

**Press release issued by the Registrar**

**Admissibility decision**

**[Demopoulos v. Turkey and 7 other cases](#)**

*(applications nos. 46113/99, 3843/02, 13751/02, 13466/03, 14163/04, 10200/04, 19993/04 and 21819/04)*

*Applications inadmissible:*

**AMENDED LAW PROVIDES ACCESSIBLE AND EFFECTIVE REDRESS FOR GREEK CYPRIOTS' COMPLAINTS ABOUT DEPRIVATION OF PROPERTY IN NORTHERN CYPRUS FOLLOWING THE 1974 TURKISH INVASION**

**Principal facts**

The applicants are 17 Cypriot nationals of Greek-Cypriot origin, living in Nicosia, Limassol, Lakatamia and Larnaca. The cases concerned their complaints that they had been deprived of the use of their property and/or access to their homes in northern Cyprus which was under the control of the "Turkish Republic of Northern Cyprus" (the "TRNC"). Their property included various plots of land, some of which were cultivated and some with fully furnished houses or buildings.

These complaints arose out of the Turkish military operations in northern Cyprus in July and August 1974 and the continuing division of the territory of Cyprus, which resulted in the proclamation of the "TRNC" in 1983. This proclamation was declared legally invalid by the United Nations, and the Council of Europe decided that the government of the Republic of Cyprus would continue to be regarded as the sole legitimate government of the country.

According to new legal provisions which entered into force in December 2005 (Law 67/2005), all natural and legal persons claiming rights to immovable or movable property could bring a claim before the Immovable Property Commission ("IPC"), subject to a fee of 100 Turkish liras (TRY) for each application and provided they submitted title deeds or proof of ownership.

As of November 2009, the number of cases brought before the IPC stood at 433. Of these, 85 had been concluded, the vast majority by means of friendly settlement. In more than 70 cases, compensation had been awarded. Some 361,493 square metres of property had been restituted and approximately 47 million euros paid in compensation.

## Complaints, procedure and composition of the Court

Relying on Article 1 of Protocol No. 1 (protection of property), Article 8 (right to respect for home) and, save in the case of *Christosomou*, on Article 14 (prohibition of discrimination), the applicants complained that they had been prevented from enjoying their property and homes following the invasion of northern Cyprus by Turkey in 1974, and that they had been victims of discrimination. The applicants in *Sotiriou and Moushoutta* and *Stylas* also complained under Article 13 of a lack of an effective remedy in respect of their Convention rights under Article 8 (respect to respect for private life and family life) and Article 1 of Protocol No. 1.

The applications were lodged between January 1999 and March 2004. By a decision of 19 May 2009 the Chamber to which the case had originally been assigned relinquished its jurisdiction in favour of the Grand Chamber (Article 30 of the Convention). On 18 November 2009 a [Grand Chamber hearing](#) was held in Strasbourg.

The decision on admissibility was given on 1 March 2010, by the Court sitting as a Grand Chamber composed as follows:

Jean-Paul **Costa** (France), **President**,  
Christos **Rozakis** (Greece),  
Nicolas **Bratza** (United Kingdom),  
Peer **Lorenzen** (Denmark),  
Françoise **Tulkens** (Belgium),  
Josep **Casadevall** (Andorra),  
Giovanni **Bonello** (Malta),  
Vladimiro **Zagrebelsky** (Italy),  
Lech **Garlicki** (Poland),  
Khanlar **Hajiyev** (Azerbaijan),  
Ljiljana **Mijović** (Bosnia and Herzegovina),  
Egbert **Myjer** (Netherlands),  
David **Thór Björgvinsson** (Iceland),  
Ján **Šikuta** (Slovak Republic),  
Mark **Villiger** (Liechtenstein),  
Päivi **Hirvelä** (Finland),  
İşıl **Karakaş** (Turkey), **Judges**,

and Erik **Fribergh**, **Registrar**.

## Decision of the Court

### Article 1 of Protocol No. 1

The present eight cases are the first applications to be examined as to their admissibility following the pilot-judgment procedure in [Xenides-Arestis v. Turkey](#). Although the Chamber in this case concluded that the remedy offered seemed adequate, its judgments did not include a detailed analysis of the points of principle and interpretation of the Convention and was not binding on the Grand Chamber.

*As to whether the requirement to exhaust domestic remedies (Article 35 § 1) applied to the situation of Greek-Cypriot owners of property under the control of the “TRNC”*

The Court maintained its view that pending resolution of the illegal occupation of northern Cyprus, it was crucial that individuals nonetheless continued to receive protection of their

rights on a daily basis. Even if the applicants did not live as such under the control of the “TRNC”, if there was an effective remedy available for their complaints there, the rule of exhaustion applied. This did not put in doubt the fact that the government of the Republic of Cyprus remained the sole legitimate government of Cyprus. The Court reiterated that an appropriate domestic body, with access to the relevant information, was clearly the more appropriate forum for deciding on complex matters of property ownership and valuation and assessing financial compensation, notwithstanding the time and efforts required from the applicants to exhaust domestic remedies.

*As to whether the respondent Government furnished via the IPC a remedy capable of providing effective redress in these cases*

Even though the international community regarded Turkey as being in illegal occupation of the northern part of Cyprus, this did not mean that, when dealing with individual complaints under the Convention concerning interference with property, its discretion as to the manner in which it executed a judgment should not be respected. In the light of the many changes some 35 years after the properties were left, it would risk being arbitrary and injudicious for the Court to impose an obligation to effect restitution in all cases – which would result in the forcible eviction and rehousing of many men, women and children – even with the aim of vindicating the rights of victims of violations of the Convention. No problem therefore arose as regards the impugned discretionary nature of the restitutionary power under Law 67/2005, which addressed the lack of provision for restitution pointed out in the case of *Xenides-Arestis*.

The Court was not convinced by the allegation that IPC members lacked subjective impartiality, due among other things to the presence of Turkish military personnel or the appointment of members of the IPC by the “TRNC” President. Nor was it of the opinion that the sums of compensation awarded under Law 67/2005 would fall short of what could be regarded as reasonable compensation.

On the question of the burden of proof placed on claimants by Law 67/2005, the Court reiterated that claims under the Convention had to be substantiated by evidentiary means – in these cases title deeds or proof of ownership – notwithstanding the difficulties involved.

The Court also took note of the provisions in the amended law for the payment of compensation and the guarantees given to the claimants and representatives concerning entry and exit to the northern area. It was not convinced by the elements put forward by the applicants to support their complaint that the procedure was unduly onerous or inaccessible – alleged issues concerning inter alia legal representation, translations, lack of transparency, undue pressure.

Moreover, although it was open to them, none of the applicants had appealed to the High Administrative Court concerning the sums awarded or the allegations of material unfairness and procedural irregularity.

The Court therefore concluded that, in the current situation of occupation that was beyond its competence to resolve, Law 67/2005 provided an accessible and effective framework of redress in respect of complaints about interference with property owned by Greek Cypriots. The applicants had not made use of this mechanism and their complaints under Article 1 of Protocol No. 1 to the Convention had therefore to be rejected for non-exhaustion of domestic remedies.

The Court also stressed that this decision was not to be interpreted as an obligation to make use of the IPC; the claimants could choose to await a political solution. However, if

applicants wished to lodge an application before the European Court of Human Rights, its admissibility would be decided in line with the present principles.

### Article 8

The applicant property owners' complaints of an ongoing interference with their right to home also failed for non-exhaustion of domestic remedies as they had not been brought before the IPC.

Having nonetheless examined the substance of Mrs Ariana Lordou Anastasiadou's complaint (application no.13751/02), because it was not persuaded that she had had any realistic prospect as a non-property owner of applying either to the IPC or "TRNC" courts, the Court found that the facts of her case did not disclose any present interference with her right to respect for her home, as she had not been living in the family home for almost her entire life. The possible inheritance of a share in the title of that property was hypothetical and speculative. Consequently, this part of the application was rejected as manifestly ill-founded.

### Other complaints

Considering its findings under Article 1 of Protocol No. 1 and Article 8, the Court considered that no further issue arose for examination concerning the remaining complaints made by the applicants.

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The decision is available in English and French. This press release is a document produced by the Registry. It does not bind the Court. The decisions are available on its website (<http://www.echr.coe.int>)

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*The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.*