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

FOURTH SECTION

CASE OF LOIZOU AND OTHERS v. TURKEY

(Application no. 16682/90)

PARTIAL 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.

COUNCIL OF EUROPE CONSEIL DE L'EUROPE

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 5 October 2010,

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, on 26 January 1990.

2. In a judgment delivered on 22 September 2009 ("the principal judgment"), the Court held that the administrator of the estate of applicant no. 9 had standing to continue the present proceedings in the deceased's stead and decided to strike the application out of the list of cases in so far as it concerned applicants nos. 18 to 29 and to continue the examination of the application with regard to applicants nos. 1 to 17 (hereinafter, "the applicants" – see the list attached to the present judgment). The Court further 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 applicants nos. 1, 2, 3, 4, 7, 8, 9, 10, 12, 16 and 17 to respect for their homes 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. Finally, it found that it was not necessary to examine the applicants' complaints under Articles 1 and 14 of the Convention and the complaint of applicant no. 14 under Article 8 of the Convention (*Loizou and Others v. Turkey*, no. 16682/90, §§ 47, 52, 53, 59, 60, 76, 83, 89 and 92, and points 1-8 of the operative provisions, 22 September 2009).

3. Under Article 41 of the Convention the applicants sought just satisfaction for the deprivation of their properties concerning the period between January 1987 and 1999. Several valuation reports, setting out the basis of their loss, were appended to their observations. Furthermore, the applicants claimed approximately 68,344 euros (EUR) each for non-pecuniary damage and a sum 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., §§ 120 and 123, and point 9 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 21 June 2010 some of the applicants produced certificates of ownership of Turkish-occupied immovable properties issued by the Department of Lands and Surveys of the Republic of Cyprus. It transpires from these documents that:

(a) on 7 May 2010 the properties claimed by applicant no. 1 (Mr Andreas Loizou) described in paragraph 15 below were registered in the name of “Loizou Petros” and “Loizidou Eleni”, each of them owning ½ share (date of the transfer of ownership from applicant no. 1: 10 August 2004);

(b) on 14 May 2010 the properties claimed by applicant no. 2 (Mr Kostas Panage) described in paragraph 16 below were registered in the names of “Androulla Panayi Trasivoulou”, “Elpida Panayi Michael” and “Panayiotis Costas Panayi” (date of the last transfer of ownership: 6 November 2007);

(c) on 7 May 2010 the property described in paragraph 18 below was still registered in the name of applicant no. 4 (Mr Vasos Sofroniou);

(d) on 7 May 2010 the properties described in paragraph 20 (a) and (b) below were still registered in the name of applicant no. 6 (Mr Kostas Grigoriades), while the properties described in paragraph 20 (c), (d) and (e) below were registered in the name of “Grigoriades Yiannakis” and “Grigoriades Grigoris” (year of the last transfer of ownership: 2006);

(e) On 7 May 2010 the properties claimed by applicant no. 7 (Mr Alekos Panteli) described in paragraph 21 (a), (b), (c) and (d) below were registered in the name of “Panteli Sotirakis”, “Panteli Michalakis” and “Panteli Panteli” (the dates of the last transfers of ownership were 12 October and 2 November 2001); the properties described in paragraph 21 (e) and (f) below were registered in the name of "Sunshore Estate Limited" (see paragraph 26 of the principal judgment, where it is specified that in respect of these properties the applicant had produced the contracts of sale by which he had purchased them);

(f) on 19 April 2010, the properties claimed by applicant no. 8 (Mr Yannis Charalambous) described in paragraph 22 below were registered in the names of "Savva Andreas", "Charalambous Sotiris", "Charalambous Maria", "Charalambous Despina", "Charalambous Savvas", "Charalambous Stelios", "Charalambous Loizou Antigoni" and "Charalambous Pavlos" (dates of the transfers of ownership from applicant no. 8: 19 and 26 August 2002);

(g) in April and May 2010 the building sites and fields described in paragraph 23 below were still registered in the name of applicant no. 9 (Mr Kostas Kalisperas), while the plot of land on which his house was located was registered in the name of "Georgike Epichrisis Kalisperas Ltd";

(h) on 21 April 2010 the properties described in paragraph 24 (a) and (d) below were still registered in the name of applicant no. 10 (Mr Kostas Mavroudis), while the other properties described in paragraph 24 below were registered in the names of "Mavroudi Elli", "Mavroudi Savvas" and "Madroudi Christodoulos" (date of the transfer of ownership from applicant no. 10: 12 June 2008);

(i) on 21 April 2010 the properties claimed by applicant no. 11 (Mr Paraschos Theothoulou) described in paragraph 25 (a), (b), (c), (d) and (e) below were registered in the name of "Klonou Maria"; the properties described in paragraph 25 (f), (g) and (i) below were registered in the name of "Theodoulou Theodoulos"; the properties described in paragraph 25 (h), (l) and (m) below were registered in the name of "Theodoulou Euripides"; the properties described in paragraph 25 (j), and (k) below were registered in the name of "Paraskeva Paraschos" (date of the last transfer of ownership: 20 May 2008 – for one of the properties, 29 November 2002);

(j) on 14 May 2010 the properties claimed by applicant no. 12 (Mr Charalampos Bakaloures) described in paragraph 26 (a), (b), (c), (d), (e) and (f) below were registered in the name of "Theodosia Isaia", "Despo Protopapa", "Nevi N. Adonou" and "Isabella Ch. Bakalouri" (date of the last transfer of ownership: 28 July 1998); no evidence of current ownership was produced for the properties described in paragraph 26 (g), (h), (i) and (j) below;

(k) on 7 May 2010 the property described in paragraph 27 below was still registered in the name of applicant no. 13 (Frixos Constantinou Ltd.);

(l) on 14 May 2010 the properties described in paragraph 28 (c) and (d) below were still registered in the name of applicant no. 14 (Mr Andreas Zodiates); on the same date, the properties claimed by him and described in paragraph 28 (a) and (b) below were registered in the name of "Georgiou Charalambou";

(m) on 23 April 2010 the properties described in paragraph 29 below were still registered in the name of applicant no. 15 (Mr Takis N. Georgiades);

(n) on 14 May 2010 the properties described in paragraph 30 below were registered in the name of "Hadjinicolas Nicolas", the father of applicant no. 16 (Mr Ioannis Hadjinikolas Kamilares – see paragraphs 43 and 72 and of the principal judgment);

(o) on 26 April 2010 the properties described in paragraph 31 below were still registered in the name of applicant no. 17 (Mr Pantelis Demetri).

No evidence of current ownership was submitted for the properties claimed by applicant no. 3 (Mr Sotiris Panage) described in paragraph 17 below. He failed to respond to his lawyer's correspondence and advised him that he did not wish to be represented by him any further in the present case. The applicants' lawyer specified that he had lost trace of applicant no. 16 and that applicant no. 13 had failed to respond to his communications. On 12 October and 2 November 2001 Applicant no. 7 had transferred most of the properties to his children who were "not interested" in incurring further expenses. Applicant no. 5 (Motovia Ltd.) submitted certificates of registration of the properties described in paragraph 19 below which were issued on an unspecified date.

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 60 of the principal judgment and point 3 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 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.

14. 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.

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

(a) property described in paragraph 13 (a) of the principal judgment (Karavas, plot no. 76/1, sheet/plan XII/9W1, registration no. 5737, lemon plantation; share: whole; area: 5,352 square metres – m²): market value CYP 37,464 (approximately EUR 64,010); rental value CYP 2,248;

(b) property described in paragraph 13 (b) of the principal judgment (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 m²): market value CYP 66,500 (approximately EUR 113,621); rental value CYP 2,660;

(c) property described in paragraph 13 (c) of the principal judgment (Karavas, plot no. 99, sheet/plan XII/9W2, registration no. 996, olive grove; share: whole; area: 2,007 m²): market value CYP 7,025 (approximately EUR 12,002); rental value CYP 442.

16. 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:

(a) property described in paragraph 15 (a) of the principal judgment (Nicosia/Yerolakkos, plot no. 694, sheet/plan 21/34&42vill., registration no. A590, land with a two-storey house; share: ½; area: 560 m²): market value CYP 6,910 (approximately EUR 11,806); rental value CYP 276;

(b) property described in paragraph 15 (b) of the principal judgment (Nicosia/Yerolakkos, plot no. 52, sheet/plan 21/42E1&E2, registration no. H48, field; share: whole; area: 4,952 m²): market value CYP 9,904 (approximately EUR 16,921); rental value CYP 594;

(c) property described in paragraph 15 (c) of the principal judgment (Nicosia/Yerolakkos, plot no. 32, sheet/plan 21/35W1, registration no. F30, field; share: whole; area: 9,542 m²): rental value CYP 19;

(d) property described in paragraph 15 (d) of the principal judgment (Nicosia/Yerolakkos, plot no. 147, sheet/plan 21/27W2, registration no. E130, field; share: whole; area: 10,759 m²): rental value CYP 22;

(e) property described in paragraph 15 (e) of the principal judgment (Nicosia/Yerolakkos, plot no. 539, sheet/plan 21/27W2, registration no. E478, field; share: whole; area: 6,086 m²): rental value CYP 12;

(f) property described in paragraph 15 (f) of the principal judgment (Nicosia/Yerolakkos, plot no. 332, sheet/plan 21/34E1, registration no. E299, field; share: 5/24; area: 8,548 m²): rental value CYP 4.

17. 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:

(a) property described in paragraph 17 (a) of the principal judgment (Nicosia/Mammari, plot no. 485, sheet/plan 21/33, registration no. 8433, field; share: whole; area: 2,973 m²): rental value CYP 7;

(b) property described in paragraph 17 (b) of the principal judgment (Nicosia/Yerolakkos, plot no. 332, sheet/plan 21/34E1, registration no. E299, field; share: 5/24; area: 8,548 m²): rental value CYP 4;

(c) property described in paragraph 17 (c) of the principal judgment (Nicosia/Yerolakkos, plot no. 148, sheet/plan 21/35E2&E1, registration no. L133, field; share: whole; area: 27,648 m²): rental value CYP 55;

(d) property described in paragraph 17 (d) of the principal judgment (Nicosia/Yerolakkos, plot no. 691, sheet/plan 21/34&42vill., registration no. A587, land with ground-storey house; share: whole; area: 509 m²: market value CYP 11,663 (approximately EUR 19,927); rental value CYP 466.

18. 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 of the principal judgment (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: 911 m²) was CYP 28,875 (approximately EUR 49,335), while its rental value was CYP 1,505.

19. 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:

(a) property described in paragraph 21 (a) of the principal judgment (Nicosia/Ayios Dhometios, plot no. 140, sheet/plan 21/37.6.4, registration no. J143, building land; share: whole; area: 543 m²): market value CYP 5,430 (approximately EUR 9,277); rental value CYP 326;

(b) property described in paragraph 21 (b) of the principal judgment (Nicosia/Ayios Dhometios, plot no. 141, sheet/plan 21/37.6.4, registration no. J144, building land; share: whole; area: 561 m²): market value CYP 5,049 (approximately EUR 8,626); rental value CYP 303;

(c) property described in paragraph 21 (c) of the principal judgment (Nicosia/Ayios Dhometios, plot no. 142, sheet/plan 21/37.6.4, registration no. J145, building land; share: whole; area: 545 m²): market value CYP 4,905 (approximately EUR 8,380); rental value CYP 294;

(d) property described in paragraph 21 (d) of the principal judgment (Nicosia/Ayios Dhometios, plot no. 143, sheet/plan 21/37.6.4, registration no. J146, building land; share: whole; area: 539 m²): market value CYP 5,390 (approximately EUR 9,209); rental value CYP 323.

20. 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:

(a) property described in paragraph 23 (a) of the principal judgment (Nicosia/Yerolakkos, plot no. 366, sheet/plan XXI/35E2&43E1, registration no. F337, field plus a room; share: ¼; area: 5,175 m²): market value CYP 3,881 (approximately EUR 6,631); rental value CYP 233;

(b) property described in paragraph 23 (b) of the principal judgment (Nicosia/Yerolakkos, plot no. 545, sheet/plan XXI/43E1, registration no. F508, field; share: ¼; area: 378 m²): market value CYP 756 (approximately EUR 1,291); rental value CYP 45;

(c) property described in paragraph 23 (c) of the principal judgment (Trimithi, plot no. 51/3, sheet/plan XII/10E1&E2, registration no. 2333, field with trees; share: ¼; area: 9,773 m²): market value CYP 9,773 (approximately EUR 16,698); rental value CYP 586;

(d) property described in paragraph 23 (d) of the principal judgment (Karavas, plot no. 315/2, sheet/plan XI/16E2, registration no. 237, lemon plantation and orchard; share: whole; area: 4,086 m²): market value CYP 16,344 (approximately EUR 27,925); rental value CYP 981;

(e) property described in paragraph 23 (e) of the principal judgment (Karavas, plot no. 316, sheet/plan XI/16E2, lemon plantation and orchard; share: ½; area: 3,893 m²): market value CYP 7,786 (approximately EUR 13,303); rental value CYP 467.

21. 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:

(a) property described in paragraph 25 (a) of the principal judgment (Leonarissos, plot no. 105/1, sheet/plan 8/3VIL, building land; share: whole; area: 236 m²): market value CYP 236 (approximately EUR 403); rental value CYP 14;

(b) property described in paragraph 25 (b) of the principal judgment (Leonarissos, plots nos. 110, 111, 115, sheet/plan 8/3VIL, house and yard; share: whole; area: 1,419 m²): market value CYP 10,219 (approximately EUR 17,460); rental value CYP 409;

(c) property described in paragraph 25 (c) of the principal judgment (Dherynia, plot no. 473/4, sheet/plan 33/36.E.1, building land; share: whole; area: 532 m²): market value CYP 1,862 (approximately EUR 3,181); rental value CYP 112;

(d) property described in paragraph 25 (d) of the principal judgment (Dherynia, plot no. 473/7, sheet/plan 33/36.E.1, building land; share: whole; area: 527 m²): market value CYP 1,845 (approximately EUR 3,152); rental value CYP 111;

(e) property described in paragraph 25 (e) of the principal judgment (Famagusta, plot no. 95-98, sheet/plan 33/21.2.III, registration no. C95-C98, flat; share: whole; area: 100 m²): market value CYP 12,000 (approximately EUR 20,503); rental value CYP 720;

(f) property described in paragraph 25 (f) of the principal judgment (Famagusta, plot no. 95-98, sheet/plan 33/21.2.III, registration no. C95-C98, flat; share: whole; area: 120 m²): market value CYP 14,400 (approximately EUR 24,603); rental value CYP 864.

22. 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 of the principal judgment (14 fields, 2 garden groves, one orchard and one borehole in the villages of Karmi, Trimithi and Karavas) was CYP 177,729 (approximately EUR 303,667), 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:

(a) property described in paragraph 28 (a) of the principal judgment (Karmi, plot no. 184, sheet/plan 12/26VIL, house with yard; share: ½; area: 487 m²): market value CYP 5,138 (approximately EUR 8,778); rental value CYP 206;

(b) property described in paragraph 28 (b) of the principal judgment (Karmi, plot no. 23/2, sheet/plan 12/35E1, factory; share: whole; area: 2,598 m²): market value CYP 4,228 (approximately EUR 7,223); rental value CYP 296;

(c) property described in paragraph 28 (c) of the principal judgment (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 m²): market value CYP 10,620 (approximately EUR 18,145); rental value CYP 425;

(d) property described in paragraph 28 (d) of the principal judgment (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 m²): market value CYP 12,690 (approximately EUR 21,682); rental value CYP 508;

(e) property described in paragraph 28 (e) of the principal judgment (Karavas, plot no. 480, sheet/plan 12/17W2, registration no. 2378, factory; share: whole; area: 1,711 m²): market value CYP 4,222 (approximately EUR 7,213); rental value CYP 296.

23. 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 six building sites mentioned in paragraph 30 of the principal judgment (three of which had a total area of 2,008 m²) was

CYP 78,614 (approximately EUR 134,319), while their total rental value was CYP 4,716. The 1974 annual rent obtainable from his 25 fields (of a total area of 5,138,995 m²) was CYP 14,688 (approximately EUR 28,513). The 1974 market value of the applicant's house with yard (Pano Dikomo, plot no. 18, sheet/plan XII/54W1, registration no. 825; area: 8,696 m²) was CYP 19,600 (approximately EUR 33,488) and its rental value was CYP 1,087.

24. 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:

(a) property described in paragraph 32 (a) of the principal judgment (Kazaphani, plot no. 468.469, sheet/plan 12/21E2, field with trees; share: whole; area: 9,477 m²): market value CYP 17,059 (approximately EUR 29,147); rental value CYP 1,024;

(b) property described in paragraph 32 (b) of the principal judgment (Ayios Yeoryios, plot no. 121/1/1, sheet/plan 12/11W2, ground-storey residence with yard; share: whole; area: 354 m²): market value CYP 22,800 (approximately EUR 38,956); rental value CYP 1,140;

(c) property described in paragraph 32 (c) of the principal judgment (Ayios Yeoryios, plots nos. 15/4/4, 176, sheet/plan 12/19W1, building land; share: ¾; area: 494 m²): market value CYP 5,434 (approximately EUR 9,284); rental value CYP 326;

(d) property described in paragraph 32 (d) of the principal judgment (Ayios Yeoryios, plot no. 14/3, sheet/plan 12/19W1, factory; share: whole; area: 574 m²): market value CYP 20,670 (approximately EUR 35,316); rental value CYP 1,654;

(e) property described in paragraph 32 (e) of the principal judgment (Ayios Yeoryios, plots nos. 14/4, 15/4/7, sheet/plan 12/19W1, building land; share: whole; area: 586 m²): market value CYP 6,446 (approximately EUR 11,013); rental value CYP 387;

(f) property described in paragraph 32 (f) of the principal judgment (Ayios Yeoryios, plots nos. 14/5, 15/4/6, sheet/plan 12/19W1, building land; share: whole; area: 557 m²): market value CYP 5,570 (approximately EUR 9,516); rental value CYP 334;

(g) property described in paragraph 32 (g) of the principal judgment (Ayios Yeoryios, plots nos. 14/6, 15/4/5, 176, 3/5, sheet/plan 12/19W1, building land; share: whole; area: 529 m²): market value CYP 5,290 (approximately EUR 9,038); rental value CYP 317;

(h) property described in paragraph 32 (h) of the principal judgment (Templos, plots nos. 198/2/1, 176, 3/4, sheet/plan 12/19E1, field with trees; share: ½; area: 7,910 m²): market value CYP 15,820 (approximately EUR 27,030); rental value CYP 949;

(i) property described in paragraph 32 (i) of the principal judgment (Karmi, plot no. 72/1/88, sheet/plan 12/19W1, building land; share: whole;

area: 584 m²): market value CYP 5,256 (approximately EUR 8,980); rental value CYP 315.

25. 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 described in paragraph 34 of the principal judgment was CYP 42,212.64 (approximately EUR 72,124), while their rental value was CYP 2,446.82.

The said properties were registered as follows:

(a) Bellapais, plot no. 53/1, sheet/plan XII/36W2, registration no. 1305, one room; share: 1/16; area: 14 m²;

(b) Bellapais, plot no. 52/4, sheet/plan XII/36W2&35E2, registration no. 5202, carob and olive grove; share: 1/8; area: 5,686 m²;

(c) Bellapais, plot no. 52/2, sheet/plan XII/36W2, registration no. 5201, carob and olive grove; share: 1/8; area: 17,392 m²;

(d) Bellapais, plot no. 28/2, sheet/plan XII/36W1&W2, registration no. 5200, carob and olive grove; share: 1/8; area: 57,860 m²;

(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 m²;

(f) Bellapais, plot no. 468, sheet/plan XII/29E2, registration no. 258, field with olive and carob trees; share: whole; area: 3,679 m²;

(g) Kazaphani, plot no. 306/1, sheet/plan XII/30W2, registration no. 6450, field with olive and carob trees; share: whole; area: 1,673 m²;

(h) Kazaphani, plot no. 453, sheet/plan XII/21E2, registration no. 6431, field with olive and carob trees; share: 1/8; area: 4,683 m²;

(i) Kazaphani, plot no. 305, sheet/plan XII/30W2, field; share: whole; area: 2,448 m²;

(j) Kazaphani, plot no. 302, sheet/plan XII/30W2, field with trees; share: whole; area: 1,133 m²;

(k) Kazaphani, plot no. 304/1, sheet/plan XII/30W2, building land; share: whole; area: 1,763 m²;

(l) Karakoumi, plots nos. 384/3, 414/2, sheet/plan XII/21E2, registration no. 217, field; share: 1/8; area: 790 m²;

(m) Karakoumi, plots nos. 413, sheet/plan XII/21E2, house and yard; share: 1/8; area: 6,002 m².

26. 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:

(a) property described in paragraph 36 (a) of the principal judgment (Nicosia/Karavostasi (Soloi), plot no. 99, sheet/plan 19/58.W2, registration no. A130, one-room house; share: whole; area: 14 m²): market value CYP 252 (approximately EUR 430); rental value CYP 10;

(b) property described in paragraph 36 (b) of the principal judgment (Nicosia/Karavostasi (Soloi), plot no. 102, sheet/plan 19/58.W2, registration no. A133, one-room house; share: ½; area: 24 m²): market value CYP 222 (approximately EUR 379); rental value CYP 9;

(c) property described in paragraph 36 (c) of the principal judgment (Nicosia/Karavostasi (Soloi), plot no. 103, sheet/plan 19/58.W2, registration no. A134, house and yard; share: ½; area: 93 m²): market value CYP 729 (approximately EUR 1,245); rental value CYP 29;

(d) property described in paragraph 36 (d) of the principal judgment (Nicosia/Karavostasi (Soloi), plot no. 97, sheet/plan 28/2.W1, registration no. B154, field; share: ½; area: 13,443 m²): rental value CYP 336 (approximately EUR 574);

(e) property described in paragraph 36 (e) of the principal judgment (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 m²): market value CYP 37,856 (approximately EUR 64,680); rental value CYP 1,914;

(f) property described in paragraph 36 (f) of the principal judgment (Nicosia/Karavostasi (Xeros), plot no. 190, sheet/plan 19/58.6.3, registration no. A178, field; share: whole; area: 6,129 m²): market value CYP 42,774 (approximately EUR 73,083); rental value CYP 2,566;

(g) property described in paragraph 36 (g) of the principal judgment (Nicosia/Peristeronari, plot no. 39, sheet/plan 28/3.E1, registration no. B77, field; share: ½; area: 18,061 m²): rental value CYP 12 (approximately EUR 20);

(h) property described in paragraph 36 (h) of the principal judgment (Nicosia/Ambelikou, plot no. 214/2, sheet/plan 28/2, registration no. 7541, field; share: ½; area: 13,954 m²): rental value CYP 314 (approximately EUR 536);

(i) property described in paragraph 36 (i) of the principal judgment (Nicosia/Ambelikou, plot no. 132/2, sheet/plan 28/2, registration no. 7542, field; share: whole; area: 790 m²): rental value CYP 36 (approximately EUR 61);

(j) property described in paragraph 36 (j) of the principal judgment (Nicosia/Ambelikou, plot no. 223, sheet/plan 28/1, registration no. 7489, field; share: ½; area: 6,689 m²): rental value CYP 7 (approximately EUR 12).

27. <u>Applicant no. 13, Frixos Constantinou Ltd.</u>, sought CYP 14,927 (approximately EUR 25,504). According to the expert, the 1974 market value of the house described in paragraph 38 of the principal judgment (Argaki, plot no. 99, sheet/plan XXI/42vill, registration no. 2230; area: 693 m²) was CYP 8,136 (approximately EUR 13,901), while its annual rental value was CYP 285.

28. <u>Applicant no. 14, Mr Andreas Zodiates</u>, 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 four orange

plantations described in paragraph 39 of the principal judgment was CYP 346.21 (approximately EUR 591).

His properties were registered as follows:

(a) Kato Zodia, plot no. 589, sheet/plan XIX/48, registration no. 5077, orange plantation; share: ½; area: 4,348 m²;

(b) Kato Zodia, plot no. 576/3, sheet/plan XIX/48, registration no. 5202, orange plantation; share: ½; area: 1,672 m²;

(c) Kato Zodia, plot no. 590, sheet/plan XIX/48, registration no. 5286, orange plantation; share: ½; area: 3,345 m²;

(d) Kato Zodia, plot no. 591, sheet/plan XIX/48, registration no. 3658, orange plantation; share: whole; area: 3,011 m².

29. 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 concerned by the principal judgment were as follows:

(a) property described in paragraph 41 (a) of the principal judgment (Famagusta/Ayios Loukas, plot no. 82, sheet/plan 33/3W1, registration no. 1694, field; share: whole; area: 706 m²): market value CYP 6,001 (approximately EUR 10,253); rental value CYP 300.05;

(b) property described in paragraph 41 (b) of the principal judgment (Famagusta/Ayios Loukas, plot no. 83, sheet/plan 33/3W1, registration no. 1695, field; share: whole; area: 4,181 m²): market value CYP 50,172 (approximately EUR 85,723); rental value CYP 2,508.6;

(c) property described in paragraph 41 (c) of the principal judgment (Famagusta/Ayios Nicolaos, plot no. 133, sheet/plan 33/13.4.I, registration no. 8256, two storey house; share: 1/3; area: 450 m²): market value CYP 16,200 (approximately EUR 27,679); rental value CYP 810;

(d) property described in paragraph 41 (d) of the principal judgment (Famagusta/Engomi, plot no. 2, sheet/plan 24/51W1, registration no. 696, field; share: whole; area: 13,713 m²): market value CYP 68,565 (approximately EUR 117,150); rental value CYP 3,428.25;

(e) property described in paragraph 41 (e) of the principal judgment (Famagusta/Dherynia, plots nos. 129, 130, sheet/plan 33/38W1, registration no. 3432, field; share: whole; area: 203 m²): market value CYP 2,233 (approximately EUR 3,815); rental value CYP 133.98;

(f) property described in paragraph 41 (f) of the principal judgment (Famagusta/Limnia, plot no. 43, sheet/plan 24/49W2, registration no. 2058, field; share: ½; area: 12,375 m²): market value CYP 6,188 (approximately EUR 10,572); rental value CYP 216.56;

(g) property described in paragraph 41 (g) of the principal judgment (Famagusta/Limnia, plot no. 193, sheet/plan 34/57W1, registration no. 2405, field; share: ½; area: 9,365 m²): market value CYP 3,746 (approximately EUR 6,400); rental value CYP 131.11;

(h) property described in paragraph 41 (h) of the principal judgment (Famagusta/Kalopsidha, plot no. 287/3, sheet/plan 32/31E1, registration no. 2879, field; share: ½; area: 8,362 m²): rental value CYP 8.36;

(i) property described in paragraph 41 (i) of the principal judgment (Famagusta/Kalopsidha, plot no. 285, sheet/plan 32/31E1, registration no. 2386, field; share: ½; area: 12,710 m²): rental value CYP 12.71.

In its principal judgment (see paragraph 48) the Court considered that the present application, introduced in 1990, was lodged in the name of the estate of applicant no. 15, who died on 21 April 1976, and that its administrators (Mr Andreas Matsis and Mr Aristotelis Galatopoulos) had *locus standi* to represent the estate's interests.

30. 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 the properties owned by his father (Mr Nicolas Georgiou Hadjinicola Kamilares) were as follows:

(a) property described in paragraph 43 (a) of the principal judgment (Syrianochori, plot no. 142, sheet/plan XIX/14E2, registration no. C95, orange plantation; share: whole; area: 3,614 m²): rental value CYP 163 (approximately EUR 278);

(b) property described in paragraph 43 (b) of the principal judgment (Syrianochori, plot no. 27, sheet/plan XIX/22E1, registration no. D23, orange plantation; share: whole; area: 8,705 m²): rental value CYP 392 (approximately EUR 670);

(c) property described in paragraph 43 (c) of the principal judgment (Syrianochori, plot no. 258, sheet/plan XIX/22E1, registration no. D201, orange and grapefruit plantation; share: whole; area: 19,157 m²): rental value CYP 862 (approximately EUR 1,472);

(d) property described in paragraph 43 (d) of the principal judgment (Morphou/Ayios Mamas, plot no. 409, sheet/plan XIX/32.5.II, registration no. A349, two-storey house and flat; share: whole; area: 323 m²): market value CYP 32,230 (approximately EUR 55,068); rental value CYP 1,329;

(e) property described in paragraph 43 (e) of the principal judgment (Morphou/Ayios Georgios, plot no. 304, sheet/plan XIX/32.6.III, registration no. A247, shop; share: whole; area: 95 m²): market value CYP 4,500 (approximately EUR 7,688); rental value CYP 270;

(f) property described in paragraph 43 (f) of the principal judgment (Morphou/Ayios Georgios, plot no. 303, sheet/plan XIX/32.6.III, registration no. A246, coffee shop; share: whole; area: 44 m²): market value CYP 2,250 (approximately EUR 3,844); rental value CYP 135.

31. Applicant no. 17, Mr Pantelis Demetri, sought CYP 3,669 (approximately EUR 6,268). According to the expert, the 1974 market value of his half share in the house described in paragraph 45 of the principal judgment (Stylloi, plots nos. 148, 149, sheet/plan 23/48vil; area: 506 m²)

was CYP 1,750 (approximately EUR 2,990), while at that period an annual rent of CYP 70 could have been obtained from renting it out.

32. 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.

33. On 21 June 2010 the some of the applicants produced revised valuation reports, which were meant to cover the loss of use for the period between 1 January 1987 and June 2010 or until the date on which the properties concerned by the principal judgment were transferred to third persons. On the basis of the criteria used in the previous reports, the expert appointed by the applicants considered that the sums due to his clients for loss of use were the following:

- EUR 2,013,139 to applicant no. 1 (from 1 January 1987 until 10 August 2004 – the date on which applicant no. 1 transferred the properties described in paragraph 15 above to "Loizou Petros" and "Loizidou Eleni" – see paragraph 6 (a) above);
- EUR 702,000 to applicant no. 2;
- EUR 522,000 to applicant no. 4;
- EUR 1,668,229 to applicant no. 5;
- EUR 1,258,000 to applicant no. 6;
- EUR 5,107,140 to applicant no. 8 (from 1 January 1987 until August 2002 – the date on which applicant no. 8 transferred the properties described in paragraph 22 above to "Savva Andreas", "Charalambous Sotiris", "Charalambous Maria", "Charalambous Despina", "Charalambous Savvas", "Charalambous Stelios", "Charalambous Loizou Antigoni" and "Charalambous Pavlos" – see paragraph 6 (f) above);
- EUR 12,082,000 to applicant no. 9;
- EUR 4,248,943 to applicant no. 10 (from 1 January 1987 until June 2010 for the properties described in paragraph 24 (a) and (d) above; for the other properties from 1 January 1987 until 12 June 2008 – presumably the date on which applicant no. 10 transferred them to "Mavroudi Elli", "Mavroudi Savvas" and "Madroudi Christodoulos" – see paragraph 6 (h) above);
- EUR 2,368,359 to applicant no. 11 (from 1 January 1987 until 20 May 2008 (for one property until 29 November 2002); – these are presumably the dates on which applicant no. 11 transferred the properties described in paragraph 25 above to "Klonou Maria", "Theodoulou Theodoulos", "Theodoulou Euripides" and "Paraskeva Paraschos" – see paragraph 6 (i) above);
- EUR 1,465,000 to applicant no. 12;
- EUR 86,000 to applicant no. 14;
- EUR 9,420,726 to applicant no. 15;

- EUR 17,629 to applicant no. 17.

Applicants nos. 3, 7, 13 and 16 did not submit any updated valuation reports.

34. The expert appointed by the applicants submitted various synoptic tables showing sales of comparable plots in the areas where the properties concerned by the principal judgment were located. He alleged that, in general, these sales showed that both the 1974 prices of the properties and the annual increase in their values, as estimated in the previous reports, were fair and reasonable.

35. 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 v. Turkey* case ((just satisfaction), 28 July 1998, *Reports of Judgments and Decisions* 1998-IV) 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

36. The Government filed comments on the applicants' claims for just satisfaction on 15 September 2008 and 22 June 2010. They noted that 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.

37. The Government further observed 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.

38. 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.

39. 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).

40. 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.

41. 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”.

42. The report prepared by the Turkish-Cypriot authorities indicated that it would be possible to envisage, either immediately or after the resolution of the Cyprus problem, restitution of some of the applicants' properties. The other properties concerned by the principal judgment were possessed by refugees; they could therefore not be subject to restitution but could give entitlement to financial compensation. Had the applicants applied to the IPC, the latter would have offered them, in total, CYP 2,650,494.46 (approximately EUR 4,528,634) to compensate the loss of use and CYP 2,701,942.42 (approximately EUR 4,616,538) for the value of the properties.

43. The expert appointed by the authorities of the “TRNC” indicated that the 1974 open-market values of the applicants' properties were the following:

Applicant no. 1:

- property described in paragraph 15 (a) above: CYP 14,000 (approximately EUR 23,920);

- property described in paragraph 15 (b) above: CYP 26,000 (approximately EUR 44,423);
- property described in paragraph 15 (c) above: CYP 1,200 (approximately EUR 2,050).

Applicant no. 2:

- property described in paragraph 16 (a) above: CYP 2,500 (approximately EUR 4,271);
- property described in paragraph 16 (b) above: CYP 185 (approximately EUR 316);
- property described in paragraph 16 (c) above: CYP 245 (approximately EUR 418);
- property described in paragraph 16 (d) above: CYP 280 (approximately EUR 478);
- property described in paragraph 16 (e) above: CYP 160 (approximately EUR 273);
- property described in paragraph 16 (f) above: CYP 45.80 (approximately EUR 78).

Applicant no. 3:

- property described in paragraph 17 (a) above: CYP 70 (approximately EUR 119);
- property described in paragraph 17 (b) above: CYP 45.80 (approximately EUR 78);
- property described in paragraph 17 (c) above: CYP 720 (approximately EUR 1,230);
- property described in paragraph 17 (d) above: CYP 1,500 (approximately EUR 2,563).

Applicant no. 4:

- property described in paragraph 18 above: CYP 3,000 (approximately EUR 5,125).

Applicant no. 5:

- properties described in paragraph 19 (a), (b), (c) and (d) above: CYP 2,000 (approximately EUR 3,417) each.

Applicant no. 6:

- property described in paragraph 20 (a) above: CYP 58.75 (approximately EUR 100);
- property described in paragraph 20 (b) above: CYP 50 (approximately EUR 85);
- property described in paragraph 20 (c) above: CYP 4,620 (approximately EUR 7,893);
- property described in paragraph 20 (d) above: CYP 6,000 (approximately EUR 10,251);
- property described in paragraph 20 (e) above: CYP 3,000 (approximately EUR 5,125).

Applicant no. 7:

- property described in paragraph 21 (a) above: CYP 600 (approximately EUR 1,025);
- property described in paragraph 21 (b) above: CYP 600 (approximately EUR 1,025);
- property described in paragraph 21 (c) above: CYP 4,000 (approximately EUR 6,834);
- property described in paragraph 21 (d) above: CYP 4,000 (approximately EUR 6,834);
- property described in paragraph 21 (e) above: CYP 10,000 (approximately EUR 17,086);
- property described in paragraph 21 (f) above: CYP 15,000 (approximately EUR 25,629).

Applicant no. 8:

- property described in paragraph 22 (a) above: CYP 700 (approximately EUR 1,196);
- property described in paragraph 22 (b) above: CYP 1,120 (approximately EUR 1,913);
- property described in paragraph 22 (e) above: CYP 625 (approximately EUR 1,067).

No estimate was given for the other properties owned by applicant no. 8 (see paragraph 22 above).

Applicant no. 9:

CYP 195 (approximately EUR 333) for one of the applicant's properties. No estimate was given for the other properties owned by applicant no. 9 described in paragraph 23 above.

Applicant no. 10:

- property described in paragraph 24 (b) above: CYP 10,000 (approximately EUR 17,086);
- property described in paragraph 24 (c) above: CYP 2,250 (approximately EUR 3,844);
- property described in paragraph 24 (d) above: CYP 4,500 (approximately EUR 7,688);
- properties described in paragraph 24 (e), (f), (g) and (i) above: CYP 3,500 (approximately EUR 5,980) each;
- property described in paragraph 24 (h) above: CYP 5,700 (approximately EUR 9,739).

No estimate was given for the field described in paragraph 24 (a) above.

Applicant no. 11:

- property described in paragraph 25 (a) above: CYP 6.25 (approximately EUR 10);
- property described in paragraph 25 (b) above: CYP 159.30 (approximately EUR 272);
- property described in paragraph 25 (c) above: CYP 487.50 (approximately EUR 833);

- property described in paragraph 25 (d) above: CYP 1,081.25 (approximately EUR 1,847);
- property described in paragraph 25 (e) above: CYP 1,112.50 (approximately EUR 1,900);
- property described in paragraph 25 (f) above: CYP 2,750 (approximately EUR 4,698);
- property described in paragraph 25 (g) above: CYP 2,500 (approximately EUR 4,271);
- property described in paragraph 25 (h) above: CYP 6,125 (approximately EUR 10,465);
- property described in paragraph 25 (i) above: CYP 3,500 (approximately EUR 5,980);
- property described in paragraph 25 (j) above: CYP 1,700 (approximately EUR 2,904);
- property described in paragraph 25 (k) above: CYP 2,500 (approximately EUR 4,271);
- property described in paragraph 25 (l) above: CYP 100 (approximately EUR 170);
- property described in paragraph 25 (m) above: CYP 1,250 (approximately EUR 2,135).

Applicant no. 12:

- property described in paragraph 26 (a) above: CYP 850 (approximately EUR 1,452);
- property described in paragraph 26 (b) above: CYP 500 (approximately EUR 854);
- property described in paragraph 26 (c) above: CYP 500 (approximately EUR 854);
- property described in paragraph 26 (d) above: CYP 30 (approximately EUR 51) "per donum" (unit of area used in the Ottoman Empire and normally corresponding to "forty standard paces in length and breadth");
- property described in paragraph 26 (e) above: CYP 3,000 (approximately EUR 5,125);
- property described in paragraph 26 (f) above: CYP 160 (approximately EUR 273) "per donum";
- property described in paragraph 26 (g) above: CYP 25 (approximately EUR 42) "per donum";
- properties described in paragraph 26 (h) and (i) above: CYP 35 (approximately EUR 60) "per donum";
- property described in paragraph 26 (j) above: CYP 20 (approximately EUR 34) "per donum".

Applicant no. 13:

- property described in paragraph 27 above: CYP 3,000 (approximately EUR 5,125).

Applicant no. 14:

- properties described in paragraph 28 (a), (b) and (c) above: CYP 30 (approximately EUR 51) "per donum";
- property described in paragraph 28 (d) above: CYP 60 (approximately EUR 102) "per donum".

Applicant no. 15:
- property described in paragraph 29 (a) above: CYP 200 (approximately EUR 341);
- property described in paragraph 29 (b) above: CYP 4,500 (approximately EUR 7,688);
- property described in paragraph 29 (c) above: CYP 20,000 (approximately EUR 34,172);
- property described in paragraph 29 (d) above: CYP 20,500 (approximately EUR 35,026);
- property described in paragraph 29 (e) above: CYP 1,600 (approximately EUR 2,733);
- property described in paragraph 29 (f) above: CYP 1,387.50 (approximately EUR 2,370);
- property described in paragraph 29 (g) above: CYP 1,050 (approximately EUR 1,794);
- property described in paragraph 29 (h) above: CYP 312.50 (approximately EUR 534);
- property described in paragraph 29 (i) above: CYP 475 (approximately EUR 811).

Applicant no. 16:
- property described in paragraph 30 (a) above: CYP 60 (approximately EUR 102) "per donum";
- properties described in paragraph 30 (b) and (c) above: CYP 600 (approximately EUR 1,025) "per donum";
- property described in paragraph 30 (d) above: CYP 3,000 (approximately EUR 5,125);
- properties described in paragraph 30 (e) and (f) above: CYP 2,000 (approximately EUR 3,417) each.

Applicant no. 17:
- property described in paragraph 31 above: CYP 2,050 (approximately EUR 3,502).

44. In the light of the above values, the IPC would have offered the following sums for each applicant:
- applicant no. 1: loss of use: CYP 462,591.60 (approximately EUR 790,384); value of the properties: CYP 471,571.72 (approximately EUR 805,727);
- applicant no. 2: loss of use: CYP 38,352.44 (approximately EUR 65,529); value of the properties: CYP 39,096.96 (approximately EUR 66,801);

- applicant no. 3: loss of use: CYP 26,226.26 (approximately EUR 44,810); value of the properties: CYP 26,735.36 (approximately EUR 45,680);
- applicant no. 4: loss of use: CYP 33,683.86 (approximately EUR 57,552); value of the properties: CYP 34,337.75 (approximately EUR 58,669);
- applicant no. 5: loss of use: CYP 89,823.60 (approximately EUR 153,472); value of the properties: CYP 91,567.32 (approximately EUR 156,452);
- applicant no. 6: loss of use: CYP 154,145.75 (approximately EUR 263,373); value of the properties: CYP 157,138.12 (approximately EUR 268,486);
- applicant no. 7: loss of use: CYP 383,995.96 (approximately EUR 656,095); value of the properties: CYP 391,450.30 (approximately EUR 668,832);
- applicant no. 8: loss of use: CYP 20,434.88 (approximately EUR 34,915); value of the properties: CYP 20,831.57 (approximately EUR 35,593);
- applicant no. 10: loss of use: CYP 409,258.84 (approximately EUR 699,259); value of the properties: CYP 417,203.60 (approximately EUR 712,834);
- applicant no. 11: loss of use: CYP 261,294.65 (approximately EUR 446,448); value of the properties: CYP 266,367.05 (approximately EUR 455,114);
- applicant no. 12: loss of use: CYP 57,880.11 (approximately EUR 98,894); value of the properties: CYP 59,003.72 (approximately EUR 100,814);
- applicant no. 13: loss of use: CYP 33,683.86 (approximately EUR 57,552); value of the properties: CYP 34,337.75 (approximately EUR 58,669);
- applicant no. 14: loss of use: CYP 1,684.20 (approximately EUR 2,877); value of the properties: CYP 1,716.89 (approximately EUR 2,933);
- applicant no. 15: loss of use: CYP 561,678.27 (approximately EUR 959,683); value of the properties: CYP 572,581.92 (approximately EUR 978,313);
- applicant no. 16: loss of use: CYP 92,742.88 (approximately EUR 158,460); value of the properties: CYP 94,543.26 (approximately EUR 161,536);
- applicant no. 17: loss of use: CYP 23,017.30 (approximately EUR 39,327); value of the properties: CYP 23,464,13 (approximately EUR 40,090).

No estimate was given in relation to applicant no. 9.

2. *The Court's assessment*

45. The Court recalls that it has concluded that there had been a continuing violation of the applicants' rights guaranteed by Article 1 of Protocol No. 1 by reason of the complete denial of the right of the applicants to the peaceful enjoyment of their properties in northern Cyprus (see paragraph 76 of the principal judgment). There had also been a continuing violation of Article 8 of the Convention by reason of the denial of the right of applicants nos. 1, 2, 3, 4, 7, 8, 9, 10, 12, 16 and 17 to respect for their homes (see paragraph 89 of the principal judgment). Furthermore, the Court's 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 74 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 or until the dates on which they had transferred ownership of the properties concerned by the principal judgment (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).

46. In connection with this, the Court observes that the affirmations of ownership of Turkish-occupied immovable properties produced by the applicants show that in April/May 2010 applicants nos. 4, 9, 13, 15 and 17 and the father of applicant no. 16 were still the owners of the properties concerned by the principal judgment (see paragraph 6 (c), (g), (k), (m), (n) and (o) above). At the same dates, applicants nos. 6, 10 and 14 were the owners of some of the properties described in paragraphs 20, 24 and 28 above, while the other properties claimed by them were registered in the names of third persons. While applicants no. 6 and 10 have indicated that transfers of ownership have occurred in 2006 and 2008, presumably to members of their families (see paragraph 6 (d) and (h) above), applicant no. 14 has failed to explain why on 14 May 2010 the properties described in paragraph 28 (a) and (b) were registered in the name of "Georgiou Charalambou" (see paragraph 6 (l) 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. The same applies to the failure, by applicants nos. 3, 5 and 12, to produce evidence showing the current ownership of the properties described in paragraphs 17, 19 and 26 (g), (h), (i) and (j) above (see paragraph 6 *in fine* and (j) above). Finally, the Court notes that applicants nos. 1, 2, 7, 8, 11 and 12 have transferred their properties respectively on 10 August 2004, 6 November 2007, 12 October and 2 November 2001, 19 and 26 August 2002, 20 May 2008 and 28 July

1998 (see paragraph 6 (a), (b), (e), (f), (i) and (j) above). The beneficiaries of these transfers are presumably members of the applicants' families. This does not, however, alter the fact that the final point of the interference with the right of property of applicants nos. 1, 2, 6, 7, 8, 10, 11 and 12 should be fixed at the date on which the properties concerned by the principal judgment have changed hands.

47. In the opinion of the Court, the valuations furnished by the applicants 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 v. Turkey* (just satisfaction), no. 46347/99, § 41, 7 December 2006). 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).

48. The Court notes that in response to its request to submit material relevant to assessing the 1974 market value of the applicants' properties, the Government have relied on the accuracy of the IPC's calculations (see paragraphs 40-41 above), while the applicants have referred to several sales of comparable plots in the areas where the properties concerned by the principal judgment were located (see paragraph 34 above)

49. The Court further observes that the applicants 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).

50. 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 the applicants 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).

51. Making its assessment on an equitable basis and taking into account both the applicants' claims (see paragraphs 15-35 above) and the offers

made by the IPC (see paragraph 44 above), the Court decides to award the following sums for pecuniary and non-pecuniary damage:

- EUR 800,000 to applicant no. 1;
- EUR 180,000 to applicant no. 2;
- EUR 45,000 to applicant no. 3;
- EUR 275,000 to applicant no. 4;
- EUR 200,000 to applicant no. 5;
- EUR 265,000 to applicant no. 6;
- EUR 250,000 to applicant no. 7;
- EUR 350,000 to applicant no. 8;
- EUR 700,000 to applicant no. 10;
- EUR 450,000 to applicant no. 11;
- EUR 275,000 to applicant no. 12;
- EUR 58,000 to applicant no. 13;
- EUR 20,000 to applicant no. 14;
- EUR 960,000 to the administrators of the estate of applicant no. 15;
- EUR 280,000 to applicant no. 16;
- EUR 17,629 to applicant no. 17.

52. As regards applicant no. 9 (Mr Kostas Kalisperas), the Court notes that the expert appointed by the authorities of the "TRNC" indicated the open-market value of only one of his properties (see paragraph 43 above). However, Mr Kostas Kalisperas owned six building sites, 25 fields and one house with yard (see paragraph 23 above). Moreover, no estimate was given by the IPC as to the sums which might have been offered to the administrator of his estate under the heads of loss of use and current value of the properties (see paragraph 44 *in fine* above).

53. Under these circumstances, the Court considers that the question of the application of Article 41 in respect of the pecuniary and non-pecuniary damage suffered by applicant no. 9 is not ready for decision. The question must accordingly be reserved and the Government should be invited to submit their estimates of the 1974 open-market values of all Mr Kalisperas' properties and of the sums which the IPC might have offered to the administrator of his estate.

B. Costs and expenses

54. 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. In June 2010 the applicants claimed further sums for legal fees and for the cost of the revised valuation reports.

55. The Government did not comment on this point.

56. 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).

57. 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 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).

58. 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. Having regard to the fact that the legal issues raised by the application were similar for all the applicants, the Court decides to award the total sum of EUR 15,000 to all of them.

C. Default interest

59. 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 800,000 (eight hundred thousand euros) to applicant no. 1;
- EUR 180,000 (one hundred and eighty thousand euros) to applicant no. 2;
- EUR 45,000 (forty-five thousand euros) to applicant no. 3;
- EUR 275,000 (two hundred and seventy-five thousand euros) to applicant no. 4;
- EUR 200,000 (two hundred thousand euros) to applicant no. 5;

- EUR 265,000 (two hundred and sixty-five thousand euros) to applicant no. 6;
- EUR 250,000 (two hundred and fifty thousand euros) to applicant no. 7;
- EUR 350,000 (three hundred and fifty thousand euros) to applicant no. 8;
- EUR 700,000 (seven hundred thousand euros) to applicant no. 10;
- EUR 450,000 (four hundred and fifty thousand euros) to applicant no. 11;
- EUR 275,000 (two hundred and seventy-five thousand euros) to applicant no. 12;
- EUR 58,000 (fifty-eight thousand euros) to applicant no. 13;
- EUR 20,000 (twenty thousand euros) to applicant no. 14;
- EUR 960,000 (nine hundred and sixty thousand euros) to the administrators of the estate of applicant no. 15;
- EUR 280,000 (two hundred and eighty thousand euros) to applicant no. 16;
- EUR 17,629 (seventeen thousand six hundred and twenty-nine euros) to applicant no. 17,

plus any tax that may be chargeable on these sums;

(ii) EUR 15,000 (fifteen thousand euros), plus any tax that may be chargeable to the applicants or to the administrators of their estates, 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 remainder of the claims for just satisfaction of applicants nos. 1 to 8 and 10 to 17;

4. *Holds* that the question of the application of Article 41 in respect of the pecuniary and non-pecuniary damage suffered by applicant no. 9 is not ready for decision;

accordingly,

(a) *further reserves* the said question in whole;

(b) *invites* the Government to submit, within four weeks from the date of the adoption of the present judgment, their estimates of the 1974 open-market values of all the properties of applicant no. 9 and of the sums which the IPC might have offered to the administrator of his estate under the heads of loss of use and current value of the properties;

(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 26 October 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı
Deputy Registrar

Nicolas Bratza
President

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