 14 of the Convention taken in conjunction with Article 3 in respect of Greek Cypriots living in northern Cyprus, having regard to its finding under Article 3 (paragraph 315);

17. *Holds* by fourteen votes to three that, having regard to the particular circumstances of this case, it is not necessary to examine whether there has been a breach of Article 14 of the Convention taken in conjunction with the other relevant Articles (paragraph 317);

18. *Holds* by eleven votes to six that no violation of Article 13 of the Convention has been established by reason of the alleged absence of remedies in respect of interferences by private persons with the rights of Greek Cypriots living in northern Cyprus under Article 8 of the Convention and Article 1 of Protocol No. 1 (paragraph 324);

19. *Holds* by sixteen votes to one that there has been a violation of Article 13 of the Convention by reason of the absence, as a matter of practice, of remedies in respect of interferences by the authorities with the rights of Greek Cypriots living in northern Cyprus under Articles 3, 8, 9 and 10 of the Convention and Articles 1 and 2 of Protocol No. 1 (paragraph 324).

V. Alleged violation of the right of displaced Greek Cypriots to hold elections

Holds unanimously that it is not necessary to examine whether the facts disclose a violation of the right of displaced Greek Cypriots to hold free elections, as guaranteed by Article 3 of Protocol No. 1 (paragraph 327).

VI. Alleged violations in respect of the rights of Turkish Cypriots, including members of the gypsy community, living in northern cyprus

1. *Holds* unanimously that it declines jurisdiction to examine those aspects of the applicant Government's complaints under Articles 6, 8, 10 and 11 of the Convention in respect of political opponents of the regime in the "TRNC" as well as their complaints under Articles 1 and 2 of Protocol No. 1 in respect of the Turkish-Cypriot Gypsy community, which were held by the Commission not to be within the scope of the case as declared admissible (paragraph 335);

2. *Holds* unanimously that no violation of the rights of Turkish Cypriots who are opponents of the regime in northern Cyprus under Articles 3, 5, 8, 10 and 11 of the Convention has been established by reason of an alleged administrative practice, including an alleged practice of failing to protect their rights under these Articles (paragraph 348);

3. *Holds* by sixteen votes to one that no violation of the rights of members of the Turkish-Cypriot Gypsy community under Articles 3, 5, 8 and 14 of the Convention has been established by reason of an alleged administrative practice, including an alleged practice of failing to protect their rights under these Articles (paragraph 353);

4. *Holds* by sixteen votes to one that there has been a violation of Article 6 of the Convention on account of the legislative practice of authorising the trial of civilians by military courts (paragraph 359);

5. *Holds* unanimously that no violation of Article 10 of the Convention has been established by reason of an alleged practice of restricting the right of Turkish Cypriots

living in northern Cyprus to receive information from the Greek-language press (paragraph 363);

6. *Holds* unanimously that no violation of Article 11 of the Convention has been established by reason of an alleged practice of interference with the right to freedom of association or assembly of Turkish Cypriots living in northern Cyprus (paragraph 371);

7. *Holds* unanimously that no violation of Article 1 of Protocol No. 1 has been established by reason of an alleged administrative practice, including an alleged practice of failing to secure enjoyment of their possessions in southern Cyprus to Turkish Cypriots living in northern Cyprus (paragraph 377);

8. *Holds* by eleven votes to six that no violation of Article 13 of the Convention has been established by reason of an alleged practice of failing to secure effective remedies to Turkish Cypriots living in northern Cyprus (paragraph 383).

VII. Alleged violations of other Articles of the Convention

Holds unanimously that it is not necessary to examine separately the applicant Government's complaints under Articles 1, 17, 18 and former Article 32 § 4 of the Convention (paragraph 388).

VIII. The issue of Article 41 of the Convention

Holds unanimously that the issue of the possible application of Article 41 of the Convention is not ready for decision and *adjourns* consideration thereof.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 10 May 2001.