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

FOURTH SECTION

DECISION

Applications nos. 28194/11 and 6037/13
GENCER and CEBIC against Cyprus
and MÜLAZIM and others against Cyprus

The European Court of Human Rights (Fourth Section), sitting on 26 August 2014 as a Chamber composed of:

Ineta Ziemele, *President,*
Päivi Hirvelä,
George Nicolaou,
Nona Tsotsoria,
Paul Mahoney,
Krzysztof Wojtyczek,
Faris Vehabović, *judges,*

and Françoise Elens-Passos, *Section Registrar,*

Having regard to the above applications lodged on 20 April 2011 and 23 November 2012 respectively,

Having regard to the information submitted by the parties,

Having deliberated, decides as follows:

THE FACTS

1. A list of the applicants is set out in the appendix.

A. The circumstances of the case

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

3. The applicants stated that they are nationals of the "Turkish Republic of Northern Cyprus" and in application no. 28914/14 also nationals of the United Kingdom. Their names, dates of birth and places of residence are set out in the Annex. They are represented before the Court by Ms Y. Renda, a lawyer practising in Nicosia.

4. The facts of the cases may be summarised as follows. The applicants are relatives of Turkish-Cypriots who went missing in either December 1963 or May 1964 during incidents of mounting tension and violence in which Turkish Cypriots or Turkish-Cypriot villages were targeted.

5. These persons were listed as missing persons, the information being given to the Cypriot authorities, the Red Cross and the United Nations.

6. The remains of the missing men have been found during exhumations carried out by the United Nations Committee for Missing Persons ("CMP") in 2010.

7. The Government have submitted that investigations had been commenced in both cases. The police had taken statements from relatives of the victims, taken steps to pursue investigation in the various localities and to trace police officers stationed there at the relevant time, to locate witnesses and to seek information from local inhabitants as to the transportation, murder and burial of the victims. In the first application, where investigation is linked with others already launched concerning victims of the same incident, statements have been obtained from about 65 individuals, while in the second application police are exploring material obtained from persons in the leadership of the "Akritas" organisation and tracing as far as possible persons who might have been involved or have information about such involvement.

8. The applicants submitted that it is not apparent that any progress had been made in the investigations and that they had not been given any copies of reports, witness statements or information gathered from various sources.

COMPLAINTS

9. The applicants complained under Article 2 of the Convention that the respondent Government of Cyprus failed to carry out an effective investigation into the disappearance and killings of their relatives even though all necessary information had been provided to their authorities. They complained under Article 3 of the Convention of the continued and serious trauma and anguish which they suffer following the discovery of the remains and the lack of any serious efforts to hold to account those responsible for the deaths of their relatives. They further invoked Article 8 due to the impact of the disappearance on their family and private life, Article 13 due to lack of remedies and Article 14 due to the ethnic cleansing involved in the impugned events.

THE LAW

10. The applicants complained under Articles 2, 3 and 13 of the Convention that there had been no effective investigation into the deaths of their relatives whose remains had been exhumed in the last few years. The Court will examine this aspect of the application under Article 2 of the Convention, which reads as relevant:

> "1. Everyone's right to life shall be protected by law. ...."

11. The Court recalls that identical complaints were raised by applicants in the cases of *Emin and Others v Cyprus*, no. 59623/08 et al, decision of 3 April 2012. After examining the information and submissions of the parties, it concluded as follows:

> "36. ...the Court finds that the investigations have been underway since October 2010 with no apparent concrete progress. 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 uncover 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 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 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. ..."
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> 38. 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.

12. The Court also notes that similar complaints were raised in the *Gunesel and Others and 8 other applications v Cyprus and Greece* (no. 30979/10 et al, decision of 2 April 2013) which concerned bodies exhumed from the same locations as in these applications and subject to the same investigative procedures. It observes that there are no distinguishing features in the present applications which would lead it to differ from its reasoning above. It appears that investigations are underway in respect of all the cases and that steps have been taken towards gathering evidence. It is too early to draw any conclusions as to any alleged lack of efficacy.

13. 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.

14. 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 applications inadmissible.

Françoise Elens-Passos	Ineta Ziemele
Registrar	President

APPENDIX

Application no 28194/11

Nº.	Firstname LASTNAME	Birth date	Birth year	Nationality	Place of residence
1.	Ali GENCER	02/09/1936	1936	British	Maras
2.	Mukatdes CEBIC	01/10/1937	1937	British	Gonyeli

Application no 6037/13

Nº.	Firstname LASTNAME	Birth date	Birth year	Nationality	Place of residence
1.	Rasiha MÜLAZIM	14/02/1937	1937	Cypriot,Turkish	Lefkosa
2.	Şerif BETMEZOĞLU	28/03/1963	1963	Cypriot,Turkish	Lefkosa
3.	Keziban GÜDEN	21/12/1949	1949	Cypriot,Turkish	Lefkosa
4.	Ahmet MÜLAZIM	03/06/1958	1958	Cypriot,Turkish	Lefkosa
5.	Emine ÖZBEK	12/08/1951	1951	Cypriot,Turkish	Lefkosa
6.	Cafer SEHEROĞLU	03/08/1955	1955	Cypriot,Turkish	Lefkosa