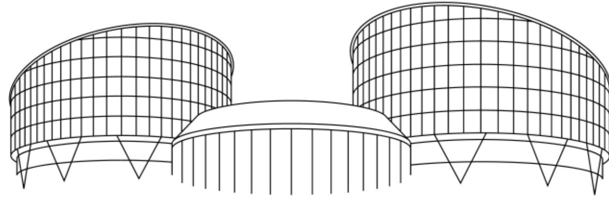

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

1959 · 50 · 2009

FOURTH SECTION

CASE OF LOIZOU AND OTHERS v. TURKEY

(Application no. 16682/90)

JUDGMENT
(merits)

STRASBOURG

22 September 2009

FINAL

01/03/2010

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Loizou and Others v. Turkey,

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

Nicolas Bratza, *President,*
Lech Garlicki,
Ljiljana Mijović,
David Thór Björgvinsson,
Ján Šikuta,
Päivi Hirvelä,
Işıl Karakaş, *judges,*
and Fatoş Aracı, *Deputy Section Registrar*,

Having deliberated in private on 1 September 2009,

Delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 16682/90) against the Republic of Turkey lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by twenty-six Cypriot nationals and three registered companies ("the applicants"), on 26 January 1990.

2. The applicants were represented by Mr P. Clerides, a lawyer practising in Nicosia. The Turkish Government ("the Government") were represented by their Agent, Mr Z.M. Necatigil.

3. The applicants alleged, in particular, that the Turkish occupation of the northern part of Cyprus had deprived them of their homes and properties.

4. The application was transmitted to the Court on 1 November 1998, when Protocol No. 11 to the Convention came into force (Article 5 § 2 of Protocol No. 11).

5. By a decision of 18 May 1999 the Court declared the application partly admissible.

6. The applicants and the Government each filed observations on the merits (Rule 59 § 1). In addition, third-party comments were received from the Government of Cyprus, which had exercised its right to intervene (Article 36 § 1 of the Convention and Rule 44 § 1 (b)).

THE FACTS

A. The application and the general background

7. The application was initially lodged in the name of the "Pancyprian Association of Affected and Displaced Persons", an "association representing all affected and displaced persons as a result of the Turkish occupation of Cyprus". By letters of 19 February and 2 March 1990, the Secretariat of the Commission requested the applicants' representative to clarify whether the application was to be regarded as having been lodged by each of the individual members of the association, or by the association itself as a non-governmental organisation. In a letter of 30 March 1990 the applicants' representative indicated that "the application [was] to be regarded as introduced by each of the individual members", a list of which was provided.

8. The 26 individual applicants are Cypriot nationals whose names are indicated in the list attached to the present judgment; they alleged that they had been permanent residents of the District of Famagusta, in the northern part of Cyprus. The 3 remaining applicants (nos. 5, 13 and 27 in the attached list) are private companies registered under Cypriot law.

9. In July 1974, as the Turkish troops were advancing, the individual applicants fled to the southern part of Cyprus. All the applicants alleged that they had been the owners of substantial properties in the District of Famagusta (see details below).

10. They alleged that the Turkish military authorities had occupied their homes and properties and had prevented them from having access to and using them.

11. By letters of 25 September 1999, the applicants' representative requested the Court to discontinue the proceedings before it with regard to applicants nos. 18 to 28.

B. The properties claimed by the applicants

12. The properties claimed by applicants nos. 1 to 17 can be described as follows.

13. Applicant no. 1, Mr Andreas Loizou, claimed ownership of the following properties:

(a) Karavas, plot no. 76/1, sheet/plan XII/9W1, registration no. 5737, lemon plantation; share: whole; area: 5,352 square metres;

(b) Karavas, plot no. 76/2, sheet/plan XII/9W1, registration no. 6031, lemon plantation with a ground-storey residence and a water tank; share: whole; area: 8,603 sq. m;

(c) Karavas, plot no. 99, sheet/plan XII/9W2, registration no. 996, olive grove; share: whole; area: 2,007 sq. m.

14. In support of his claim to ownership, applicant no. 1 produced a copy of the original title deeds. He indicated that the property described in paragraph 13 (b) above was the house where he and his family were living at the time of the Turkish invasion.

15. Applicant no. 2, Mr Kostas Panage, claimed ownership of the following properties:

(a) Nicosia/Yerolakkos, plot no. 694, sheet/plan 21/34&42vill., registration no. A590, land with a two-storey house; share: ½; area: 560 sq. m;

(b) Nicosia/Yerolakkos, plot no. 52, sheet/plan 21/42E1&E2, registration no. H48, field; share: whole; area: 4,952 sq. m;

(c) Nicosia/Yerolakkos, plot no. 32, sheet/plan 21/35W1, registration no. F30, field; share: whole; area: 9,542 sq. m;

(d) Nicosia/Yerolakkos, plot no. 147, sheet/plan 21/27W2, registration no. E130, field; share: whole; area: 10,759 sq. m;

(e) Nicosia/Yerolakkos, plot no. 539, sheet/plan 21/27W2, registration no. E478, field; share: whole; area: 6,086 sq. m;

(f) Nicosia/Yerolakkos, plot no. 332, sheet/plan 21/34E1, registration no. E299, field; share: 5/24; area: 8,548 sq. m.

16. In support of his claim to ownership, applicant no. 2 produced a copy of the original title deeds. He indicated that the property described in paragraph 15 (a) above was the house where he and his family were living at the time of the Turkish invasion.

17. Applicant no. 3, Mr Sotiris Panage, claimed ownership of the following properties:

(a) Nicosia/Mammari, plot no. 485, sheet/plan 21/33, registration no. 8433, field; share: whole; area: 2,973 sq. m;

(b) Nicosia/Yerolakkos, plot no. 332, sheet/plan 21/34E1, registration no. E299, field; share: 5/24; area: 8,548 sq. m;

(c) Nicosia/Yerolakkos, plot no. 148, sheet/plan 21/35E2&E1, registration no. L133, field; share: whole; area: 27,648 sq. m;

(d) Nicosia/Yerolakkos, plot no. 691, sheet/plan 21/34&42vill., registration no. A587, land with ground-storey house; share: whole; area: 509 sq. m.

18. In support of his claim to ownership, applicant no. 3 produced a copy of the original title deeds. He indicated that the property described in paragraph 17 (d) above was the house where he and his family were living at the time of the Turkish invasion.

19. Applicant no. 4, Mr Vasos Sofroniou, claimed ownership of a building site with shops on the ground floor and living accommodation on the first floor registered as follows: Nicosia/Yerolakkos, plot no. 442, sheet/plan 21/34.W2, registration no. N409; share: whole; area 911sq. m.

20. In support of his claim to ownership, applicant no. 4 produced a copy of the original title deed. He indicated that the first-floor residence was the apartment where he and his family were living at the time of the Turkish invasion.

21. Applicant no. 5, Motovia Ltd, claimed ownership of the following properties:

(a) Nicosia/Ayios Dhometios, plot no. 140, sheet/plan 21/37.6.4, registration no. J143, building land; share: whole; area: 543 sq. m;

(b) Nicosia/Ayios Dhometios, plot no. 141, sheet/plan 21/37.6.4, registration no. J144, building land; share: whole; area: 561 sq. m;

(c) Nicosia/Ayios Dhometios, plot no. 142, sheet/plan 21/37.6.4, registration no. J145, building land; share: whole; area: 545 sq. m;

(d) Nicosia/Ayios Dhometios, plot no. 143, sheet/plan 21/37.6.4, registration no. J146, building land; share: whole; area: 539 sq. m.

22. In support of its claim to ownership, applicant no. 5 produced a copy of the original title deeds.

23. Applicant no. 6, Mr Kostas Grigoriades, claimed ownership of the following properties:

(a) Nicosia/Yerolakkos, plot no. 366, sheet/plan XXI/35E2&43E1, registration no. F337, field plus a room; share: ¼; area: 5,175 sq. m;

(b) Nicosia/Yerolakkos, plot no. 545, sheet/plan XXI/43E1, registration no. F508, field; share: ¼; area: 378 sq. m;

(c) Trimithi, plot no. 51/3, sheet/plan XII/10E1&E2, registration no. 2333, field with trees; share: ¼; area: 9,773 sq. m;

(d) Karavas, plot no. 315/2, sheet/plan XI/16E2, registration no. 237, lemon plantation and orchard; share: whole; area: 4,086 sq. m;

(e) Karavas, plot no. 316, sheet/plan XI/16E2, lemon plantation and orchard; share: ½; area: 3,893 sq. m.

24. In support of his claim to ownership, applicant no. 6 produced a copy of the original title deeds for the properties described in paragraph 23 (a) and (b) above and “affirmations of ownership of Turkish-occupied immovable property” issued by the Republic of Cyprus for the other plots of land.

25. Applicant no. 7, Mr Alekos Panteli, claimed ownership of the following properties:

(a) Leonarissos, plot no. 105/1, sheet/plan 8/3VIL, building land; share: whole; area: 236 sq. m;

(b) Leonarissos, plots nos. 110, 111, 115, sheet/plan 8/3VIL, house and yard; share: whole; area: 1,419 sq. m;

(c) Dherynia, plot no. 473/4, sheet/plan 33/36.E.1, building land; share: whole; area: 532 sq. m;

(d) Dherynia, plot no. 473/7, sheet/plan 33/36.E.1, building land; share: whole; area: 527 sq. m;

(e) Famagusta, plot no. 95-98, sheet/plan 33/21.2.III, registration no. C95-C98, flat; share: whole; area: 100 sq. m;

(f) Famagusta, plot no. 95-98, sheet/plan 33/21.2.III, registration no. C95-C98, flat; share: whole; area: 120 sq. m.

26. In support of his claim to ownership, applicant no. 7 produced copies of "affirmations of ownership of Turkish-occupied immovable property" issued by the Republic of Cyprus for the properties described in paragraph 25 (a) and (b) above and copies of the contracts of sale by which he had purchased the other properties. He indicated that the property described in paragraph 25 (b) above was the house where he and his family were living at the time of the Turkish invasion.

27. Applicant no. 8, Mr Yiannis Charalambous, claimed ownership of 14 fields, 2 garden groves, one orchard and one borehole in the villages of Karmi, Trimithi and Karavas.

28. He further claimed ownership of the following properties:

(a) Karmi, plot no. 184, sheet/plan 12/26VIL, house with yard; share: ½; area: 487 sq. m;

(b) Karmi, plot no. 23/2, sheet/plan 12/35E1, factory; share: whole; area: 2,598 sq. m;

(c) Agios Yeoryios, plots nos. 40/2/1, 40/3/1, 40/5, sheet/plan 12/11W2, ground-storey house with yard; share: whole; area: 336 sq. m;

(d) Agios Yeoryios, plots nos. 40/3/2, 40/6, 40/2/2, sheet/plan 12/11W2, ground-storey house with yard; share: whole; area: 345 sq. m;

(e) Karavas, plot no. 480, sheet/plan 12/17W2, registration no. 2378, factory; share: whole; area: 1,711 sq. m.

29. In support of his claim to ownership, applicant no. 8 produced copies of "affirmations of ownership of Turkish-occupied immovable property" issued by the Republic of Cyprus. He indicated that the property described in paragraph 28 (a) above was the house where he and his family were living at the time of the Turkish invasion.

30. Applicant no. 9, Mr Kostas Kalisperas, claimed ownership of 6 building sites and 25 fields in the villages of Vasilia, Pano Keryneia, Kythrea, Kato Dikomo, Sychari and Morphou. He also claimed that he was the owner of a house with a yard in Pano Dikomo, registered under plot no. 18, sheet/plan XII/54W1, registration no. 825; area: 8,696 sq. m.

31. In support of his claim to ownership, applicant no. 9 produced copies of the original title deeds and/or of "affirmations of ownership of Turkish-occupied immovable property" issued by the Republic of Cyprus. He indicated that the house described in paragraph 30 above was the house where he and his family were living at the time of the Turkish invasion. In a letter of 15 June 2004 the applicants' representative informed the Court that applicant no. 9 had died and that Mrs Melita Theodoridou had been appointed as the administrator of his estate. The applicants' representative

requested that the examination of the application be continued on behalf of the administrator.

32. Applicant no. 10, Mr Kostas Mavroudis, claimed ownership of the following properties:

(a) Kazaphani, plot no. 468.469, sheet/plan 12/21E2, field with trees; share: whole; area: 9,477 sq. m;

(b) Ayios Yeoryios, plot no. 121/1/1, sheet/plan 12/11W2, ground-storey residence with yard; share: whole; area: 354 sq. m;

(c) Ayios Yeoryios, plots nos. 15/4/4, 176, 3/4, sheet/plan 12/19W1, building land; share: whole; area: 494 sq. m;

(d) Ayios Yeoryios, plot no. 14/3, sheet/plan 12/19W1, factory; share: whole; area: 574 sq. m;

(e) Ayios Yeoryios, plots nos. 14/4, 15/4/7, sheet/plan 12/19W1, building land; share: whole; area: 586 sq. m;

(f) Ayios Yeoryios, plots nos. 14/5, 15/4/6, sheet/plan 12/19W1, building land; share: whole; area: 557 sq. m;

(g) Ayios Yeoryios, plots nos. 14/6, 15/4/5, 176, 3/5, sheet/plan 12/19W1, building land; share: whole; area: 529 sq. m;

(h) Templos, plots nos. 198/2/1, 176, 3/4, sheet/plan 12/19E1, field with trees; share: ½; area: 7,910 sq. m;

(i) Karmi, plot no. 72/1/88, sheet/plan 12/19W1, building land; share: whole; area: 584 sq. m.

33. In support of his claim to ownership, applicant no. 10 produced copies of "affirmations of ownership of Turkish-occupied immovable property" issued by the Republic of Cyprus. He indicated that the ground-storey residence described in paragraph 32 (b) above was the house where he and his family were living at the time of the Turkish invasion.

34. Applicant no. 11, Mr Paraschos Theothoulou, claimed ownership of the following properties:

(a) Bellapais, plot no. 53/1, sheet/plan XII/36W2, registration no. 1305, one room; share: 1/16; area: 14 sq. m;

(b) Bellapais, plot no. 52/4, sheet/plan XII/36W2&35E2, registration no. 5202, carob and olive grove; share: 1/8; area: 5,686 sq. m;

(c) Bellapais, plot no. 52/2, sheet/plan XII/36W2, registration no. 5201, carob and olive grove; share: 1/8; area: 17,392 sq. m;

(d) Bellapais, plot no. 28/2, sheet/plan XII/36W1&W2, registration no. 5200, carob and olive grove; share: 1/8; area: 57,860 sq. m;

(e) Bellapais, plot no. 46/1, sheet/plan XII/35E1&E2&36W2, registration no. 5199, carob and olive grove; share: 1/8; area: 59,533 sq. m;

(f) Bellapais, plot no. 468, sheet/plan XII/29E2, registration no. 258, field with olive and carob trees; share: whole; area: 3,679 sq. m;

(g) Kazaphani, plot no. 306/1, sheet/plan XII/30W2, registration no. 6450, field with olive and carob trees; share: whole; area: 1,673 sq. m;

(h) Kazaphani, plot no. 453, sheet/plan XII/21E2, registration no. 6431, field with olive and carob trees; share: 1/8; area: 4,683 sq. m;

(i) Kazaphani, plot no. 305, sheet/plan XII/30W2, field; share: whole; area: 2,448 sq. m;

(j) Kazaphani, plot no. 302, sheet/plan XII/30W2, field with trees; share: whole; area: 1,133 sq. m;

(k) Kazaphani, plot no. 304/1, sheet/plan XII/30W2, building land; share: whole; area: 1,763 sq. m;

(l) Karakoumi, plots nos. 384/3, 414/2, sheet/plan XII/21E2, registration no. 217, field; share: 1/8; area: 790 sq. m;

(m) Karakoumi, plots nos. 413, sheet/plan XII/21E2, house and yard; share: 1/8; area: 6,002 sq. m.

35. In support of his claim to ownership, applicant no. 11 produced copies of the original title deeds to the properties described in paragraph 34 (a), (b), (c), (d), (e), (f), (g), (h) and (l) above and of "affirmations of ownership of Turkish-occupied immovable property" issued by the Republic of Cyprus for the other properties.

36. Applicant no. 12, Mr Charalampos Bakaloures, claimed ownership of the following properties:

(a) Nicosia/Karavostasi (Soloi), plot no. 99, sheet/plan 19/58.W2, registration no. A130, one-room house; share: whole; area: 14 sq. m;

(b) Nicosia/Karavostasi (Soloi), plot no. 102, sheet/plan 19/58.W2, registration no. A133, one-room house; share: ½; area: 24 sq. m;

(c) Nicosia/Karavostasi (Soloi), plot no. 103, sheet/plan 19/58.W2, registration no. A134, house and yard; share: ½; area: 93 sq. m;

(d) Nicosia/Karavostasi (Soloi), plot no. 97, sheet/plan 28/2.W1, registration no. B154, field; share: ½; area: 13,443 sq. m;

(e) Nicosia/Karavostasi (Xeros), plot no. 31, sheet/plan 19/58.6.1, registration no. A29, six shops and first-storey residence; share: whole; area: 488 sq. m;

(f) Nicosia/Karavostasi (Xeros), plot no. 190, sheet/plan 19/58.6.3, registration no. A178, field; share: whole; area: 6,129 sq. m;

(g) Nicosia/Peristeronari, plot no. 39, sheet/plan 28/3.E1, registration no. B77, field; share: ½; area: 18,061 sq. m;

(h) Nicosia/Ambelikou, plot no. 214/2, sheet/plan 28/2, registration no. 7541, field; share: ½; area: 13,954 sq. m;

(i) Nicosia/Ambelikou, plot no. 132/2, sheet/plan 28/2, registration no. 7542, field; share: whole; area: 790 sq. m;

(j) Nicosia/Ambelikou, plot no. 223, sheet/plan 28/1, registration no. 7489, field; share: ½; area: 6,689 sq. m.

37. In support of his claim to ownership, applicant no. 12 produced copies of the original title deeds. He indicated that the first-storey residence described in paragraph 36 (e) above was the house where he and his family were living at the time of the Turkish invasion. On 28 July 1998, applicant

no. 12 transferred the properties described in paragraph 36 (a), (b), (c), (d), (e) and (f) above to his heirs (his wife and daughters).

38. Applicant no. 13, Frixos Constantinou Ltd., claimed ownership of a house in Argaki (a village in the District of Nicosia – plot no. 99, sheet/plan XXI/42vill, registration no. 2230; area: 693 sq. m). In support of its claim to ownership, applicant no. 13 produced a copy of the original title deed.

39. Applicant no. 14, Mr Andreas Zodiates, claimed ownership of the following properties:

(a) Kato Zodia, plot no. 589, sheet/plan XIX/48, registration no. 5077, orange plantation; share: ½; area: 4,348 sq. m;

(b) Kato Zodia, plot no. 576/3, sheet/plan XIX/48, registration no. 5202, orange plantation; share: ½; area: 1,672 sq. m;

(c) Kato Zodia, plot no. 590, sheet/plan XIX/48, registration no. 5286, orange plantation; share: ½; area: 3,345 sq. m;

(d) Kato Zodia, plot no. 591, sheet/plan XIX/48, registration no. 3658, orange plantation; share: whole; area: 3,011 sq. m.

40. In support of his claim to ownership, applicant no. 14 produced a copy of the contract of sale (dated 14 March 1966) by which he had purchased the orange plantations described in paragraph 39 (a), (b) and (c) above; for the property described in paragraph 39 (d) above he produced a copy of the original title deed. He indicated that at the time of the Turkish invasion he and his family were living in a house owned by his wife.

41. It was claimed that applicant no. 15, Mr Takis N. Georgiades, had been the owner of the following properties:

(a) Famagusta/Ayios Loukas, plot no. 82, sheet/plan 33/3W1, registration no. 1694, field; share: whole; area: 706 sq. m;

(b) Famagusta/Ayios Loukas, plot no. 83, sheet/plan 33/3W1, registration no. 1695, field; share: whole; area: 4,181 sq. m;

(c) Famagusta/Ayios Nicolaos, plot no. 133, sheet/plan 33/13.4.I, registration no. 8256, two storey house; share: 1/3; area: 450 sq. m;

(d) Famagusta/Engomi, plot no. 2, sheet/plan 24/51W1, registration no. 696, field; share: whole; area: 13,713 sq. m;

(e) Famagusta/Dherynia, plots nos. 129, 130, sheet/plan 33/38W1, registration no. 3432, field; share: whole; area: 203 sq. m;

(f) Famagusta/Limnia, plot no. 43, sheet/plan 24/49W2, registration no. 2058, field; share: ½; area: 12,375 sq. m;

(g) Famagusta/Limnia, plot no. 193, sheet/plan 34/57W1, registration no. 2405, field; share: ½; area: 9,365 sq. m;

(h) Famagusta/Kalopsidha, plot no. 287/3, sheet/plan 32/31E1, registration no. 2879, field; share: ½; area: 8,362 sq. m;

(i) Famagusta/Kalopsidha, plot no. 285, sheet/plan 32/31E1, registration no. 2386, field; share: ½; area: 12,710 sq. m.

42. Applicant no. 15 died on 21 April 1976 and on 17 July 1976 Mr Andreas Matsis and Aristotelis Galatopoulos were appointed

administrators of his estate. The applicants' representative stated that the application should "continue on behalf of the estate". In support of the deceased's claim to ownership, the administrators produced a copy of the original title deeds.

43. Applicant no. 16, Mr Ioannis Hadjinikolas Kamilares, claimed that his father, Mr Nicolas Georgiou Hadjinicola Kamilares, had owned the following properties:

(a) Syrianochori, plot no. 142, sheet/plan XIX/14E2, registration no. C95, orange plantation; share: whole; area: 3,614 sq. m;

(b) Syrianochori, plot no. 27, sheet/plan XIX/22E1, registration no. D23, orange plantation; share: whole; area: 8,705 sq. m;

(c) Syrianochori, plot no. 258, sheet/plan XIX/22E1, registration no. D201, orange and grapefruit plantation; share: whole; area: 19,157 sq. m;

(d) Morphou/Ayios Mamas, plot no. 409, sheet/plan XIX/32.5.II, registration no. A349, two-storey house and flat; share: whole; area: 323 sq. m;

(e) Morphou/Ayios Georgios, plot no. 304, sheet/plan XIX/32.6.III, registration no. A247, shop; share: whole; area: 95 sq. m;

(f) Morphou/Ayios Georgios, plot no. 303, sheet/plan XIX/32.6.III, registration no. A246, coffee shop; share: whole; area: 44 sq. m.

44. In support of his father's right of property, applicant no. 16 produced a copy of a record issued in 1973 by the Inland Revenue of Cyprus, which had been used for determining tax and estate duties. Applicant no. 16's father died on 9 April 1973. On 5 June 1979 applicant no. 16 was appointed as the administrator of his estate. He indicated that the two-storey house described in paragraph 43 (d) above was the house where he and his family were living at the time of the Turkish invasion.

45. Applicant no. 17, Mr Pantelis Demetri, claimed ownership of a half share in a house with yard in Stylloi (District of Famagusta – plots nos. 148, 149, sheet/plan 23/48vil; area: 506 sq. m), where he and his family were living at the time of the Turkish invasion. In support of his claim to ownership, he submitted an "affirmation of ownership of Turkish-occupied immovable property" issued by the Republic of Cyprus.

THE LAW

I. PRELIMINARY ISSUE

46. The Court notes at the outset that the applicant no. 9 died on an unspecified date after his application was lodged, while the case was still

pending before the Court. The administrator of his estate (Mrs Melita Theodoridou) informed the Court that she wished to pursue the application (see paragraph 31 above). Although the heirs of a deceased applicant cannot claim a general right to the continued examination of the deceased's application (see *Scherer v. Switzerland*, 25 March 1994, Series A no. 287), the Court has accepted on a number of occasions that close relatives of a deceased applicant are entitled to take his or her place (see *Deweer v. Belgium*, 27 February 1980, § 37, Series A no. 35, and *Raimondo v. Italy*, 22 February 1994, § 2, Series A no. 281-A).

47. For the purposes of the instant case, the Court is prepared to accept that the administrator of applicant no. 9's estate can pursue the application initially brought by Mr Kostas Kalisperas (see, *mutatis mutandis*, *Kirilova and Others v. Bulgaria*, nos. 42908/98, 44038/98, 44816/98 and 7319/02, § 85, 9 June 2005, and *Nerva and Others v. the United Kingdom*, no. 42295/98, § 33, ECHR 2002-VIII).

48. The Court further notes that applicant no. 15 died on 21 April 1976, before the application was lodged (see paragraph 42 above). Under these conditions, the Court is unable to accept, as such, the applicants' representative's request for the examination of the application to be "continue[d] on behalf of the estate". However, for the purposes of the present proceedings, it can be assumed that, since the date it was lodged, the application has implicitly been lodged in the name of Mr Takis N. Georgiades's estate and that its administrators, Mr Andreas Matsis and Aristotelis Galatopoulos, have *locus standi* before the Court to represent the estate's interests.

II. WITHDRAWAL OF THE APPLICATION

49. The Court observes that applicants nos. 18 to 28 declared, through their lawyer, that they wished to withdraw their application (see paragraph 11 above). The Court considers that, in these circumstances, applicants nos. 18 to 28 may be regarded as no longer wishing to pursue their application, within the meaning of Article 37 § 1 (a) of the Convention.

50. The Court further observes that applicant no. 29 has lodged a separate application (no. 16161/90), in which he complained about the same facts in relation to the same immovable properties in northern Cyprus. Application no. 16161/90 was declared admissible on 24 August 1999 and a judgment finding a violation of Article 1 of Protocol No. 1 was delivered on 20 January 2009. The Court is of the opinion that applicant no. 29's complaints have been addressed within the ambit of application no. 16161/90. It therefore considers that it is no longer justified to continue the examination of the complaints introduced by applicant no. 29, within the meaning of Article 37 § 1 (c) of the Convention.

51. Furthermore, in accordance with Article 37 § 1 *in fine*, the Court finds no special circumstances regarding respect for human rights as defined in the Convention and its Protocols which require the continued examination of the case with regard to the above-mentioned applicants.

52. In view of the above, it is appropriate to strike the application out of the list of cases as far as applicants nos. 18 to 29 are concerned.

53. The Court will accordingly examine only the complaints lodged by applicants nos. 1 to 17 (hereinafter referred to as "the applicants").

III. THE GOVERNMENT'S PRELIMINARY OBJECTIONS

1. *Objection of inadmissibility* ratione personae

54. The Government observed, firstly, that the application had been brought on behalf of a "Pancyprian association representing numerous affected and displaced persons". They noted, however, that no document certifying that this association was duly registered with corporate status under the laws of Cyprus had been submitted and no list of its members and/or of its board of directors had been produced. The form of authority in favour of the applicants' lawyer bore only two signatures and the names of the signatories were not given in printed form.

55. The Government considered that the "Pancyprian association" had not been directly affected by the facts complained of and therefore could not claim to be a victim of any alleged violation.

56. In its decision on the admissibility of the application, the Court noted:

> "The respondent Government have not provided any observations on the admissibility of the case, although they have been given ample opportunity to do so. It must, therefore, be assumed that they do not contest the admissibility of the application."

57. The Court does not see any reason to depart from this finding. Accordingly, the Government may be considered in principle estopped from raising their objections to admissibility at this stage (Rule 55 of the Rules of Court; see, *inter alia, Amrollahi v. Denmark*, no. 56811/00, § 22, 11 July 2002, and *Nikolova v. Bulgaria* [GC], no. 31195/96, § 44, ECHR 1999-II).

58. In any event, and in so far as certain of the respondent Government's objections could be considered to have been raised at the admissibility stage by implication, the Court observes that, following a request from the Commission Secretariat, on 30 March 1990 the applicants' representative indicated that "the application [was] to be regarded as introduced by each of the individual members" of the "Pancyprian Association of Affected and Displaced Persons" (see paragraph 7 above).

59. It follows that the Government's preliminary objection of inadmissibility *ratione personae* must be dismissed.

2. *Other objections of inadmissibility*

60. The Government also raised preliminary objections of inadmissibility *ratione loci* and *ratione temporis*, non-exhaustion of domestic remedies and lack of victim status. The Court observes that these objections are identical to those raised in the case of *Alexandrou v. Turkey* (no. 16162/90, §§ 11-22, 20 January 2009), and should be dismissed for the same reasons.

IV. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL NO. 1 TO THE CONVENTION

61. The applicants complained that since 1974, Turkey had prevented them from exercising their right to the peaceful enjoyment of their possessions.

They invoked Article 1 of Protocol No. 1, which reads:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and by the general principles of international law.
>
> The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

62. The Government disputed this claim.

A. The arguments of the parties

1. *The Government*

63. The Government observed that only applicants nos. 15 and 17 had indicated that their place of residence was in Famagusta. The other applicants had their residences elsewhere. In any event, the Turkish military forces had not been stationed in Famagusta since 1974 and not all applicants were "owners of properties in Famagusta", as shown by the fact that 568 out of the original 596 applicants had been unable to substantiate their property claims and consequently had had to withdraw their applications. The applicants had not fled to southern Cyprus, but had voluntarily moved there of their own will.

64. The Government further observed that applicants nos. 4, 14 and 17 had failed to substantiate their claims by producing title deeds. As for the

applicants who had produced affirmations of ownership issued by the Greek-Cypriot Land Office, the Government argued that these documents should not be accepted as a valid title to property, as they had been issued purely on the basis of a declaration by the applicants themselves. Furthermore, the names of the applicants in the application form and in the affirmation of ownership were not always identical.

65. Where the applicants had died after 1974 (as allegedly had happened in the cases of applicants nos. 15 and 16) the application could not be continued in the name of their heirs, as death had broken the chain of causation. The companies were entitled to complain only in respect of properties registered in their names and not in respect of real estate belonging to any other person.

66. The Turkish military authorities had not occupied the applicants' homes and properties. These had been expropriated under Article 159 of the Constitution of the "Turkish Republic of Northern Cyprus" (the "TRNC"), a provision which for the purposes of the Convention should be regarded as a valid legal basis for the expropriation of the applicant's properties. The question of compensation for the loss of property or of the return of misplaced persons to their former residences could not be settled by individual applications to the Court, but should be discussed and solved at the political level. In the current situation of the island, it would be unrealistic to recognise a right to access to property for individual applicants in isolation from the political situation. In any event, any interference with the applicants' property rights had been aimed at rehousing Turkish-Cypriot refugees and had therefore been justified in the general interest.

2. *The applicants*

67. The applicants alleged that they had produced all the necessary evidence. In some instances, their title to the properties had been entered in the relevant District Lands Office Registry prior to the Turkish invasion; in others, their claim to ownership had been evidenced by purchase agreements. The applicants had been forced to flee northern Cyprus and in most cases had been unable to take with them the certificates of registration or title deeds or other important documents. Since 1974 the records of the District Lands Registry in northern Cyprus had been in the hands of the respondent Government and the applicants could not gain access to them.

68. Those applicants who had kept copies of the pre-occupation title documents had produced them. Those who did not have such copies had obtained "affirmations of ownership of Turkish-occupied immovable property" from the Republic of Cyprus on the basis of the reconstructed land register for the District of Famagusta.

69. The applicants alleged that the interference with their property rights had not served any legitimate aim, had not had a valid legal basis and had in any event not been proportionate to the purported aim of finding housing for

Turkish-Cypriots. Most of their properties had not been used for that purpose, as the “Varosha” area of Famagusta had become a military “ghost town” with no civilian population at all.

B. The third-party intervener's arguments

70. The Government of Cyprus observed that its department of Lands and Surveys had provided with certificates of affirmation of ownership owners who did not have title deeds in their possession but whose title had been entered in District Land Office registers in the Turkish-occupied area. These certificates were prima facie evidence of their right of property. The “TRNC” authorities were in possession of all the records of the Department of Lands and Surveys relating to the title to properties. It was therefore the duty of the respondent Government to produce them.

71. The third-party intervener further noted that the present case was similar to that of *Loizidou v. Turkey* (((merits), 18 December 1996, *Reports of Judgments and Decisions* 1996-VI), where the Court had found that the loss of control of property by displaced persons had arisen as a consequence of the occupation of the northern part of Cyprus by Turkish troops and the establishment of the “TRNC” and that the denial of access to property in occupied northern Cyprus constituted a continuing violation of Article 1 of Protocol No. 1.

C. The Court's assessment

72. The Court first notes that the documents submitted by the applicants (see paragraphs 14, 16, 18, 20, 22, 24, 26, 29, 31, 33, 35, 37, 38, 40, 42, 44 and 45 above) provide prima facie evidence that they had a title to the properties at issue. As the respondent Government have failed to produce convincing evidence to rebut this, the Court considers that these properties were “possessions” within the meaning of Article 1 of Protocol No. 1. It also observes that applicant no. 16 has produced written proof that his father had died before the Turkish invasion and that he had been appointed administrator of his estate (see paragraph 44 above). As far as applicant no. 12 is concerned, it is noted that he was the owner of some of the properties (notably, those described in paragraph 36 (a), (b), (c), (d), (e) and (f) above) only until 28 July 1998, when they were transferred to his wife and daughters (see paragraph 37 above).

73. The Court observes that in the aforementioned *Loizidou* case ((merits), cited above, §§ 63-64), it reasoned as follows:

> “63. ... as a consequence of the fact that the applicant has been refused access to the land since 1974, she has effectively lost all control over, as well as all possibilities to use and enjoy, her property. The continuous denial of access must therefore be

regarded as an interference with her rights under Article 1 of Protocol No. 1. Such an interference cannot, in the exceptional circumstances of the present case to which the applicant and the Cypriot Government have referred, be regarded as either a deprivation of property or a control of use within the meaning of the first and second paragraphs of Article 1 of Protocol No. 1. However, it clearly falls within the meaning of the first sentence of that provision as an interference with the peaceful enjoyment of possessions. In this respect the Court observes that hindrance can amount to a violation of the Convention just like a legal impediment.

64. Apart from a passing reference to the doctrine of necessity as a justification for the acts of the 'TRNC' and to the fact that property rights were the subject of intercommunal talks, the Turkish Government have not sought to make submissions justifying the above interference with the applicant's property rights which is imputable to Turkey.

It has not, however, been explained how the need to rehouse displaced Turkish Cypriot refugees in the years following the Turkish intervention in the island in 1974 could justify the complete negation of the applicant's property rights in the form of a total and continuous denial of access and a purported expropriation without compensation.

Nor can the fact that property rights were the subject of intercommunal talks involving both communities in Cyprus provide a justification for this situation under the Convention. In such circumstances, the Court concludes that there has been and continues to be a breach of Article 1 of Protocol No. 1."

74. In the case of *Cyprus v. Turkey* (no. 25781/94, ECHR 2001-IV) the Court confirmed the above conclusions (§§ 187 and 189):

"187. The Court is persuaded that both its reasoning and its conclusion in the Loizidou judgment (*merits*) apply with equal force to displaced Greek Cypriots who, like Mrs Loizidou, are unable to have access to their property in northern Cyprus by reason of the restrictions placed by the 'TRNC' authorities on their physical access to that property. The continuing and total denial of access to their property is a clear interference with the right of the displaced Greek Cypriots to the peaceful enjoyment of possessions within the meaning of the first sentence of Article 1 of Protocol No. 1.

...

189. .. there has been a continuing violation of Article 1 of Protocol No. 1 by virtue of the fact that Greek-Cypriot owners of property in northern Cyprus are being denied access to and control, use and enjoyment of their property as well as any compensation for the interference with their property rights."

75. The Court sees no reason in the instant case to depart from the conclusions which it reached in the *Loizidou* and *Cyprus v. Turkey* cases (*op. cit.*; see also *Demades v. Turkey* (merits), no. 16219/90, § 46, 31 July 2003).

76. Accordingly, it concludes that there has been a violation of Article 1 of Protocol No. 1 to the Convention by virtue of the fact that the applicants were denied access to and the control, use and enjoyment of their properties as well as any compensation for the interference with their property rights.

V. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

77. The applicants submitted that, as they had been unable to return to northern Cyprus, they were the victims of a violation of Article 8 of the Convention.

This provision reads as follows:

> "1. Everyone has the right to respect for his private and family life, his home and his correspondence.
>
> 2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others."

78. The Government disputed this claim, observing that the inability of individual applicants to gain access to their homes was the inevitable consequence of the political state of affairs on the island. No question under Article 8 could arise in respect of the applicant companies.

79. Some of the applicants submitted that, contrary to the applicant in the *Loizidou* case, they had had their home and businesses in northern Cyprus. They claimed that any interference with their Article 8 rights had not been justified under the second paragraph of this provision.

80. The Government of Cyprus submitted that where the applicants' properties constituted the person concerned's home, there had been a violation of Article 8 of the Convention.

81. The Court first notes that applicants nos. 5, 6, 11 and 13 have not clearly indicated their place of residence in northern Cyprus at the time of the Turkish invasion. They have therefore failed to substantiate their Article 8 complaint. It also notes that in the case of applicant no. 15, the application should be considered as having been brought in the name of the estate of Mr Takis N. Georgiades (see paragraph 48 above) and observes that it has not been established that the deceased and/or the administrators of his estate were residing in the District of Famagusta.

82. It follows that no violation of Article 8 of the Convention can be found in respect of applicants nos. 5, 6, 11, 13 and 15.

83. As regards applicant no. 14, the Court observes that he was not the owner of the house where he was allegedly living at the time of the Turkish invasion (see paragraph 40 above). Under these circumstances, the Court is not convinced that a separate issue may arise under Article 8 of the Convention. It therefore considers that it is not necessary to examine whether there has been a continuing violation of this provision in respect of applicant no. 14.

84. As to the remaining applicants, the Court notes that the Government failed to produce any evidence capable of casting doubt upon their statements that, at the time of the Turkish invasion, they were regularly

residing in northern Cyprus in houses belonging to them or their close relatives that were treated by them and their families as homes (see paragraphs 14, 16, 18, 20, 26, 29, 31, 33, 37, 44 and 45 above).

85. Accordingly, the Court considers that in the circumstances of the present case, the houses of applicants nos. 1, 2, 3, 4, 7, 8, 9, 10, 12, 16 and 17 qualified as "homes" within the meaning of Article 8 of the Convention at the time when the acts complained of took place.

86. The Court observes that the present case differs from the *Loizidou* case ((merits), cited above) since, unlike Mrs Loizidou, applicants nos. 1, 2, 3, 4, 7, 8, 9, 10, 12, 16 and 17 actually had a home in northern Cyprus.

87. The Court notes that since 1974 these applicants have been unable to gain access to and to use their homes. In this connection, it points out that, in its judgment in the case of *Cyprus v. Turkey* (cited above, §§ 172-175), it concluded that the complete denial of the right of Greek-Cypriot displaced persons to respect for their homes in northern Cyprus since 1974 constituted a continuing violation of Article 8 of the Convention. The Court reasoned as follows:

> "172. The Court observes that the official policy of the 'TRNC' authorities to deny the right of the displaced persons to return to their homes is reinforced by the very tight restrictions operated by the same authorities on visits to the north by Greek Cypriots living in the south. Accordingly, not only are displaced persons unable to apply to the authorities to reoccupy the homes which they left behind, they are physically prevented from even visiting them.
>
> 173. The Court further notes that the situation impugned by the applicant Government has obtained since the events of 1974 in northern Cyprus. It would appear that it has never been reflected in 'legislation' and is enforced as a matter of policy in furtherance of a bi-zonal arrangement designed, it is claimed, to minimise the risk of conflict which the intermingling of the Greek and Turkish-Cypriot communities in the north might engender. That bi-zonal arrangement is being pursued within the framework of the inter-communal talks sponsored by the United Nations Secretary-General ...
>
> 174. The Court would make the following observations in this connection: firstly, the complete denial of the right of displaced persons to respect for their homes has no basis in law within the meaning of Article 8 § 2 of the Convention (see paragraph 173 above); secondly, the inter-communal talks cannot be invoked in order to legitimate a violation of the Convention; thirdly, the violation at issue has endured as a matter of policy since 1974 and must be considered continuing.
>
> 175. In view of these considerations, the Court concludes that there has been a continuing violation of Article 8 of the Convention by reason of the refusal to allow the return of any Greek-Cypriot displaced persons to their homes in northern Cyprus."

88. The Court sees no reason in the instant case to depart from the above reasoning and findings (see also *Demades* (merits), cited above, §§ 36-37).

89. Accordingly, it concludes that there has been a continuing violation of Article 8 of the Convention on account of the complete denial of the right

of applicants nos. 1, 2, 3, 4, 7, 8, 9, 10, 12, 16 and 17 to respect for their homes.

VI. ALLEGED VIOLATION OF ARTICLE 1 OF THE CONVENTION AND OF ARTICLE 14 OF THE CONVENTION, READ IN CONJUNCTION WITH ARTICLE 8 OF THE CONVENTION AND ARTICLE 1 OF PROTOCOL NO. 1

90. The applicants complained of a violation of the general obligation to respect human rights enshrined in Article 1 of the Convention. They also complained of a violation under Article 14 of the Convention on account of discriminatory treatment against them in the enjoyment of their rights under Article 8 of the Convention and Article 1 of Protocol No. 1. They alleged that this discrimination was based on their national origin and religious beliefs.

The relevant provisions read as follows:

Article 1 of the Convention

> "The High Contracting Parties shall secure to everyone within their jurisdiction the rights and freedoms defined in Section I of [the] Convention."

Article 14 of the Convention

> "The enjoyment of the rights and freedoms set forth in [the] 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."

91. The Government disputed these claims.

92. The Court recalls that in the *Alexandrou* case (cited above, §§ 38-39) it has found that it was not necessary to carry out a separate examination of the complaint under Article 14 of the Convention. The Court does not see any reason to depart from that approach in the present case (see also, *mutatis mutandis*, *Eugenia Michaelidou Ltd and Michael Tymvios v. Turkey*, no. 16163/90, §§ 37-38, 31 July 2003). Moreover, the Court has found the respondent Government to be in breach of Article 1 of Protocol No. 1 and of Article 8 of the Convention and does not consider it necessary to examine the complaint under Article 1, which is a framework provision that cannot be breached on its own (see *Ireland v. the United Kingdom,* § 238, 18 January 1978, Series A no. 25, and *Eugenia Michaelidou Ltd and Michael Tymvios,* cited above, § 42).

VII. APPLICATION OF ARTICLE 41 OF THE CONVENTION

93. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Pecuniary and non-pecuniary damage

1. *The parties' submissions*

(a) The applicants

94. In their just satisfaction claims of September 1999, the applicants requested an award in respect of pecuniary damage. They relied on experts' reports assessing the value of their losses which included the loss of annual rent collected or expected to be collected from renting out their properties, plus interest from the date on which such rents were due until the date of payment. The rent claimed was for the period dating back to January 1987, when the respondent Government accepted the right of individual petition, until 1999. The applicants did not claim compensation for any purported expropriation since they were still the legal owners of the properties.

95. The starting point of the valuation reports was the rental value of the applicants' properties in 1974, calculated on the basis of a percentage of their market value or assessed by comparing the rental value of similar land at the relevant time. This sum was subsequently adjusted upwards by applying an average annual rental increase varying between 5% and 12%. Compound interest for delayed payment was applied at a rate of 8% per annum.

96. Applicant no. 1, Mr Andreas Loizou, sought 618,206 Cypriot Pounds (CYP – approximately euros 1,056,266 (EUR)). According to the expert, the 1974 market and/or rental values of his properties were as follows:

- property described in paragraph 13 (a) above: market value CYP 37,464; rental value CYP 2,248;
- property described in paragraph 13 (b) above: market value CYP 66,500; rental value CYP 2,660;
- property described in paragraph 13 (c) above: market value CYP 7,025; rental value CYP 442.

97. Applicant no. 2, Mr Kostas Panage, sought CYP 125,236 (approximately EUR 213,978). According to the expert, the 1974 market and/or rental values of his share in the properties were as follows:

- property described in paragraph 15 (a) above: market value CYP 6,910; rental value CYP 276;
- property described in paragraph 15 (b) above: market value CYP 9,904; rental value CYP 594;
- property described in paragraph 15 (c) above: rental value CYP 19;
- property described in paragraph 15 (d) above: rental value CYP 22;
- property described in paragraph 15 (e) above: rental value CYP 12;
- property described in paragraph 15 (f) above: rental value CYP 4.

98. Applicant no. 3, Mr Sotiris Panage, sought CYP 29,376 (approximately EUR 50,191). According to the expert, the 1974 market and/or rental values of his share in the properties were as follows:

- property described in paragraph 17 (a) above: rental value CYP 7;
- property described in paragraph 17 (b) above: rental value CYP 4;
- property described in paragraph 17 (c) above: rental value CYP 55;
- property described in paragraph 17 (d) above: market value CYP 11,663; rental value CYP 466.

99. Applicant no. 4, Mr Vasos Sofroniou, sought CYP 96,188 (approximately EUR 164,346). According to the expert, the 1974 market value of the property described in paragraph 19 was CYP 28,875, while its rental value was CYP 1,505.

100. Applicant no. 5, Motovia Ltd, sought CYP 223,517 (approximately EUR 381,901). According to the expert, the 1974 market and/or rental values of its properties were as follows:

- property described in paragraph 21 (a) above: market value CYP 5,430; rental value CYP 326;
- property described in paragraph 21 (b) above: market value CYP 5,049; rental value CYP 303;
- property described in paragraph 21 (c) above: market value CYP 4,905; rental value CYP 294;
- property described in paragraph 21 (d) above: market value CYP 5,390; rental value CYP 323.

101. Applicant no. 6, Mr Kostas Grigoriades, sought CYP 295,994 (approximately EUR 505,735). According to the expert, the 1974 market and/or rental values of his share in the properties were as follows:

- property described in paragraph 23 (a) above: market value CYP 3,881; rental value CYP 233;
- property described in paragraph 23 (b) above: market value CYP 756; rental value CYP 45;
- property described in paragraph 23 (c) above: market value CYP 9,773; rental value CYP 586;
- property described in paragraph 23 (d) above: market value CYP 16,344; rental value CYP 981;
- property described in paragraph 23 (e) above: market value CYP 7,786; rental value CYP 467.

102. Applicant no. 7, Mr Alekos Panteli, sought CYP 142,803 (approximately EUR 243,993). According to the expert, the 1974 market and/or rental values of his properties were as follows:

- property described in paragraph 25 (a) above: market value CYP 236; rental value CYP 14;
- property described in paragraph 25 (b) above: market value CYP 10,219; rental value CYP 409;
- property described in paragraph 25 (c) above: market value CYP 1,862; rental value CYP 112;
- property described in paragraph 25 (d) above: market value CYP 1,845; rental value CYP 111;
- property described in paragraph 25 (e) above: market value CYP 12,000; rental value CYP 720;
- property described in paragraph 25 (f) above: market value CYP 14,400; rental value CYP 864.

103. Applicant no. 8, Mr Yiannis Charalambous, sought CYP 1,966,793 (approximately EUR 3,360,462). According to the expert, the overall 1974 market value of the properties described in paragraph 27 above was CYP 177,729, while their total rental value was CYP 10,639. In addition to that, the 1974 market and/or rental values of his share in the other properties were as follows:

- property described in paragraph 28 (a) above: market value CYP 5,138; rental value CYP 206;
- property described in paragraph 28 (b) above: market value CYP 4,228; rental value CYP 296;
- property described in paragraph 28 (c) above: market value CYP 10,620; rental value CYP 425;
- property described in paragraph 28 (d) above: market value CYP 12,690; rental value CYP 508;
- property described in paragraph 28 (e) above: market value CYP 4,222; rental value CYP 296.

104. Applicant no. 9, Mr Kostas Kalisperas, sought CYP 1,999,447 (approximately EUR 3,416,255). According to the expert, the overall 1974 market values of the building land mentioned in paragraph 30 above was CYP 78,614, while their total rental value was CYP 4,716. The 1974 annual rent obtainable from his 25 fields was CYP 14,688. The 1974 market value of the applicant's house was CYP 19,600 and its rental value was CYP 1,087.

105. Applicant no. 10, Mr Kostas Mavroudis, sought CYP 758,090 (approximately EUR 1,295,272). According to the expert, the 1974 market and/or rental values of his share in the properties were as follows:

- property described in paragraph 32 (a) above: market value CYP 17,059; rental value CYP 1,024;

- property described in paragraph 32 (b) above: market value CYP 22,800; rental value CYP 1,140;

- property described in paragraph 32 (c) above: market value CYP 5,434; rental value CYP 326;

- property described in paragraph 32 (d) above: market value CYP 20,670; rental value CYP 1,654;

- property described in paragraph 32 (e) above: market value CYP 6,446; rental value CYP 387;

- property described in paragraph 32 (f) above: market value CYP 5,570; rental value CYP 334;

- property described in paragraph 32 (g) above: market value CYP 5,290; rental value CYP 317;

- property described in paragraph 32 (h) above: market value CYP 15,820; rental value CYP 949;

- property described in paragraph 32 (i) above: market value CYP 5,256; rental value CYP 315.

106. Applicant no. 11, Mr Paraschos Theothoulou, sought CYP 416,694 (approximately EUR 711,963). According to the expert, the overall 1974 market value of his share in the properties was CYP 42,212.64, while their rental value was CYP 2,446.82.

107. Applicant no. 12, Mr Charalampos Bakaloures, sought CYP 548,953 (approximately EUR 937,941). According to the expert, the 1974 market and/or rental values of his share in the properties were as follows:

- property described in paragraph 36 (a) above: market value CYP 252; rental value CYP 10;

- property described in paragraph 36 (b) above: market value CYP 222; rental value CYP 9;

- property described in paragraph 36 (c) above: market value CYP 729; rental value CYP 29;

- property described in paragraph 36 (d) above: rental value CYP 336;

- property described in paragraph 36 (e) above: market value CYP 37,856; rental value CYP 1,914;

- property described in paragraph 36 (f) above: market value CYP 42,774; rental value CYP 2,566;

- property described in paragraph 36 (g) above: rental value CYP 12;

- property described in paragraph 36 (h) above: rental value CYP 314;

- property described in paragraph 36 (i) above: rental value CYP 36;

- property described in paragraph 36 (j) above: rental value CYP 7.

108. Applicant no. 13, Frixos Constantinou Ltd., sought CYP 14,927 (approximately EUR 25,504). According to the expert, the 1974 market value of the house described in paragraph 38 above was CYP 8,136, while its annual rental value was CYP 285.

109. Applicant no. 14, Mr Andreas Zodiates, sought CYP 18,148 (approximately EUR 31,007). According to the expert, in 1974 the total

annual rent obtainable from renting out his share in the orange plantations described in paragraph 39 above was CYP 346.21.

110. The administrators of the estate of applicant no. 15, Mr Takis N. Georgiades, sought CYP 1,292,679 (approximately EUR 2,208,671). According to the expert, the 1974 market and/or rental values of the deceased's share in the properties were as follows:

- property described in paragraph 41 (a) above: market value CYP 6,001; rental value CYP 300.05;
- property described in paragraph 41 (b) above: market value CYP 50,172; rental value CYP 2,508.6;
- property described in paragraph 41 (c) above: market value CYP 16,200; rental value CYP 810;
- property described in paragraph 41 (d) above: market value CYP 68,565; rental value CYP 3,428.25;
- property described in paragraph 41 (e) above: market value CYP 2,233; rental value CYP 133.98;
- property described in paragraph 41 (f) above: market value CYP 6,188; rental value CYP 216.56;
- property described in paragraph 41 (g) above: market value CYP 3,746; rental value CYP 131.11;
- property described in paragraph 41 (h) above: rental value CYP 8.36;
- property described in paragraph 41 (i) above: rental value CYP 12.71.

111. Applicant no. 16, Mr Ioannis Hadjinikolas Kamilares, sought CYP 165,154 (approximately EUR 282,182). According to the expert, the 1974 market and/or rental values of his father's properties were as follows:

- property described in paragraph 43 (a) above: rental value CYP 163;
- property described in paragraph 43 (b) above: rental value CYP 392;
- property described in paragraph 43 (c) above: rental value CYP 862;
- property described in paragraph 43 (d) above: market value CYP 32,230; rental value CYP 1,329;
- property described in paragraph 43 (e) above: market value CYP 4,500; rental value CYP 270;
- property described in paragraph 43 (f) above: market value CYP 2,250; rental value CYP 135.

112. Applicant no. 17, Mr Pantelis Demetri, sought CYP 3,669 (approximately EUR 6,268). According to the expert, the 1974 market value of his share in the house was CYP 1,750, while at that period an annual rent of CYP 70 could have been obtained from renting it out.

113. In a letter of 28 January 2008 the applicants observed that a long period had passed since their first claims for just satisfaction and that the claim for pecuniary loss needed to be updated according to data concerning the increase in market value of the land in Cyprus. The average increase in this respect was 10% to 15% per annum.

114. In their just satisfaction claims of September 1999, all the applicants further claimed CYP 40,000 (approximately EUR 68,344) each in respect of non-pecuniary damage. They stated that this sum had been calculated on the basis of the sum awarded by the Court in the *Loizidou* case ((just satisfaction), cited above) while taking into account the fact that the period in respect of which the claim was made in the instant case was longer. With the exception of applicants nos. 5, 6, 11 and 13, they also claimed the additional sum of CYP 70,000 (approximately EUR 119,602) each with respect for the moral damage suffered for the loss of their homes.

(b) The Government

115. The Government filed comments on the applicants' claims for just satisfaction on 15 September 2008. They pointed out that almost all the applicants had produced old certificates or title deeds or otherwise not fully reliable evidence of ownership and maintained that the claims for just satisfaction were not ready for examination. For instance, a sale contract could not prove that the property allegedly purchased had been effectively transferred to the buyer. Moreover, some of the properties allegedly owned by applicants nos. 9 and 15 in fact belonged to a religious trust known as *Vakf*. Once it had acquired ownership, its real estate could not be transferred to individuals. The Government submitted that the issues relating to respect of the principles applicable to this kind of property should be left to the domestic courts and that the European Court of Human Rights should not deliver judgments which might prejudice the rights of the Cyprus Evcaf Administration (which had competence over *Vakf* properties) and those of the beneficiaries. Applicant no. 16 was only the co-administrator of his father's estate and could therefore not claim to be a victim of a violation of Article 1 of Protocol No. 1.

116. Owing to the lapse of time since the lodging of the application, new situations might have arisen (for instance, applicant no. 12's properties had been transferred to his heirs in 1998); these facts could be certified only by the Greek-Cypriot authorities, who, since 1974, had reconstructed the registers and records of all properties in northern Cyprus and had, since 1968, been in possession of the Lands Records Registers relating to the Morphou region and to some areas of Nicosia. Applicants should be required to provide search certificates issued by the Department of Lands and Surveys of the Republic of Cyprus. Moreover, in cases where the original applicant had passed away or the property had changed hands, questions might arise as to whether the new owners had a legal interest in the property and whether they were entitled to pecuniary and/or non-pecuniary damages.

117. The Government further noted that some applicants had shared properties and that it was not proven that their co-owners had agreed to the partition of the possessions. Nor, when claiming damages based on the

assumption that the properties had been rented after 1974, had the applicants shown that the rights of the said co-owners under domestic law had been respected.

2. *The third party intervener*

118. The Government of Cyprus fully supported the applicants' claims for just satisfaction.

3. *The Court's assessment*

119. The Court first notes that the Government's submission that doubts might arise as to the applicants' title of ownership over the properties at issue (see paragraphs 115-116 above) is, in substance, an objection of incompatibility *ratione materiae* with the provisions of Article 1 of Protocol No. 1. Such an objection should have been raised before the application was declared admissible or, at the latest, in the context of the parties' observations on the merits. In any event, the Court cannot but confirm its finding that the properties described in the present application constituted the applicants' "possessions" within the meaning of Article 1 of Protocol No. 1 (see paragraph 72 above).

120. In the circumstances of the case, the Court considers that the question of the application of Article 41 in respect of pecuniary and non-pecuniary damage is not ready for decision. It observes, in particular, that the parties have failed to provide reliable and objective data pertaining to the prices of land and real estate in Cyprus at the date of the Turkish intervention. This failure renders it difficult for the Court to assess whether the estimate furnished by the applicants of the 1974 market value of their properties is reasonable. The question must accordingly be reserved and the subsequent procedure fixed with due regard to any agreement which might be reached between the respondent Government and the applicants (Rule 75 § 1 of the Rules of Court).

B. Costs and expenses

121. In their just satisfaction claims of September 1999, applicants nos. 1 to 8 and 10 to 17 sought CYP 2,280 (approximately EUR 3,895) each for the costs and expenses incurred before the Court. This sum included the costs of the experts' reports assessing the value of their properties. Applicant no. 9 sought CYP 3,560 (approximately EUR 6,082) under this head.

122. The Government did not comment on this point.

123. In the circumstances of the case, the Court considers that the question of the application of Article 41 in respect of costs and expenses is not ready for decision. The question must accordingly be reserved and the

subsequent procedure fixed with due regard to any agreement which might be reached between the respondent Government and the applicants.

FOR THESE REASONS, THE COURT

1. *Holds* unanimously that the administrator of the estate of applicant no. 9 has standing to continue the present proceedings in his stead;

2. *Decides* unanimously to strike the application out of the list of cases in so far as it concerns applicants nos. 18 to 29 and to continue the examination of the application with regard to applicants nos. 1 to 17;

3. *Dismisses* by six votes to one the Government's preliminary objections;

4. *Holds* by six votes to one that there has been a violation of Article 1 of Protocol No. 1 to the Convention;

5. *Holds* by six votes to one that there has been a violation of Article 8 of the Convention in respect of applicants nos. 1, 2, 3, 4, 7, 8, 9, 10, 12, 16 and 17;

6. *Holds* unanimously that there has been no violation of Article 8 of the Convention in respect of applicants nos. 5, 6, 11, 13 and 15;

7. *Holds* unanimously that it is not necessary to examine whether there has been a violation of Article 8 of the Convention in respect of applicant no. 14;

8. *Holds* unanimously that it is not necessary to examine whether there has been a violation of Articles 1 and 14 of the Convention, read in conjunction with Article 8 of the Convention and Article 1 of Protocol No. 1;

9. *Holds* unanimously that the question of the application of Article 41 is not ready for decision;
   accordingly,
   (a) *reserves* the said question in whole;
   (b) *invites* the Government and the applicants to submit, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, their written observations on the matter and, in particular, to notify the Court of any agreement that they may reach;

(c) *reserves* the further procedure and *delegates* to the President of the Chamber the power to fix the same if need be.

Done in English, and notified in writing on 22 September 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı	Nicolas Bratza
Deputy Registrar	President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Judge Karakaş is annexed to this judgment.

N.B.
F.A.

ATTACHMENT – LIST OF APPLICANTS

1. Andreas Loizou
2. Kostas Panage
3. Sotiris Panage
4. Vasos Sofroniou
5. Motovia Ltd
6. Kostas Grigoriades
7. Alekos Panteli
8. Yiannis Charalambous
9. Kostas Kalisperas
10. Kostas Mavroudis
11. Paraschos Theothoulou
12. Charalampos Bakaloures
13. Frixos Constantinou Ltd
14. Andreas Zodiates
15. Estate of Takis N. Georgiades
16. Ioannis Hadjinikolas Kamilares
17. Pantelis Demetri
18. N.S. Koutsokoumnis
19. Lambros Iasonos
20. Georgios Orphanides
21. Kyriakos Kousoulis
22. Savvas Voyiatzis
23. Lambros Papayiannis
24. Petros Markettas
25. Stavros Syrimes
26. Prodromos Solomou
27. T. Vasileiou and Sons Ltd
28. Renos Symeonides
29. Antonakis Solomonides

DISSENTING OPINION OF JUDGE KARAKAŞ

Unlike the majority, I consider that the objection of non-exhaustion of domestic remedies raised by the Government should not have been rejected. Consequently, I cannot agree with the finding of violations of Article 1 of Protocol No. 1 and Article 8 of the Convention, for the same reasons as those mentioned in my dissenting opinion in the case of *Gavriel v. Turkey* (no. 41355/98, 20 January 2009).