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Meeting: 1521st meeting (March 2025) (DH)

Communication from Türkiye (19/12/2024) concerning the case of CYPRUS v. Turkey (Application No. 25781/94)

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 : 1521e réunion (mars 2025) (DH)

Communication de la Türkiye (19/12/2024) relative à l'affaire CHYPRE c. Turquie (requête n° 25781/94) ***[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.

DH-DD(2024)1508: Communication from Türkiye.
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DGI
19 DEC. 2024
SERVICE DE L'EXECUTION DES ARRETS DE LA CEDH

# MEMORANDUM
# Missing persons cluster of "Cyprus v. Turkey" and *Varnava and Others v. Turkey*
# 1521st meeting of the Ministers' Deputies (CM(DH))
# 4-6 March 2025

## Introduction

1. The Committee of Ministers, meeting in human rights format (CM(DH) meeting), will examine the issue of "missing persons" in the island within the context of the "Cyprus v. Turkey" and the *Varnava* cases at its 1521st meeting to be held on 4-6 March 2025.

## Latest decision adopted at the March 2024 CM(DH) decision

2. At the latest CM(DH) meeting held in March 2024, the Deputies *"recalled once more the progress that has been made as regards the measures taken to determine the fate of Greek Cypriot missing persons"* since the delivery of the judgment "Cyprus v. Turkey" on 10 May 2001, *"in particular the assistance provided by the Turkish authorities to the Committee on Missing Persons (CMP) and the work carried out by the Missing Persons Unit (MPU)."*[1]

*3.* Furthermore, the Deputies "welcomed" the commitment of the Turkish side *"to provide continuing assistance to the CMP, including unhindered access to all areas, as well as all information relevant to its work, and to continue the work of the MPU"*.

4. The Deputies invited the Turkish side to inform the Committee on any new developments, including on the remaining six missing persons in the case of *Varnava*.

5. This memorandum has been prepared to inform the Committee on the new developments, with a view to having a conclusive discussion at the upcoming CM(DH) meeting.

**New developments as concerns the Committee on Missing Persons (CMP):**

6. On 27 September 2024, Mr Pierre Gentile, the United Nations Third Member of the CMP, has assumed his duties. The Third Member, who is selected by the International Committee of the Red Cross (ICRC) with the agreement of the Turkish Cypriot Side and the Greek Cypriot Side, is appointed by the Secretary-General of the United Nations.

7. In welcoming the Third Member, the Special Representative of the Secretary-General of the United Nations in Cyprus, *"praise[d] the CMP project"* which he considered to be *"an effective mechanism to identify and return the remains of missing*

[1] For a comprehensive overview of the measures taken on the missing persons issue, please see, amongst others, DH-DD(2023)11, distributed on 9 January 2023.

*individuals, bringing to an end the uncertainty which has affected the families of missing persons for many years"*.[2]

8. As before, we have continued to honour our commitment to providing assistance to CMP to ensure it continues with its effective work.

9. In addition to providing additional financial assistance to ensure CMP implements its large-scale and complex search, excavation and identification programme effectively,[3] TRNC authorities have also continued to give further access to the Office of the Turkish Cypriot Member to the 1974 aerial photos kept in the archives. This information enables CMP to make informed decisions on the specific suspected burial sites to excavate. During the course of this year, the Office of Turkish Cypriot Member has checked 49 different coordinates in 35 different regions.

10. CMP was also given access to suspected burial sites in the TRNC. In 2024, according to the work plan of CMP, it excavated a total of 100 suspected sites; 88 of these excavated sites were located in the TRNC, including 13 in the military areas. Currently, there are 7 excavation teams actively working throughout the Island, excavating in 6 different sites in the TRNC, including in the military areas, and 1 site in the Greek Cypriot side.

11. The sites where at least two missing soldiers in issue in the *Varnava* judgment were seen fighting (out of the remaining six) were among those excavated by CMP during this year. It was reported that some remains were found and exhumed from these sites, pending identification.

12. Independent from the outcome of the pending identification, CMP will continue to do its utmost to locate, exhume and identify Turkish Cypriot missing persons and Greek Cypriot missing persons, including the remaining missing persons in issue in the *Varnava* judgment, followed by criminal investigations after CMP completes its work. As it should be recalled, three missing persons of the *Varnava* judgment, Andreas Varnava, Savvas Hadjipantelli and Savvas Apostolides, had been found and identified by CMP, and the criminal investigations concerning their cases have been finalized by MPU under the supervision of the Attorney-General's Office, and their families were informed accordingly.

13. In 2024, CMP has identified 11 individuals; 2 Turkish Cypriot missing persons and 5 Greek Cypriot missing persons on the CMP's official missing persons list, as well as 4 other individuals who were not on the official list. The remains of 20 individuals have been exhumed from the sites excavated by CMP and sent to the laboratory for

[2] https://www.cmp-cyprus.org/press-release/top-un-official-welcomes-third-member-of-the-committee-on-missing-persons-in-cyprus-cmpstatement-by-the-un-spokesperson-in-cyprus/

[3] TRNC finances the Office of the Turkish Cypriot Member from the TRNC budget. On 31 October 2024, TRNC made an additional donation of €100,000, bringing the total additional donations to date to a total of €683,000. Türkiye contributed an additional EUR 100,000 on 14 October 2024, her total contributions to date reaching EUR 1,454,225. The funds that are transferred by the EU, reaching EUR 38,500,000, are from the funds the European Union has earmarked for the economic development of Turkish Cypriots.

identification during this year. Currently, the laboratory is working on the remains exhumed by CMP which are suspected to belong to 57 individuals.

14. Although CMP's continuing effectiveness does not depend solely on our efforts,[4] we are committed to do our part to ensure CMP continues to fulfil its mandate effectively.

**New developments as regards the work of Missing Persons Unit (MPU):**

15. The TRNC has continued with the effective criminal investigations in relation to those missing persons who had been found and identified by CMP. The criminal investigations are conducted by MPU under the guidance of the TRNC Attorney-General's Office.

16. To date, MPU initiated criminal investigations for 746 missing persons after CMP completed its mandate.[5] Out of the 746 case files which CMP shared with MPU, MPU finalized 588 criminal investigations, and it is currently working on the remaining 158 files. TRNC Attorney-General's Office also concluded its examination on 546 files out of the 588 files completed by MPU, and is working on the remaining 42 files.

**The way forward**

17. The new developments outlined above confirm, once again, that the two-prong mechanism continues to function effectively. This has indeed been established for many years, and also reflected in the more recent decisions adopted by CM(DH). As such, continuation of supervision of examination of this mechanism would amount to micromanagement of a working, effective mechanism, which is against the mandate and practice of this Committee.

18. In the context of execution of the missing persons cluster of the 2001 judgment, payment is a separate issue which is covered by the 2014 just satisfaction judgment. The Committee has previously taken separate final resolutions to close the supervision of the judgments on merits and on just satisfaction.[6] In this case, the adoption of a separate interim resolution to close the "missing persons" cluster of the 2001 judgment will be in line with the established practice of this Committee.

[4] The Greek Cypriot side is yet to share with CMP, *inter alia*, the police records from 1963 onwards which were kept during the organized atrocities against Turkish Cypriot civilians, some of whom could not be found and remain on the official CMP list as missing persons.

[5] The criminal investigations conducted by MPU entail communication with the relevant authorities, reaching out to the relatives of missing persons found by CMP to request them to share the information at their disposal on the disappearances and give statements, and taking written statements from people resident at the alleged places of disappearance or death (total of 679 written statements), performing excavations at suspected places the missing persons had been found by CMP (in 59 different cities and villages), and, in general, following leads from the information collected. Following the conclusion of the criminal investigation, a File Report is prepared and shared with those relatives who can be located.

[6] See, for example, the practice of the CM(DH) in the case of *Loizidou*. Resolution to close the supervision of the just satisfaction judgment was adopted for the 1998 just satisfaction judgment (ResDH(2003)190), followed by the final resolution to close the judgment on merits which was adopted separately (CM/ResDH(2022)255).

19. It is also in accordance with the Committee's practice to adopt decisions to close its supervision on the executed parts of judgments, and in this case, it is possible to close the supervision of the general measures and the relevant individual measures of the *Varnava* judgment, based upon the effective measures that are in place also for the missing persons in issue in that judgment.

**Conclusion**

20. Consequently, the Committee is invited to build upon its latest decision adopted in March 2024 with respect to the missing persons issue, and to proceed with the closure of the "missing persons" cluster of the 2001 judgment, which has been on its agenda for over two decades, as well as the general measures and the relevant individual measures in the case of *Varnava*.