

Press release issued by the Registrar

CASE ACCEPTED FOR REFERRAL TO THE GRAND CHAMBER

The following cases have been referred to the Grand Chamber of the European Court of Human Rights:

- *Varnava and Others v. Turkey* (application nos. 16064/90 and 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90, 16073/90);
- *Micallef v. Malta* (no. 17056/06).

At its last meeting, the Grand Chamber panel of five judges accepted the above cases for referral to the Grand Chamber, under Article 43¹ of the European Convention on Human Rights.

Judgments in a further 49 cases, listed at the end of the press release, are now final², after requests for them to be referred to the Grand Chamber were rejected.

1. Cases accepted by the Grand Chamber

Varnava and Others v. Turkey

The applicants are or were 18 Cypriot nationals, nine of whom disappeared after being captured and detained during the Turkish military operations in northern Cyprus in July and August 1974. The other applicants (three of whom have since died and been replaced by their heirs) are or were relatives of the men who disappeared.

The applicants are or were: Andreas and his wife Giorghoulla Varnava, who lived in Lymbia; Andreas and his father Loizos Loizides (now deceased), who lived in Nicosia; Philippos Constantinou and his father Demetris Peyiotis, who lived in Nicosia; Demetris Theocharides and his mother Elli Theocharidou (now deceased), who lived in Nicosia; Panicos and his mother Chrysoula Charalambous, who lived in Limassol; Eleftherios and his father Christos Thoma (now deceased), who lived in Strovolos; Savvas and his wife Androula Hadjipanteli, who lived in Nicosia; Savvas and his father Georghios Apostolides, who lived in Strovolos; and, Leontis and his wife Yianoulla Sarma, who lived in Limassol. The applicants were born, respectively, in: 1947, 1949, 1954, 1907, 1954, 1929, 1953, 1914, 1955, 1935, 1951, 1921, 1938, 1938, 1955, 1928, 1947 and 1949.

¹ Under Article 43 of the European Convention on Human Rights, within three months from the date of a Chamber judgment, any party to the case may, in exceptional cases, request that the case be referred to the 17-member Grand Chamber of the Court. In that event, a panel of five judges considers whether the case raises a serious question affecting the interpretation or application of the Convention or its protocols, or a serious issue of general importance, in which case the Grand Chamber will deliver a final judgment. If no such question or issue arises, the panel will reject the request, at which point the judgment becomes final. Otherwise Chamber judgments become final on the expiry of the three-month period or earlier if the parties declare that they do not intend to make a request to refer.

² Under Article 44 § 2 (c) of the European Convention on Human Rights, the judgment of a Chamber shall become final when the panel of the Grand Chamber rejects the request to refer under Article 43.

Witnesses have testified to seeing eight of the missing men in Turkish prisons in 1974; they have been considered missing ever since. A number of the applicant parents also claimed that they had identified their missing sons in photographs published in Greek newspapers showing Greek-Cypriot prisoners of war. The body of the ninth missing man, Savvas Hadjipanteli, was discovered in 2007.

The applicants made the following claims:

Varnava and Sarma

In July and August 1974 Andreas Varnava and Leontis Sarma's battalions was stationed in the vicinity of Mia Milia to man the Cypriot outposts. On the morning of 14 August 1974, Turkish military forces, supported by tanks and with air cover, launched an attack on the area. Cypriot forces retreated and the surrounding area was captured by the Turkish military forces.

Loizides

In July 1974 Andreas Loizides was serving in a battalion which was moved to the Lapithos area to support Greek Cypriot forces there. The soldiers were split up into various groups and the applicant was in charge of one of those. On 5 August 1974 they were over-powered by Turkish forces and ordered to retreat. Since 6 August 1974 none of the members of his group have seen Mr Loizides.

Constantinos

Mr Constantinos was posted with a section of his battalion to Lapithos. Following a full-scale attack from the Turkish Army on 6 August 1974, the group split up.

Theocharides

At about 04.30 hours on 26 July 1974 Mr Theocharides' company came under attack from a Turkish paratroops battalion, with 20 tanks, who broke through Greek Cypriot lines, infiltrating the right flank of the applicant's company. When his company was regrouped, he was missing.

Charalambous

On 24 July 1974 Mr Charalambous came under fire from Turkish soldiers while searching buses in the Koutsoventis Vounos area with two or three other soldiers. He was wounded in the right hand and on the left side of his ribs. After his wounds were cleaned and his gun loaded, he went back. He has not been seen again by his unit.

Thoma

On the morning of 20 July 1974 Eleftherios Thoma was involved in trying to prevent Turkish military forces landing in the area of "Pikro Nero", Kyrenia. At around 12.00 hours on 21 July the Turkish military forces which had landed, supported by tanks and with air cover, attacked Cypriot forces defending the area. The applicant's battalion was ordered to retreat. After the battalion had been regrouped the applicant was missing.

Hadjipanteli

On 18 August 1974 Mr Hadjipanteli, a bank employee, was taken for questioning by Turkish soldiers. According to the applicants, representatives of the International Red Cross in Cyprus visited Pavlides Garage in the Turkish occupied sector of Nicosia and on 28 August 1974 recorded the names of 20 Greek Cypriots held there, including the applicant.

On 27 August 1974 a group of Turkish Cypriot civilians went to a bank where they emptied two safes and ordered a third to be opened, but they were told that the keys were with the applicant. Subsequently they returned with the keys for that safe, which the applicant always carried with him.

In 2007, in the context of the activity of the United Nations Committee of Missing Persons (CMP), human remains were exhumed from a mass grave near the Turkish Cypriot village of Galatia in the Karpas area. The remains of Mr Hadjipanteli were identified and several bullets were found in the grave. Mr Hadjipanteli's medical certificate indicated a bullet wound to his skull, a bullet wound in his right arm and a wound on his right thigh.

The Turkish Government disputes that the applicants had been taken into captivity by the Turkish army during the military action in Cyprus in 1974. They consider that all the alleged "missing persons", except for Mr Hadjipanteli, were military personnel who died in action in July-August 1974. The Government notes that the International Red Cross had visited the Pavlides Garage, where Mr Hadjipanteli had allegedly been held, but his name does not appear in the list of Greek Cypriots held.

The Government of Cyprus submits that the nine men went missing in areas under the control of the Turkish forces.

The applicants rely on Articles 2 (right to life), 3 (prohibition of inhuman or degrading treatment), 4 (prohibition of forced labour), 5 (right to liberty and security), 6 (right to a fair trial), 8 (right to respect for private and family life), 10 (freedom of expression), 12 (right to marry), 13 (right to an effective remedy) and 14 (prohibition of discrimination).

In a judgment of 10 January 2008, the Court held, by six votes to one, that there had been a continuing violation of Article 2 (right to life) of the European Convention on Human Rights concerning Turkey's failure to conduct an effective investigation into the whereabouts and fate of nine of the applicants, who disappeared in life-threatening circumstances, that there had been a continuing violation of Article 3 (prohibition of inhuman or degrading treatment) of the Convention concerning the remaining nine applicants, relatives of the nine men who disappeared, that there had been a continuing violation of Article 5 (right to liberty and security) concerning Turkey's failure to conduct an effective investigation into the whereabouts and fate of the nine men, concerning whom there was an arguable claim that they had been deprived of their liberty at the time of their disappearance; and, unanimously, that no violation of Article 5 had been established concerning the alleged detention of the nine men.

On 7 July 2008, the case was referred to the Grand Chamber at the Turkish Government's request.

Micallef v. Malta

The applicant, Joseph Micallef, is a Maltese national who lives in Vittoriosa (Malta). He is the brother of Mrs M, who was a party to civil proceedings concerning a dispute between neighbours living in a block of flats.

The case concerns the applicant's complaint that Mrs M. had been denied a fair hearing before an impartial tribunal.

In a judgment of 15 January 2008, the Court held, by four votes to three, that there had been a violation of Article 6 § 1 (right to a fair hearing) of the Convention.

On 7 July 2008, the case was referred to the Grand Chamber at the Government's request.

The text of the Chamber judgments and corresponding press releases are available on the Court's Internet site: <http://www.echr.coe.int>.

2. Cases rejected by the Grand Chamber

Marini v. Albania (no. 3738/02), judgment of 18 December 2007.

Rahimova v. Azerbaijan (no. 21674/05), judgment of 17 January 2008.

Demebukov v. Bulgaria (no. 68020/01), judgment of 28 February 2008.

Kidzinidze v. Georgia (no. 69852/01), judgment of 29 January 2008.

Glesmann v. Germany (no. 25706/03), judgment of 10 January 2008.

Konstantinos Ladas v. Greece (no. 15001/06), judgment of 21 February 2008.

Mariettos and Mariettou v. Greece (no. 17755/06), judgment of 21 February 2008.

Tót v. Hungary and Italy (no. 44746/04), judgment of 5 February 2008.

Súsanna Rós Westlund v. Iceland (no. 42628/04), judgment of 6 December 2007.

Asciutto v. Italy (no. 35795/02), judgment of 27 November 2007.

Bagarella v. Italy (no. 15625/04), judgment of 15 January 2008.

Bertolini v. Italy (no. 14448/03), judgment of 18 December 2007.

Esposito v. Italy (no. 35771/03), judgment of 27 November 2007.

Zagaria v. Italy (no. 58295/00), judgment of 27 November 2007.

Trajkoski v. « the former Yugoslav Republic of Macedonia » (no. 13191/02), judgment of 7 February 2008.

Kuolelis, Bartoševičius and Burokevičius v. Lithuania (nos. 74357/01, 26764/02 and 27434/02), judgment of 19 February 2008.

Oferta Plus SSRL v. Moldavia (no. 14385/04), judgment of (friendly settlement) 12 February 2008.

Jakubiak v. Poland (no. 36161/05), judgment of 8 January 2008.

Kołodziński v. Poland (no. 44521/04), judgment of 8 January 2008.

Kyzioł v. Poland (no. 24203/05), judgment of 12 February 2008.

Pietrzak v. Poland (no. 38185/02), judgment of 8 January 2008.

Prodanof and Others v. Roumania (no. 2739/02), judgment of 15 November 2007.

SC Concept LTD SRL and Manole v. Roumania (no. 42907/02), judgment of 22 November 2007.

Khatsiyeva and Others v. Russia (no. 5108/02), judgment of 17 January 2008.

Maslova and Nalbandov v. Russia (no. 839/02), judgment of 24 January 2008.

Mechenkov v. Russia (no. 35421/05), judgment of 7 February 2008.

Ryabov v. Russia (no. 3896/04), judgment of 31 January 2008.

Ryakib Biryukov v. Russia (no. 14810/02), judgment of 17 January 2008.

Pshenichnyy v. Russia (no. 30422/03), judgment of 14 February 2008.

Tangiyeva v. Russia (no. 57935/00), judgment of 29 November 2007.

Zubayrayev v. Russia (no. 67797/01), judgment of 10 January 2008.

Kačapor and Others v. Serbia (nos. 2269/06, 3041/06, 3042/06, 3043/06, 3045/06 and 3046/06), judgment of 15 January 2008.

Španír v. Slovakia (no. 39139/05), judgment of 18 December 2007.

Vičánová v. Slovakia (no. 3305/04), judgment of 18 December 2007.

Gerçek v. Turkey (no. 67634/01), judgment of 31 January 2008.

Albayrak v. Turkey (no. 38406/97), judgment of 31 January 2008.

Hazirci and Others v. Turkey (no. 57171/00), judgment of 29 November 2007.

Karabulut v. Turkey (no. 56015/00), judgment of 24 January 2008.

Karadavut v. Turkey (no. 17604/04), judgment of 29 January 2008.

Mutu v. Turkey (no. 25984/03), judgment of 15 January 2008.

Özel and Others v. Turkey (no. 37626/02), judgment of 31 January 2008.

Suat Ünlü v. Turkey (no. 12458/03), judgment of 15 January 2008.

Sürmelioglu v. Turkey (no. 17940/03), judgment of 19 February 2008.

Tunç v. Turkey (no. 20400/03), judgment of 21 February 2008.

Usta and Others v. Turkey (no. 57084/00), judgment of 21 February 2008.

Uysal v. Turkey (no. 51964/99), judgment of 31 January 2008.

Arsenenko v. Ukraine (no. 6128/04), judgment of 31 January 2008.

Mitin v. Ukraine (no. 38724/02), judgment of 14 February 2008.

Higham v. United Kingdom (no. 64735/01), judgment of 22 January 2008.

Further information about the Court can be found on its Internet site (<http://www.echr.coe.int>)³.

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³ These summaries by the Registry do not bind the Court.

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***The European Court of Human Rights** was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.*