

## SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS  
SECRETARIAT DU COMITE DES MINISTRES



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Date: 14/02/2014

**DH-DD(2014)236**

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1193 meeting (4-6 March 2014) (DH)

Item reference: Communication from the applicants' representative (12/02/2014) in the case of Varnava and others against Turkey (Application No. 16064/90)

Information made available under Rule 9.1 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 : 1193 réunion (4-6 mars 2014) (DH)

Référence du point : Communication du représentant des requérants dans l'affaire Varnava et autres contre Turquie (Requête n° 16064/90) (**anglais uniquement**)

Informations mises à disposition en vertu de la Règle 9.1 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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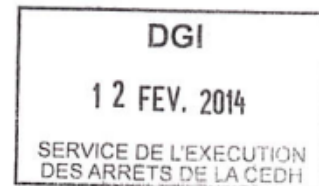
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HR4-8/153/EC

12 February 2014

Mr Abel De Campos  
Secretariat of the Committee of Ministers  
European Court of Human Rights  
Council of Europe  
F-67075 Strasbourg, cedex  
France



VIA EMAIL & MAIL

Dear Mr Campos

**Re: Application nos. 16064/90, 16068/90, 16070/90, 16072/90 and 16073/90  
Varnava and Others v Turkey, Judgment dated 18 September 2009**

Thank you for bringing to the attention of the Members of the Committee of Ministers my letter dated 29 November 2013 in relation to the abovementioned matter.

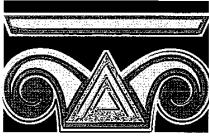
Kindly note that despite the Committee's Interim Resolutions, the Respondent Government is still in breach of its unconditional obligations set by the said judgment.

Given that same will be discussed at the forthcoming Committee meeting between 4 - 6 March 2014, perhaps the following could assist the deliberations.

- (1) The Respondent Government is in the process of negotiating its membership to the European Union whose Member States constitute a majority of the Committee.
- (2) As part of the said process a number of the negotiating "Chapters" (including Chapter 23 on the judiciary and fundamental rights) have been blocked for various reasons.
- (3) In the EU 2013 Progress Report on Turkey\* on page 49 (copy attached for your convenience) reference is made to the abovementioned judgment and actually it states: "The EU has called on Turkey to enhance its efforts to implement all the judgments of the European Court of Human Rights".

\*

[http://ec.europa.eu/enlargement/pdf/key\\_documents/2013/package/tr\\_rapport\\_2013.pdf](http://ec.europa.eu/enlargement/pdf/key_documents/2013/package/tr_rapport_2013.pdf)



- (4) Given the above described persistent and silent disregard by the Respondent Government of the Court's judgment it would, perhaps, be helpful if the Committee were to consider and recommend the continuation of the blocking of – at least – Chapter 23, until the abovementioned judgment has been enforced.

It should be recalled that some of the abovementioned Applications (relating to missing persons from 1974) were filed more than 24 years ago and the Applicants are still without a remedy, despite the Court's unconditional judgment.

I would be grateful if this matter is brought to the attention of the Members of the Committee of Ministers pursuant to Rule 9 of its Rules for the Supervision of the Execution of Judgments and the Respondent Government is once again urged to honour the said judgment.

I remain at your disposal should you require any clarifications on the abovementioned.

Thanking you in advance for your cooperation.

Yours sincerely

Achilleas Demetriades

cc: DG Human Rights & Legal Affairs  
Directorate of Monitoring  
Department for the Execution of ECHR Judgments  
Council of Europe  
F-67075 Strasbourg, Cedex  
France

DH-DD(2014)236 : Applicants' representative in Varnava and others against Turkey.  
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EUROPEAN  
COMMISSION

Brussels, 16.10.2013  
SWD(2013) 417 final

**COMMISSION STAFF WORKING DOCUMENT**

**TURKEY  
2013 PROGRESS REPORT**

*Accompanying the document*

**COMMUNICATION FROM THE COMMISSION  
TO THE EUROPEAN PARLIAMENT AND THE COUNCIL**

**Enlargement Strategy and Main Challenges 2013-2014**

{COM(2013) 700 final}

**EN**

**EN**

ratified.<sup>7</sup>

During the reporting period, the **European Court of Human Rights (ECtHR)** delivered judgments on 115 applications, finding that Turkey had violated rights guaranteed by the ECHR. The number of new applications went down for the first time after six consecutive years of increase, with 5 919 new applications having been made since September 2012 compared with the 8 010 applications submitted in the period September 2011 – September 2012. Most concern the right to a fair trial and protection of property rights. As of September 2013, 13 900 applications regarding Turkey were pending at the ECtHR, down from 16 641 applications in September 2012. Turkey closed 142 cases over the reporting period while the adoption of the 4th Judicial Reform Package is expected to contribute to the closure of more cases. In January, Turkey adopted legislation putting in place a system of domestic remedy in cases of excessively long trial and the late, partial or non-execution of court judgments (see *section under Judiciary*). The EU has called on Turkey to enhance its efforts to implement all the judgments of the European Court of Human Rights.

In the *Cyprus v. Turkey* case, the issues of missing persons and restrictions on the property rights of Greek Cypriots displaced or living permanently in the northern part of Cyprus remain pending. In a number of other cases, including *Xenides-Arestis v. Turkey*, *Demades v. Turkey*, and *Varnava and others v. Turkey*, Turkey has yet to fully execute the decision. Following the Grand Chamber Decision of 5 March 2010 in the *Demopoulos v. Turkey* case, 5 270 applications from Greek Cypriot owners have been lodged with the Immovable Property Commission (IPC), 1 465 of them during the period 1 October 2012 – 31 August 2013. By September 2013, around 412 cases had been closed mainly with friendly settlements, and the IPC paid GBP 133 014 051 in compensation (€154 662 629). On 2 April 2013, the Court in Strasbourg confirmed the Demopolous doctrine in *Meleagrou and others v. Turkey*.

Regarding the **promotion and enforcement of human rights**, the 4th Judicial Reform Package addressed a number of issues on which Turkey had been condemned by ECtHR (see *Judiciary and Freedom of expression*). Public officials, judges, public prosecutors and police officers received human rights training. The Department of Human Rights in the Ministry of Justice published translations of relevant ECtHR judgments on its website. The Department itself was significantly strengthened.

Parliament's Human Rights Inquiry Committee received nearly 1 520 petitions in the reporting period. It adopted 14 reports and four draft laws, and 41 legislative proposals were referred to it. Three additional sub-committees were established.

The Ombudsman Institution became operational and began receiving applications in April, including a number related to the Gezi Park protests, following a period of intensive work (see '*Ombudsman*' in *section 2.1 Democracy and the rule of law*).

The Turkish National Human Rights Institution (NHRI) elected its President and became operational in January 2013. It has also received applications regarding alleged violations of human rights, including a number related to the Gezi Park protests. As regards the latter, the NHRI set up an *ad hoc* Commission tasked to draft a report. A work plan for the Institution has still to be established. No application has yet been made to the International Coordinating Committee for National Human Rights Institutions to review and accredit the institution in compliance with the Paris Principles. A number of complaints about a lack of dialogue with civil society were made. The institution needs further strengthening.

The national preventive mechanism under the Optional Protocol of the Convention against Torture has not yet been established. No specific body has been established to combat racism,

<sup>7</sup> Protocols 4, 7 and 12.