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Meeting: 1468th meeting (June 2023) (DH)

Communication from Cyprus (26/04/2023) concerning the cases of KAKOULLI and ISAAK v. Turkey (Applications No. 38595/97, 44587/98)

Information made available under Rule 8.2a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1468^e réunion (juin 2023) (DH)

Communication de Chypre (26/04/2023) relative aux affaires KAKOULLI et ISAAK c. Turquie (requêtes n° 38595/97, 44587/98) **[anglais uniquement]**.

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



REPUBLIC OF CYPRUS

PERMANENT REPRESENTATION TO THE COUNCIL OF EUROPE

DGI

26 AVR. 2023

SERVICE DE L'EXECUTION
DES ARRETS DE LA CEDH

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26 April 2023

Ms Clare OVEY
Head of Department
Department of Execution of Judgements
of the European Court of Human Rights
Directorate General of Human Rights and Rule of Law

Dear Ms Ovey,

In view of the discussion of the cases of KAKOULLI group v. Turkey (Application No. 38595/97) and ISAAK group v. Turkey (Application No. 44587/98), during the 1468 CM (DH) meeting, please find enclosed herein a Memorandum on behalf of the Government of the Republic of Cyprus.

Please accept, Ms Ovey, the assurances of my highest consideration.

Yours sincerely,

Kostas Psevdiotis
for Permanent Representative

***Kakoulli v Turkey*, Application no. 38595/97, 22.11.05
Andreou v Turkey, Application no. 43653/99, 27.10.09
Panayi v Turkey, Application no. 45388/99, 27.10.09
(the Kakoulli group of cases)**

***Isaak v Turkey*, Application no. 44587/98, 24.06.08
Solomou and others v Turkey, Application no. 36832/97, 24.06.08
(the Isaak group of cases)**

1468th CM(DH) MEETING, 5-7 JUNE 2023

MEMORANDUM OF THE REPUBLIC OF CYPRUS

INTRODUCTION

1. These cases concern the infliction of fatal (or in the case of *Andreou*, non-fatal) violence on Greek Cypriots in 1996, in the vicinity of the UN buffer zone in Cyprus. The Court concluded (taking the incidents in chronological order) that:
 - a. Stelios Kalli Panayi was shot dead on 3 June 1996 by Turkish soldiers after entering the UN buffer zone.
 - b. Anastasios Isaak was beaten to death in the UN buffer zone on 11 August 1996 by a group which included members of the Turkish forces.
 - c. Solomos Solomou was shot dead by agents of Türkiye on 14 August 1996, having attended the funeral of Anastasios Isaak, when he crossed the ceasefire line and started to climb a flagpole.
 - d. Georgia Andreou, who had also attended the funeral of Anastasios Isaak, was shot and injured by Turkish soldiers on the same day.
 - e. Petros Kyriakou Kakoulli was shot dead on 13 October 1996 by a Turkish soldier on guard duty along the ceasefire lines.
2. The judgments of the Court were delivered between November 2005 and October 2009 and became final three months after delivery. They found substantive violations of Article 2 in all cases, and procedural violations of Article 2 (failure to carry out an effective criminal investigation into the circumstances surrounding the deaths) in each of the four cases in which deaths occurred (that is, all except *Andreou*).
3. Various CM(DH) decisions were taken between 2007 and 2010, subsequent to which the cases remained under supervision. After re-examination of the cases at the 1406th CM(DH) Meeting in June 2021, including Action Reports submitted by Türkiye, the Deputies rejected Türkiye's claims that no further individual measures or general measures were

required, and adopted a series of decisions relating to both individual measures (Decisions nos. 1-5) and general measures (Decisions nos. 6-11).¹

4. A further series of decisions relating to individual measures (Decisions nos. 1-6) and general measures (Decisions nos. 7-12) was adopted at the 1436th meeting in June 2022.² Türkiye was invited to provide information in relation to a number of questions by 31 December 2022. Its Memorandum in response was submitted in December 2022 and circulated on 5 January 2023.³
5. In this Memorandum, Cyprus comments on Türkiye's latest Memorandum, so far as it relates to individual measures. In each case, those comments are preceded by a short summary of the relevant background.
6. Those comments are regrettably and uniformly negative. It is clear from Türkiye's December 2022 Memorandum that no substantial progress has been made in any of the five cases. In none of them has Türkiye complied with the Court's judgments by carrying out effective investigations into the circumstances of the killings.

KAKOULLI

Background

7. Petros Kakoulli, the father of three adult children, was gathering snails when he strayed into the Turkish-occupied area and was shot. The extensive evidence in the case was summarised in paras 36-73 of the judgment of the Court. From that evidence alone, there can be no doubt that the fatal injuries to Mr Kakoulli were caused by a soldier of the Turkish Armed Forces, namely the Infantry Private Harun Avşar, who in his own statement to the investigating authorities, reproduced at para 72 of the judgment of the Court, admitted firing shots directly at Mr Kakoulli.
8. The proceedings of the Committee until 2022 were summarised by Cyprus in its Memorandum of May 2022,⁴ in terms which are not repeated here.

Decisions of 2022 and Türkiye's response

9. By its Decision no. 2 of June 2022, the Committee invited the Turkish authorities to clarify:
 - a. why it was considered that the soldier acted in line with the instructions, which provided that a soldier must fire if enemy personnel are inside the buffer zone and continue to approach after a warning, even though Petros Kakoulli was shot while moving away to the Greek-Cypriot side, and

¹ CM/Del/Dec(2021)/1406/H46-33.

² CM/Del/Dec(2022)1436/H46-30.

³ DH-DD(2023)21.

⁴ DH-DD(2022)545.

- b. whether Law No. 35/1986 on the Internal Functioning of the Security Forces also authorised the use of firearms in such situation.

10. As to the first of those points, Türkiye relies on paragraph 19 of the applicable Specific Instructions, which were translated in the judgment of the Court as follows (emphasis added):

‘When armed or unarmed military persons enter the buffer zone or cross the confrontation line, the guard on duty shall immediately inform the company’s telephone exchange and take up position. If enemy personnel are inside the buffer zone and continue to approach after a warning is given for them to stop, they shall be aimed at and fired at. If the enemy personnel intend, after entering the buffer zone, to cross the confrontation line, the guard on duty shall not allow the removal of wounded or dead personnel from the buffer zone or inside the confrontation line. The guard shall not allow the destruction of evidence. If need be he shall take aim and open fire. No personnel, in such a situation, shall enter the buffer zone.’

11. Türkiye now states that the underlined sentence was a mistranslation, and that an accurate English translation of the relevant part of that sentence is as follows:

‘If the intention of the enemy personnel is to cross the contact line across the buffer zone, he will be aimed and fired.’

12. Even if the later translation is accurate (as to which, Cyprus cannot comment), the sentence can be of not the slightest assistance to Türkiye. The instruction, on its own terms and in the context of paragraph 19 as a whole, plainly relates to enemy personnel who are in the buffer zone and intending to cross the contact line into the occupied area. It would be absurd to interpret it as authorising the guard to shoot and kill a person who, in the words of the Committee’s latest Decision, was moving *away* from the occupied area towards the Greek-Cypriot side. That this latter interpretation was (according to Türkiye) adopted in the December 2021 review by the ‘Attorney General’s Office’ constitutes another reason why that review was partial and inadequate.

13. As to the second point identified in Decision No. 2 of June 2022, Article 54 of Law 35/1986, on Türkiye’s own translation, only authorised the use of firearms in circumstances where no other means of maintaining order is available. It further

- a. required an appropriate warning to be given (e.g. to drop firearms or weapons),
- b. provided that recourse to firearms could only be had if that warning was not heeded, and
- c. required that firearms could be used only to a degree capable of ensuring compliance with the warning.

14. The conditions for the use of firearms (notably, to kill Mr Kakoullis) were patently not satisfied.

- a. Mr Kakoullis is not alleged by Türkiye to have been ‘armed’ with anything more than a bayonet and a garrotte. Even this was contested by the applicants and a number of witnesses, who said he was armed with nothing more than a plastic bucket to collect snails. The Court noted the discrepancy and made no finding (para 115).
 - b. Private Avşar was found by the Court to have fired not warning shots into the air, but ‘two or three shots with his gun, aimed directly at the victim, and ... the last shot caused the victim’s death’ (paras 117-118).
 - c. Private Avşar said in his statement that he decided to shoot Mr Kakoullis because he would otherwise not have been able to catch him: the Court found that Private Avşar ‘had recourse to lethal force while there was no imminent risk of death or serious harm to him or other persons’ (para 120). The Court added that ‘the use of force against Petros Kakoulli was neither proportionate nor absolutely necessary for the purpose of ‘defending any person from unlawful violence’ or ‘effecting a lawful arrest’ (para 121).
15. It is therefore clear that neither the applicable Specific Instructions nor Law No. 35/1986 can provide any defence or mitigation for the unlawful killing of Mr Kakoullis. Türkiye’s claim that it is unable to progress the investigation into the killing of Kakoulli is wholly unfounded.
16. Cyprus once again invites the Deputies to conclude that:
- a. Almost 17 years after the Court’s judgment, there has been no effective investigation into the circumstances of the death of Petros Kakoulli, despite there being ample evidence before the Court indicating the guilt of the soldier who admits shooting him.
 - b. Türkiye has failed to comply with the judgment of the Court.

ISAAK AND SOLOMOU

Background

17. Anastasios Isaak participated on 11 August 1996 in a demonstration against the Turkish occupation, organised by the Cyprus Motorcycle Federation, at the UN buffer zone east of Nicosia (Judgment, para 9). Mr Isaak was one of a group of demonstrators who crossed the ceasefire line on foot, where they were attacked by counter-demonstrators. The Court accepted, on the basis of ample evidence, *inter alia* evidence of UNFICYP witnesses, photographic evidence and video footage, that Mr Isaak, who according to the photographic evidence was unarmed (Judgment, para 118), was surrounded by a group of at least 15 persons, thrown to the ground and brutally beaten with various implements for several minutes. At least four uniformed soldiers belonging to the Turkish forces ‘actively participated in the mob’, and were photographed beating Mr Isaak with metal batons (Judgment, paras 112, 119), without making any attempt to apprehend him or save his life.

The Court accordingly found that Isaak was killed by, and/or with the tacit agreement of, agents of the respondent State, and that the use of force was not justified (Judgment, para 120).

18. Türkiye failed to produce any evidence to the Court showing that an investigation had been carried out into the circumstances of Mr Isaak's death, or that those responsible had been identified and arraigned before a domestic tribunal in the ensuing period of more than 11 years. This is notwithstanding the fact that, as the Court found, *'the photographic evidence of the actual beating and killing ... could have enabled the local authorities to identify the persons involved in it'* (Judgment, para 124). The Court accordingly found that there was a failure to carry out an effective criminal investigation into the circumstances surrounding Mr Isaak's death (Judgment, para 125).
19. Solomos Solomou attended the funeral of Anastasios Isaak on 14 August 1996. Afterwards, alone and unarmed, he crossed the ceasefire line and started to climb a flagpole by a Turkish sentry box. According to the evidence of UNFICYP personnel, which was confirmed by photographs and video film, he was shot five times by two men in Turkish military uniforms and a man in civilian clothes on the balcony of the Turkish observation post. The Court found that Mr Solomou was killed by agents of the respondent State and that the use of force was not justified (Judgment, paras 69-79).
20. As in the case of Isaak, the Court found that Türkiye had neither produced any evidence showing that an investigation had been carried out into the circumstances of Mr Solomou's death, nor claimed that, more than 11 years after the incident, those responsible for the killing had been identified and arraigned before a domestic tribunal. Accordingly, it found that the authorities failed to carry out an effective criminal investigation into the circumstances surrounding the death (Judgment, paras 82-83).
21. So powerful is the evidence in these cases that a number of suspects are wanted by INTERPOL. Some of them are persons of considerable prominence in the illegal occupation regime.
 - a. No fewer than eight persons suspected of involvement in the killing of Isaak are considered wanted persons by INTERPOL. Three Red Notices and five Diffusion Alerts have been issued in respect of them and remain active. One of the suspects, Erhan Arikli, is a former 'Deputy Prime Minister' and 'Minister of Finance and Energy' of the illegal occupation regime who was appointed 'Minister of Public Works and Transport' in 2022.
 - b. Two persons suspected to be involved in the killing of Mr Solomou are considered wanted persons by INTERPOL, subject to active Red Notices. They are Kenan Akin, who served as so-called 'Minister for Agriculture' of the illegal occupation regime and thereafter as so called 'MP' in the 'TRNC' 'Parliament', and Erdal Hatjiali Emanet, who in 1996 served as Commander of the so called Special Forces branch of the 'Police', and who continued to serve as a high ranking officer in the 'police' of the illegal occupation regime until his retirement in July 2012.

22. The proceedings of the Committee until 2022 were summarised by Cyprus in its Memorandum of May 2022,⁵ in terms which are not repeated here.

Decisions of 2022 and Türkiye's response

23. By its Decision no. 3 of June 2022, the Committee:

- a. noted '*with deep concern*' that the information provided thus far was insufficient to respond to the findings of the Court;
- b. urged the Turkish authorities to provide
 - i. an analysis of the concrete factual and legal reasons for the conclusion that the officers' actions were lawful, separately for each case;
 - ii. an assessment of the lawfulness of the actions of private persons in the *Isaak* case, with translations of relevant decisions and any documents necessary for understanding them;
 - iii. detailed information, separately for each case, on what investigatory steps can (and cannot) still be taken; and
 - iv. detailed information on means deployed to overcome existing obstacles, taking into account the extensive contemporaneous evidence discussed in the judgments.

24. This Decision closely echoed Decision no. 3 of June 2021.⁶ The Committee had to repeat its requests, in even stronger and more specific terms, because Türkiye had failed to comply with that earlier Decision. As Cyprus put it in its Memorandum of May 2022:

'Turkey's Memorandum of January 2022 fails utterly to comply with Decision no. 3 of June 2021. The Attorney-General's Office on 30 December 2021 is said to have '*referred to*' the 2011 report, which the Deputies have already rejected as inadequate, and '*emphasised*' certain parts of it.⁷ There is no account of any further investigation or analysis: the Attorney-General's office is merely said to have '*recalled the timing of the incidents in 1996*' and '*concluded that it was not possible to take additional investigatory steps and/or conduct further investigation into these two cases*'.

25. Unfortunately the few paragraphs devoted to this Decision in Türkiye's latest Memorandum take the matter no further. No meaningful response is made to a single one of the four specific requests in Decision no. 3 of June 2022.

⁵ DH-DD(2022)545.

⁶ CM/Del/Dec(2021)1406/H46-33. As the Department for the Execution of Judgments had noted in its Memorandum of June 2021, such clarifications were required also for the assessment of general measures: H/Exec(2021)13, p.4.

⁷ These include certain provisions of a 'Law' relating to the use of firearms which, needless to say, could have no application to the case of *Solomou* which concerned the beating to death of a protester.

26. The translation of the relevant part of the December 2021 review of the ‘Attorney General’s Office’, annexed to Türkiye’s Memorandum, confirms its complete inadequacy. After some prefatory words, that document consists of nothing more than a lengthy quotation from the March 2011 conclusions of the ‘Attorney General’s Office’, itself consisting only of a condemnation of the Greek Cypriot protestors and a recitation of the ‘TRNC’ law concerning the use of firearms. (It should be pointed out that no ‘Law’ is even advanced to support the obviously unsustainable proposition that agents of the State acted in accordance with the law when they actively participated in the fatal beating of Mr Isaak, an unarmed demonstrator who had been thrown to the ground and brutally attacked by a large mob.) The ‘Attorney General’s Office’ concludes its 2021 review with an assertion that *‘it is not possible to conduct additional investigation and/or further investigation into these two cases’*, ignoring (for example) the Court’s finding that photographic evidence could have enabled them to identify the persons involved in the beating of Mr Kakoulli (and could presumably still do so).
27. The manifest inadequacies of the 2011 conclusions, which formed part of the March 2021 Action Report, were apparent to the Committee when it reached its Decisions of June 2021 and June 2022. It is now quite clear that nothing whatever has been done since the superficial, partial, self-justificatory and victim-blaming exercise of March 2011, despite the existence of ample evidence which could have been used to initiate a criminal investigation.
28. Furthermore, by Decision No. 6 of June 2022, echoing Decision no. 5 of June 2021, the Deputies invited the Turkish authorities to cooperate with the Secretariat as regards the payment in the *Isaak* case of EUR 1,800 corresponding to the value-added tax on the costs and expenses, together with interest. Türkiye commented in its Memorandum of January 2022 that *‘[t]he examination of the issue of payment of any tax that may be chargeable on costs and expenses is continuing’*. In its latest Memorandum, this issue is not even dignified with a response.
29. In short, the *‘deep concern’* expressed by the Committee in June 2022 has if anything increased. Türkiye has by its latest response ignored every one of the specific requests of the Committee. By doing so, it has demonstrated its contempt for the Court and the Committee alike. Cyprus invites the Deputies to conclude that:
- a. 14 years after the Court’s judgment, there has been no effective investigation into the circumstances of the death of Anastasios Isaak.
 - b. The information provided by Türkiye provides no basis on which it could be concluded that there has been meaningful compliance with Decision no. 3 or Decision no. 6 of June 2022.
 - c. Türkiye has failed to comply with the judgment of the Court.

KALLIS AND ANDROULLA PANAYI

Background

30. Stelios Kalli Panayi was a 19-year-old private soldier in the Cyprus National Guard who, alone and unarmed (Judgment, paras 60-61), entered the UN buffer zone in Nicosia early in the morning of 3 June 1996. Türkiye accepted that he was shot there, intentionally, by a Turkish soldier on duty at a sentry post (Judgment, para 58). The UN Secretary-General reported, and in the case brought by his parents the Court accepted (Judgment, paras 65-66) that an attempted humanitarian intervention by UNFICYP soldiers was then hampered by Turkish soldiers firing live shots in their direction.
31. The Court unequivocally and without hesitation found that the ‘authorities’ failed to carry out an effective criminal investigation into the circumstances surrounding Mr Panayi’s death. The ‘authorities’ confined themselves to producing a few notes emanating from the military authorities and describing events on the basis of the versions given by the soldiers involved. Those versions did not appear to have been challenged in the light of the material evidence available to the ‘TRNC’ ‘authorities’, or of the statements of UN personnel. There was no independent investigation (Judgment, paras 71-73).
32. The findings of the Court and the proceedings of the Committee until 2022 were summarised by Cyprus in its Memorandum of May 2022,⁸ in terms which are not repeated here.

Decisions of 2022 and Türkiye’s response

33. By its Decision no. 4 of June 2022, the Committee ‘*noted that the new examination, carried out by the Attorney General’s Office could address the criticism that the investigation was not independent, bearing in mind that the passage of time entails difficulties for the repetition of investigative acts by independent body*’, but invited the Turkish authorities:
- a. to indicate on what basis the Attorney General’s Office reached conclusions concerning the question whether the applicants’ son was armed and whether warning shots were fired before the actual killing, and
 - b. to provide a translation of the exact provisions applied in the present case and translations of relevant decisions and documents.
34. The initial assessment in Decision no. 4 might be considered extremely generous to Türkiye. The Deputies had invited the Turkish authorities, in their Decision no. 4 of June 2021, ‘*to re-examine the file and indicate whether further examination by an independent authority is possible*’.⁹ However, as Cyprus remarked in its May 2022 Memorandum:

‘There is not the slightest indication in Turkey’s Memorandum of January 2022 of meaningful compliance with Decision no. 4 of June 2021. The ‘report’ and ‘evaluation’

⁸ DH-DD(2022)545.

⁹ CM/Del/Dec(2021)1406/H46-33.

given in the Memorandum are nothing more than brief summaries of the documents produced by Turkey to the Court (Judgment, paras 20-21). No attempt has been made to address the criticisms made by the Court at paras 71-73 of the Judgment, in particular by inviting an independent authority to compare this version of events with the material evidence or the statements of UN personnel, or by arraigning the persons responsible before a domestic tribunal. Turkey has not even troubled to provide the precise translations requested, remarking only [in DH-DD(2022)28, p.5] that the instructions applicable at the relevant Guard Post were ‘*similar*’ to the instructions applicable in the *Kakoulli* case.¹⁰

It is therefore all the more important to examine Türkiye’s response to the specific questions posed in Decision no. 4 and set out above.

35. That response¹¹ is, again, manifestly inadequate. It demonstrates once more the point made by Cyprus in its last Memorandum, cited in the previous paragraph of this one: that the so-called examination by the ‘Attorney General’s Office’ in late 2021 was so cursory as to be meaningless. The comments made by Cyprus in May 2022 continue to apply. Once again, despite a specific request from the Committee for a second successive year, Türkiye has not even troubled to provide a translation of the exact provisions applied or of relevant decisions and documents.

36. Cyprus invites the Deputies to conclude that:

- a. Almost 13 years after the Court’s judgment, here has been no effective investigation into the circumstances of the death of Stelios Kalli Panayi.
- b. The information provided by Türkiye provides no basis for concluding that there has been meaningful compliance with Decision no. 4 of June 2022.
- c. Türkiye has failed to comply with the judgment of the Court.

ANDREOU

Background

37. Georgia Andreou was the mother of a friend of Anastasios Isaak. She attended the funeral of Mr Isaak and, a few moments after the shooting of Solomos Solomou, was herself shot in the abdomen when Turkish or Turkish Cypriot soldiers fired indiscriminately into the crowd inside the UN buffer zone. She underwent three surgical operations, including removal of a kidney and of pancreatic tissue, stitching of the liver and a colostomy. She developed pleuritic and also post-traumatic stress and depression. She died in 2005, having lodged an application with the European Commission of Human Rights in 1999 (Judgment, paras 9-22, 45).

¹⁰ DH-DD(2022)545, para 19.

¹¹ DH-DD(2023)21, pp. 3-4.

38. The Court held that while the force used against the applicant was not in the event lethal, Article 2 was applicable to her case, since she was the victim of conduct which, by its very nature, put her life at risk, and that there had been a violation of Article 2 since the use of potentially lethal force against her was not ‘*absolutely necessary*’ (Judgment, para 57).
39. While the Court did not examine the procedural limb of Article 2 in the *Andreou* case, the Secretariat noted in May 2021 that there is an obligation to provide *restitutio in integrum* for violations of the right to life, and that an investigation into the facts of the case was also important from the point of view of general measures.¹²
40. The proceedings of the Committee until 2022 were summarised by Cyprus in its Memorandum of May 2022,¹³ in terms which are not repeated here.

Decisions of 2022 and Türkiye’s response

41. By Decision no. 5 of June 2022, echoing Decision no. 4 of June 2021,¹⁴ the Committee invited the Turkish authorities to specify

‘whether it is possible to carry out an assessment of the compliance with domestic law of the actions of senior officials, who gave an order to shoot at demonstrators, bearing also in mind that medical reports appear to be available as they have been submitted by the applicant’s heirs in the proceedings before the European Court’.

As the Department for Execution of Judgments emphasised in June 2021, the assessment of compliance with domestic law was necessary even if it was no longer possible to identify the officer who injured Mrs Andreou.¹⁵

42. The response of Türkiye in its Memorandum of January 2022 is wholly inadequate. It is claimed (as it was in Türkiye’s previous Memorandum) that the ‘Attorney-General’s Office’ assessed on 30 December 2021 that it was not possible for the TRNC authorities to conduct an investigation into the event in question. It is evident however from the paraphrase of that ‘assessment’ in the Memorandum that (as in the Isaak and Solomou cases), the ‘Attorney General’s Office’ did not more than quote from the victim-blaming 2011 report and then assert that no further investigations or assessments of compliance were possible. No satisfactory explanation is given of why that conclusion was reached, and in particular of why it was not possible to investigate whether senior officials who gave an order to shoot at demonstrators acted in compliance with domestic law. Neither, despite the specific mention of medical reports in Decision no. 5 of June 2022, is any reference made to medical evidence.

43. Accordingly, Cyprus invites the Deputies to conclude that:

- a. Almost 13 years after the Court’s judgement, there has still been no effective investigation into the circumstances of the death of Georgia Andreou.

¹² CM/Notes/1406/H46-33, p. 6.

¹³ DH-DD(2022)545.

¹⁴ CM/Del/Dec(2021)1406/H46-33.

¹⁵ H/Exec(2021)13, p.6.

- b. The information provided by Türkiye provides no basis for concluding that Türkiye has complied with Decision no. 4 of June 2022.
- c. Türkiye has failed to comply with the judgment of the Court.

ADDENDUM FROM TÜRKIYE

44. After this Memorandum had been prepared for submission, Türkiye submitted a further communication entitled ‘Addendum’, registered on 31 March 2023.¹⁶ Included in this document are further brief remarks on the individual measures in each case. Unfortunately, these do nothing to advance matters or to alter the analysis of Cyprus as expressed above.

Kakoulli – Addendum

- 45. The Addendum admits that the relevant authorities did not analyse the lawfulness of the actions of the guard on duty on the basis of Law No. 35/1986 (as to which, see paras 13-14 above).
- 46. No answer is given to the requests in Decision No. 2 of June 2022.

Isaak and Solomou - Addendum

- 47. The Addendum annexes ‘*unofficial translations*’ of a ‘TRNC Police’ investigation report of 15 August 1996, and of the legal analysis of the ‘Attorney General’s Office’ of 29 March 2011, both relating only to the Solomou case. No submissions are made in relation to these reports.
- 48. The Government’s version of the facts is inconsistent with that of five UNFICYP eye-witnesses (Judgment, paras 16-20) and was rejected by the Court in 2008 (Judgment, paras 71-78). Indeed the report of the ‘TRNC Police’ appears inconsistent even with the Government’s case as presented to the Court, which was that Mr Solomou was ‘*injured during the crossfire*’ (Judgment, paras 21(k)(l)), since it states that UNFICYP soldiers and Greek Cypriot protestors first laid on the ground and then started to flee during the firing of the shots, and does not suggest that the shots fired at Mr Solomou could possibly have come from anyone other than Turkish forces.
- 49. The 2011 report of the ‘Attorney General’s Office’ adds nothing: indeed the passages that the Government has chosen to emphasise in bold *simply repeat, word for word, the 1996 account of the ‘TRNC Police’*. A clearer demonstration of the inadequacy of that report could hardly be imagined.
- 50. No answer is given to the requests in Decision Nos. 3 and 6 of June 2022.

¹⁶ DH-DD(2023)428.

Kallis and Androulla Panayi - Addendum

51. The Addendum repeats but does not add to the information that was referred to by the Court in 2009 (Judgment, paras 20-21). It does not attempt to address the criticisms made by the Court (Judgment, paras 71-73) and does not provide the translations requested.
52. As in the case of *Kakoulli*, the Addendum admits that the relevant authorities did not analyse the lawfulness of the actions of the guard on duty on the basis of Law No. 35/1986.
53. No answer is given to the requests in Decision No. 4 of June 2022.

Andreou - Addendum

54. The Addendum does no more than reiterate the content of Turkey's Memorandum of January 2022.¹⁷
55. No answer is given to the request in Decision No. 5 of June 2022.

CONCLUSIONS

56. In none of the cases considered in this Memorandum has Türkiye conducted effective investigations into deaths (or in the case of Mrs Andreou, the use of potentially lethal force) which the Court has attributed in whole or in part to members of its own security forces. Accordingly, it has failed to comply with the applicable judgments of the Court.
57. Türkiye has not even paid lip-service to the Decisions of the Committee. Every one of the Committee's carefully-considered requests has been ignored, dismissed by assertions or answered by reference to old material that has already been considered and found wanting. There is no indication in Türkiye's Memorandum of a genuine intention to comply with its obligations, or even of a sense that it needs to explain itself in an objective manner.
58. Against this background, it is essential that the Committee holds firm. It has no alternative but to continue to insist in strong and specific terms on Türkiye's obligation to comply with the judgments by which it remains bound.

¹⁷ DH-DD(2022)29.