

COUNCIL OF EUROPE

SECOND APPLICATION
BY THE GOVERNMENT OF THE KINGDOM OF GREECE
LODGED AGAINST
THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN
AND NORTHERN IRELAND

No. 299/57

REPORT
OF THE EUROPEAN COMMISSION OF HUMAN RIGHTS

STRASBOURG

8th July 1959

EUROPEAN COMMISSION OF HUMAN RIGHTS

Application N° 299/57

The Government of the Kingdom of Greece

against

**The Government of the United Kingdom of
Great Britain and Northern Ireland**

REPORT OF THE COMMISSION

(adopted on 8 july 1959)

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GENERAL INTRODUCTION

The Commission's Report on Application No. 176/56, lodged by the Greek Government against the Government of the United Kingdom with reference to certain legislative and administrative measures which had been brought into force in Cyprus, was completed on 26th September 1958, and transmitted to the Committee of Ministers by letter of 2nd October 1958. Meanwhile, the Commission has also had under consideration a second Application (No. 299/57) lodged by the Greek Government against the Government of the United Kingdom on 17th July 1957, and relating to 49 cases of alleged ill-treatment of individuals by persons belonging to the police, security or military forces in Cyprus. The proceedings set out in Article 28 of the Convention for dealing with an Application had not been completed when, on 12th May 1959, the two Governments by separate but identic communication to the Commission made their request that all the proceedings in connection with Application No. 299/57 should be terminated and that the case should be immediately closed. The Commission, for reasons which are set out later in this Report, has decided that all the proceedings in this case should be terminated.

It is in this exceptional situation, which does not appear to fall exactly within the terms either of Article 30 or of Article 31 of the Convention, that the Commission has drawn up the present Report for transmission to the Committee of Ministers. In this exceptional situation the Commission believes that it will be acting most closely in accord with the spirit of Articles 30 and 31 if it confines itself to a summary account of the proceedings in the case.

SUMMARY ACCOUNT OF THE PROCEEDINGSThe admissibility of the Application

Application No. 299/57, as already stated, was filed by the Greek Government on 17th July 1957. M. Berg, acting as President in the case under Rule 9 of the Rules of Procedure, by an Order of 19th July 1957, instructed the Secretary-General of the Council of Europe, in accordance with Rule 44, to give notice of the Application to the Government of the United Kingdom and to invite that Government to submit in writing its observations on the admissibility of the Application. The United Kingdom filed these written observations on 19th August 1957.

By a Decision dated 28th August 1957, the Commission, acting under Rule 46, paragraph 1, of its Rules of Procedure, invited the Parties to appear before it on 30th August 1957, and without entering upon the merits of the case, to submit oral explanations of their points of view in regard to the admissibility of the Application. In accordance with this Decision the Commission at sittings of 30th August and 2nd, 3rd and 4th September 1957, heard statements from M. N. Cambalouris, Agent of the Greek Government, assisted by M. H. Rolin and M. Loizides as Counsel, and from Mr. F. A. Vallat, Agent of the United Kingdom Government.

By a Decision dated 4th September 1957, the Commission invited:

- (1) the Agent of the Greek Government to furnish in writing further details of the 49 cases of alleged ill-treatment, and
- (2) the Agent of the United Kingdom Government to reply in writing to certain questions concerning the domestic remedies available in Cyprus.

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The Greek Government submitted its written reply on 16th September and the United Kingdom on the 27th September 1957. The United Kingdom further submitted on 2nd and 4th October 1957, its written observations on the Greek Government's reply of 16th September 1957.

On 12th October 1957, having deliberated in camera, the Commission gave its decision on the admissibility of Application No. 299/57, holding it to be inadmissible in respect of 20 cases by reason of the non-exhaustion of domestic remedies and admissible in respect of the remaining 29 cases. The operative part of the Commission's Decision reads as hereunder:

"Whereas the United Kingdom Government holds that the Application is inadmissible on the following grounds:

- (a) that it does not establish even on a prima facie basis any action or omission by the Government of the United Kingdom which amounts to a breach of the Convention for the Protection of Human Rights and Fundamental Freedoms;
- (b) that it does not comply with the Rules of Procedure which govern the proceedings of the Commission;
- (c) that domestic remedies in connection with the matter complained of have not been exhausted as is required by Article 26 of the Convention;

Whereas, in considering the admissibility of an application lodged pursuant to Article 24 of the Convention it is not the Commission's task to ascertain whether the applicant Contracting Party establishes "prima facie proof of its allegations, since enquiry into such aspects relates to the merits of the case and cannot therefore be undertaken at the present stage of the proceedings; and whereas the provisions of Article 27, paragraph 2, of the Convention, as the Commission has already declared when pronouncing on the admissibility of Application 176/56 on 2nd June 1956, only refer to applications submitted under Article 25 and not to applications made by governments, and are therefore inapplicable to the present case;

Whereas, in regard to the complaint that Rule 41 of the Rules of Procedure has not been complied with, it is sufficient to point out that the indications already embodied in the original application were supplemented by the additional information and proofs furnished by the Greek Government on 16th September, 1957, at the Commission's request;

Whereas, under Article 26 of the Convention the Commission may only deal with a matter after all domestic remedies have been exhausted, according to the generally recognised rules of international law; and whereas in accordance with the said generally recognised rules of international law it is the duty of the government claiming that domestic remedies have not been exhausted to demonstrate the existence of such remedies;

Whereas in this connection the United Kingdom Government has shown firstly, that although no remedies through the courts of law are available against the State itself, either in the form of the British Crown or in the form of the Government of Cyprus, it is possible to address a demand for compensation by petition addressed either to the Governor of Cyprus, or to the Queen; whereas, however, such a remedy, being a measure of grace, is not among those which must be exhausted by virtue of Article 26 aforementioned;

Whereas it further emerges from the memorials, documents and pleadings of the United Kingdom Government that civil and criminal actions may be instituted in Cyprus against any official alleged to be responsible for acts of torture or ill-treatment; that the main contention of the Greek Government has always been that, since the aim of its application is to establish the responsibility of the United Kingdom as such, the aforesaid actions, directed as they are against the responsible individuals and not against the State, do not constitute the effective and adequate remedies which are to be exhausted within the meaning of Article 26; that the said actions nevertheless make it possible for the courts to find that the alleged facts are of a substantial and illegal character, as well as to fix compensation; and that the remedies in question are therefore, in principle, among those which must be tried before the Commission may be seized of the matter;

Whereas, in regard to criminal prosecutions, by writ of summons against individuals, under the Emergency Regulations now in force such prosecutions require the leave of the Attorney-General if they are brought against members of the police or armed forces; whereas the Greek Government regards this demand as an obstacle likely to render such prosecutions particularly ineffectual; and whereas it has nevertheless been shown, in the light of the uncontested statements of the United Kingdom Government, that the Attorney-General has so far never refused such leave;

Whereas it is established that any such refusal, or the acquittal of the accused, would not constitute an impediment to the institution of a civil action, except in cases of felony;

Whereas, particularly as regards civil actions, their exhaustion is the more necessary inasmuch as the Greek Government, in its Application, also requests determination of "the amount of compensation to be paid to the victims of ill-treatment or their next of kin";

Whereas, in accordance with the generally recognised principles of international law, the exhaustion of a domestic remedy is nevertheless not required if the applicant party can prove that in the particular circumstances such remedy will probably prove ineffectual or inadequate; whereas it should therefore be ascertained whether the Greek Government has furnished proof of such probability in connection with the facts relating to the cases listed in the Appendix to its Application; and whereas the Commission is thus required to examine the facts peculiar to each of the said cases;

Whereas in this regard it appears that in some cases none of the accused was identified, but that the failure to identify is attended by different circumstances: in one group of cases the individuals concerned, or their Counsel, approached the competent authorities in Cyprus for the names of the authors of the alleged acts, but were refused the information requested; in another group of cases the aforesaid authorities were requested to open an investigation or enquiry into the alleged acts, but considered that there was no reason to prosecute; and, lastly, in a third group of cases, no such approach or request was made; whereas the Commission notwithstanding deems it superfluous to distinguish among the three categories of cases in respect of the application of Article 26

of the Convention; whereas the Greek Government has established that the British authorities displayed no readiness to indicate the names of the perpetrators of the alleged tortures or ill-treatment, even though an express request for such information was addressed to them and although in all probability such a request would consequently not have produced any more positive result in the cases belonging to the second and third categories mentioned above;

Whereas the absence of any information as to the identity of the accused makes it impossible in practice to exercise the aforementioned remedies in the cases appearing in the appendix to the Greek Application under numbers 2, 3, 5, 6, 7, 8, 10, 11, 12, 13, 14, 16, 20, 21, 22, 26, 27, 28, 29, 32, 34, 35, 36, 37, 39, 40, 44, 47 and 48;

Whereas in the remaining cases, on the other hand, those who claim to be victims, or their next of kin, can identify the perpetrators of the alleged torture or ill-treatment, or at least some of them, and would therefore have been able to institute civil or criminal proceedings against them, but did not in fact do so;

Whereas the Greek Government has nevertheless emphasised that in most of the cases concerned those claiming to be victims are at present in custody and therefore "have not the necessary freedom to institute legal proceedings against the officials of the authorities; whereas the said Government, however, has not satisfactorily shown that the fact of detention has in itself prevented the individuals concerned from asserting their rights before the courts, nor has it shown that the bringing of an action by a person in custody against an official would be fraught with special risks to the person in custody;

Whereas, therefore, in all those cases where the perpetrators of the alleged torture or ill-treatment, or some of them, have already been identified, the Commission considers that, in conformity with Article 26 of the Convention, the aforementioned domestic remedies ought first to have been exhausted; whereas in all these cases, which appear in the Appendix to the Greek Application under numbers 1, 4, 9, 15, 17, 18, 19, 23, 24, 25, 30, 31, 33, 38, 41, 42, 43, 45, 46 and 49, the plea of inadmissibility entered in accordance with Article 27, paragraph 3, should consequently be accepted;

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NOW THEREFORE, THE COMMISSION, without prejudice to the merits,

Declares the Application

1. ADMISSIBLE as regards the facts listed in its Appendix under numbers 2, 3, 5, 6, 7, 8, 10, 11, 12, 13, 14, 16, 20, 21, 22, 26, 27, 28, 29, 32, 34, 35, 36, 37, 39, 40, 44, 47 and 48;
2. INADMISSIBLE as regards the facts listed in its Appendix under numbers 1, 4, 9, 15, 17, 18, 19, 23, 24, 25, 30, 31, 33, 38, 41, 42, 43, 45, 46 and 49."

By an Order dated 12th October 1957, M. Berg, acting-President, fixed a period of two months within which the Government of the United Kingdom was invited to present its evidence and to submit its conclusions in regard to the 29 cases held to be admissible.

The Decision of the Commission of 12th October 1957, was communicated to the two Parties concerned by letters dated 15th October 1957.

Appointment of the Sub-Commission

By letters of 16th and 17th October 1957, the Secretariat informed respectively the Greek and United Kingdom Governments of the above Order dated 12th October 1957, and, on the instructions of the President, asked the Parties whether they were prepared to agree that the Sub-Commission which was then dealing with Application No. 176/56 should perform the same functions in respect of Application No. 299/57.

The United Kingdom Assistant Agent, by letter of 11th December 1957, stated that his Government was not in a position to accept the President's suggestion and he accordingly requested the Commission to appoint a new Sub-Commission.

By telegrams of 18th December 1957, the Secretariat on the instructions of the Commission, requested each Agent to submit to the Commission, before 2nd January 1958, the name of the

member appointed by his Government in accordance with Article 29 of the Convention and Rule 18 of the Rules of Procedure.

Finally the Sub-Commission was composed as follows:

M. C. Th. EUSTATHIADES, member appointed by the Greek Government, Mr. C. H. M. WALDOCK, member appointed by the British Government, M. P. BERG, Mme G. JANSSEN-PEVTSCHIN, MM. S. PETREN, P. FABER, F. SKARPHEDINSSON, members chosen by lot, MM. N. ERIM, F. M. DOMINEDO and L. J. C. BEAUFORT, substitute members.

On the representations of the United Kingdom Government contained in the above letter of 11th December 1957, M. Berg, acting President, made an Order on 20th December 1957, fixing 10th February 1958, as the time-limit within which the Agents of the Parties should present their evidence and final submissions.

Proceedings before the Sub-Commission

By a letter of 7th February 1958, the Agent of the Greek Government informed the Secretariat that he was unable to submit further evidence in respect of the 29 cases which had been declared admissible by the Commission. A note by M. Rolin on the responsibility of states for violations of international law committed by subordinate officials was attached to this letter.

By a letter of the same date, the Agent of the United Kingdom Government requested the Sub-Commission to extend the time limit for the submission of evidence in Cases Nos. 3, 6, 16, 21, 22 and 26 until 28th February 1958, and in Cases Nos.

2 and 5 to the earliest date thereafter on which it would be possible for the United Kingdom Government to submit the evidence in question. He further requested the Sub-Commission to leave open the time limit for the submission of evidence on the remainder of the 29 cases and of arguments on all the cases.

The request for the extension of the time limit until 28th February 1958, was granted by an Order of the acting President of 12th February. By the same Order a meeting of the Sub-Commission was convened on 10th March 1958, for the purposes of examining the request of the United Kingdom Agent to leave open the time limit for the submission of evidence in those cases other than Nos. 2, 3, 5, 6, 16, 21, 22 and 26 and of examining the evidence submitted by the Parties in the latter cases.

The Agent of the United Kingdom Government submitted, by letter of 26th February 1958, his evidence in Cases Nos. 3, 6, 16, 21, 22 and 26, together with a commentary on the allegations and the facts in each case. The Cyprus White Paper on "Allegations of Brutalities in Cyprus", dated 11th June 1957, was attached to these documents. Further evidence in Case No. 3 was submitted on 28th February 1958.

The Agent of the Greek Government, by letter of 28th February 1958, submitted evidence in Cases Nos. 3, 6 and 22.

The Agent of the United Kingdom Government, by letter of 5th March 1958, requested the Sub-Commission:

- (i) that the cases other than Nos. 2, 3, 5, 6, 16, 21, 22 and 26, should forthwith be returned to the Commission;
- (ii) that the Commission should decide that, subject to any recommendation that may be made by the Committee of Ministers, no further action should be taken by the Commission on Application No. 299/57 with respect to those cases, and
- (iii) that the Commission should report accordingly to the Committee of Ministers at the earliest possible date.

By letter of 7th March 1958, the Agent of the United Kingdom Government submitted evidence in Case No. 5.

The Sub-Commission, having discussed Application No. 299/57 at its meeting on 10th March 1958, took a Decision which fixed a period of 6 weeks within which the Greek Government was invited to submit observations in writing in regard to the evidence submitted by the United Kingdom Agent in Cases Nos. 3, 5, 6, 16, 21, 22 and 26, and a period yet to be determined for the submission by the Greek Government of its observations in writing in regard to any evidence which might be submitted by the United Kingdom Agent in Case No. 2.

The Greek Government was further invited to submit before 21st April 1958, its comments in writing in regard to the arguments and submissions of the United Kingdom Agent as

contained in his letter of 5th March 1958, and, in the event of it deciding to submit further evidence in respect of Cases Nos. 7, 8, 10, 11, 12, 13, 14, 20, 27, 28, 29, 32, 34, 35, 36, 37, 39, 40, 44, 47, and 48, to submit such evidence before 21st April 1958.

In a letter of 17th March 1958, the Agent of the Greek Government enclosed 4 annexes: the Comments of the Committee of Human Rights of the Nicosia Bar Association arising out of the publication of the Cyprus Government White Paper regarding "Allegations of Brutality in Cyprus", and three newspaper cuttings regarding that White Paper.

The Agent of the Greek Government, by letter of 16th April 1958, submitted his comments in regard to the arguments and submissions of the United Kingdom Agent as contained in his letter of 5th March 1958, and submitted evidence in Cases Nos. 28, 32, 37, 39, 40, 44, 47 and 48, together with a copy of a letter sent on 2nd July 1957, to the United Kingdom Colonial Secretary by two Members of Parliament, which related to Cases Nos. 11 and 14.

By two letters of 23rd April 1958, the Agent of the United Kingdom Government submitted his comments on the evidence submitted in Cases Nos. 3, 6 and 22 by the Greek Government on 28th February 1958, together with evidence in Cases Nos. 2 and 22.

By a letter of 25th April 1958, the Agent of the United Kingdom Government submitted to the Sub-Commission a Memorandum, dated 24th April 1958, concerning the alleged support given by the Greek Government to the EOKA movement, the ensuing "smear" campaign and the attempt by that Government to exploit the Human Rights Proceedings for political purposes, together with a copy of the "Black Book", published

by the Ethnarchy of Cyprus and several annexes containing documents and translations of press cuttings, leaflets, etc.

The Sub-Commission, sitting in private session on 2nd May 1958, and after having examined the evidence, arguments and submissions of the Parties, decided to request the Agent of the Greek Government to submit forthwith the statements of the complainants in a number of cases, to submit by 20th June 1958, information in each case separately as to the kind of evidence which it proposed to adduce and to indicate what facts that evidence was expected to establish.

The Agent of the United Kingdom Government was at the same time requested to submit by 20th June 1958, any written evidence and comments which he might wish to present in Cases Nos. 28, 32, 37, 39, 40, 44, 47 and 48 and in any other cases in regard to which the Greek Government might furnish in good time the statements of the complainants.

By the same Decision the Agents of the two Parties were invited to appear before the Sub-Commission on 30th June 1958, to present such oral arguments as they might wish to submit at that stage of the case.

By letter of 2nd May 1958, the Agent of the Greek Government informed the Sub-Commission that his Government had appointed M. P. Mamopoulos as Counsellor to the Greek Agent in Application No. 299/57.

The United Kingdom Agent submitted further evidence in Case No. 2 by letter of 22nd May 1958.

By a letter of 19th June 1958, the Agent of the Greek Government submitted the following documents:

- (i) a report by John Clerides, Q.C., C.B.E., on difficulties experienced by members of the Bar in taking statements of complaints from persons in custody;

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(ii) statements of complainants in Cases Nos. 7, 8, 14, 29 and 36;

(iii) evidence in Cases Nos. 2, 8, 13, 37, 40 and 47.

By a letter of 16th June 1958, the United Kingdom Government submitted evidence in Cases Nos. 39 and 40.

The Sub-Commission held sittings on 30th June and 1st July 1958, and heard the oral arguments of the two Parties. MM. Cambalouris, Agent, H. Rolin, P. Mamopoulos and S. Loizides, Counsel, appeared on behalf of the Greek Government; Mr. F. A. Vallat, Agent, Mr. N. Steele and Mr. C. A. G. Meade, appeared on behalf of the United Kingdom Government.

The Sub-Commission, having deliberated on 1st July, 1958, decided to lay down a period of 3 weeks within which the Agent of the Greek Government should produce all the documents in his possession relevant to the submissions made by him and generally complete the submissions of his case. It further laid down the date of 10th September 1958, as the time limit before which the Agent of the United Kingdom Government should complete his submissions. It decided that the period from 10th September to 29th September 1958, might be used by the Parties in order to exchange any further submissions. It finally decided to hold its next session from 29th September to 4th October 1958, in order to continue the oral hearings.

By letter of 21st July 1958, the Agent of the Greek Government submitted his conclusions in Cases Nos. 2, 3, 5, 6, 8, 10, 16, 20, 21, 22, 26, 27, 28, 29, 32, 34, 35, 37, 39, 40, 44, 47 and 48, together with evidence as to certain of these cases. In the same letter he requested the Sub-Commission to extend the time limit for 2 weeks for the submission of the Greek Government's evidence and conclusions in Cases Nos. 7, 11, 12, 13, 14 and 36.

By an Order of 22nd July 1958, the acting President of the Sub-Commission extended until 5th August 1958, the time limit within which the Greek Government should submit its evidence and conclusions in Cases 7, 11, 12, 13, 14 and 36.

At the request of the Agent of the Greek Government, the acting President of the Sub-Commission made, on 23rd July 1958, an Order whereby the next session of the Sub-Commission was postponed until 3rd October to 9th October 1958.

By letter of 5th August 1958, the Agent of the Greek Government submitted his conclusions in Cases 7, 11, 12, 13, 14 and 36.

On 17th August 1958, the Assistant Agent of the United Kingdom Government informed the Sub-Commission that his Government, owing to the serious deterioration in the internal security situation in Cyprus, had been obliged to suspend work on the outstanding cases and submitted that in these circumstances the time-table laid down by the Sub-Commission on 1st July 1958, could no longer be maintained and, accordingly, that for the time being no further arrangements should be made regarding the hearings scheduled to take place on 3rd October 1958.

By letter of 13th August 1958, the Agent of the Greek Government submitted statements of complaint in Cases Nos. 11, 12, 13 and 14.

On 27th August 1958, the Assistant Agent of the United Kingdom Government, referring to his previous letter of 7th August 1958, requested an extension of 6 weeks as from 10th September 1958, for the submission by his Government of written evidence in the outstanding cases, at the same time demanding that the hearings fixed for 3rd October 1958, be postponed.

By letter of 28th August 1958, the Agent of the Greek Government opposed this request of the United Kingdom Assistant Agent.

The Sub-Commission, sitting in private session on 30th August 1958, considered the above request of the United Kingdom Government and the reply of the Agent of the Greek Government. It decided to grant the United Kingdom Government a final extension of 6 weeks as from 10th September 1958, and to adjourn the date of the resumption of proceedings from 29th September 1958, until 12th November 1958. It further drew the attention of the Parties to the fact that on the date fixed, viz. 12th November 1958, Application No. 299/57 would be examined by the Sub-Commission in the condition in which it then was.

On 15th September 1958, the Assistant Agent of the Greek Government handed to the Secretariat an Appendix to the conclusions of his Government regarding Case No. 7.

By letter of 17th October 1958, the Agent of the United Kingdom Government submitted evidence, arguments and conclusions on behalf of his Government in Cases Nos. 7, 8, 13, 14 and 27; by letter of 5th November 1958, in Cases Nos. 10, 11, 12, 20, 29, 32, 34 and 35, and by letter of 7th November in Cases Nos. 28, 36, 37, 44, 47 and 48, together with supplementary evidence in Cases Nos. 8, 13, 14, 27 and 32.

By letter of 13th November 1958, the Agent of the United Kingdom Government submitted translations of leaflets and captured documents and indicated that it might be necessary during the course of the hearings to refer to certain of these documents.

The Sub-Commission held oral hearings from 12th to 19th November 1958.

MM. N. Cambalouris, Agent, N. Athanassiou, Assistant Agent, H. Rolin and P. Mamopoulos, Counsel, appeared on behalf of the Greek Government. Mr. F. A. Vallat, Agent, IM. J. Foster, R. H. W. Dunn, R. Johnson, H. Steele, K. Neale;

A. D. Watts and Sir Harry Hylton-Foster appeared on behalf of the United Kingdom Government.

During the hearing the Agents of the Greek and United Kingdom Governments submitted documents in evidence or in support of their arguments.

At the close of the hearing on 18th November 1958, the Agent of the United Kingdom Government submitted a summary of conclusions.

By letter of 21st November 1958, the acting President of the Sub-Commission asked the Agent of the Greek Government whether his Government intended to reply to the conclusions submitted by the United Kingdom Government on 18th November 1958. He further informed the Greek Agent that the Sub-Commission wished to obtain certain specific documents in Cases Nos. 3, 22 and 39.

By letter of 6th December 1958, the Agent of the Greek Government submitted his Government's reply to the conclusions of the United Kingdom Government of 18th November 1958.

By letter of 19th December 1958, the Greek Agent submitted the documents requested by the acting President of the Sub-Commission in his letter of 21st November 1958.

On 16th January 1959, having deliberated in camera, the Sub-Commission decided (a) not to proceed further with the investigation of certain cases, (b) to remit two cases at once to the Commission for reconsideration of its decision on admissibility owing to new facts having come to light and (c) to proceed with its investigation of certain other cases. Having regard to the exceptional conditions then existing in Cyprus, the Sub-Commission further decided to invite the views of the Governments of Greece and the United Kingdom as to the best means of carrying out, in accordance with Article 28, paragraph (a) of the Convention, its investigation of the last mentioned cases by the hearing of witnesses, whether in Cyprus or at

Strasbourg or elsewhere. The two Governments were asked to submit their views on this question by 27th February 1959.

At this juncture in the case there began the series of political negotiations which ended in the conclusion in London on 19th February 1959, of a tripartite agreement between the Governments of Greece, Turkey and the United Kingdom by which the three Governments adopted certain documents as the agreed foundation for the final settlement of the problem of Cyprus. In this new situation the Greek Government by a telegram of 27th February 1959, and the United Kingdom Government by a Note Verbale of the same date, asked that the time limit fixed by the Sub-Commission for receipt of the views of the two Governments on the further procedure in the case should be extended for a period of 15 days and one month respectively from 27th February 1959. By an Order dated 2nd March 1959, M. Faber, acting President of the Sub-Commission, extended the abovementioned time limit until the 27th day of that month, and by a further Order of 26th March until 17th April 1959.

By a telegram of 17th March 1959, the Agent of the Greek Government requested that the re-examination of the admissibility of the two cases remitted to the Commission by the Sub-Commission in its decision of 16th January should be postponed in order to enable an appropriate solution to be found in the light of recent events. The Agent of the United Kingdom Government associated himself with this request by letter of 19th March and the Commission adjourned its re-examination of the admissibility of the abovementioned two cases.

By an Order dated 28th April, M. P. Faber, acting President of the Sub-Commission, adjourned the proceedings of the Sub-Commission in regard to Application No. 299/57, until its next session.

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THE REQUESTS FROM THE PARTIES FOR THE
TERMINATION OF THE PROCEEDINGS

The Agents of the Greek and United Kingdom Governments, by identic communications dated 12th May 1959, sent to the Secretary of the Commission, for transmission to the Commission and Sub-Commission, the requests of their respective Governments that all the proceedings in regard to Application No. 299/57 should be terminated. The terms of these letters were as follows:

"... Application No. 299/57, as members of the Commission are aware, relates to complaints of ill-treatment in respect of acts of certain members of the police, security and military forces in Cyprus which are alleged to have happened in connection with occurrences in the course of the recent disturbances in the island. Some of these complaints were held by the Commission to be inadmissible on the ground of the non-exhaustion of the domestic remedies. The remaining complaints were held to be admissible and, with a view to ascertaining the facts in regard to them, were referred to the Sub-Commission for examination and, if need be, investigation in accordance with Article 28, paragraph (a) of the Convention. However, the task of the Sub-Commission under paragraph (a) of Article 28 had not yet been completed when the general situation in Cyprus underwent a fundamental change as a result of two Agreements reached respectively between the Governments of Greece and Turkey at Zurich on 11th February 1959, and between the Governments of the United Kingdom, Greece and Turkey at London on 19th February 1959.

Acting in concert with the Agent of the United Kingdom/Greek Government, I enclose with this letter a Command Paper entitled "Conference on Cyprus" and printed by the United Kingdom Stationery Office which sets out in convenient form the texts of the two abovementioned Agreements and of certain further Agreements and Declarations supplementary thereto. The several interlocking documents establish a complex set of arrangements which constitute the agreed foundation for the final settlement of the problem of Cyprus and, as members of the Commission will observe, these arrangements have been subscribed to not only by the representatives of the three Governments but also by Archbishop Makarios and Dr. F. Kutchuk as representatives respectively of the Greek and Turkish communities in Cyprus. Members of the Commission will also

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observe that Document No. VIII contains a declaration that: 'All parties to the Conference firmly endorse the aim of bringing the constitution (including the elections of President, Vice-President and the three Assemblies) and the Treaties into full effect as soon as practicable and in any case not later than twelve months from today's date (19th February 1959). Measures leading to the transfer of sovereignty in Cyprus will begin at once.' These measures, as members of the Commission may be aware, are already in train.

Members of the Commission will certainly recall the unanimous statement of the Commission at the conclusion of its Report on Application No. 176/56, in which it emphasised that 'the full enjoyment of human rights in Cyprus is closely connected with the solution of the wider political problems relating to the constitutional status of the island'. It is precisely the aim of the arrangements agreed at the London Conference to provide a final solution of the political problems relating to the constitutional status of Cyprus. My Government and the United Kingdom/Greek Government firmly believe that, in order that the agreed arrangements may have the best prospect of succeeding, it is essential that the recent unhappy chapter in the history of the island should be brought to a close speedily and completely and the tensions and incidents of the recent past as quickly as possible forgotten. With this end in view, the imprisonment and detention of all persons in connection with the recent disturbances has been terminated and the authorities in Cyprus have proclaimed an amnesty in connection with the recent disturbances.

My Government and the United Kingdom/Greek Government are of the opinion that it will best conduce to the achievement of a final settlement of the political problem of Cyprus if the present proceedings, which concern complaints presented by the Greek Government connected with the recent disturbances, are likewise terminated. For that reason and because, as the Commission itself has said, the full enjoyment of human rights in Cyprus is closely connected with the solution of the political problem, my Government acting in concert with the Governments of the United Kingdom/Greece, submits a formal request to the Sub-Commission and Commission that the proceedings should be terminated and that the Commission should confine itself to reporting the termination of the proceedings to the Committee of Ministers without entering upon the substance of the Application".

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On receiving notice of the above letters the Sub-Commission after having deliberated, decided to remit the question of the termination of the proceedings to the Plenary Commission.

At its 18th Session, held from 29th June to 7th July 1959, the Commission, after having discussed this question, adopted the text of the present Report.

THE OPINION OF THE COMMISSION

In considering the request of the Parties for the termination of the proceedings in regard to Application No. 299/57, the Commission had necessarily to bear in mind that under Article 19 of the Convention it was set up "to ensure the observance of the engagements undertaken by the High Contracting Parties in the present Convention". The Commission had further to bear in mind that Article 28, paragraph (b) of the Convention, when it directs the Commission to place itself at the disposal of the Parties with a view to securing a friendly settlement of the matter, specifically refers to a friendly settlement "on the basis of respect for Human Rights as defined in this Convention". Having regard to these provisions of the Convention, the Commission took the view that, when an Application alleging a breach of the Convention has been referred to the Commission, the withdrawal of the Application is a matter which concerns the Commission as well as the Parties and that the Commission must satisfy itself that the termination of the proceedings is calculated to serve, and not to defeat, the purposes of the Convention.

In the present instance the Commission was mindful of the fact that, as it pointed out in its Report to the Committee of Ministers on Application No. 176/56, the disturbed situation in Cyprus had for a considerable period resulted in the curtailment of essential human rights and freedoms and in great sufferings for individual human beings. As the Parties had recalled in their letters requesting the termination of the proceedings, the Commission in the Conclusion to that Report stressed that the full enjoyment of human rights in Cyprus was closely connected with the solution of the political problems relating to the constitutional status of the island. It

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was therefore with the greatest satisfaction that the Commission learned of the arrangements adopted at the London Conference as the agreed foundation for the final settlement of the problem of Cyprus. The Commission need only add that it holds the view as strongly today as when it drew up its Report on Application No. 176/56, that the achievement of a final settlement of the political problem is of the highest importance for securing the restoration of the full and unfettered enjoyment of human rights and fundamental freedoms in Cyprus.

The Commission noted that the Applicant and Respondent Governments were at one in stating that:

- "(a) In order that the agreed arrangements may have the best prospect of achieving the much to be desired final settlement of the problem of Cyprus, it is essential that the recent unhappy chapter in the history of the island should be brought to a close as speedily and completely as possible,
- (b) The imprisonment and detention of all persons held in connection with the recent disturbances has now been terminated,
- (c) The termination likewise of the present proceedings with respect to the actions of members of the police, security and military forces is the course which, in their view, will best conduce to the achievement of the much to be desired final settlement of the problem of Cyprus.

The Commission further noted that the completion of the investigation of the case by the Sub-Commission, since it required the taking of testimony from numerous persons involved to a lesser or greater degree in the recent disturbances in Cyprus, would necessarily be attended by the risk of reviving some of the bitternesses of that unhappy period. It also appeared to the Commission that some friction might be engendered by the continuance of an investigation into as yet unproved allegations made against one category of the persons closely involved in the recent disturbances when a general amnesty had been declared with respect to all other categories.

Having regard to the several considerations set out above, the Commission concluded that the termination of the present proceedings was a measure calculated to contribute to the restoration of the full and unfettered enjoyment of human rights and fundamental freedoms in Cyprus; and that, in consequence, the request of the Parties for their termination was in harmony with the aims and objects of the Convention.

This became even more clear as the Permanent Representative of the United Kingdom of the Council of Europe, by means of a Note Verbale of 19th June 1959, informing the Secretary-General, in accordance with Article 15, paragraph 3, of the Convention, that the Government of Cyprus had ceased to exercise the powers mentioned in the Notes Verbales of 17th October 1955, 13th April 1956 and 21st January 1959, and that consequently the provisions of the Convention were again being fully executed in Cyprus.

Accordingly, without prejudice to whatever rights or claims the individuals concerned may have before any other tribunal or authority, the Commission has decided that proceedings in regard to Application No. 299/57 should be terminated.

THE QUESTION OF THE PUBLICATION OF
THE PRESENT REPORT

The Commission has pointed out at the beginning of this Report that the situation in which it has drawn up the Report does not appear to fall exactly within the terms either of Article 30 or of Article 31 of the Convention. In this exceptional situation, the Commission has adopted the intermediate course of directing its Secretary to arrange for the issue of a brief communique announcing the termination of the proceedings in regard to Application No. 299/57 and of transmitting to the Committee of Ministers this summary Report of the proceedings in the case.

The abovementioned communique will be published on the date when this Report is transmitted to the Committee of Ministers. Its terms are as follows:

"An Application was filed by the Greek Government against the United Kingdom Government on 17th July 1957, in which it submitted to the Commission 49 complaints by persons in Cyprus of their alleged ill-treatment by members of the police, security or military forces in that island. This Application, as announced at the time, was held by the Commission on 12th October 1957, to be inadmissible with respect to 20 of the complaints and admissible with respect to the other 29 complaints. However, before the examination of the Application had been completed a fundamental change in the situation in the island was brought about through the conclusion of the Zurich and London Agreements for the final settlement of the problem of Cyprus. In the light of the new situation, the Greek and United Kingdom Governments acting in concert requested the Commission to allow the proceedings to be terminated. Having regard to the request of the Parties and especially to the importance of the political settlement reached at Zurich and London as a means of restoring to the people of Cyprus the full and perfect enjoyment of their rights and freedoms, and having regard to the information received that the provisions of the Convention are again

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being fully executed in Cyprus, the Commission has today decided to terminate the proceedings with respect to Application No. 299/57 and to report this decision to the Committee of Ministers without entering upon the substance of the Application.

Done at Strasbourg, 8th July 1959.

The Director of Human Rights,
Head of the Secretariat of
the Commission.

(P. Modinos)

The President of the
Commission

(Paal Berg)