

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

COMMITTEE OF MINISTERS

159

Strasbourg, 6 October 1978

Secret

CM/Del/Concl(78)291

Addendum III, Part 2
Item XLI(h)

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Delegation only

CONCLUSIONS OF THE 291ST MEETING OF THE MINISTERS' DEPUTIES

(Strasbourg, 11 to 15 September 1978)

ADDENDUM III, PART 2

XLI(h)

CYPRUS AGAINST TURKEY

Application Nos. 6580/74 and 6950/75

Decision to be taken under Article 32 of the European
Convention on Human Rights

(Concl(77)276/XII(Addendum), Letter HD/047 of 31.8.76
CM(77)117 and Corr II and 150, CM(78)182)

The discussion on this item opened at 10.30 am on 14 September 1978. In reply to a question by the Chairman, the Representatives of Greece, Cyprus and Turkey asked for their interventions to be reproduced verbatim in the Conclusions.

This part of Addendum III contains the final version of the statement made by the Representative of Greece (cf page 14 of Part I of Addendum III).

The Representative of Greece made the following statement:

"Mr Chairman, I should like to say a few words, but there are perhaps other delegations that wish to take the floor. I should be most grateful if you would kindly inquire whether that is so. Thank you Mr Chairman."

.....

"Since that is not the case, Mr Chairman, it falls to me to speak, in accordance with the joint obligations we have under the Rome Convention. I think it is a duty and a right which we all share indivisibly, and while discharging that obligation and availing myself of that right in so far as the circumstances will allow, Mr Chairman, I shall take the liberty of making a few observations - brief ones, since the Cypriot delegation today is represented by some eminent figures. I shall have very little to say about this case, which has been dragging on for years before this institution.

My first remarks, Mr Chairman, relate to a concept which has been widely propagated in this Organisation, a concept that is without doubt irreconcilable with both the legal and the political substance of the Human Rights Convention. I refer to the tendency in certain particular cases, and especially where inter-State applications are concerned, to try to introduce political considerations into the examination of the case and into the application of the Convention, depending on circumstances and current political trends.

Professor Jacobs has provided an analysis of this aspect. I have had occasion to do so at previous meetings and I am pleased to note today that the standpoint I explained here has been confirmed by such an authority as Professor Jacobs. But it may be that some doubts still remain in this area. They may arise from the fact that in certain cases, such as that of Greece when lodging applications against the United Kingdom in 1957 and 1958, the dispute was ended by agreements of a political character. At the time, however, the British Government, like every government which has found itself in the position of defendant in proceedings before the Committee of Ministers; invariably and without fail took steps to remedy the situation. If we went to London and Zurich, it was certainly because of a whole series of corrective measures taken by the British Government which opened the way to political solutions. Not the other way round, as is claimed by the Government of Turkey. There was another case, between Austria and Italy. Thanks to steps taken by the Italian Government, a compromise became possible in the framework of the Human Rights Convention which facilitated the political solutions.

The parties concerned acted throughout in a spirit of goodwill and complied with their formal obligations under the Convention.

SECRET

- 3 -

CM/Del/Concl(78)291
Addendum III, Part 2

Through the dual function performed by the Commission as a tribunal and a conciliation body (Article 28), the Convention does make it possible for political considerations to be taken into account in certain cases, in accordance with the spirit which underlies the system for the protection of human rights and the relevant provisions of the Council of Europe's Statute (Article 3).

This truth has been borne out on several occasions in the case-law of our institution. This is the factor I wish to emphasise, Mr Chairman. I would add that if ever we wanted to include a political element, we should have to base ourselves on Article 3 of the Statute, which stipulates that every member State of the Council of Europe must accept the principles of the rule of law and that it is in accordance with those principles, restated in the preamble to the Human Rights Convention, that problems arising in the application of the Convention must be resolved. Any other interpretation would be a departure from the principle of the Convention. The Convention is an instrument which facilitates the search for political solutions. In this sphere, therefore, there can be no question of introducing political elements without voiding the Convention of its very substance.

I have another comment to make, Mr Chairman. It concerns what has happened in Cyprus since 21 October 1977 when we adopted that pretence of a decision whereby, as was quite clearly underlined a moment ago, the accused party should have taken certain measures under paragraph 2 of Article 32.

What has happened since then? Absolutely nothing. When nothing happens, the situation automatically gets worse. We are now faced with a worsening of the situation, and it is because of that worsening that a sense of urgency is required in order to meet the obligations we have undertaken in this field. For this concerns not only Greece or Cyprus. It is a matter that concerns us all indivisibly. This problem cannot be solved without the contribution of each and every member State in a spirit of solidarity. Since October 1977, as the Deputy Attorney-General of Cyprus has clearly stated, nothing has been done in Cyprus. Indeed, that is borne out by a third application which the Cypriot Government has filed with the Commission and which is currently being examined.

I have a third observation to make, Mr Chairman. It is called for by the fact that my colleague from Turkey declares that he has nothing to say and, strangely enough, repudiates any obligation to participate actively in this discussion, using the same pretext which has always caused him to adopt the same position: the legitimacy of the Cypriot representation in this Organisation. The Representative of Turkey forgets that almost two years ago he presented us with a bulky document, a fact that showed his government's wish to take part in this discussion, whereas it had not done so in connection with Article 28 or before the Commission. The Turkish Government's attitude is therefore a new one, and a manifestly negative one.

SECRET

CM/Del/Concl(78)291
Addendum III, Part 2

- 4 -

Faced with the facts, which are devastating, the Turkish Government now refuses to reply to the observations of the Cypriot delegation. How are we to interpret this refusal? The Committee must take thought. We are confronted with an unusual situation. For I should like to know whether or not the Turkish Government at this juncture is participating in the deliberations and in the work of our Committee.

In conclusion, I should like to add that my delegation associates itself fully with the proposals that have been put forward by the Cypriot delegation.

If we are to remove the root causes of tension deriving from massive violations of the Convention, these steps must be taken as a matter of urgency. They cannot but facilitate and accelerate the search for a political solution."