



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

FOURTH SECTION

CASE OF ZAVOU AND OTHERS v. TURKEY

(Application no. 16654/90)

JUDGMENT
(Just satisfaction)

STRASBOURG

26 October 2010

FINAL

11/04/2011

*This judgment has become final under Article 44 § 2 (c) of the Convention.
It may be subject to editorial revision.*

In the case of Zavou 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 5 October 2010,

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

PROCEDURE

1. The case originated in an application (no. 16654/90) 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 thirty-seven Cypriot nationals, on 26 January 1990.

2. In a judgment delivered on 22 September 2009 (“the principal judgment”), the Court decided to strike the application out of the list of cases as far as it concerned applicants no. 2 to 5, 7 to 14 and 17 to 36 and to continue the examination of the case with regard to the five remaining applicants (Mrs Soula Zavou – hereinafter, “applicant no. 1” –, Mrs Elenitsa Chrysostomou – hereinafter, “applicant no. 2” –, Mrs Anastasia Evangelides – hereinafter, “applicant no. 3” –, Mrs Maro Pouyourou – hereinafter, “applicant no. 4”, and Mrs Adriadni Evangelides – hereinafter, “applicant no. 5”). It dismissed various preliminary objections raised by the Turkish Government and found continuing violations of Article 8 of the Convention by reason of the complete denial of the right of the applicants to respect for their home and of Article 1 of Protocol No. 1 to the Convention by virtue of the fact that the applicants were denied access to and control, use and enjoyment of their properties as well as any compensation for the interference with their property rights. Furthermore, it found that it was not necessary to examine the applicants' complaints under Articles 13 and 14 of the Convention (*Zavou and Others v. Turkey*, no. 16654/90, §§ 18, 19, 28, 33, 35 and 37, and points 1-5 of the operative provisions, 22 September 2009).

3. Under Article 41 of the Convention applicants nos. 1 to 4 sought just satisfaction for the deprivation of their properties concerning the period

between January 1990 and 31 December 2007. Several valuation reports, setting out the basis of their loss, were appended to their observations. In particular, applicant no. 1 claimed 416,572 euros (EUR), applicant no. 2 claimed EUR 282,213, applicant no. 3 claimed EUR 443,804 and applicant no. 4 claimed EUR 545,201. Furthermore, applicants nos. 1 to 4 claimed approximately EUR 239,204 each in respect of non-pecuniary damage and approximately EUR 7,200 for the costs and expenses incurred before the Court. Applicant no. 5 did not submit any claim with respect to pecuniary damage (see paragraph 57 of the principal judgment). However, she claimed CYP 100,000 (approximately EUR 170,860) for non-pecuniary damage and approximately EUR 5,143 for the costs and expenses incurred before the Court.

4. Since the question of the application of Article 41 of the Convention was not ready for decision, the Court reserved it in whole and invited the Government and the applicants to submit, within three months, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach (*ibid.*, §§ 59 and 62, and point 6 of the operative provisions).

5. On 4 March 2010 the Court invited the applicants and the Government to submit any materials which they considered relevant to assessing the 1974 market value of the properties concerned by the principal judgment. The applicants were moreover invited to submit written evidence that the properties at stake were still registered in their name or to indicate and substantiate any transfer of ownership which might have taken place.

6. The applicants and the Government each filed observations on these matters. On 14 June 2010 applicants nos. 1 to 4 declared that “no changes have been effected to the ownership of [their] properties”. They failed, however, to produce any written evidence supporting their statement and/or showing the current ownership of the properties concerned by the principal judgment.

THE LAW

I. PRELIMINARY ISSUE

7. In a letter of 22 April 2010 the Government requested the Court to decide that it was not necessary to continue the examination of the applicants' just satisfaction claims. They invoked the principles affirmed by the Grand Chamber in *Demopoulos and Others v. Turkey* ([GC] (Dec.), nos. 46113/99, 3843/02, 13751/02, 13466/03, 10200/04, 14163/04, 19993/04, 21819/04, 1 March 2010) and argued that the applicants should

address their claims to the Immovable Property Commission (the “IPC”) instituted by the “TRNC” Law 67/2005. They reiterated their position on the issue of exhaustion of domestic remedies in the present case and in other similar cases on 8 and 22 June 2010.

8. The Court first observes that the Government's submissions were unsolicited; they were received by the Registry long after the expiration of the time-limit for filing comments on just satisfaction and almost two months after the delivery of the Grand Chamber's decision in *Demopoulos*. It could therefore be held that the Government are estopped from raising the matter at this stage of the proceedings.

9. In any event, the Court cannot but reiterate its case-law according to which objections based on non-exhaustion of domestic remedies raised after an application has been declared admissible cannot be taken into account at the merits stage (see *Demades v. Turkey* (merits), no. 16219/90, § 20, 31 July 2003, and *Alexandrou v. Turkey* (merits), no. 16162/90, § 21, 20 January 2009) or at a later stage. This approach has not been modified by the Grand Chamber, as the cases of *Demopoulos and Others* had not been declared admissible when Law 67/2005 entered into force and when Turkey objected that domestic remedies had not been exhausted.

10. Furthermore, the Court considers that its previous finding in the present case that the applicants were not required to exhaust the remedy introduced by Law 67/2005 constitutes *res judicata*. It recalls that after the compensation mechanism before the IPC was introduced, the Government raised an objection based on non-exhaustion of domestic remedies. This objection was rejected in the principal judgment (see paragraph 19 of the principal judgment and point 2 of its operative provisions). The Government also unsuccessfully requested the referral of the case to the Grand Chamber.

11. It follows that the Government's request to stay the examination of the applicants' claims for just satisfaction should be rejected. The Court will therefore continue to examine the case under Article 41 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

12. 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**

13. In their just satisfaction claims of 27 May 2003, applicants nos. 1 to 4 requested sums for pecuniary damage. They relied on expert's 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 in northern Cyprus, plus interest from the date on which such rents were due until the day of payment. The rent claimed was for the period dating back to January 1990 until December 2003. Applicants nos. 1 to 4 did not claim compensation for any purported expropriation since they were still the legal owners of the properties. The evaluation reports contained a description of the town of Famagusta, of its development perspectives and of the applicants' properties.

14. The starting point of the expert's reports was the open market value of the properties in August 1974. The annual rent obtainable from the applicants' properties was then calculated as a percentage (varying from 4 % to 5%) of their estimated value in 1974. The expert further took into account the trends of rent increase on the basis of: (a) the nature of the area of the properties; (b) the trends for the period 1970-1974; (c) the trends in the unoccupied areas of Cyprus from 1974 onwards. This last trend was based on the Consumer Price Index for rents and houses issued by the Department of Statistics and Research of the Government of Cyprus, increased by a percentage of 25 %. For agricultural lands, the expert proceeded on the basis of a certain annual rental value per decare (generally between CYP 25 and CYP 35 in 1974). Moreover, compound interest for delayed payment was applied at a rate of 8 % (6 % from 2001 onwards) per annum.

15. For applicant no. 1 (Mrs Soula Zavou), the figures given by the expert were the following:

(a) property described in paragraph 11 (a) of the principal judgment (Famagusta, Chrysospyliotissa, plot no. 513, sheet/plan 33/12.4.2, block A, registration no. AO-16/10/86; description: house; use:

residence, share: whole): market value in 1974: 14,400 Cypriot Pounds (CYP – approximately EUR 24,603); annual rent in 1974: CYP 576 (approximately EUR 984); estimated loss plus interest: CYP 51,676 (approximately EUR 88,293);

(b) property described in paragraph 11 (b) of the principal judgment (Famagusta, Ayios Ioannis, plot no. 320, sheet/plan 33/12.2.3, block A, registration no. AO-16/10/86; description: block of flats; use: commercial-rent; share: 1/5): market value of the whole property in 1974: CYP 95,000 (approximately EUR 162,317); annual rent in 1974: CYP 4,750 (CYP 950 – approximately EUR 1,623 – for the 1/5 share belonging to the applicant); estimated loss plus interest: CYP 85,229 (approximately EUR 145,622);

(c) property described in paragraph 11 (c) of the principal judgment (Famagusta, Ayios Loucas, plot no. 827, sheet/plan 33/11.W.1, block B and plot no. 51, sheet/plan 33/11.W.1, block B, registration no. BO-16/10/86; description: orange grove; share: 3/8): rent payable in 1974 calculated on the basis of CYP 35 per decare; rental value of the whole property in 1974: CYP 728 (CYP 273 – approximately EUR 466 – for the 3/8 shares belonging to the applicant); estimated loss plus interest: CYP 18,633 (approximately EUR 31,836).

Thus, the total sum claimed by applicant no. 1 for pecuniary damage was CYP 155,538 (approximately EUR 265,752).

16. For applicant no. 2 (Mrs Elenitsa Chrysostomou), the expert considered that the 1974 market value of the property described in paragraph 12 of the principal judgment (Famagusta, Chrysospyliotissa, plot no. 1178, sheet/plan 33/12.6.3, block A; description: two houses; share: ½) was CYP 29,400 (approximately EUR 50,232), the 1974 annual rent was CYP 1,176 (approximately EUR 2,009) and the estimated loss plus interest was CYP 105,504 (approximately EUR 180,264).

17. For applicant no. 3 (Mrs Anastasia Evangelides), the figures given by the expert were the following:

(a) properties described in paragraph 13 (a) and (b) of the principal judgment (Famagusta, Chrisi Akti, plot no. 691, sheet/plan 33/21.1.IV, block A; description: house; use: residence; share: whole; and Famagusta, Chrisi Akti, plot no. 693, sheet/plan 33/21.1.IV, block A; description: house; use: rent; share: whole): market value in 1974: CYP 25,700 (approximately EUR 43,911) and CYP 13,500 (approximately EUR 23,066) respectively; 1974 total annual rent for both properties: CYP 1,568 (approximately EUR 2,679); estimated loss plus interest: CYP 140,672 (approximately EUR 240,352);

(b) property described in paragraph 13 (c) of the principal judgment (Famagusta, Salamis, plot no. 1885, sheet/plan 33/3.E.1, block D; description: building site): market value in 1974: CYP 3,000

(approximately EUR 5,125); estimated loss plus interest: CYP 22,632 (approximately EUR 38,669).

Thus, the total sum claimed by applicant no. 3 for pecuniary damage was CYP 163,304 (approximately EUR 279,021).

18. For applicant no. 4 (Mrs Maro Pouyourou), the figures given by the expert were the following:

(a) property described in paragraph 15 (a) of the principal judgment: (Famagusta, Ayios Ioannis, plot no. 264, sheet/plan 33/12.3.4, block C; description: house; use: residence; share: whole) market value in 1974: CYP 40,000 (approximately EUR 68,344); annual rent in 1974: CYP 2,000 (approximately EUR 3,417); estimated loss plus interest: CYP 179,429 (approximately EUR 306,572);

(b) property described in paragraph 15 (b) of the principal judgment (Famagusta, Komi Kepir, plots nos. 532 and 543, sheet/plan 7/46; description: plots of land; use: agriculture; share: whole): rent payable in 1974 calculated on the basis of CYP 25 per decare; annual rental value in 1974: CYP 367.37 (approximately EUR 627); estimated loss plus interest: CYP 25,071 (approximately EUR 42,836).

Thus, the total sum claimed by applicant no. 4 for pecuniary damage was CYP 204,500 (approximately EUR 349,408).

19. Applicant no. 5 (Mrs Adriadni Evangelides) did not submit any claim pecuniary damage (see paragraph 3 above). She was the owner of the following property (see paragraph 14 of the principal judgment): Famagusta, Stavros, plot no. 701, sheet/plan 33/13.4.3, registration no. SDD 626/85; description: plot of land with two houses; use: residence; share: whole. However, on 14 June 2010 she declared that in 1985 this property was transferred to her two children.

20. On 24 January 2008, following a request from the Court for an update on the developments of the case, applicants nos. 1 to 4 submitted updated claims for just satisfaction, which were meant to cover the loss of the use of the properties from 1 January 1990 to 31 December 2007. They produced revised valuation reports, which, on the basis of the criteria adopted in the previous reports, concluded that the whole sum due for the loss of use was: EUR 416,572 for applicant no. 1; EUR 282,213 for applicant no. 2; EUR 443,804 for applicant no. 3; EUR 545,201 for applicant no. 4.

21. On 14 June 2010 the applicants produced fresh revised valuation reports, which were meant to cover the loss of use for the period between January 1990 and 30 June 2010. The expert appointed by the applicants considered that the sums due to his clients for pecuniary damage were the following: applicant no. 1: EUR 481,448; applicant no. 2: EUR 325,705; applicant no. 3: EUR 521,346; applicant no. 4: EUR 633,000.

22. The expert produced synoptic tables showing comparable sales of building sites, according to which in the period 1971-1974 the prices of building sites in the municipal area of Famagusta town were comprised between CYP 11.35 (approximately EUR 19.40) and CYP 46.18 (approximately EUR 79) per square metre; between 1970 and 1973, building sites in the Ayios Loukas Quarter of Famagusta were sold for prices comprised between CYP 2.22 (approximately EUR 3.80) and CYP 7.61 (approximately EUR 13) per square metre. He moreover assumed that the cost of construction of applicants' houses and buildings was comprised between CYP 20 (approximately EUR 34.20) and CYP 65 (approximately EUR 111) per square metre. He also applied a "developer's factor" of 20 %. Accordingly, the expert confirmed, in substance, the 1974 open-market values of the applicants' properties as indicated in paragraphs 15-18 above.

23. In their just satisfaction claims of 27 May 2003, the applicants further claimed CYP 100,000 (approximately EUR 170,860) each in respect of non-pecuniary damage. In their updated claims for just satisfaction of 24 January 2008, applicants nos. 1 to 4 increased their claim to CYP 140,000 (approximately EUR 239,204) each.

(b) The Government

24. In reply to the applicants' just satisfaction claims of 27 May 2003, the Government challenged the conclusions reached by the Court in the *Loizidou v. Turkey* case ((just satisfaction), 28 July 1998, *Reports* 1998-IV), and considered that in cases such as the present one, no award should be made by the Court under Article 41 of the Convention. They underlined that the applicants' inability to have access to their properties depended on the political situation on the island and, in particular, on the existence of the UN recognized cease-fire lines. If Greek-Cypriots were allowed to go to the north and claim their properties, chaos would explode in Cyprus; furthermore, any award made by the Court would undermine the negotiations between the two parties. In any event, the legal situation had changed since the adoption of the *Loizidou* judgment: Greek-Cypriot were allowed to visit the northern part of the island and to have access to remedies existing in the "TRNC", and a new "Law on Compensation for Immovable Properties Located within the boundaries of the "TRNC" had been adopted.

25. The Government filed comments on the applicants' updated claims for just satisfaction on 30 June 2008, 15 October 2008 and 22 June 2010. They pointed out that the present application was part of a cluster of similar cases raising a number of problematic issues and 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.

26. The Government submitted that as an annual increase of the value of the properties had been applied, it would be unfair to add compound interest for delayed payment, and that Turkey had recognised the jurisdiction of the Court on 21 January 1990, and not in January 1987. In any event, the alleged 1974 market value of the properties was exorbitant, highly excessive and speculative; it was not based on any real data with which to make a comparison and made insufficient allowance for the volatility of the property market and its susceptibility to influences both domestic and international. The report submitted by the applicants had instead proceeded on the assumption that the property market would have continued to flourish with sustained growth during the whole period under consideration.

27. The Government produced a valuation report prepared by the Turkish-Cypriot authorities, which they considered to be based on a “realistic assessment of the 1974 market values, having regard to the relevant land records and comparative sales in the areas where the properties [were] situated”. This report contained two proposals, assessing, respectively, the sum due for the loss of use of the properties and their present value. The second proposal was made in order to give the applicants the option to sell the property to the State, thereby relinquishing title to and claims in respect of it.

28. The report prepared by the Turkish-Cypriot authorities specified that it would be possible to envisage restitution of the properties described in paragraphs 11 (b), 13 (a) and (b), 14 and 15 (a) of the principal judgment. The other immovable properties referred to in the application were possessed by refugees; they could not form the object of restitution but could give entitlement to financial compensation, to be calculated on the basis of the loss of income (by applying a 5% rent on the 1974 market values) and increase in value of the properties between 1974 and the date of payment. Had the applicants applied to the IPC, the latter would have offered CYP 851,035.4 (approximately EUR 1,454,079) to compensate the loss of use and CYP 906,468.09 (approximately EUR 1,548,791) for the value of the properties. According to an expert appointed by the “TRNC” authorities, the 1974 open-market value of the applicants' properties was the following:

- applicant no. 1: property described in paragraph 15 (a) above: CYP 16,000 (approximately EUR 27,337); property described in paragraph 15 (b) above: CYP 1,000 (approximately EUR 1,708); property described in paragraph 15 (c) above: CYP 1,450 (approximately EUR 2,477);
- applicant no. 2: property described in paragraph 16 above: CYP 10,000 (approximately EUR 17,086);

- applicant no. 3: properties described in paragraph 17 (a) above: CYP 35,000 (approximately EUR 59,801) and CYP 20,000 (approximately EUR 34,172) respectively; property described in paragraph 17 (b) above: CYP 4,000 (approximately EUR 6,834);
- applicant no. 4: property described in paragraph 18 (a) above: CYP 30,000 (approximately EUR 51,258); property described in paragraph 18 (b) above: CYP 670 (approximately EUR 1,144);
- applicant no. 5: property described in paragraph 19 above: CYP 30,000 (approximately EUR 51,258).

29. Upon fulfilment of certain conditions, the IPC could also have offered the applicants exchange of their properties with Turkish-Cypriot properties located in the south of the island.

30. In their comments of 22 June 2010, the Government recalled that in the case of *Demopoulos and Others* (cited above) the Grand Chamber had found that the IPC was an adequate domestic remedy for those claiming a violation of Article 1 of Protocol No. 1. Notwithstanding the adoption of a judgment on the merits, it would still be open to the applicants to apply to the IPC, which would calculate the current value and the 1974 value of the properties “in a credential way based on actual data”. On 27 May 2010 the IPC had sent a letter to the applicants' representative, inviting his clients to introduce an application before it.

31. The Government recalled that under Law No. 67/2005, the following means of redress were available: a) restitution; b) compensation; c) exchange. The relevant provisions of the law at issue are described in *Demopoulos and Others* (cited above, §§ 35-37).

32. The Government further noted that in making its assessment as regarded compensation for the loss of use, the IPC had collected data from the Department of Lands and Surveys on the 1973-1974 purchase prices for comparable properties. It had also examined the development of interest rates of the Cyprus Central Bank. The loss of income was then calculated by assuming that the obtainable rent would have been 5% of the value of the properties; this last value had been modified every year on the basis of the land market value index. Cyprus Central Bank interest rates had been applied on the sums due since 1974.

33. Being in possession of the land registers, the Turkish-Cypriot authorities were in a better position than the applicants and the Greek-Cypriot authorities to assess the market values of the properties in a realistic and reliable manner. The applicants had put forward exaggerated claims and had tended to inflate the 1974 values of their possessions. The Government therefore requested the Court to rule on compensation on the basis of the calculations made by the Turkish-Cypriot authorities, which were “credential and objective in every aspect”.

34. The report prepared by the Turkish-Cypriot authorities confirmed that it would be possible to envisage restitution of some of the applicants'

properties. Had the applicants applied to the IPC, the latter would have increased its offer up to CYP 956,842.99 (approximately EUR 1,634,862) to compensate the loss of use and up to CYP 980,671.93 (approximately EUR 1,675,576) for the value of the properties. The expert appointed by the authorities of the “TRNC” also confirmed the 1974 open-market values of the applicants' properties as indicated in paragraph 28 above.

35. In particular, the IPC would have offered the following sums for each applicant:

- applicant no. 1: loss of use: CYP 121,242.85 (approximately EUR 207,155); value of the properties: CYP 123,596.50 (approximately EUR 211,177);
- applicant no. 2: loss of use: CYP 65,714.28 (approximately EUR 112,279); value of the property: CYP 66,989.97 (approximately EUR 114,459);
- applicant no. 3: loss of use: CYP 371,197.31 (approximately EUR 634,227); value of the properties: CYP 383,657.33 (approximately EUR 655,517);
- applicant no. 4: loss of use: CYP 201,545.70 (approximately EUR 344,361); value of the properties: CYP 205,458.23 (approximately EUR 351,046);
- applicant no. 5: loss of use: CYP 197,142.85 (approximately EUR 336,838); value of the property: CYP 200,969.90 (approximately EUR 343,377).

36. Finally, the Government considered that the amount claimed in respect of non-pecuniary damage was excessive and unrealistic; given the existence of an effective domestic remedy, the Court should keep the award for such damage to a minimum.

2. The Court's assessment

37. The Court recalls that it has concluded that there had been a continuing violation of the applicants' rights guaranteed by Article 8 of the Convention and Article 1 of Protocol No. 1 by reason of the complete denial of the rights of the applicants with respect to their homes and the peaceful enjoyment of their properties in northern Cyprus (see paragraphs 33 and 28 of the principal judgment). Furthermore, its finding of a violation of Article 1 of Protocol No. 1 was based on the fact that, as a consequence of being continuously denied access to their land and real estate since 1974, the applicants had effectively lost all access and control as well as all possibilities to use and enjoy their properties (see paragraph 26 of the principal judgment). They are therefore entitled to a measure of compensation in respect of losses directly related to this violation of their rights as from the date of deposit of Turkey's declaration recognising the right of individual petition under former Article 25 of the Convention, namely 22 January 1987, until the present time (see *Cankoçak v. Turkey*,

nos. 25182/94 and 26956/95, § 26, 20 February 2001, and *Demades v. Turkey* (just satisfaction), no. 16219/90, § 21, 22 April 2008).

38. The Court notes that applicant no. 5 has not submitted any claim with respect to pecuniary damage and has declared that she had transferred her property to her children in 1985, which is before the recognition, by Turkey, of the right of individual petition (see paragraph 19 above). Therefore, no award can be made in her favour under this head (see paragraph 57 of the principal judgment) or under the head of non-pecuniary damage.

39. Applicants nos. 1 to 4 declared that “no changes have been effected to the ownership of [their] properties”. However, notwithstanding an explicit request of the Court (see paragraph 5 above), they have failed to produce any written evidence, such as certificates of ownership of Turkish-occupied immovable properties issued by the Department of Lands and Surveys of the Republic of Cyprus, supporting their statement and/or showing the current ownership of the properties concerned by the principal judgment (see paragraph 6 above). The Court has taken note of this failure; it considers that it may result in a reduction of the awards to be made under the head of pecuniary damage.

40. In the opinion of the Court, the valuations furnished by applicants nos. 1 to 4 involve a significant degree of speculation and make insufficient allowance for the volatility of the property market and its susceptibility to influences both domestic and international (see *Loizidou* (just satisfaction), cited above, § 31). Accordingly, in assessing the pecuniary damage sustained by the applicants, the Court has, as far as appropriate, considered the estimates provided by them (see *Xenides-Arestis* (just satisfaction), cited above, § 41). In general it considers as reasonable the approach to assessing the loss suffered by the applicants with reference to the annual ground rent, calculated as a percentage of the market value of the properties, that could have been earned during the relevant period (*Loizidou* (just satisfaction), cited above, § 33, and *Demades* (just satisfaction), cited above, § 23). Furthermore, the Court has taken into account the uncertainties, inherent in any attempt to quantify the real losses incurred by the applicants (see *Loizidou v. Turkey* (preliminary objections), 23 March 1995, § 102, Series A no. 310, and (merits) 18 December 1996, § 32, *Reports* 1996-VI).

41. The Court notes that notwithstanding its request to submit material relevant to assessing the 1974 market value of the applicants' properties, the parties have produced few elements in this respect. The Government have relied on the accuracy of the IPC's calculations (see paragraphs 27 and 32-33 above), while applicants nos. 1 to 4 have produced synoptic tables showing the prices of sales, in the period 1970-1974, of building sites in the municipal area of Famagusta town and in the Ayios Loukas Quarter of Famagusta (see paragraph 22 above).

42. The Court further observes that applicants nos. 1 to 4 submitted an additional claim in the form of annual compound interest in respect of the losses on account of the delay in the payment of the sums due. While the Court considers that a certain amount of compensation in the form of statutory interest should be awarded to the applicants, it finds that the rates applied by them are on the high side (see, *mutatis mutandis*, *Demades* (just satisfaction), cited above, § 24).

43. Finally, the Court is of the opinion that an award should be made in respect of the anguish and feelings of helplessness and frustration which applicants nos. 1 to 4 must have experienced over the years in not being able to use their properties as they saw fit and to enjoy their homes (see *Demades* (just satisfaction), cited above, § 29, and *Xenides-Arestis* (just satisfaction), cited above, § 47).

44. Having regard to the above considerations, the Court considers that the sums claimed by applicants nos. 1, 2 and 4 in respect of pecuniary and non-pecuniary damage (see paragraphs 21 and 23 above) are excessive. It also recalls that the applicants have failed to submit written evidence of the current ownership of the properties concerned by the principal judgment (see paragraphs 6 and 39 above). It considers that the amount which, according to the Government, the IPC could have offered the applicants in respect of loss of use (the global sum of EUR 1,634,862 – see paragraphs 34-35 above) constitutes a fair basis for compensating the damage sustained by them, having regard to the number, location and physical characteristics of the properties described in paragraphs 15-18 above. Making its assessment on an equitable basis, the Court decides to award the following sums in respect of pecuniary and non-pecuniary damage: EUR 225,000 to applicant no. 1; EUR 120,000 to applicant no. 2; EUR 521,346 to applicant no. 3; EUR 350,000 to applicant no. 4.

B. Costs and expenses

45. In their just satisfaction claims of 27 May 2003, relying on bills from their representative, the applicants sought CYP 3,010.25 (approximately EUR 5,143) each for the costs and expenses incurred before the Court. Applicants nos. 1 to 4 also sought the reimbursement of the costs of the expert's reports assessing the value of their properties (amounting to CYP 402.5, 345, 460 and 402.5 respectively). In their updated claims for just satisfaction of 24 January 2008, applicants nos. 1 to 4 submitted additional bills of costs for the new valuation reports and for legal fees amounting to EUR 392.98 and EUR 982.45 respectively for each of them. Finally, on 14 June 2010 applicants nos. 1 to 4 indicated that the total amount of the costs and expenses for the proceedings before the Court was EUR 6,006.19 for each of them. Applicant no. 5 specified that her previous legal expenses amounted to EUR 4,539.75.

46. The Government did not comment on this point.

47. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum (see, for example, *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 54, ECHR 2000-XI).

48. The Court notes that the case involved perusing a certain amount of factual and documentary evidence and required a fair degree of research and preparation. In particular, the costs associated with producing updated valuation reports in view of the continuing nature of the violations at stake were essential for enabling the Court to reach its decision regarding the issue of just satisfaction (see *Demades* (just satisfaction), cited above, § 34).

49. Although the Court does not doubt that the fees claimed were actually incurred, it considers the amount claimed for the costs and expenses relating to the proceedings before it excessive and decides to award the total sum of EUR 12,000.

C. Default interest

50. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Dismisses* the Government's request to stay the examination of the applicants' claims for just satisfaction;

2. *Holds*

(a) that the respondent State is to pay the applicants, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:

- (i) in respect of pecuniary and non-pecuniary damage: EUR 225,000 (two hundred and twenty-five thousand euros) to applicant no. 1; EUR 120,000 (one hundred and twenty thousand euros) to applicant no. 2; EUR 521,346 (five hundred and twenty-one thousand three hundred and forty-six euros) to applicant no. 3; EUR 350,000 (three hundred and fifty thousand euros) to applicant no. 4, plus any tax that may be chargeable on these sums;
- (ii) EUR 12,000 (twelve thousand euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses;

(b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

3. *Dismisses* the claim for just satisfaction of applicant no. 5 and the remainder of the other applicants' claim for just satisfaction.

Done in English, and notified in writing on 26 October 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Nicolas Bratza
President