



Cyprus EU Association

February 2007
Nicosia

Progress of the lawsuit regarding the 1960 rights:

28 February 2006: 78 Turkish Cypriots, independently, sent the following requests to Mr. Andreas Hristou, the Minister of Interior of the Republic of Cyprus, in Turkish language;

- ✓ To be registered on the electoral list as stated by the 1960 Constitution of the Republic of Cyprus,
- ✓ Please send my ballot papers to my address,
- ✓ Please inform me when and at which ballot booth I shall cast my vote,
- ✓ Please inform me when and where I can apply to stand for election as stated by the 1960 Constitution of the Republic of Cyprus;
- ✓ Please inform me the other relevant legal procedures regarding my right to vote and to stand for election.

4 April 2006: Following the elapse of the constitutional period of 30 days without any reply, Council of Europe, European Commission, European Parliament, European Ombudsman, RoC Ombudsman and SOLVIT were informed about the reluctance of the Cypriot authorities on the subject matter and were asked to intervene and they did.

12 April 2006: Mr. Andreas Hristou responded in Turkish language. The request was denied: “until a comprehensive settlement is found to the political problem in Cyprus, such rights can not be exercised “.

28 April 2006: As a result, a lawsuit was launched at the High Court of the republic.

19 June 2006: At the first hearing, the applicants were told by the Judge that “the case was interpreted as an ‘objection to the elections results’ and was thus, based on wrong procedure and could only be launched after the declaration of the results of the 21st May elections and he would most probably declare it inadmissible and advised them to withdraw their case”. The applicants refused to withdraw and demanded the case to go forward as launched.

The Attorney General claimed that the case was an “election case” and was outside the jurisdiction of the court and objected to present his defence in Turkish language. The court ordered the attorney to prepare his defence in 10 days and send it to the applicants in Turkish.

5 July 2006: Attorney’s office, requested adjournment and were given another 15 days.

19 October 2006: Registrar forgot to call an interpreter. Case was carried on in English with the approval of the applicants. Attorney did not present his defence. He insisted on his objections that that the case was inadmissible and he could not file his defence in Turkish. The case was adjourned until 1 December 2006 and the attorney was given extra time.

27 October 2006: Both sides were to present their cases in detail as ordered by the court. The Attorney refused and asked for extra time.



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The details of the applicants' request;

1. The request of the applicants on 28 February 2006 appendix 2 to be enrolled to the Turkish electoral list was denied by Mr. Andreas Hristou, the minister of interior on 12 April 2006 appendix 3. We believe that this decision is contradictory with the Article No. 63 of the constitution. We request that this decision and its implementations to be declared null and void and the Court hold that; we are registered on the Turkish electoral list according to the Article No.63 of the constitution.
2. We were informed that a law published on 10 February 2006, in Greek language in the Official Gazette of the Republic that Turkish electorates could be enrolled on the Greek electoral list. We believe that this law is contradictory with the Article No. 63 of the constitution and request that this law and its implementations to be declared null and void.
3. This and similar laws which were not published in the Official Gazette in Turkish language is contradictory with the Article No. 63 of the constitution and thus we ask the Court to hold that such practises are stopped and where possible for past practises remedies produced.
4. We ask the Court to hold that; the law obstructing the Turkish Cypriot's enrolment on Turkish electoral list and all the other laws and their implementations, which are contradictory with the Article No. 63 of the constitution, are null and void.
5. Transgression of the electoral rights of the Turkish Cypriots who are citizens of the Republic of Cyprus, according to the constitution is against the Article 3 of Protocol 1 and Article 14 of the "Convention for the Protection of Human Rights and Fundamental Freedoms" and Article 21 of the "Universal Declaration of Human Rights" consequently we ask the Court to hold that such practices are immediately ceased.
6. We ask the Court to hold that a remedy should be made available compatible with the constitution, in line with the European Court of Human Rights Final Judgment on the Case of Aziz v. Cyprus (*Application no. 69949/01*) where the Republic of Cyprus was found to be violating the Article 3 of Protocol No.1 and Article 14 of the Convention taken in conjunction with Article 3 of Protocol No.1.
7. The transgression of use of our constitution right to elect and to stand for election is racial, language, religious and ethnic discrimination against us. We ask the Court to hold that such discriminations are ceased.
8. We the applicants, ask for the above relying on the "Relevant Court Decisions, Convention Articles and the Articles of the Constitution of the Republic of Cyprus" Appendix 4.

1 December 2006: For the first time the Case was heard by the "Full Bench" of 13 Judges. The Attorney claimed the case to be inadmissible and refused to present his case in Turkish. The Court allowed the attorney another 6 weeks to prepare his case and reiterated that; the case is "admissible" and the defence is to be given to the applicants in Turkish, that the case will be heard regardless whether or not the Attorney has submitted his defence, asked the Registrar to correctly file the case since it is a "Constitutional" and not an "Objection to Elections Results" and adjourned until 14 February 2007.

12 February 2007: An American law office is ready to take the case up with ECHR. Another British law office and some law scholars are waiting to take the case to the ECHR following the unsuccessful result in Cyprus.



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European Commission, Council of Europe, European Parliament, European Ombudsman, RoC Ombudsman, SOLVIT and OSCE which we had contacted refused to be involved “since the case was still continuing at the local high court and humans rights was an issue of ECHR and that EU could not be a party to the European Convention for the Protection of Human Rights until the European Constitution is approved”.

14 February 2007: The case was again adjourned until 19 March 2007. Almost a year after, the court at its second “Full Bench” sitting could not still, begin its hearing of the case. Despite the court ruling on 1 December 2006, Attorney General of the Republic of Cyprus refused to present his defence in Turkish. The court allowed the Attorney’s office another fifteen days to translate their defence, presented to the Court on 14 February, into Turkish and send it to the applicants.

Annex 4:

RELEVANT COURT DECISIONS, CONVENTION ARTICLES and ARTICLES of CONSTITUTION of the REPUBLIC of CYPRUS

1. The Supreme Court of Cyprus, in “President of the Republic v. The House of Representatives (1986) 3 C.L.R. 1493” states that;”

“.... irrespective of how serious are the reasons put forward ... for the amendment of Article 63 and 66 of the Constitution, they are not, in the present circumstances in Cyprus more imperative than the supreme state necessity to avoid amending the said Articles 63 and 66, the provisions of which affect both communities, without the participation in enactment of Representatives of both communities”

2. ECHR judgment: Aziz v. Cyprus (application no 69949/01), Article 20:

The Government contended that, according to Article 62 of the Constitution, members of the Turkish community could not vote for members of the Greek community who stood as candidates for election to fill the prescribed 70% of House seats allotted to the Greek community. Likewise, members of the Greek community could not vote for members of the Turkish community who stood as candidates for election to fill the prescribed remaining 30% of House seats allotted to the Turkish community. Individual members of each of the two communities had to vote and elect representatives from their own community in their capacity as members of that community. It was for the above reasons that Article 63 § 1 provided that electors had to be registered either on the Greek or the Turkish electoral list according to the community they belonged to; in other words, members of either community could not be registered as electors on the other community's electoral list.

3. ECHR judgment: Aziz v. Cyprus (application no 69949/01), Article 28:

Although the Court notes that States enjoy considerable latitude to establish rules within their constitutional order governing parliamentary elections and the composition of the parliament, and that the relevant criteria may vary according to the historical and political factors peculiar to each State, these rules should not be such as to exclude some persons or groups of persons from participating in the political life of the country and, in particular, in the choice of the



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legislature, a right guaranteed by both the Convention and the Constitutions of all Contracting States.

4. Convention for the Protection of Human Rights and Fundamental Freedoms, Protocol No.1 article 3:

The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.

5. Convention for the Protection of Human Rights and Fundamental Freedoms, Article 14:

The enjoyment of the rights and freedoms set forth in this Convention shall be secured without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status.

6. Universal Declaration of Human Rights, Article 21:

1. Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
2. Everyone has the right of equal access to public service in his country.
3. The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent free voting procedures.

7. Constitution of Republic of Cyprus, Article 3:

1. The official languages of the Republic are Greek and Turkish.
2. Legislative, executive and administrative acts and documents shall be drawn up in both official languages and shall, where under the express provisions of this Constitution promulgation is required, be promulgated by publication in the official Gazette of the Republic in both official languages.
3. Administrative or other official documents addressed to a Greek or a Turk shall be drawn up in the Greek or the Turkish language respectively.
4. Judicial proceedings shall be conducted or made and judgments shall be drawn up in the Greek language if the parties are Greek, in the Turkish language if the parties are Turkish, and in both the Greek and the Turkish languages if the parties are Greek and Turkish. The official language or languages to be used for such purposes in all other cases shall be specified by the Rules of Court made by the High Court under Article 163.
5. Any text in the official Gazette of the Republic shall be published in both official languages in the same issue.
6. (a) Any difference between the Greek and the Turkish texts of any legislative, executive or administrative act or document published in the official Gazette of the Republic shall be resolved by a competent court.
(b) The prevailing text of any law or decision of a Communal Chamber published in the official Gazette of the Republic shall be that of the language of the Communal Chamber concerned.
(c) Where any difference arises between the Greek and the Turkish texts of an executive or administrative act or document which, though not published in the official Gazette of the



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Republic, has otherwise been published, a statement by the Minister or any other authority concerned as to which text should prevail or which should be the correct text shall be final and conclusive.

(d) A competent court may grant such remedies as it may deem just in any case of a difference in the texts as aforesaid.

7. The two official languages shall be used on coins, currency notes and stamps.

8. Every person shall have the right to address himself to the authorities of the Republic in either of the official languages.

8. Constitution of Republic of Cyprus, Article 29:

Every person has the right individually or jointly with others to address written requests or complaints to any competent public authority and to have them attended to and decided expeditiously; an immediate notice of any such decision taken duly reasoned shall be given to the person making the request or complaint and in any event within a period not exceeding thirty days. Where any interested person is aggrieved by any such decision or where no such decision is notified to such person within the period specified in paragraph 1 of this Article, such person may have recourse to a competent court in the matter of such request or complaint.

9. Constitution of Republic of Cyprus, Article 63:

Subject to paragraph 2 of this Article every citizen of the Republic who has attained the age of twenty one years and has such residential qualifications as may be prescribed by the Electoral Law shall have the right to be registered as an elector in either the Greek or the Turkish electoral list: Provided that the members of the Greek Community shall only be registered in the Greek electoral list and the members of the Turkish Community shall only be registered in the Turkish electoral list. No person shall be qualified to be registered as an elector who is disqualified for such registration by virtue of the Electoral Law.

10. Constitution of Republic of Cyprus, Article, Article 146:

1. The Supreme Constitutional Court shall have exclusive jurisdiction to adjudicate finally on a recourse made to it on a complaint that a decision, an act or omission of any organ, authority or person, exercising any executive or administrative authority is contrary to any of the provisions of this Constitution or of any law or is made in excess or in abuse of powers vested in such organ or authority or person.

2. Such a recourse may be made by a person whose any existing legitimate interest, which he has either as a person or by virtue of being a member of a Community, is adversely and directly affected by such decision or act or omission.

3. Such recourse shall be made within seventy five days of the date when the decision or act was published or, if not published and in the case of an omission, when it came to the knowledge of the person making the recourse.

4. Upon such a recourse the Court may, by its decision-

a. confirm, either in whole or in part, such decision or act or omission; or

b. declare, either in whole or in part, such decision or act to be null and void and of no effect whatsoever, or

c. declare that such omission, either in whole or in part, ought not to have been made and that whatever has been omitted should have been performed.



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5. Any decision given under paragraph 4 of this Article shall be binding on all courts and all organs or authorities in the Republic and shall be given effect to and acted upon by the organ or authority or person concerned.

6. Any person aggrieved by any decision or act declared to be void under paragraph 4 of this Article or by any omission declared thereunder that it ought not to have been made shall be entitled, if his claim is not met to his satisfaction by the organ, authority or person concerned, to institute legal proceedings in a court for the recovery of damages or for being granted other remedy and to recover just and equitable damages to be assessed by the court or to be granted such other just and equitable remedy as such court is empowered to grant.

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