



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

## FOURTH SECTION

### DECISION

Applications nos. 60441/13, 68206/13 and 68667/13  
Nazli GÜRTEKİN and others against Cyprus, Ayse AKAY and others  
against Cyprus and Ayse ERAY and others against Cyprus

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

Ineta Ziemele, *President*,

Päivi Hirvelä,

George Nicolaou,

Nona Tsotsoria,

Zdravka Kalaydjieva,

Krzysztof Wojtyczek,

Faris Vehabović, *judges*,

and Françoise Elens-Passos, *Section Registrar*,

Having regard to the above applications lodged on 19 September 2013,

Having deliberated, decides as follows:

## THE FACTS

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

### A. The circumstances of the case

1. The facts of the case, as submitted by the applicants, may be summarised as follows.

2. The applicants are relatives of men who disappeared during intercommunal conflicts in Cyprus in 1963-1964. They had previously introduced applications (nos. 3706/09, 32744/09 and 57250/09) which principally raised complaints about the effectiveness of the investigations into the deaths of the missing men whose bodies had been found during exhumation programme of the United Nations Committee on Missing Persons (CMP). The complaints about the alleged ineffectiveness of the

investigations into the discovery of the bodies were rejected by the Court as inadmissible on 3 April 2012 as premature as these investigations were still pending.

3. On 11 October 2010, the Attorney General directed the Chief of Police to carry out an investigation to ascertain the circumstances of the death of the applicants' relatives and whether this was the result of unlawful acts and, in such a case, to identify and punish those responsible.

4. Inquiries were launched by the Cypriot police. Contact was made with various applicants who were invited to give statements. Applicant Mehmet Salih Gurtekin from application no. 60441/13 attended such an interview; the families in application no. 68206/13 attended for interview in January and February 2011. Three applicants from application no. 68667/13 attended the police station to give statements. Other investigative steps were taken to contact possible witnesses and to identify potential suspects as set out below.

#### **B. Application No. 60441/13**

5. On 23 May 2013, the Attorney General issued a report to the applicants' lawyer. He stated that the police had submitted the results of their investigation to his office in September 2012 and in December 2012 he had instructed further steps to be taken. The file was completed and returned in April 2013. He stated:

“.. I have studied the investigation file with all evidential material collected and I consider that the investigation has reached a point at which it cannot proceed any further. This is due to the fact that all leads and possible sources of information that were available for ascertaining the circumstances of the death of Dervis Mehmet and holding accountable the perpetrators in this very serious case have been pursued exhaustively and despite the fact that the resulting information/evidence respecting the core facts of the case, including the ascertainment of the identity of the perpetrators is scanty and does not lead to persons that can be considered as possible suspects. There are no other available leads/directions to be followed by the police for collecting further evidence in the case.”

6. In particular, the report stated that:

- Contacts were made with authorities/organisations such as the Red Cross, the UNIFCYP (United Nations Forces in Cyprus), intelligence services, missing persons service, national guard for searches to be made in their files for relevant results. No leads were forthcoming.
- Several leading individuals in the “Akritas organisation” at the relevant time were questioned. While one individual knew about the incident, this individual did not know the identity of those involved. No information about the names of those involved in the incident or present at the location was obtained.

- The son of the deceased was questioned: he referred to the two other villagers who were with his father at the time, but stated that these potential witnesses had died a long time before.
- The police interviewed numerous people from the deceased's village. Only one witness was found with information. This witness referred to what he had heard from the village constable who had stated that he had been told that the deceased had been abducted and killed by Greek Cypriots but did not know the names of the perpetrators. This constable had died and could not be questioned himself. The constable's son-in-law was questioned but he only knew that the deceased had been last seen walking on foot towards Nicosia – he did not know which route had been taken.
- The police also conducted inquiries at the village of Tseri near where the deceased was reported to have disappeared. Thirteen people, including former members of the local militia group were questioned. These witnesses stated that the Tseri militia group was formed during the inter-communal hostilities to secure Greek-Cypriot safety in case of Turkish-Cypriot attacks. All stated that they neither knew nor had heard of the kidnapping or killing of the deceased. However, some witnesses referred to the behaviour of the militia group leader and some of his followers as being suspicious. The leader had given warning to people about weapons' testing. Firing was later heard and some people saw blood by a well the next day, and heard that three Turkish Cypriots from the village of Areidiou had been killed and dumped in the well. The owner of the well told the police that he had seen blood, hair and brain scattered around the well and the militia leader had told him to close up the well without further explanation. The police sought to trace the militia leader and those other militia members named by the witnesses but they had all died.
- Police also questioned a former army officer who had been responsible for organising the defence of villages in the area and the person responsible for the militia groups. Both denied any knowledge of the deceased or any involvement of their groups in abductions and killings.
- It was stated that, given the dearth of concrete substantiating evidence, the police could only speculate that it was possible that the deceased had been seized by the leader of the Tseri militia group and/or other members of the group, that following his abduction he might have been detained at Kykkos high school from which he was taken, killed and buried by Greek Cypriots in the area where his remains were found.

7. The Attorney General concluded that the passage of time since events had rendered unfeasible the questioning of the persons who might have been

able to shed light on the investigation. As there were no remaining leads, the investigation could not be pursued further. However, if any new evidence or information did come to light in the course of other ongoing investigations into events in 1963-1964, he had instructed the police to bring it to his attention for evaluation and further directions. He would keep the applicants updated in such event.

### **C. Application No. 68206/13**

8. By letter dated 29 March 2013, the Attorney-General issued a report to the applicants on the investigation into the fate of the deceased in this application. He stated that the police had delivered to his office the evidential material collected in the investigation and that notwithstanding all the inherent difficulties in trying to ascertain facts going back so far, all available leads had been pursued. He set out the steps taken in the investigation:

- Inquiries were made with any authorities who might have files or records relevant to events including the Dhekelia Sovereign Base where the men worked. No useful information was obtained.
- Police questioned six persons in leading positions in Akritas at the time; two of the leaders of the organisation for the district where the men went missing had passed away. No information or leads were forthcoming.
- Police took statements from relatives of all applicants. One witness mentioned that his grandmother had heard that the kidnappers had lived in Pyla village at the time and had given five names. She had not told him who had told her this; as she had died, she could not be questioned further herself.
- Police inquiries into the names given by the witness disclosed that four had lived in the village in 1963-1964; no person by the fifth name had lived or was living in the village according to the local police commissioner. It transpired that three of the four people identified had died. They had not been able to locate the fourth.
- The police located and interviewed 29 inhabitants of the villages closest to where the remains had been found who were former members of the militia groups who had been formed to defend their communities during the hostilities in 1963-1964 and had been keeping watch, in particular on an area where allegedly Turkish Cypriots had concealed large amounts of weaponry. None of these witnesses however owned to any information about the events under investigation. One stated that it was only years later that he had heard that bodies had been thrown into a pit.
- The police took a statement from the owner of the land where the remains had been found. He had heard that Greek Cypriots had

boarded a bus and murdered the Turkish Cypriots on board but he neither knew or had heard who had done this. On the day of the incident he had been in Oroklini village and had heard gunfire coming from the direction of the main road. A few days later his father had told him that he had been approached by somebody who had asked his father to cover a pit in their field where Turkish-Cypriot corpses had been thrown. The witness had not discussed the matter further with his father and had not gone near the field. His father had since died and the witness refused to mention the name of the person who had approached his father, stating that the person was dead.

- According to a witness from the Pyla village, a member of the Pyla militia group had told him that he and four other militia members had boarded the bus and killed the Turkish Cypriots in retaliation for the murder of two Greek army officers and a Greek-Cypriot policeman a few days before. These names matched those given by the other witness above. The militia member who had told the witness this had passed away meanwhile. The same witness also stated that his father-in-law had seen the people being taken out of the bus, shot and thrown into a pit. His father-in-law was since deceased and no further information could be obtained from that source. This witness had refused to sign a statement as he feared exposure to his fellow villagers and as his family were friends with the families of those implicated.
- A former member of the militia group told the police that a person from another village had said that he had carried out the acts with three other persons referred to by name. These names matched some already given by others. When the police tracked down the person who had spoken to the militia member, they found that he had died. The militia member himself refused to give a written statement. A number of other former militia members said that they had heard of the incident but did not know who was involved.
- Four witnesses from Pyla mentioned names of persons rumoured to have been involved. Some names matched those already mentioned above plus several new names.
- Of the names identified as possible perpetrators, the police found that all had died save for three who were still alive. One of these had left for Australia many years ago and could not be traced. The police took statements from the other two who both admitted being former members of the Pyla militia group. Both denied any involvement; one claimed that he had been at work at the British bases on the day; the other claimed that he only heard about the incident the next day. The police had tried to track down what had happened to the guns. One of the purported suspects stated that all

the guns of the villagers had been taken away by the Cypriot authorities after the 1974 conflict. The police found corroboration from one police source that the guns had been removed from the Turkish Cypriots in the area after 1974.

- Enquiries with the bus company running the bus concerned provided no useful information.

9. The Attorney-General reported that there were serious indications that the murders had been committed by five named individuals. However he concluded that, on the basis of the evidence, there was no reasonable prospect of being able to convict the two suspects still alive as the evidence was based on hearsay evidence from people no longer alive or on rumours coming from unascertainable sources or which could not be investigated further. Thus a prosecution of these two persons was not justified. He stated that he would inform the applicants if any further information arose in the context of other pending investigations.

#### **D. Application No. 68667/13**

10. On 23 May 2013, the Attorney-General issued a report to the applicants' lawyer. He stated that the police had submitted the results of their investigation to his office in September 2012 and in December 2012 he had instructed further steps to be taken. The file was completed and returned in April 2013. He stated that he had studied all the evidential material collected and found that it could not proceed further as all the leads and possible sources of information had been exhausted and the evidence of the identity of any perpetrators was scanty and had not led to persons that could be treated as possible suspects. He set out the investigative steps which had been taken, including the following:

- Contacts were made with authorities/organisations such as the Red Cross, the UNIFCYP, intelligence services, missing persons service, national guard for searches to be made in their files for relevant results. No leads were forthcoming.
- Several leading individuals in the Akritas organisation at the relevant time were questioned. While one individual knew about the incident, this individual did not know about the identity of those involved. No information about the names of those involved in the incident or present at the location was provided.
- Statements were taken from the deceased's relatives, who described the van he was last seen in and other information about his last known movements.
- As the remains had been found in a well in Tseri, 14 persons from that village, including former members of the local militia group, were interviewed. The militia group had created checkpoints in the

village at the time. None of the witnesses had any information about the case, claiming that they had heard nothing and had no explanation for how the remains were found in Tseri. The owner of the well had passed away. The police questioned the owner of another nearby well where other remains had been found. This owner had seen blood, hair and brain scattered around; the Tserli militia leader had told him to cover the well; when the owner refused, some-one else covered the well. The militia leader has had meanwhile died.

- The police carried out interviews of 11 people, including former militia members, in Palaikythro village where the deceased's son had said his father had been abducted and killed.
- The police traced a person named by the deceased son as having seen his father's van. This witness confirmed seeing Greek Cypriots carrying goods away from the abandoned van. The witness later heard that Greek Cypriots had stopped the van, killed the passengers and then dumped the van near Palaikythro. He did not know who killed the passengers nor could he recall who had given him the information. He referred to these being the rumours at the time.
- Another witness from Palaikythro stated that he and two colleagues (since deceased) from the Ministry of Agriculture had driven out to spray locusts near Palaikythro and had seen the abandoned van, empty of goods, and then further on in the fields three bodies. They quit the scene in fear. When they later returned, the bodies had gone. The witness heard that the bodies had belonged to Turkish Cypriots from Famagusta who had been abducted by Greek-Cypriot policemen who guarded the Cheilides checkpoint in Nicosia. Rumour also had it that one passenger had escaped and that the van had been confiscated by the Kythraia militia group.
- In interview the former leader of the Palaikythro militia stated that he had been in Greece at the relevant time. He named a soldier who had told him about the incident. This soldier was traced and told the police that he had been in charge of a militia group at another village. Some persons brought him drinks, taken from a van seized from Turkish Cypriots who had been murdered. He claimed he had forgotten the names of these persons and anything else about the abduction or killing.
- The police followed the leads implicating the Kythraia militia group in the confiscation of the van and interviewed four persons who had either been in the militia or the local police. The leaders of all the village militias in the district had died. However a leading member of the dominant militia group said that he had heard that Greek Cypriots from Kaimakli had stopped the van, killed the

occupants and abandoned the van. Some people from his group had taken the van and driven it to Kythraia but he did not remember who the persons were.

- The police sought witnesses concerning the Cheilides checkpoint mentioned in other statements. They questioned 14 police officers and former militia of the Kaimakli group. One witness gave information to explain why three bodies were found in a field and the applicants' relative's remains dumped in a well. He speculated that three had attempted to escape when stopped at the checkpoint and been killed on the spot; the applicants' relative could have been taken for interrogation at the former Pedagogical Academy used by Akritas for that purpose. Those from Akritas questioned about this denied any knowledge of an interrogation centre at the Pedagogical Academy; two individuals said that Turkish Cypriots had been taken to Kykkos High School for interrogation but could not remember who guarded the school. Three witnesses, amongst those named as having manned the Cheilides checkpoint at the relevant time, denied having knowledge of the deceased; one stated that if Turkish Cypriots were found carrying something suspicious they were taken away for interrogation by Cyprus Central Intelligence Service but he did not know where.
- The police sought information at the Central Intelligence Service but there were no records of the checkpoint there. Two persons who had worked there at the time claimed to have no information about the incident and did not remember who had manned the checkpoint.

11. The Attorney-General concluded that it was very likely that the deceased had been at the Cheilides checkpoint as this was the only point of entry and exit for the Turkish-Cypriot sector of Nicosia; there was hearsay evidence that he had been abducted from the checkpoint while in the company of three other Turkish Cypriots, of whom two were unidentified. It had not been possible to clarify where the deceased had been killed. He concluded that the passage of time since events had rendered unfeasible the questioning of the persons who might have been able to shed light on the investigation. As there were no remaining leads, the investigation could not be pursued further. However, if any new evidence or information did come to light in the course of other ongoing investigations into events in 1963-1964, he had instructed the police to bring it to his attention for evaluation and further directions. He would keep the applicants updated in such event.

### **E. Relevant domestic law and practice**

*Özalp Behiç, Ece Behiç and Suzan Behiç and others v. Republic of Cyprus Attorney-General, Council of Ministers, Ministry of Foreign Affairs, Ministry of Interior (case nos. 589/06, 590/06, 591/06, 592/06, 593/06)*

12. In these cases lodged in 2006, the relatives of five Turkish Cypriot men who went missing on 14 August 1974 after they had been taken from their homes by armed Greek Cypriots, lodged applications under Article 146 of the Constitution, claiming that the Republic of Cyprus had known of the deaths of the missing persons but had not searched for the corpses or brought the guilty persons to justice and that the Republic had not taken the necessary actions to pursue an effective investigation to determine the whereabouts and fate of the missing persons. In their response, the Republic of Cyprus stated that they had not been passive but had been unable to pursue their intentions to exhume and identify corpses due to the agreement between the United Nations, the Turkish-Cypriot side and themselves that exhumations would be conducted by a common programme of the Committee of Missing Persons. They also pointed out that exhumations had begun in 2004 and the programme indicated the likelihood of the exhumation of the graves in the relevant area would commence in August 2008. They disputed that the matter fell within the jurisdiction of the courts but fell rather under the supervision of the United Nations and the authority and initiative of the President of the Republic.

In its decision dated 29 May 2008, the Supreme Court in its appellate capacity held that the fate of missing persons fell under the authority of the President of the Republic as it had an international aspect; the cases therefore concerned an act of government which did not fall within the jurisdiction to annul of the Supreme Court.

### **COMPLAINTS**

13. The applicants complained under Article 2 that the investigation was ineffective. They submitted that they had been barred from participating in, the investigation, in particular, as the authorities had not furnished them with any direct evidence, given them any names of possible perpetrators or provided the families with any of the witness statements or police reports. The applicants considered that the authorities had not adequately investigated the references in statements concerning the Kykkos high school and were convinced that the Government authorities of the time knew what had occurred but chose to remain silent; they asserted that the Government were still protecting erstwhile members of Akritas and militia groups. They

found the outcome of the investigation unconvincing and that it lacked judicial and public scrutiny and any adversarial procedure. They also complained that the investigation was not independent due to political aspects, in particular past connections between Government figures and Akritas; and also that the delay in 50 years in launching the investigation was not prompt.

14. The applicants complained under Article 3 that the failure of the authorities to pursue an effective investigation with public scrutiny and proper access to the investigation caused them distress and that they remained in mental anguish as to past events.

15. The applicants complain under Article 13 that they were not given the opportunity to challenge the acts or omissions of the investigating authorities in court and had no remedy against the decision of the Attorney-General to close the file.

## THE LAW

### A. Joinder of the applications

16. In accordance with Rule 42 § 1 of the Rules of Court, the Court decides to join the applications, given their similar factual and legal background.

### B. Article 2 of the Convention

17. The applicants have complained that there has not been an effective investigation into the deaths of their relatives who disappeared in 1963-1964, invoking Article 2 of the Convention which provides, as relevant:

“1. Everyone’s right to life shall be protected by law. ...”

18. The Court would recall that it is only called upon to examine issues arising in respect of the investigation into the discovery of the bodies of the applicants’ relatives. The issues relating to the disappearances in 1963-1964 have already been rejected as having been submitted out of time (see *Emin and Others v Cyprus, Greece and the United Kingdom*, nos. 59623/08 et al, (dec.) 3 June 2010).

19. The Court’s case-law establishes that the obligation to protect the right to life under this provision, read in conjunction with the State’s general duty under Article 1 of the Convention to “secure to everyone within their jurisdiction the rights and freedoms defined in [the] Convention”, requires by implication that there should be some form of effective official investigation when individuals have been killed as a result of the use of

force by, inter alios, agents of the State (see *McCann and Others v. the United Kingdom*, 27 September 1995, § 161, Series A no. 324). The essential purpose of such an investigation is to secure the effective implementation of the domestic laws safeguarding the right to life and, in those cases involving State agents or bodies, to ensure their accountability for deaths occurring under their responsibility (see *Nachova and Others v. Bulgaria* [GC], nos. 43577/98 and 43579/98, § 110, ECHR 2005-VII).

20. The obligation comes into play, primarily, in the aftermath of a violent or suspicious death and in the normal course of events, a criminal trial, with an adversarial procedure before an independent and impartial judge, must be regarded as furnishing the strongest safeguards of an effective procedure for the finding of facts and the attribution of criminal responsibility. There is no right however to obtain a prosecution or conviction (e.g. *Szula v. the United Kingdom*, (dec.) no. 18727/06, 4 January 2007) and the fact that an investigation ends without concrete, or with only limited, results is not indicative of any failings as such. The obligation is of means only, not result (*Avşar v. Turkey*, no. 25657/94, § 394, ECHR 2001-VII (extracts)).

21. Even where events took place far in the past, it is possible that new developments occur such that a fresh obligation to investigate arises, for example, newly-discovered evidence comes to light (*Brecknell v. the United Kingdom* (no. 32457/04, §§ 73-75, 27 November 2007; *Hackett v United Kingdom* (no. 4698/04, (dec.) May 10, 2005; *Gasyak and Others v. Turkey* (no. 27872/03, 13 October 2009). The scope of the fresh obligation to investigate will vary according to the nature of the purported new evidence or information. It may be restricted to verifying the reliability of the new evidence. The authorities can legitimately take into account the prospects of launching a new prosecution at such a late stage. Due to the lapse of time, the level of urgency may have diminished; the immediacy of required investigative steps in the aftermath of an incident is likely to be absent (e.g. *Brecknell*, cited above, paras. 79-81. The standard of expedition in such historical cases is much different from the standard applicable in recent incidents where time is often of the essence in preserving vital evidence at a scene and questioning witnesses when their memories are fresh and detailed (see *Emin and Others v Cyprus*, no. 59623/08 et al, (dec.) 3 April 2012; see also *Palić v. Bosnia and Herzegovina*, no. 4704/04, § 70, 15 February 2011 concerning complex post-conflict situations).

22. The extent to which the other requirements of an adequate investigation -effectiveness, independence, accessibility to the family and sufficient public scrutiny- apply will again depend on the particular circumstances of the case (for a general statement of principle on the requirements of Article 2 under its procedural head, see, for example, *Al-Skeini v. the United Kingdom*, [GC] no. 55721/07 § 166-167 ECHR 2011). While what reasonably can be expected by way of investigative measures

may well be influenced by the passage of time as stated above, the criterion of independence will, generally, remain unchanged (see, for the importance of this criterion from the very earliest stage of the procedure, *Ramsahai and Others v. the Netherlands* [GC], no. 52391/99, §§. 325, 333-341, ECHR 2007-...). Finally, it must be noted in general that with a considerable lapse of time since an incident, memories of witnesses fade, witnesses may die or become untraceable, evidence deteriorates or ceases to exist, and the prospects of any effective investigation leading to the prosecution of suspects will increasingly diminish (see, *mutatis mutandis*, *Varnava and Others v. Turkey* [GC], nos. 16064/90, 16065/90, 16066/90, 16068/90, 16069/90, 16070/90, 16071/90, 16072/90 and 16073/90, §§ 161, 192, ECHR 2009; *Palić v. Bosnia and Herzegovina*, cited above, no. 4704/04, § 49, 15 February 2011).

23. As concerns the present applications, the Court would recall that in the previous applications concerning these matters it had held that the discovery of the remains of the applicants' relatives bearing signs of violence and buried in circumstances highly suggestive of extra-judicial execution or murder triggered an obligation on the authorities to take investigative steps to identify the likely cause and circumstances of death and the identity of the perpetrators of any unlawful violence. The Court noted that investigations had been underway since October 2010 and concluded in its decision of 3 April 2012 that despite the applicants' allegations that the investigations were sham and pro forma it was premature to conclude that they were ineffective.

24. Since the Court's rejection of the previous applications (see paragraph 2 above), the Attorney-General has, in March and May 2013, issued reports on the investigations (see paragraphs 5-11 above). In light of the findings of the investigations, he has concluded that there is insufficient evidence to bring prosecutions and, pending further evidence coming to light, the investigations must now be regarded as closed. The Court must therefore examine the applicants' complaints that these investigations have been ineffective in the sense of the Court's case-law outlined above.

25. The Court would note, first of all, that the police have followed numerous leads in the three cases, making enquiries with official bodies and organisations, updating the statements from the relatives of the deceased, looking for witnesses in the villages where the bodies were found or where events were reported to have occurred and tracking down to the extent possible the names of potential suspects which have been mentioned by witnesses. Naturally, given the lapse of fifty years since events, many witnesses are no longer alive or traceable, and a number of potential suspects have also died meanwhile. It must also be noted that, of those named as being incriminated in events who have been found and questioned by the police, all have denied any knowledge of, or participation in, any unlawful acts. Some witnesses have also refused to give written statements,

citing for example reluctance to inform on fellow villagers. It is not apparent that there is any evidence, beyond rumour, which can be relied upon as identifying persons, still alive, as having been involved in acts leading to the deaths of the applicants' relatives.

26. The applicants have submitted that the investigations were nonetheless ineffective. However, they have not pointed to any other concrete avenues of enquiry that the police could in fact pursue, beyond referring to the fact that enquiries did not appear to have been made about the school where some Turkish-Cypriot people had allegedly been kept prisoner. There is nothing however to indicate that any teachers or school personnel were in any way involved in the events, or had been witnesses of events; indeed it would appear highly unlikely that school personnel would have been present at the same time as any paramilitary activities were being conducted at the school. This omission, if such it is, does not give any appearance of undermining the efficacy of the investigation in itself.

27. The applicants' principal complaint appears to be that the investigations have ended without any prosecutions. The Court can understand that it must be frustrating for the applicants that potential suspects have been named and, in two instances, located and questioned but that no further steps apparently were going to be taken. However, Article 2 cannot be interpreted so as to impose a requirement on the authorities to launch a prosecution irrespective of the evidence which is available. A prosecution, particularly on such a serious charge as involvement in mass unlawful killings, should never be embarked upon lightly as the impact on a defendant who comes under the weight of the criminal justice system is considerable, being held up to public obloquy, with all the attendant repercussions on reputation, private, family and professional life. Given the presumption of innocence enshrined in Article 6 § 2 of the Convention, it can never be assumed that a particular person is so tainted with suspicion that the standard of evidence to be applied is an irrelevance. Rumour and gossip are a dangerous basis on which to base any steps that can potentially devastate a person's life.

28. Insofar as the applicants argued that, at the very least, the decision that the evidence was insufficient to justify a prosecution should have been submitted for decision by a court, the Court does not consider that the procedural obligation in Article 2 necessarily requires that there should be judicial review of investigative decisions as such. Where such review of investigative decisions exists, they are doubtless a re-assuring safeguard of accountability and transparency. However, it is not for the Court to micro-manage the functioning of, and procedures applied in, criminal investigative and justice systems in Contracting States which may well vary in their approach and policies. No one model can be imposed (see, *mutatis mutandis*, *McKerr v. the United Kingdom*, no. 28883/95, § 143, ECHR 2001-III).

29. As concerns the applicants' criticisms about the accessibility of the investigation to the families of the deceased and the existence of sufficient public scrutiny, the Court notes that this aspect of the procedural obligation does not require applicants to have access to police files, or copies of all documents during an ongoing inquiry, or for them to be consulted or informed about every step (*McKerr v. the United Kingdom*, no. 28883/95, ECHR 2001-III, § 121; *Green v. the United Kingdom*, no. 28079/04, (dec.) 19 May 2005; *Hackett v. the United Kingdom*, (dec.) 34698/04, 10 May 2005). It cannot be automatically required that the families be provided with the names of the potential suspects against whom insufficient evidence has been gathered for prosecution. This would lead to the risk that the families and others would assume that the individuals were in fact guilty and to potentially unpleasant repercussions. The Court observes that the reports of the Attorney-General were detailed, gave relevant and plausible reasons for the decision not to prosecute and made it clear that if any further evidence was uncovered during other investigations that this decision would be reviewed.

30. Insofar as the applicants make reference to a lack of expedition and to the lapse of time since their relatives disappeared, the Court would underline that the only period of time in issue in the present case is that which has elapsed since the finding of the bodies and the launch of the investigation into those discoveries. Given that it has already found that there was no undue delay disclosed by the time of its consideration of the earlier applications on 3 April 2012, the Court does not find that the fact that it took about another year for the police to submit their report to the Attorney-General, for the Attorney-General to consider whether to instruct further steps to be taken, to re-assess the file in light of any additional measures and then to draw up and send out his report gives any ground for a finding of undue delay. This finding that the authorities did not lack the appropriate expedition in investigating the discovery of the bodies must be distinguished from the inevitable impact of the overall passage of time since the occurrence of events on the outcome of the investigation (see paragraph 22 above).

31. Lastly, insofar as the applicants referred to lack of independence in the investigation, the Court recalls that they have mentioned alleged links between the now defunct "Akritas organization" and political figures at the time of events. There is however no indication of any links existing between the police authorities or Attorney-General and any political figures or organisations purportedly tainted by involvement in events in 1963-1964. The applicants' allegations largely amount to a general assertion that no Cypriot authority could claim to be independent of past events or those involved in them. The Court sees no basis on the materials or arguments before it for finding any such theoretical impossibility for the Republic of Cyprus to carry out an effective investigation.

32. In conclusion, the Court does not find anything to support the applicants' allegations that the authorities did not properly investigate the fate of the deceased or that they are somehow shielding or protecting those responsible. The investigation has not been shown to have infringed the minimum standard required under Article 2. It follows that this part of the application must be rejected as manifestly ill-founded pursuant to Article 35 §§ 3(a) and 4 of the Convention.

### **C. Article 3 of the Convention**

33. The applicants complained that the failure to provide a proper investigation caused them distress and anguish, invoking Article 3 of the Convention which provides:

“No one shall be subjected to torture or to inhuman or degrading treatment or punishment.”

34. It is true that, in cases of a “disappeared person”, a family member can claim to be the victim of treatment contrary to Article 3 where the disappearance was followed by a long period of uncertainty until the body of the missing person was discovered. The essence of the violation in such a case lies in the authorities' dismissive reactions and attitudes when the situation was brought to their attention or in failures by the authorities which may be regarded as disclosing a flagrant, continuous and callous disregard of an obligation to account for the fate of the missing person. It is only in very restricted circumstances that the Court has reached a separate finding of Article 3 in relation to situations of confirmed death (see *Janowiec and Others v. Russia* [GC], nos. 55508/07 and 29520/09, §§ 177-181, ECHR 2013).

35. In the present cases, as mentioned above (see paragraph 18), the issue at stake does not concern the disappearances but the responses of the authorities to the discovery of the bodies of the deceased. The Court has found above that the authorities have not failed in any duty of reasonable expedition or of notification of the families that might be required by Article 2 of the Convention. Nor are there any other elements which might disclose a basis for finding a violation of Article 3 of the Convention arising from the applicants' complaints.

36. It follows that this part of the application is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3(a) and 4 of the Convention.

### **D. Article 13 of the Convention**

37. The applicants complained about a lack of effective remedy for their complaints above, invoking Article 13 of the Convention which provides:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

38. Having regard to the submissions of the applicants and its findings under Articles 2 and 3 of the Convention in these applications as well as the previous applications, the Court considers that no further issue arises for examination concerning the remaining complaints made by the applicants.

For these reasons, the Court unanimously

*Decides* to join the applications;

*Declares* the applications inadmissible.

Françoise Elens-Passos  
Registrar

Ineta Ziemele  
President

## ANNEX

No	Application No	Lodged on	Applicant Date of birth Place of residence Nationality	Represented by
1.	60441/13	19/09/2013	<p><b>Nazli GÜRTEKİN</b> 28/10/1926 Lefkoşa / Mersin 10</p> <p><b>Mehmet Salih GÜRTEKİN</b> 19/02/1954 Lefkoşa / Mersin 10</p> <p><b>Lema TAVLI</b> 25/12/1955 Konya</p> <p><b>Şerife GÜRTEKİN</b> 05/05/1957 Lefkoşa / Mersin 10</p> <p><b>Ali GURTEKIN</b> 05/01/1963 Lefkosa</p>	Yaprak RENDA
2.	68206/13	27/09/2013	<p><b>Ayşe ERAY</b> 05/07/1939 Mağusa / Mersin 10</p> <p><b>Sadi ESENTAN</b> 12/08/1952 Mersin 10</p> <p><b>Ayşe ESENTAN</b> 01/01/1927 Mersin 10</p>	Yaprak RENDA

No	Application No	Lodged on	Applicant Date of birth Place of residence Nationality	Represented by
			<p><b>Ayşe AYKANAT</b> 17/10/1939 Güzelyurt / Mersin 10</p> <p><b>Vasviye AYSAN</b> 08/03/1957 Güzelyurt / Mersin 10</p> <p><b>Salih AYKANAT</b> 03/03/1958 Mersin 10</p> <p><b>Gülay İNÖNÜLÜ</b> 17/10/1959 Mersin 10</p> <p><b>Ümit AYKANAT</b> 01/04/1962 Güzelyurt / Mersin 10</p> <p><b>Melek ÖZLUSES</b> 10/06/1964 Mersin 10</p> <p><b>Vijdan OZANALP</b> 12/03/1939 Mersin 10</p> <p><b>Mustafa ÖZATLI</b> 18/03/1960 Girne / Mersin 10</p> <p><b>Dürü ÖZATLI</b> 04/02/1957 Lefkoşa / Mersin 10</p> <p><b>HACIOĞLU</b> 01/01/1954 Mersin 10</p> <p><b>Ayşe ESENÇAĞ</b> 01/01/1957 Mersin 10</p>	

No	Application No	Lodged on	Applicant Date of birth Place of residence Nationality	Represented by
			<p><b>Fikriye ÖZGÜM</b> 01/04/1937 Girne / Mersin 10</p> <p><b>Mustafa ÖZGÜM</b> 27/11/1954 Girne / Mersin 10</p> <p><b>Ali ÖZGÜM</b> 04/09/1957 Girne / Mersin 10</p> <p><b>Ercan ÖZGÜM</b> 18/03/1959 Girne / Mersin 10</p> <p><b>Tünay ÖZGÜM</b> 19/07/1962 Girne / Mersin 10</p> <p><b>Fatma TAŞKAN</b> 25/07/1955 Mersin 10</p> <p><b>Hasan Eray GÖKSAN</b> 06/02/1947 Mersin 10</p> <p><b>Zehra GÜNEYSEL</b> 08/04/1937 İskele / Mersin 10</p> <p><b>Hüseyin GÜNEYSEL</b> 11/12/1960 İskele / Mersin 10</p> <p><b>Mümüş ALKIM</b> 15/12/1962 Lefkoşa / Mersin 10</p> <p><b>Göksel YUSUF</b></p>	

No	Application No	Lodged on	Applicant Date of birth Place of residence Nationality	Represented by
			<p>09/02/1939 Melbourne Victoria</p> <p><b>Özel ŞEHİTOĞLU</b> 30/10/1942 Mersin 10</p> <p><b>Aysel Aydın DURUSOY</b> 16/08/1947 Mersin 10</p> <p><b>Ceylan ÇELİKER</b> 07/07/1951 Mersin 10</p> <p><b>Taner DİMİLİLER</b> 04/09/1952 Girne / Mersin 10</p> <p><b>Yahya DİMİLİLER</b> 14/02/1954 Mersin 10</p> <p><b>Celal DİMİLİLER</b> 01/11/1955 Mersin 10</p> <p><b>Hüsnüye BİTTA</b> 02/02/1957 Girne / Mersin 10</p> <p><b>Songül SAĞDINÇ</b> 27/08/1959 Mersin 10</p> <p><b>Şentaç ARI</b> 02/04/1962 Girne / Mersin 10</p>	
3.	68667/13	18/09/2013	<p><b>Ayşe AKAY</b> 06/02/1940 Mersin 10</p>	Yaprak RENDA

No	Application No	Lodged on	Applicant Date of birth Place of residence Nationality	Represented by
			<b>Halil TOMAÇ</b> 26/10/1958 Mersin 10  <b>Osman AKAY</b> 07/12/1959 Girne / Mersin 10  <b>Zühal KESKİNEL</b> 23/01/1962 Mersin 10  <b>Mesut AKAY</b> 09/03/1964 Mersin 10	