



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

FOURTH SECTION

DECISION

Application no. 479/07  
Angeliki PAPAYIANNI and others  
against Turkey and five other applications  
(see list appended)

The European Court of Human Rights (Fourth Section), sitting on 2 April 2013 as a Chamber composed of:

Ineta Ziemele, *President*,  
David Thór Björgvinsson,  
Päivi Hirvelä,  
Işıl Karakaş,  
Ledi Bianku,  
Vincent A. De Gaetano,  
Paul Mahoney, *judges*,

and Françoise Elens-Passos, *Section Registrar*,

Having regard to the above applications lodged as indicated in the annex,

Having regard to the partial decisions adopted on 5 October 2010;

Having regard to the observations submitted by the respondent Government and the observations in reply submitted by the applicants,

Having regard to the comments submitted by the Government of Cyprus as intervening party,

Having deliberated, decides as follows:

THE FACTS

A list of the applicants and their representatives is set out in the appendix.

The Turkish Government (“the Government”) and the Cyprus Government (“the intervening Government”) were represented by their Agents.

#### **A. The circumstances of the case**

The facts of the case, as submitted by the parties, may be summarised as follows.

The applicants are relatives of Greek-Cypriot men, reservists or serving in the army, who went missing in July-August 1974 following the invasion of northern Cyprus by Turkish armed forces. These men were listed as missing persons, the information being given to the Red Cross and the United Nations.

The remains of the missing men have been found during exhumations carried out by the United Nations Committee for Missing Persons between 2005-9 (“CMP”). Further details are set out in the Annex.

According to the submissions of the parties, the Attorney-General of the “TRNC” (“the Turkish Republic of Northern Cyprus”) gave instructions to the police to initiate investigations into the deaths. The police made contact with the applicants by telephone and by letter to their lawyers, inviting them to give statements about the events. However the applicants took the view that this was either a form of harassment conduct or unnecessary as their statements had already been given years before and declined to assist. The police also obtained the relevant files from the CMP, including written statements from witnesses and family members. The investigations are ongoing.

## **COMPLAINTS**

All applicants complained under Article 2 about the disappearance and death of their relatives and the lack of an effective investigation into those matters, as well as invoking Articles 3 (as concerns the victim and/or themselves), 5 and 8.

The applicants in nos. 479/07, 24506/08, 24730/08, 60758/08 invoked Article 13; the applicants in no. 479/07 additionally complained under Article 10 and the applicants no. 4607/10 under Article 14 in relation to the same facts.

## THE LAW

### I. ALLEGED VIOLATION OF ARTICLE 2 OF THE CONVENTION

The applicants complained that there had been no effective investigation into the deaths of their relatives who had gone missing in 1974 and whose remains had been exhumed in the last few years. They invoked Article 2 of the Convention, which reads as relevant:

“1. Everyone’s right to life shall be protected by law. ....”

#### A. Submissions before the Court

The parties’ observations largely reproduced those submitted in the previous applications before the Court (*Charalambous and Others v Turkey*, 46744/07 *et al* (dec.) 3 April 2012, paras. 11-46).

#### B. The Court’s assessment

The Court notes that the complaints raised by the applicants about the lack of an effective investigation into the circumstances of the deaths of their relatives are identical to those raised in the *Charalambous and Others* case. It refers to its findings in that case concerning the investigations launched by the authorities in the “TRNC”:

“65. In conclusion, the Court finds that the investigations have been underway since late 2010 and although some investigative steps have been taken, no, or little, concrete progress appears to have been made. This does not in itself disclose any lack of good faith or will on the part of the authorities. In the circumstances, it is premature to impugn the response of the authorities as ineffective. The Court would not underestimate the difficulties of finding witnesses who are still alive after this lapse of time and who are able to recall, and willing to give evidence about, past events. However, it would emphasise that the authorities must take reasonable steps to find the available evidence and pursue the practicable leads open to them at this time to discover the perpetrators of any unlawful violence; that in due course an assessment will have to be made as to whether the evidence gathered is sufficient to justify a prosecution; and that the families should be kept informed of any key factual conclusions and procedural developments and any reasoned decisions in this regard. But it is too early for the Court as a supervisory international jurisdiction to reach any findings that the authorities’ actions are a mere sham or that there is bad faith, wilful footdragging and calculated prevarication involved. Prolonged inactivity and silence by the authorities over a more significant period of time might eventually render such a conclusion possible, but not yet.”

The Court observes that there are no distinguishing features in the present applications which would lead it to differ from its reasoning above.

It follows that at the present stage the applicants' complaints under the procedural aspect of Article 2 are premature and must be rejected as manifestly ill-founded pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

Insofar as the applicants invoked other provisions of the Convention, the Court finds that these disclose no appearance of a violation of the Convention and must be rejected as manifestly ill-founded as a whole pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court unanimously

*Decides* to join the applications;

*Declares* the remainder of the applications inadmissible.

Françoise Elens-Passos  
Registrar

Ineta Ziemele  
President

No	Application No	Lodged on	Applicant Date of birth Place of residence Nationality	Represented by
1.	479/07	21/12/2006	<p><b>Angeliki PAPAYIANNI</b> 28/07/1927 Nicosia Cypriot</p> <p><b>Theano PAPAYIANNI KYRIAKOU</b> 15/02/1948 Nicosia Cypriot</p> <p><b>Maria PAPAYIANNI</b> 13/02/1950 Nicosia Cypriot</p> <p><b>Andreani PAPAYIANNI MYRIDAKI</b> 02/12/1952 Athens Cypriot</p> <p><b>Panayiotis KYRIAKOU</b> 17/01/1938 Nicosia Cypriot</p> <p><b>Diamanto KYRIAKOU THEODOTOU</b> 10/09/1966 Nicosia Cypriot</p> <p><b>Kyriakos KYRIAKOU P.</b> 09/02/1969 Nicosia Cypriot</p>	Achilleas DEMETRIADES
2.	24506/08	15/05/2008	<p><b>Anastasia IOANNOU IACOVOU</b> 02/03/1930 Limassol Cypriot</p>	Loukis G. LOUCAIDES
3.	24730/08	22/04/2008	<p><b>Iacovos IACOVOU</b> 07/06/1972 Limassol</p>	Loukis G. LOUCAIDES

No	Application No	Lodged on	Applicant Date of birth Place of residence Nationality	Represented by
			<p>Cypriot</p> <p><b>Kyriakoula IACOVOU</b> 23/11/1964 Limassol Cypriot</p>	
4.	60758/08	03/12/2008	<p><b>Anastasia IOANNOU IACOVOU</b> 02/03/1930 Limassol Cypriot</p> <p><b>Iacovos IACOVOU</b> 07/06/1972 Limassol Cypriot</p> <p><b>Kyriakoula IACOVOU</b> 23/11/1964 Limassol Cypriot</p> <p><b>Kalliopi IOANNOU IACOVOU</b> 14/06/1961 Limassol Cypriot</p> <p><b>Efstathia IOANNOU IACOVOU</b> 17/07/1959 Limassol Cypriot</p>	Loukis G. LOUCAIDES
5.	4607/10	30/12/2009	<p><b>Styliani GEORGHIOU</b> 07/05/1951 Latsia Cypriot</p> <p><b>Chrystalla CONSTANTINOU ALLAYIOTOU</b> 13/05/1969 Latsia Cypriot</p> <p><b>Costas CONSTANTINOU</b> 11/02/1971 Latsia Cypriot</p>	Achilleas DEMETRIADES

No	Application No	Lodged on	Applicant Date of birth Place of residence Nationality	Represented by
			<b>Charalambia KONSTANTINOU MICHAEL</b> 10/02/1975 Aradippou Cypriot	
6.	10715/10	09/02/2010	<b>Georghia ANDREOU AGAPIOU</b> 03/11/1948 Nicosia Cypriot  <b>Savvas AGAPIOU</b> 15/02/1971 Nicosia Cypriot  <b>Konstantia AGAPIOU</b> 24/04/1972 Nicosia Cypriot  <b>Kyriacos AGAPIOU</b> 31/08/1973 Nicosia Cypriot	Achilleas DEMETRIADES