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

THIRD SECTION

DECISION

Application no. 25652/19
Huseyın DENYALI against Cyprus
and 2 other applications
(see list appended)

The European Court of Human Rights (Third Section), sitting on 13 September 2022 as a Committee composed of:

Anja Seibert-Fohr*, President,*
Georgios A. Serghides*,*
Peeter Roosma*, judges,*
and Olga Chernishova, *Deputy Section Registrar,*

Having regard to:

the applications against the Republic of Cyprus lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by the applicants listed in the appended table ("the applicants"), on the various dates indicated therein;

the decision to join the applications;

Having deliberated, decides as follows:

SUBJECT MATTER OF THE CASE

1. The applicants are relatives of Turkish Cypriot men who went missing during intercommunal conflicts in Cyprus in 1963-1964. The applications concerned, *inter alia,* the overall effectiveness of the investigations into the deaths of the applicants' relatives following the discovery of their remains. The Attorney General instigated investigations to ascertain, *inter alia*, the circumstances of the death of the applicants' relatives. He issued reports on the investigations into the fate of each of the deceased, in which he concluded, in sum, that there was insufficient evidence to bring prosecutions in connection with the victims' deaths.

2. The applicants complained that the Cypriot authorities had failed to carry out an effective, prompt and impartial investigation into their relatives' deaths in violation of Article 2 of the Convention. They also complained

under Article 3 of the Convention of the continued and serious anguish and trauma they had suffered since the discovery of the remains, due in part to the lack of serious efforts to hold accountable those responsible for the deaths of their relatives. The applicants further argued under Article 14 of the Convention that the lack of an effective investigation and failure to prosecute the people responsible for the victims' deaths was the result of ethnic and racial discrimination. In addition, they complained under Article 13 of the Convention of a lack of domestic remedies in relation to their complaints.

3. Lastly, the applicant in application no. 30047/22 complained, in addition to the above, that he had suffered immeasurable grief ever since his father's disappearance and that the closing of the investigation without prosecuting the perpetrators had further exacerbated his anguish, in breach of his rights under Article 8 of the Convention.

THE COURT'S ASSESSMENT

4. Having regard to the similar subject matter of the applications, the Court finds it appropriate to examine them jointly in a single decision.

5. On the basis of the documents submitted by the applicants, questions might arise concerning the effectiveness of the investigations on account of their length and other issues. However, those issues may not be addressed by the Court as the applications are inadmissible for failure to exhaust domestic remedies.

6. In this connection, the Court reiterates that in the domestic judgment of *Takis Yiallouros v. Evgenios Nicolaou* ([2001] 1 C.L.R. 558), which concerned an alleged violation by another individual of the claimant's right to a private life and correspondence, the Supreme Court, sitting as a full bench, held that claims for human rights violations were actionable rights that could be pursued in the civil courts against those responsible, with a view to recovering from them, *inter alia*, just and reasonable compensation for any damage suffered as a result. The Supreme Court thus confirmed the existence of an obligation to award general damages for breaches of the fundamental human rights and freedoms guaranteed by the Constitution, even when the violation did not constitute a tort in civil law (see *Aresteidou and Aresti v. Cyprus* (dec.) [Committee], no. 25364/15, § 6, 14 December 2021, *Danilczuk v. Cyprus*, no. 21318/12, §§ 23-24, 3 April 2018, and *Shacolas v. Cyprus*, no. 47119/99, § 82, 4 May 2006).

7. As evidenced by case-law provided by the Government in *Aresteidou and Aresti* (cited above, § 7), this remedy is applicable to claims concerning post-conflict claims in Cyprus. Specifically, relatives of missing Greek Cypriots have sued the State in the domestic courts for violations of their rights under the Convention, relying, *inter alia,* on Articles 2 (failure to investigate), 3 and 8 (distress of the family members) of the Convention – corresponding, respectively, to Articles 7, 8 and 15 of the Constitution of

Cyprus. In brief, in *Attorney General v. Andriani Palma and others* (civil appeal no. 44/2013, 19 November 2015), the Supreme Court upheld the first-instance court's finding that the State had violated the applicants' rights under Article 2 of the Convention but reduced the amount of damages awarded under that head. In *Attorney General v. Vasos Vasileiou as administrator of the estate of the deceased Christofi B. Pashia* (civil appeal no. 381/2010, 26 May 2015), while confirming that the State had been responsible under Article 2 of the Convention for the investigation into the disappearance of the applicants' relative, the Supreme Court dismissed the applicants' claims and quashed the award of compensation given by the first-instance court.

8. The applicants in the latter case brought an application before the Court, challenging, *inter alia,* the effectiveness of this remedy because, according to them, the State had denied its responsibility for their relative's disappearance and because they had received no compensation (*Vassiliou and Others v. Cyprus,* no. 58699/15, § 102, 31 August 2021). In relation to this claim, the Court held as follows:

> "111. The Court finds that the mere fact that the proceedings before the domestic courts resulted in a judgment that was unfavourable to the applicants does not mean that the remedies offered by Cypriot law in case of a violation as alleged by the applicants in the domestic proceedings were ineffective: the courts had jurisdiction to rule on their claim and they duly examined it (see *Vilvarajah and Others v. the United Kingdom*, 30 October 1991, § 122, Series A no. 215; *Amann v. Switzerland* [GC], no. 27798/95, § 89, ECHR 2000-II; and *Nolan and K. v. Russia* (dec.), no. 2512/04, 30 November 2006)..."

9. There is therefore currently no indication that this remedy is either inadequate or ineffective. The Court does not find any exceptional circumstances releasing the applicants from the obligation to avail themselves of the above remedy. Should the applicants be unsuccessful, it would be open to them to lodge a fresh application with the Court within a period of four months from the date on which the final domestic decision was taken (see, by analogy, *Vassiliou and Others,* cited above, § 69).

10. It follows that the applicants' complaints under Articles 2, 3, 8 and 14 of the Convention are inadmissible under Article 35 § 1 of the Convention for non-exhaustion of domestic remedies and must be rejected pursuant to Article 35 § 4 thereof.

11. In view of this conclusion, the Court finds the complaint under Article 13 of the Convention inadmissible as manifestly ill-founded pursuant to Article 35 §§ 3 (a) and 4 of the Convention.

For these reasons, the Court, unanimously,

Decides to join the applications;

Declares the applications inadmissible.

Done in English and notified in writing on 6 October 2022.

Olga Chernishova Deputy Registrar	Anja Seibert-Fohr President

Appendix

No.	Application no.	Case name	Lodged on	Applicant Year of birth Place of residence Nationality	Represented by
1.	25652/19	Denyalı v. Cyprus	10/04/2019	**Huseyın DENYALI** 1955 Mersin Turkish	Vedia ZABITOGLU
2.	27272/20	Beidoglu Karahasanoglu v. Cyprus	30/06/2020	**Sifa BEIDOGLU KARAHASANOGLU** 1962 Lefkosa Turkish	Vedia ZABITOGLU
3.	30047/22	Onbasi v. Cyprus	04/06/2022	**Fahri ONBASI** 1963 Lefkosa Cypriot	Vedia ZABITOGLU