



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

FOURTH SECTION

CASE OF LORDOS AND OTHERS v. TURKEY

(Application no. 15973/90)

JUDGMENT
(merits)

STRASBOURG

2 November 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 Lordos 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. 15973/90) 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 thirteen Cypriot nationals, Mr Constantinos G. Lordos, Mr Kikis L. Christofides, Mr Zacharias Spiridonos, Mr Stavros Ioannou, Mr Areti G. Ionides, Mr Michalis Evangelides, Mr Loizos D. Loizides, Mr Christos Hadjimanolis, Mr Panayiotis Sergis, Mr Georgios Misirlis, Mr Georgios Rouvas, Mrs Eleni (alias Lenia) Antoniadou and Mr Stelios Mandrides (“the applicants”), on 20 December 1989.

2. The applicants were represented by Mr A. Demetriades, a lawyer practising in Nicosia. The Turkish Government (“the Government”) were represented by their Agent, Mr Z.M. Necatigil.

3. The applicants alleged, in particular, that the Turkish occupation of the northern part of Cyprus had deprived them of their homes and properties and that they had been the victims of discrimination on grounds of their ethnic origin and religious beliefs.

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

5. By a decision of 27 June 2000 the Court declared the application partly admissible.

6. On 11 April 2001 Mr Panayiotis Sergis (hereinafter also referred as applicant no. 9) died. In 2002 the executor of his will, Mr Andis Scordis, transferred the properties of the deceased to his children. On 12 January 2004 their representative indicated that the wife of applicant no. 9, Mrs Eleni (alias

Lenia) Sergi, and his three children, Sophia, Marianna and Dimitris Sergi, wished to continue the proceedings before the Court.

7. By two written declarations of 5 December 2008, Mr Loizos Loizides and Mr Georghios Rouvas (hereinafter also referred to as applicants nos. 7 and 11) stated that they no longer wished “to proceed further with the case”.

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

9. On 21 November 2008 the Evkaf Administration, a religious trust whose headquarters were located in Nicosia (northern Cyprus), sought leave to intervene as a third party (Article 36 § 2 of the Convention). It alleged that it was the owner of some of the properties claimed by the applicants and that the latter had obtained registration of these properties in their names against the principles set out in the “Ahkâm-ül Evkaf Laws”. These principles, adopted with the advent of Ottoman rule in Cyprus, had been upheld and confirmed by subsequent administrations. On 5 December 2008 the President of the Fourth Section of the Court decided to refuse the Evkaf Administration's request, as its intervention was not necessary in the interests of the proper administration of justice (Rule 44 § 2 of the Rules of Court).

THE FACTS

10. The applicants were born in 1940, 1941, 1938, 1952, 1946, 1953, 1925, 1940, 1929, 1952, 1926, 1948 and 1948 respectively and live in southern Cyprus.

11. The applicants alleged that their homes, as well as other immovable properties, had been in the districts of Famagusta and Kyrenia (northern Cyprus). In July 1974, as the Turkish troops were advancing, they had been forced to leave their houses and belongings.

12. The properties claimed by the applicants were described as follows in the Court's final decision on the admissibility of the application.

13. Properties of applicant no. 1, Mr Constantinos G. Lordos:

(1) Kyrenia, Livera, Fyrades-Tsounni, Plot No. 1, Sheet/Plan: 5/54, Area: 47:2:335m² Use: Land, Share: 1/15;

(2) Famagusta, Egkomi, Salamina, Plot No. 56/1, Sheet/Plan: 24/42, Area: 0:8:900m², Use: Land, Share: 1/12;

(3) Famagusta, Trikomo, Finikoudia/Leivadia, Plot Nos. 209, 211, 199/1, Sheet/Plan: 15/43, Area: 0:3:213, 0:1:894, 1:3:409, Use: Land, Share: 1/3, 1/3, ½ respectively;

- (4) Famagusta, Trikomo, Pervolia Trikomou/Kokkines, Plot No. 140/1, Sheet/Plan: 15/43, Area: 1:6:92, Use: Land, Share: 1/3;
- (5) Famagusta, Vasili, Ammos, Plot Nos. 172, 173, 179, Sheet/Plan: 8/21, Area: 0:8:455m², 0:8:848, 0:4:977, Use: Land, Share: 1/8 in total;
- (6) Famagusta, Vasili, Ammos, Plot Nos. 190, 191, 193, 194, 195, 196, Sheet/Plan: 8/21, Area: 0:6:924, 0:9:912, 0:1:800, 0:1:791, 0:2:370, 0:2:568, Use: Land, Share: ½ in total;
- (7) Famagusta, Avgorou, Mantres tou Tzipou, Plot No. 187, Sheet/Plan: 32/40, Area: 0:6:331, Use: Land, Share: ¼;
- (8) Famagusta, Avgorou, Mantres tou Tzipou, Plot Nos. 204, 205, 206, 207, 208/1, 208/2, Sheet/Plan: 32/40, Area: 1:1:3, 1:3:704, 0:4:513, 0:4:696, 0:2:655, 0:2:508, Use: Land, Share: ¼;
- (9) Famagusta, Ayios Theodoros, Valia, Plot No. 14, Sheet/Plan: 15/24, Area: 1:1:520, Use: Land, Share: 1/5;
- (10) Famagusta, Ayios Nicolaos, Plot No. 1265, Sheet/Plan: 33/13.4.4, Use: Shop A Lordos Cyprian Court, Share: No. 1265, Sheet/Plan: 33/13.4.4, Use: Shop D - Lordos Cyprian Court, Share: 100%;
- (11) Famagusta, Chrysi Akti, Plot No. 777, Sheet/Plan: 33/21.1.2, Block A, Area: 0:1:864, Use: Land and buildings, Share: ¼;
- (12) Famagusta, Ayios Nicolaos, Plot No. 1009, Sheet/Plan: 33/12.6.2, Block D, Area 0:0:660, Use: Land and building 10 shops, 8 flats, 2 underground stores, Share: ¼;
- (13) Famagusta, Ayios Memnon, Plot Nos. 370, 379, Sheet/Plan: 33/29.3.4, Block E, Area: 0:3:821, Use: Land, Share: 7/20;
- (14) Famagusta, Acropolis, Plot No. 463, Sheet/Plan: 33/21/4.3, Block J, Area: 0:0:260, Use: Building site, Share: ¼;
- (15) Famagusta, Ayios Loucas, Plot Nos. 83, 85, Sheet/Plan: 33/3, Block C, Area: Unknown, Use: Land under development, Share: ¼;
- (16) Famagusta, Salamina, Plot No. 19, Sheet/Plan: 24/59, Block D, Area: 1:8:80, Use: Land in industrial area, Share: 1/6;
- (17) Famagusta, Salamina, Plot Nos. 1192, 1194, 1181, 1183, Sheet/Plan: 24/60, Block C, Area: 0:0:521, 0:0:535, 0:0:518, 0:0:530, Use: Building site, Share: 1/10, 1/10, ¼, ¼ respectively;
- (18) Famagusta, Salamina, Plot No. 49, Sheet/Plan: 24.60, Block D, Area: 6:5:350, Use: Land, Share: 11/80;
- (19) Famagusta, Salamina, Plot No. 949, Sheet/Plan: 24/60, Block C, Area: 4:7:9, Use: Land under development, Share: 1/10;
- (20) Famagusta, Salamina, Plot Nos. 180, 181, 183, Sheet/Plan: 24/59, Block D, Area: 0:0:970, 0:0:838, 0:0:731, Use: Building sites, Share: ¼;
- (21) Famagusta, Salamina, Plot Nos. 192, 194, 195, Sheet/Plan: 33/3, Block D, Area: 0:0:793, 0:0:771, 0:0:801, Use: Building sites, Share: ¼;
- (22) Famagusta, Salamina, Plot No. 667, Sheet/Plan: 24/59, Block D, Area: 0:0:533, Use: Building site, Share: ¼;

(23) Famagusta, Salamina, Plot No. 1960, Sheet/Plan: 24/59, Block D, Area: 4:5:732, Use: Land, Share: 17/100;

(24) Famagusta, Ayios Loucas, Plot Nos. 1650, 1651, 1656, 1657, 1658, 1659, 1665, 1667, 1668, 1680, Sheet/Plan: 33/3, Block C, Area: Unknown, Use: Land, Share: 7/20;

(25) Famagusta, Ayios Loucas, Plot No. 1703, Sheet/Plan: 33/3, Block C, Area: Unknown, Use: Building site, Share: 7/20;

(26) Famagusta, Ayios Nicolaos, Plot No. 1006, Sheet/Plan: 33/12/6.2, Block D, Area: 0:0:552, Use: Land and buildings, 6 shops, 4 bedroom (offices), 2 underground stores, Share $\frac{1}{4}$;

(27) Famagusta, Chrysi Akti, Plot No. 781, Sheet/Plan: 3/12.1.2, Block A, Area: 1:0:1455, Use: Golden Plage Hotel (3 star) (96 rooms, reception room, bar, cafeteria, restaurant), Share: $\frac{1}{4}$;

(28) Famagusta, Chrysi Akti, Plot No. 181, Sheet/Plan: 33/21.1.2, Block A, Area: 0:0:466, Use: Building site, Share: $\frac{1}{4}$;

(29) Famagusta, Kantara, Plot No. 56, Sheet/Plan: 68/39, Area: Unknown, Use: Kantara Lodge (9 double rooms, billiard room, sitting room), Share $\frac{1}{4}$;

(30) Famagusta, Chrysi Akti, Plot No. 850, Sheet/Plan: 33/21.2.1, Block A, Area: Unknown, Use: Studio No. 6 Lordos des Sirenes, Share: 100%;

(31) Famagusta, Chrysi Akti, Plot No. 850, Sheet/Plan: 33/21.2.1, Block A, Area: Unknown, Use: Flat No. 9 Lordos des Sirenes, Share: 100%;

(32) Famagusta, Ayios Ioannis, Plot No. 645, Sheet/Plan: 33/12.3.2, Block C, Area: 0:1:815, Use: Shop No. 1- Lordos Waterfront, Share: 100%;

(33) Famagusta, Ayios Ioannis, Plot No. 645, Sheet/Plan: 33/12.3.2, Block C, Area: Unknown, Use: Flat No.4 – 1st Floor Lordos Waterfront, Share: 100%;

(34) Famagusta, Ayios Ioannis, Plot No. 645, Sheet/Plan: 33/12.3.2, Block C, Area: Unknown, Use: Flat No. 36 - 2 bedrooms - 5th Floor Lordos Waterfront, Share: 100%;

(35) Famagusta, Ayios Ioannis, Plot No. 645, Sheet/Plan: 33/12.3.2, Block C, Area: Unknown, Use: Flat No 31 4th Floor, Lordos Waterfront, Share: $\frac{1}{4}$;

(36) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Shop B- Lordos Seagate Court, Share: 100%;

(37) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 2 - 1 bedroom ground floor - Lordos Seagate Court, Share: 100%;

(38) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 33 - 2 bedrooms - 7th Floor Lordos Seagate Court;

(39) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 52 - 2 bedrooms - 1st Floor Lordos Seagate Court, Share: 100%;

(40) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 54 - 2 bedrooms - 2nd Floor Lordos Seagate Court, Share: 100%;

(41) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 62 - 2 bedrooms - Ground Floor Lordos Seagate Court, Share: 100%;

(42) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 75 - 2 bedrooms - 4th Floor Lordos Seagate Court, Share: 100%;

(43) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 77 - 2 bedrooms - Ground Floor Lordos Seagate Court, Share: 100%;

(44) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 17 - 3 bedrooms - 3rd Floor Lordos Seagate Court, Share: 100%;

(45) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 56 - 2 bedrooms - 3rd Floor Lordos Seagate Court, Share: $\frac{1}{4}$;

(46) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 58 - 2 bedrooms - 4th Floor Lordos Seagate Court, Share: $\frac{1}{4}$;

(47) Famagusta, Salamina, Plot No. 542, Sheet/Plan: 24/51, Block D, Area: 0:0:557, Use: Building site, Share: $\frac{1}{4}$;

(48) Famagusta, Kennedy Avenue, Plot No. 982, Sheet/Plan: 33/21.2.3 +33/21.2.1, Area: Unknown, Use: Apollon Court, Flats facing sea furnished and rented as hotel apartments, Share: 100%;

(49) Famagusta, Kennedy Avenue, Plot No. 850, Sheet/Plan: 33.21.2.1, Area: Unknown, Use: Shops, Share: $\frac{1}{4}$;

(50) Famagusta, Kennedy Avenue, Plot No. 850, Sheet/Plan: 33/21.2.1, Area: Unknown, Use: 2 Flats facing the sea in Lordos les Sirenes Court, Share: 100%;

(51) Famagusta, Stavros, Plot No. 995, Sheet/Plan: 33/13.4.IV, Area: 0:0:21, Use: Lordos Etoile Court- 1 Flat facing sea, Share: 100%;

(52) Famagusta, Ayios Nicolaos Plot Nos. 561, 563, 355, Sheet/Plan: 33/13.4.IV, Area: Unknown, Use: one three bedroom flat, Share: 100%;

(53) Famagusta, Salamina, Plot No - Sheet Number - Unknown, Area: Unknown, Use: Lordos Seagate Court - 2 one bedroom flats - 1 three bedroom flat - 2 two bedroom flats, Share: 100%;

(54) Famagusta, Tricomio, Plot No. 89, Sheet/Plan: 15/59, Area: 0:3:711, Use: Seaside land near Nicolas Beach, Share: $\frac{1}{2}$;

(55) Famagusta, Ayios Sergios, Plot No. 60, Sheet/Plan: 24/11, Area: 0:3:202, Use: Seaside land, Share: $\frac{1}{2}$;

(56) Famagusta, Ayios Sergios, Plot Nos. 261, 262, Sheet/Plan: 24/18, Area: 0:4:770, 0:6:244, Use: Seaside land, Share: $\frac{1}{2}$;

(57) Famagusta, Ayios Sergios, Plot No. 68/2, Sheet/Plan: 24/10, Area: Unknown, Use: 15 Building sites, Share: $\frac{1}{4}$;

(58) Famagusta, Limnia, Plot and Sheet Nos. Unknown, Area: 6 Donums, Use: Land abutting main Famagusta Nicosia new road;

(59) Famagusta, Ayios Sergios, Plot and Sheet Nos. Unknown, Area: 16 Donums, Use: Orange Garden at Ayios Sergios, Apostolos Varnavas;

(60) Famagusta, Ayios Loucas, Salamis Avenue, Plot Nos. 4, 25, 27, 34, 38, Sheet/Plan: 24/59.E.1, Area: Unknown, Use: 5 Building sites in Eucalyptus Plantation, Share: 100%;

(61) Famagusta, Ayios Loucas, Plot No. 1960, Sheet/Plan: 24/59, Area: 34:0:2655, Use: Building land, Share: 17/100;

(62) Famagusta, Neoptolemos Street, Plot Nos. 406, 1457, 1460, 1474, Sheet/Plan: 24/59, Area: unknown, 0:0:541, 0:0:523, 0:0:505, Share: 100% with exception of Plot No. 1457 where share $\frac{1}{2}$;

(63) Famagusta, Ayios Loucas, Salamis Avenue, Plot No. Unknown, Sheet/Plan: 24/59, Area: Unknown, Use: Building site, Eucalyptus plantation, Share: $\frac{1}{2}$;

(64) Famagusta, Ayios Loucas, Plot No. Unknown, Sheet/Plan: 24/59.E.1 +11, Area: Unknown, Use: Building site No. 30, Eucalyptus Plantation, Share: $\frac{1}{4}$;

(65) Famagusta, Ayios Loucas, Plot Nos. 156, 324, 289, Sheet/Plan: 24/59- 33/03, Area: 5:2:939, 1:1:262, 3:0:109, Use: Building land: 90 Donums abutting main Salamis Avenue, UN Camp, Share: $\frac{1}{2}$;

(66) Famagusta: Ayios Loucas, Karaolos, Plot No. 1480, Sheet/Plan: 24/60, Area: 1:5:423, Use: Building land, Share: 1/10;

(67) Famagusta, Karaolos, Plot No. 506, 507, Sheet/Plan: 33/4.W.1 + 24/60.W.2, Area: 16 Donums, Use: 9 Building sites, Share: $\frac{1}{2}$;

(68) Famagusta Ayios Loucas, Plot Nos. 204 and 205 Sheet/Plan: 33/4, Area: 1:1:814, Use: 9 Donums, Building sites in the vicinity of New Famagusta Harbour, Share: $\frac{1}{4}$;

(69) Famagusta, Ayios Loucas, Plot No. 395, Sheet Plan: 33/59, Area: Unknown, Share: $\frac{1}{4}$.

14. On 8 July 2003 the representative of applicant no. 1 declared that his client wished to add further properties to those indicated above. The Government considered that the Court should not take into consideration additional claims submitted after the adoption of the decision on admissibility.

15. Properties of applicant no. 2, Mr Kikis L. Christofides:

(1) Famagusta, Ayios Ioannis, Plot No. 272, Sheet/Plan: 33/12.3.4, Area: 521m², Use: Residence on 1st floor and rented shops and offices on ground Floor, Share: ½;

(2) Famagusta, Kantara Davlos, Plot No. 7/50, Sheet/Plan: 68.13/1/1, Area: Unknown, Use: House with a garden, Share: 100%;

(3) Famagusta, Lefkoniko, Registration No. 4400, Plot No. 300/1, Sheet/Plan: 14/60, Area: 0:1:822, Use: Buildings & buildings sites all for rent, Share: 100%;

(4) Famagusta, Ayios Nicolaos, Plot No. 293, Sheet/Plan: 33/13, Block E, Area: 0:1:130, Use: multi-storey building complex of hotel apartments all for rent, Share: ½;

(5) Famagusta, Ayios Nicolaos, Plot No. 1002 Sheet/Plan: 33/12 Block D, Area: 736m², Use: Building & offices, one of which was the applicant's office, Share: ½;

(6) Famagusta, Larnaca Road, Registration No. 5355, Plot No. 776, Sheet/Plan: 33/19, Block D, Area: 1:3:3200, Use: Building site for development or sale, Share: ½;

(7) Famagusta, Larnaca Road, Plot No. 782, Sheet/Plan: 33/19, Block D, Area: Unknown, Use: Building site for development or sale, Share: 100%;

(8) Famagusta, Larnaca Road, Plot No. 783, Sheet/Plan: 33/19, Block D, Area: Unknown, Use: Building site for development or sale, Share: 100%;

(9) Famagusta, Larnaca Road, Plot No. 784, Sheet/Plan: 33/19, Block D, Area: Unknown, Use: Building site for development or sale, Share: 100%;

(10) Famagusta, Larnaca Road, Plot No. 785, Sheet/Plan: 33/19, Block D, Area: Unknown, Use: Building site for development or sale, Share: 100%;

(11) Famagusta, Larnaca Road, Plot No. 786, Sheet/Plan: 33/19, Block D, Area: Unknown, Use: Building site for development or sale, Share: 100%;

(12) Famagusta, Larnaca Road, Plot No. 787, Sheet/Plan: 33/19, Block D, Area: Unknown, Use: Building site for development or sale, Share: 100%;

(13) Famagusta, Larnaca Road, Plot No. 788, Sheet/Plan: 33/19, Block D, Area: 0:1:2200, Use: Building site for development or sale, Share: 100%;

(14) Famagusta, Larnaca Road, Plot No. 789, Sheet/Plan: 33/19, Block D, Area: 0:1:2200, Use: Building site for development or sale, Share: 100%;

(15) Famagusta, Larnaca Road, Registration No. 5385, Plot No. 806, Sheet/Plan: 33/19, Block D, Area: 0:1:500, Use: Plot of land for development or sale, Share: ½;

(16) Famagusta, Larnaca Road, Registration No. 5386, Plot No. 807, Sheet/Plan: 33/19, Block D, Area: 0:1:3200, Use: Plot of land for development or sale, Share: ½;

(17) Famagusta, Larnaca Road, Registration No. 5394, Plot No. 815, Sheet/Plan: 33/19, Block D, Area: 1:2:400, Use: Plot of land for development or sale, Share: $\frac{1}{2}$;

(18) Famagusta, Ayios Lukas, Plot No. 617, Sheet/Plan: 33/11, Block B, Area: Unknown, Use: Plot of land with a well, Share: 100%.

16. Applicant no. 2 also referred to 31 properties which were registered in the name of his wife, Mrs Eleni. K. Christofides, and one property which was registered in the name of his mother, Mrs C. L. Christofides.

17. Properties of applicant no. 3, Mr Zacharias Spyridonos:

- Famagusta, Monarga, Boghas, Registration No. 289, Plot No. 370/30, Sheet/Plan: 289, Area: 0:2:2000, Use: Residence along with other buildings and land, Share: 100%.

18. Applicant no. 4, Mr Stavros Ioannou, claimed that his father, Mr Yiannis Ioannou, was the owner of the following property:

- Famagusta, Ayia Zoni, Plot No. 162, Sheet/Plan: 33/21.4.1, Area: 2809 m², Use: Residence, Share: 100%.

19. Properties of applicant no. 5, Mr Areti G. Ionides:

(1) Famagusta, Ayios Nicolaos, Plot No. 1265, Sheet/Plan: 33/13.4.IV Block E, Area: Unknown, Use: Shop G - ground floor, Lordos Cyprian Court, Share: 100%;

(2) Famagusta, Chrysi Akti, Plot No. 777, Sheet/Plan: 33/21.I.II – Block A, Area: 1:1:2063, Use: Land and buildings, Share: $\frac{1}{4}$;

(3) Famagusta, Ayios Nicolaos, Plot No. 1009, Sheet/Plan: 33/12.6.II, Block D, Area: 0:1:3504, Use: 10 shops, 8 flats, 2 underground stores, Share: $\frac{1}{4}$;

(4) Famagusta, Ayios Memnon, Plot Nos. 370,379, Sheet/Plan: 33/29.3.III, Block E, Area: 0:3: 821, Use: Land, Share: $\frac{1}{4}$;

(5) Famagusta, Akropolis, Plot No. 463, Sheet/Plan: 33/21.4.III, Area: 0:0:2798, Use: Building site, Share: $\frac{1}{4}$;

(6) Famagusta, Ayios Loucas, Plot Nos. 85, 83, Sheet/Plan: 33/3 W.2, Block C, Area: Unknown, Use: Land under development, Share: $\frac{1}{4}$;

(7) Famagusta, Salamina, Plot No. 19, Sheet/Plan: 24/59.W.2, Block C, Area: 13:2:211, Use: Land in industrial area, Share: $\frac{1}{6}$;

(8) Famagusta, Salamina, Plot Nos. 1181, 1183, 1192, 1194, Sheet/Plan: 24/60. W.2, Block C, Area: 0:1:1975, 0:1:2104, 0:1:2007, 0:1:2158, Use: Building site, Share: $\frac{1}{4}$;

(9) Famagusta, Salamina, Plot No. 49, Sheet/Plan: 24/60.W.2, Block D, Area: 48:3:1421, Use: Land, Share: $\frac{1}{4}$;

(10) Famagusta, Salamina, Plot No. 949, Sheet/Plan: 24/60.W.2, Block C, Area: 35:0:2000, Use: Land under development, Share: $\frac{1}{4}$;

(11) Famagusta, Salamina, Plot Nos. 180, 181, 183, Sheet/Plan: 24/59.E.2, Block D, Area: 0:2:3240, 0:2:1820, 0:2:668, Use: Building sites, Share: $\frac{1}{4}$;

- (12) Famagusta, Salamina, Plot Nos. 192, 194, 195, Sheet/Plan: 33/3.E.1, Block D, Area: 0:2:1335, 0:2:1098, 0:2:1421, Use: Building sites, Share: $\frac{1}{4}$;
- (13) Famagusta, Salamina, Plot No. 667, Sheet/Plan: 24/59.W.1, Block D, Area: 0:1:2137, Use: Building site, Share: $\frac{1}{4}$;
- (14) Famagusta, Salamina, Plot No. 1960, Sheet/Plan: 24/59.E.1, Block D, Area: 34:0:2655, Use: Land, Share: $\frac{1}{4}$;
- (15) Famagusta, Ayios Loucas, Plot Nos. 1650, 1651, 1656, 1657, 1658, 1659, 1665, 1667, 1668, 1680, 1703, Sheet/Plan: 33/3.E.1, Block C, Area: Unknown, Use: Building sites, Share: $\frac{1}{4}$;
- (16) Famagusta, Ayios Nicolaos, Plot No. 1006, Sheet/Plan: 33/12.6.II, Block D, Area: 0:1:2341, Use: 6 shops, 4 bedrooms-offices, 2 underground stores, Share: $\frac{1}{8}$;
- (17) Famagusta, Chrysi Akti, Plot No. 781, Sheet/Plan: 33/21.1.2, Block A, Area: 1:0:1455, Use: Golden Plage Hotel (3 star hotel, 96 rooms, reception room, bar, cafeteria, restaurant, upper ground floor), Share: $\frac{1}{4}$;
- (18) Famagusta, Chrysi Akti, Plot No. 181, Sheet/Plan: 33.21.1.II, Block A, Area: 0:1:1415, Use: Building site, Share: $\frac{1}{4}$;
- (19) Famagusta, Kantara, Plot Nos. 56, 68/39, Sheet/Plan: VII/50.6.I, Area: Unknown, Use: Kantara Lodge (9 double rooms, billiard room, sitting room), Share: $\frac{1}{4}$;
- (20) Famagusta, Ayios Ioannis, Plot No. 645, Sheet/Plan: 33/12.3.II, Block C, Area: 1:1:1536, Use: Shop No. 6 - Lordos Waterfront, Share: $\frac{1}{4}$;
- (21) Famagusta, Ayios Ioannis, Plot No. 645, Sheet/Plan: 33/12.3.II, Block C, Area: 1:1:1536, Use: Flat No. 32 - 2 bedrooms - 4th Floor - Lordos Waterfront, Share: 100%;
- (22) Famagusta, Ayios Ioannis, Plot No. 645, Sheet/Plan: 33/12.3.II, Block C, Area: 1:1:1536, Use: Flat No. 31 - 2 bedrooms - 4th Floor - Lordos Waterfront, Share: $\frac{1}{4}$;
- (23) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Shop C - Lordos Seagate Court, Share: 100%;
- (24) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 11 - 1 bedroom - 2nd Floor, Lordos Seagate Court, Share: 100%;
- (25) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Studio No. 46 - 11th Floor - Lordos Seagate Court, Share: 100%;
- (26) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 38 - 2 bedrooms - 9th Floor - Lordos Seagate Court, Share: 100%;
- (27) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 105 - 2 bedrooms - ground floor, Lordos Seagate Court, Share: 100%;

(28) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 13 - 3 bedrooms - 2nd floor, Lordos Seagate Court, Share: 100%;

(29) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 56 - 2 bedrooms - 3rd floor, Lordos Seagate Court, Share: ¼;

(30) Famagusta, Ayios Ioannis, Plot No. 714, Sheet/Plan: 33/13.1.1, Block C, Area: Unknown, Use: Flat No. 58 - 2 bedrooms - 4th Floor, Lordos Seagate Court, Share: ¼;

(31) Famagusta, Salamina, Plot No. 542, Sheet/Plan: 24/51.E.1, Area: 0:1:2395, Use: Building site, Share: ¼.

20. On 24 July 2003 the representative of applicant no. 5 declared that his client wished to add further properties to those indicated above. The Government considered that the Court should not take into consideration additional claims submitted after the adoption of the decision on admissibility.

21. Property of applicant no. 6, Mr Michalis Evangelides:

- Famagusta, Chrisi Akti, Plot No. 701, Sheet/Plan: 33//13.4.3, Area: Unknown, Use: Home, Share: 100% according to the documents submitted at the admissibility stage, ½ according to the expert report submitted with the just satisfaction claims.

22. Applicant no. 8, Mr Christos Hadjimanolis, claimed that his wife, Mrs Melani Hadjimanoli, was the owner of the following property:

- Famagusta, Ayia Zoni, Registration No. 9514, Plot No. 308, Sheet/Plan: 33/20.6. IV, Area: 0:2:1152, Use: Residence, Share: 100%.

23. Properties of applicant no. 9, Mr Panayiotis Sergis:

(1) Famagusta, Triкомо, Kasallos, Plot No., Area, Sheet/Plan and Registration Number could not be obtained. Use: Building site for sale or development, Share: 100%;

(2) Famagusta, Triкомо, Kotsines, Registration No. 6447, Plot No. 292/6, Sheet/Plan: 283/1/2, Area: 0:1: 2400, Use: Building site for sale or development, Share: 100%;

(3) Famagusta, Triкомо, Kotsines, Karpasias Road, Registration No. 6449, Plot Nos. 283/1/4, 291/1, 292/8, Sheet/Plan: 15/43.E.II, Area: 0:1:2300, Use: Building site for sale or development, Share: 100%;

(4) Famagusta, Triкомо, Kotsines, Karpasias Road, Registration No. 6456, Plot No. 283/1/5, Sheet/Plan: 15/43.E.II, Area: 0:1:3400, Use: Building site for sale or development, Share: 100%;

(5) Famagusta, Triкомо, Kotsines, Karpasias Road, Registration No. 6457, Plot No. 283/1/6, Sheet/Plan: 15/43.E.II, Area: 0:2:0, Use: Building site for sale or development, Share: 100%;

(6) Famagusta, Triкомо, Kotsines, Karpasias Road, Registration No. 6458, Plot No. 283/1/7, Sheet/Plan: 15/43.E.II, Area: 0:2:0, Use: Building site for sale or development, Share: 100%;

(7) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6452, Plot Nos. 283/1/8, 291/4 Sheet/Plan: 15/43.E.II, Area: 0:1:2300, Use: Building site for sale or development, Share: 100%;

(8) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6453, Plot Nos. 283/1/9, 291/5 Sheet/Plan: 15/43.E.II, Area: 0:1:2300, Use: Building site for sale or development, Share: 100%;

(9) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6459, Plot No. 283/1/10, Sheet/Plan: 15/43.E.II, Area: 0:2:0, Use: Building site for sale or development, Share: 100%;

(10) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6460, Plot No. 283/2/1, Sheet/Plan: 15/43.E.II, Area: 0:2:100, Use: Building site for sale or development, Share: 100%;

(11) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6461, Plot No. 283/2/1, Sheet/Plan: 15/43.E.II, Area: 0:1:2400, Use: Building site for sale or development, Share: 100%;

(12) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6462, Plot No. 283/2/2, Sheet/Plan: 15/43.E.II, Area: 0:1:2800, Use: Building site for sale or development, Share: 100%;

(13) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6463, Plot No. 283/2/3, Sheet/Plan: 15/43.E.II, Area: 0:1:2700, Use: Building site for sale or development, Share: 100%;

(14) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6464, Plot No. 283/2/4, Sheet/Plan: 15/43.E.II, Area: 0:1:2300, Use: Building site for sale or development, Share: 100%;

(15) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6465, Plot Nos. 283/2/5, 291/8, Sheet/Plan: 15/43.E.II, Area: 0:1:2300, Use: Building site for sale or development, Share: 100%;

(16) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6466, Plot Nos. 283/2/6, 290/1, 291/9, Sheet/Plan: 15/43.E.II, Area: 0:1:2700, Use: Building site for sale or development, Share: 100%;

(17) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6467, Plot Nos. 290/2, 291/10, Sheet/Plan: 15/43.E.II, Area: 0:1:2100, Use: Building site for sale or development, Share: 100%;

(18) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6468, Plot No. 291/6, Sheet/Plan: 15/43.E.II, Area: 0:1:2300, Use: Building site for sale or development, Share: 100%;

(19) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6468, Plot No. 291/7, Sheet/Plan: 15/43.E.II, Area: 0:1:1900, Use: Building site for sale or development, Share: 100%;

(20) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6442, Plot Nos. 292/1, 305.3/2, Sheet/Plan: 15/43.E.II, Area: 0:1:2900, Use: Building site for sale or development, Share: 100%;

(21) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6443, Plot Nos. 292/2, 305.3/3, Sheet/Plan: 15/43.E.II, Area: 0:1:3200, Use: Building site for sale or development, Share: 100%;

(22) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6444, Plot Nos. 292/3, 305.3/4, Sheet/Plan: 15/43.E.II, Area: 0:2:400, Use: Building site for sale or development, Share: 100%;

(23) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6445, Plot No. 292/4, Sheet/Plan: 15/43.E.II, Area: 0:1:2600, Use: Building site for sale or development, Share: 100%;

(24) Famagusta, Trikomo, Kotsines, Karpasias Road, Registration No. 6441, Plot No. 305.3/1, Sheet/Plan: 15/43.E.II, Area: 0:1:2900, Use: Building site for sale or development, Share: 100%.

24. Applicant no. 10, Mr Georgios Misirlis, claimed that his wife, Mrs Mari G. Misirli, was the owner of the following property:

- Famagusta, Ayios Ioannis, Plot No. 287, Sheet/Plan: 33/12.3.IV, Block B, Area: Unknown, Use: the 2nd floor was a residence and the ground floor were shops for rent, Share: 100%.

25. Property of applicant no. 12, Mrs Eleni (alias Lenia) Andoniadou:

- Famagusta, Ayios Nicolaos, Plot No. 170, Sheet/Plan: 33/12, Block A, Area: 733m², Use: Residence, Share: ½.

26. Property of applicant no. 13, Mr Stelios Mandrides:

- Famagusta, Chrysi Akti, Plot No. 28, Sheet/Plan: 33/21.2.3, Block C, Area: Unknown, Use: Apartment, residence (2 flats), Share: 100%;

27. Applicant no. 13 also claimed that Mandrides Properties Ltd and Famagusta Hotels Ltd, two companies of which he and his sister Athina were the sole shareholders, were the owners of the following properties:

(1) Famagusta, Ayios Nicolaos, Registration No. 4186, Plot No. 97, Sheet/Plan: 33/13.4.1, Block E, Area: 0:1:1857, Use: Hotel apartments for rent (16 holiday flats) and cafeteria on ground floor;

(2) Famagusta, Ayios Nicolaos, Registration No. 3253, Plot No. 112, Sheet/Plan: 33/12.6.2, Block E, Area: 0:2:1927, Use: Hotel apartments for rent (35 holiday flats) and cafeteria on ground floor;

(3) Famagusta, Ayios Ioannis, Plot No. 165, Sheet/Plan: 33/13.1.4, Block C, Area: Unknown, Use: Beach hotel (2 star with 23 rooms);

(4) Famagusta, Ayios Nicolaos, Plot No. 1185, Sheet/Plan: 33/12.6.2, Block D, Area: 0:1:1200, Use: Building consisting of ground floor shops, offices and apartments, investment income property;

(5) Famagusta, Ayios Memnon, Plot No. 330, Sheet/Plan: 33/29.3.4, Block E, Area: 2:0:1059, Use: Plot of land on the Famagusta Beach destined for a hotel.

Applicant no. 13 owned 51% of the shares in the two limited companies, while the remaining 49% belonged to Mrs Athina Mandrides.

28. In support of their claim to ownership, the applicants submitted either copies of the relevant original title deeds or copies of certificates of

affirmation of ownership of Turkish-occupied immovable property issued by the Republic of Cyprus after 1974. Applicant no. 9 failed to produce evidence supporting his claim that he was the owner of the building site in Famagusta described in paragraph 23 (1) above.

29. In its final decision on the admissibility of the application the Court noted that the respondent Government did not challenge any of the titles regarding the immovable properties described above.

30. The applicants alleged that since 1974 they had not been able to return to their homes and had been continuously prevented from using and enjoying their properties.

THE LAW

I. PRELIMINARY ISSUES

31. In its final decision on the admissibility of the application, the Court stated that in the light of its findings in the case of *Loizidou v. Turkey* ((merits), 18 December 1996, *Reports of Judgments and Decisions* 1996-VI), the facts complained of fell within the jurisdiction of Turkey, which had, in the northern part of Cyprus, the obligation to secure to the applicants the rights and freedoms set out in the Convention (see also *Cyprus v. Turkey* ([GC], no. 25781/94, §§ 69-81, ECHR 2001-IV). As a result, the application could not be rejected as incompatible *ratione personae* with the provisions of the Convention or of its Protocols.

32. The Court sees no reason to depart from this finding. It will therefore proceed on the assumption that Turkey is responsible for the acts complained of, even if performed by the authorities of the “Turkish Republic of Northern Cyprus” (the “TRNC”).

33. The Court further notes that applicant no. 9 (Mr Panayiotis Sergis) died on 11 April 2001 after his application had been declared admissible and while the case was still pending before the Court. His heirs (his wife, Mrs Eleni (alias Lenia) Sergi, and his three children, Sophia, Marianna and Dimitris Sergi) informed the Court that they wished to pursue the application in his name (see paragraph 6 above). Although the heirs of a deceased applicant cannot claim a general right to the continued examination of the deceased's application (see *Scherer v. Switzerland*, 25 March 1994, Series A no. 287), the Court has accepted on a number of occasions that close relatives of a deceased applicant are entitled to take his or her place (see *Deweert v. Belgium*, 27 February 1980, § 37, Series A no. 35, and *Raimondo v. Italy*, 22 February 1994, § 2, Series A no. 281-A).

34. For the purposes of the instant case, the Court is prepared to accept that Eleni, Sophia, Marianna and Dimitris Sergi (applicant no. 9's wife and children) can pursue the application initially brought by Mr Panayiotis Sergis (see, *mutatis mutandis*, *Hadjithomas and Others v. Turkey* (merits), no. 39970/98, §§ 14-15, 22 September 2009; *Kirilova and Others v. Bulgaria*, nos. 42908/98, 44038/98, 44816/98 and 7319/02, § 85, 9 June 2005; and *Nerva and Others v. the United Kingdom*, no. 42295/98, § 33, ECHR 2002-VIII).

II. WITHDRAWAL OF THE APPLICATION

35. The Court observes that applicants nos. 7 and 11 declared that they no longer wished “to proceed further with the case” (see paragraph 7 above). The Court considers that, in these circumstances, applicants nos. 7 and 11 may be regarded as no longer wishing to pursue their application, within the meaning of Article 37 § 1 (a) of the Convention.

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

37. In view of the above, it is appropriate to strike the application out of the list of cases as far as applicants nos. 7 and 11 are concerned (see *Loizou and Others v. Turkey* (merits), no. 16682/90, §§ 49-52, 22 September 2009).

38. The Court will accordingly examine only the complaints lodged by applicants nos. 1 to 6, 8 to 10, 12 and 13 (hereinafter referred to as “the applicants”).

III. THE GOVERNMENT'S OBJECTIONS OF INADMISSIBILITY FOR NON-EXHAUSTION OF DOMESTIC REMEDIES AND LACK OF VICTIM STATUS

39. The Government raised preliminary objections of inadmissibility for non-exhaustion of domestic remedies and lack of victim status. These objections were identical to those raised in the case of *Alexandrou v. Turkey* ((merits), no. 16162/90, §§ 11-22, 20 January 2009). Moreover, in a letter of 22 April 2010 the Government requested the Court to declare the application inadmissible for non-exhaustion of domestic remedies in the light of the principles affirmed by the Grand Chamber (see *Demopoulos and Others, Chrysostomi, Lordos and Lordou Anastasiou, Kanari-Eliadou and Others, Sotirou and Moushoutta, Stylos, Charalambou Onofriou and Others and Chrisostomi v. Turkey* [GC] (dec.), nos. 46113/99, 3843/02, 13751/02, 13466/03, 10200/04, 14163/04, 19993/04, 21819/04, 1 March 2010. They 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. On 21 September 2010 they argued that as the present case had been adjourned awaiting the result of the case of *Demopoulos and Others*, it would be contradictory not to take into account the principles affirmed by the Grand Chamber in the above-mentioned decision.

40. The Court first observes that the Government's submissions of 22 April, 8 and 22 June and 21 September 2010 were unsolicited; they were received by the Registry long after the expiration of the time-limit for filing observations on the merits and/or comments on just satisfaction and months after the delivery of the Grand Chamber's decision in *Demopoulos*. It could therefore be held that the Government are estopped for raising the matter at this stage of the proceedings.

41. 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* (merits), cited above, § 21). This approach has not been modified by the Grand Chamber, as the cases of *Demopoulos and Others* had not been admissible when Law 67/2005 entered into force and when Turkey objected that domestic remedies had not been exhausted (see, *inter alia*, *Petrakidou v. Turkey*, no. 16081/90, § 36, 27 May 2010, and *Sophia Andreou v. Turkey* (just satisfaction), no. 18360/91, § 11, 22 June 2010).

42. It follows that the Government's objections should be dismissed for the reasons indicated in the *Alexandrou* judgment, cited above.

IV. THE GOVERNMENT'S OBJECTIONS OF INADMISSIBILITY *RATIONE TEMPORIS AND RATIONE MATERIAE*

A. Arguments before the Court

1. The Government

43. The Government submitted that the applicants had no title to the properties in question in view of the constitutional and legal provisions applying in the "TRNC" and/or in view of the administrative acts of expropriation under the laws of the "TRNC". As a result of the entry into force of Article 159 of the "TRNC" Constitution, the properties claimed in the present application were no longer registered in their names.

44. The Government argued that the applicants' allegations of violations of the Convention which had occurred before 22 January 1990 should be

rejected. Furthermore, there had been no causal link between the 1974 Turkish military intervention and the alleged violation of the applicants' rights.

45. In the light of the above, the Government submitted that the application was incompatible either *ratione materiae* or *ratione temporis* with the provisions of the Convention.

2. *The applicants*

46. The applicants maintained that they were the owners of the properties mentioned in the application, as shown by the documents submitted by them and issued by the lawful and internationally recognised authorities of the Republic of Cyprus. The respondent Government had failed to produce the original full records of the Land Authority of the Republic of Cyprus, which they illegally retained.

47. As regards the *ratione temporis* jurisdiction of the Court, the applicants submitted that they had had a proprietary interest in the disputed properties after the date on which Turkey accepted the jurisdiction of the Commission and the Court, and that there had been an interference with that right after that date. There was no doubt that the applicants had had such an interest since at least 1974. Relying on the principles developed by the Court in the case of *Loizidou* ((merits, cited above), they alleged that Article 159 of the "TRNC" Constitution and all subsequent legislation enacted by the "TRNC" authorities had no legal validity.

3. *The third party intervener*

48. The Government of Cyprus observed that in the case of *Loizidou* ((merits), cited above) the Court had found that Turkey had responsibility for securing human rights in the occupied area of Cyprus. They challenged the respondent Government's allegations that the "TRNC" was a State or an entity exercising effective authority, the creation of which had interrupted the chain of any Turkish responsibility for the events which took place in northern Cyprus. They further submitted that the violations of the right of property which occurred in the "TRNC" territory constituted a continuing situation and not an instantaneous act of deprivation of ownership.

B. *The Court's assessment*

49. In its final decision on the admissibility of the application, the Court considered that the Government's objections that the application was incompatible *ratione materiae*, because the applicants had never acquired title to the properties concerned or had lost their title, or *ratione temporis*, because there was no question of a continuing violation that could have subsisted until Turkey recognised the right of individual petition, were

closely linked with the substance of the applicants' complaints and should be examined together with the merits.

50. As to the alleged incompatibility *ratione materiae*, the Court notes that applicant no. 9 failed to produce evidence supporting his claim that he was the owner of the building site in Famagusta described in paragraph 23 (1) above (see paragraph 28 above). In the absence of prima facie evidence of ownership, the Court cannot but uphold the objection of incompatibility *ratione materiae* in respect of this specific property.

51. The same applies to the properties which, according to the documents produced before the Court, did not belong to the applicants, but to their relatives, and notably to the wife and mother of applicant no. 2 (although he has also claimed to be the owner of the properties listed in paragraph 15 above), the father of applicant no. 4, the wife of applicant no. 8 and the wife of applicant no. 10 (see paragraphs 16, 18, 22 and 24 above; see also *Gavriel v. Turkey* (merits), no. 41355/98, § 24, 20 January 2009, where the Court upheld an objection of incompatibility *ratione materiae* raised by the Government in respect of a house owned by the applicant's wife). As regards applicants nos. 4, 8 and 10, none of the properties concerned by the present application constitutes a "possession" within the meaning of Article 1 of Protocol No. 1.

52. The Court further observes that in July 2003 applicants nos. 1 and 5 requested the Court to "add" to their claims a number of properties which had not been brought to its attention at the time of the adoption of the decision on the admissibility of the application (see paragraphs 14 and 20 above). It should be pointed out, however, that the Court has full jurisdiction only within the scope of the "case", which is determined by the decision on the admissibility of the application. The Court may deal with any issue of fact or law that arises during the proceedings before it only within the compass thus delimited (see, among many other authorities, *Philis v. Greece*, 27 August 1991, § 56, Series A no. 209, and *Guerra and Others v. Italy*, 19 February 1998, § 44, *Reports* 1998-I).

53. In the instant case the properties claimed in 2003 by applicants nos. 1 and 5 were not expressly set out in the application or the applicants' memorials lodged prior to the decision on admissibility. Moreover, they constituted new properties, distinct from the ones previously claimed. In these circumstances, the Court is unable to take them into account within the ambit of the examination of the merits of the present application.

54. As to the remaining properties claimed by applicants nos. 1, 2, 3, 5, 6, 9, 12 and 13, the Court considers that the documents submitted by them (see paragraph 28 above) provide prima facie evidence that they had a title of ownership over the properties at issue or, at least, over a share in these properties. As the respondent Government failed to produce convincing evidence in rebuttal, the Court considers that they had a "possession" within the meaning of Article 1 of Protocol No. 1.

55. As to the Government's argument that the properties were subsequently expropriated by the "TRNC" authorities, the Court observes that in the case of *Loizidou* ((merits) cited above, §§ 44 and 46) it concluded that it could not attribute legal validity, for the purposes of the Convention, to the provisions of Article 159 of the "TRNC" fundamental law concerning the acquisition by the "TRNC" of the immovable properties considered to have been abandoned on 13 February 1975. It considered, further, that Greek Cypriots who, like Mrs Loizidou, had left their properties in the northern part of the island in 1974 could not be deemed to have lost title to their property.

56. It follows that applicants nos. 1, 2, 3, 5, 6, 9, 12 and 13 are still the owners of the properties at issue. Despite this, they have been unable to make use of and have access to them. In 1974 Turkey had not recognised the right of individual petition. It did so on 22 January 1987 and should be held accountable for any interference with the applicants' property rights which occurred after that date. It should also be pointed out that the Court duly examined and rejected the objection of inadmissibility on grounds of lack of effective control over northern Cyprus raised by the Turkish Government in the case of *Cyprus v. Turkey* (cited above, §§ 69-81). It sees no reason to depart from its reasoning and conclusions in the instant case (see also *Gavriel* (merits), cited above, §§ 26 and 27).

57. It follows that the Government's preliminary objection of incompatibility *ratione materiae* should be upheld with regard to applicants nos. 4, 8 and 10 (see paragraphs 18, 22 and 24 above), to the properties claimed by applicant no. 2 that belong to his wife and mother (see paragraph 16 above), to the property claimed by applicant no. 9 described in paragraph 23 (1) above and to the properties claimed by applicants no. 1 and 5 after the adoption of the decision on the admissibility of the application (see paragraphs 14 and 20 above).

58. The remainder of the Government's preliminary objections of incompatibility *ratione materiae* and *ratione temporis* must be dismissed.

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

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

They invoked Article 1 of Protocol No. 1 to the Convention, which reads as follows:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest

and subject to the conditions provided for by law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties.”

60. The Government disputed those complaints.

A. Arguments before the Court

1. The Government

61. The Government submitted that, on account of the relocation of the respective populations, it had been necessary to facilitate the rehousing of Turkish-Cypriot refugees by maintaining and putting to better use abandoned Greek-Cypriot properties. The Greek-Cypriot side had taken similar measures in respect of abandoned Turkish-Cypriot properties in the southern part of the island.

62. The political context and the status of the United Nations (UN) buffer zone should also be taken into consideration in deciding the applicants' claims. To recognise the right of the applicants to violate the buffer zone in order to have access to their purported properties would aggravate the political problems on the island. There was a public interest in ensuring that the inter-communal talks concerning freedom of movement, settlement and the right of property were not undermined.

63. The Government concluded that restrictions on the use and control of the properties left by the applicants had been justified in the general interest, within the meaning of Article 1 of Protocol No. 1.

2. The applicants

64. The applicants argued that the interference with their property rights could not be justified under Article 1 of Protocol No. 1. The policies of the “TRNC” could not furnish a legitimate aim since the establishment of the “TRNC” had been an illegitimate act condemned by the UN Security Council. For the same reason, the interference could not be found to be in accordance with the law and the general principles of international law. Nor had it been proportionate. The need to rehouse displaced Turkish Cypriots could not justify the complete negation of the applicants' property rights. This conclusion was reinforced by the existence of evidence that much of the property taken from Greek Cypriots had been used to house settlers from mainland Turkey. In particular, the applicants' properties had not been used to house displaced Turkish Cypriots from the south, as since 1974 Famagusta had become a ghost town.

3. *The third-party intervener*

65. The Government of Cyprus observed that the applicants had produced certificates of registration of ownership issued before or after the Turkish invasion and that the burden of proving that in 1974 the relevant properties had not belonged to the applicants lay on the respondent Government.

66. They further noted that the present case was similar to that of *Loizidou* ((merits), cited above), where the Court had found that the loss of control of property by displaced persons arose as a consequence of the occupation of the northern part of Cyprus by Turkish troops and the establishment of the “TRNC”, and that the denial of access to property in occupied northern Cyprus constituted a continuing violation of Article 1 of Protocol No. 1.

B. The Court's assessment

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

“63. ... as a consequence of the fact that the applicant has been refused access to the land since 1974, she has effectively lost all control over, as well as all possibilities to use and enjoy, her property. The continuous denial of access must therefore be regarded as an interference with her rights under Article 1 of Protocol No. 1. Such an interference cannot, in the exceptional circumstances of the present case to which the applicant and the Cypriot Government have referred, be regarded as either a deprivation of property or a control of use within the meaning of the first and second paragraphs of Article 1 of Protocol No. 1. However, it clearly falls within the meaning of the first sentence of that provision as an interference with the peaceful enjoyment of possessions. In this respect the Court observes that hindrance can amount to a violation of the Convention just like a legal impediment.

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

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

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

68. In the case of *Cyprus v. Turkey* (cited above) the Court confirmed the above conclusions (§§ 187 and 189):

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

...

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

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

70. Accordingly, it concludes that there has been a violation of Article 1 of Protocol No. 1 to the Convention by virtue of the fact that applicants nos. 1, 2, 3, 5, 6, 9, 12 and 13 were denied access to and control, use and enjoyment of their properties as well as any compensation for the interference with their property rights.

VI. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

71. The applicants submitted that in 1974 they had had their homes in the northern part of Cyprus. As they were unable to return there, they had been the victims of a violation of Article 8 of the Convention.

This provision reads as follows:

“1. Everyone has the right to respect for his private and family life, his home and his correspondence.

2. There shall be no interference by a public authority with the exercise of this right except such as is in accordance with the law and is necessary in a democratic society in the interests of national security, public safety or the economic well-being of the country, for the prevention of disorder or crime, for the protection of health or morals, or for the protection of the rights and freedoms of others.”

72. The Government disputed that claim

73. The applicants submitted that, contrary to the applicant in the *Loizidou* case, they had had their principal residence in the town of Famagusta. They claimed to be displaced persons for the purposes of Article 8 of the Convention and considered that the Government had failed to justify the interference with their rights.

74. The Government of Cyprus submitted that the continued denial of the applicants' right to return to their homes constituted an interference with their rights under Article 8 of the Convention. Such interference had no legal basis and amounted to an aggravated violation of that provision.

75. The Court refers to its finding that applicants nos. 4, 8 and 10 did not have a "possession" in respect of property located in northern Cyprus. The properties described in paragraphs 18, 22 and 24 above belonged to their relatives (see paragraphs 51 and 57 above) and had not been inhabited by applicants nos. 4, 8 and 10 since the 1974 Turkish invasion. In this connection, the Court considers that in the absence of any title to the premises it is not apparent that there is any subsisting and concrete link with the properties at issue some thirty-six years later which would disclose an ongoing interference with a right to respect for home at the present time. Moreover, the abstract possibility that applicants nos. 4, 8 and 10 may inherit from their relatives, who had once had a home in northern Cyprus, cannot entitle them to claim that lack of enjoyment of, or access to the properties shows any lack of respect for their own right to home under Article 8 of the Convention (see *Economides v. Turkey* (dec.), no. 68110/01, 1 June 2010). Nor can the term "home" be interpreted as synonymous with the notion of "family roots", which is a vague and emotive concept (see *Demopoulos and Others*, cited above, § 135).

The Court accordingly does not find that the facts of the case are such as to disclose any present interference with the right of applicants nos. 4, 8 and 10 to respect for their homes.

76. Moreover, applicant no. 9 has failed to substantiate his Article 8 complaint, as he has not provided evidence that he was the owner of a property with residential use in northern Cyprus (see, *mutatis mutandis*, *Loizou and Others v. Turkey* (merits), no. 16682/90, § 81, 22 September 2009). The properties claimed by him were "building sites for sale or development" (see paragraph 23 above). It should be pointed out that the notion of "home" in Article 8 cannot be extended to comprise property on which it is planned to build a house for residential purposes (see *Loizidou* (merits), cited above, § 66).

It follows that there has been no violation of Article 8 of the Convention in respect of applicants nos. 4, 8, 9 and 10.

77. As for applicants nos. 1, 2, 3, 5, 6, 12 and 13, the Court notes that the Government failed to produce any evidence capable of casting doubt upon their statement that, at the time of the Turkish invasion, they were regularly residing in their houses in northern Cyprus and that these houses were treated by them and their families as homes.

78. Accordingly, the Court considers that in the circumstances of the present case, the houses of applicants nos. 1, 2, 3, 5, 6, 12 and 13 qualified as "homes" within the meaning of Article 8 of the Convention at the time when the acts complained of took place.

79. The Court observes that the present case differs from the *Loizidou* case ((merits), cited above) since, unlike Mrs Loizidou, applicants nos. 1, 2, 3, 5, 6, 12 and 13 actually had a home in northern Cyprus.

80. The Court notes that since 1974 applicants nos. 1, 2, 3, 5, 6, 12 and 13 have been unable to gain access to and use those homes. In that connection the Court observes that, in its judgment in the case of *Cyprus v. Turkey* (cited above, §§ 172-75), it concluded that the complete denial of the right of Greek-Cypriot displaced persons to respect for their homes in northern Cyprus since 1974 constituted a continuing violation of Article 8 of the Convention. The Court reasoned as follows:

“172. The Court observes that the official policy of the 'TRNC' authorities to deny the right of the displaced persons to return to their homes is reinforced by the very tight restrictions operated by the same authorities on visits to the north by Greek Cypriots living in the south. Accordingly, not only are displaced persons unable to apply to the authorities to reoccupy the homes which they left behind, they are physically prevented from even visiting them.

173. The Court further notes that the situation impugned by the applicant Government has obtained since the events of 1974 in northern Cyprus. It would appear that it has never been reflected in 'legislation' and is enforced as a matter of policy in furtherance of a bi-zonal arrangement designed, it is claimed, to minimise the risk of conflict which the intermingling of the Greek and Turkish-Cypriot communities in the north might engender. That bi-zonal arrangement is being pursued within the framework of the inter-communal talks sponsored by the United Nations Secretary-General ...

174. The Court would make the following observations in this connection: firstly, the complete denial of the right of displaced persons to respect for their homes has no basis in law within the meaning of Article 8 § 2 of the Convention (see paragraph 173 above); secondly, the inter-communal talks cannot be invoked in order to legitimate a violation of the Convention; thirdly, the violation at issue has endured as a matter of policy since 1974 and must be considered continuing.

175. In view of these considerations, the Court concludes that there has been a continuing violation of Article 8 of the Convention by reason of the refusal to allow the return of any Greek-Cypriot displaced persons to their homes in northern Cyprus.”

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

82. Accordingly, it concludes that there has been a continuing violation of Article 8 of the Convention on account of the complete denial of the right of applicants nos. 1, 2, 3, 5, 6, 12 and 13 to respect for their homes.

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

83. The applicants complained of a violation of Article 14 of the Convention on account of discriminatory treatment against them in the enjoyment of their rights under Article 8 of the Convention and Article 1 of Protocol No. 1. They alleged that this discrimination had been based on their national origin and religious beliefs.

Article 14 of the Convention reads as follows:

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

84. The Government disputed those claims.

85. The Court points out that in the *Alexandrou* case ((merits), cited above, §§ 38-39) it found that it was not necessary to carry out a separate examination of the complaint under Article 14 of the Convention. The Court does not see any reason to depart from that approach in the present case (see also, *mutatis mutandis*, *Eugenia Michaelidou Ltd and Michael Tymvios v. Turkey*, no. 16163/90, §§ 37-38, 31 July 2003).

VIII. ALLEGED VIOLATION OF ARTICLE 13 OF THE CONVENTION

86. The applicants submitted that they did not have at their disposal any effective remedy by which to obtain redress for their grievances.

They relied on Article 13 of the Convention, which reads as follows:

“Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity.”

87. The Government disputed that claim.

88. The applicants maintained that they had no effective remedy before a national authority either in Turkey or in northern Cyprus. The Turkish courts would not entertain any challenge to the actions of the Turkish armed forces in northern Cyprus or to those of the “TRNC”, and the courts established in the “TRNC” had no legitimacy. In any event, the applicants were denied access to the “TRNC” and could not, therefore, make use of any “courts” which might exist there. Nor would such courts have jurisdiction over the Turkish armed forces or be able to override Article 159 of the “TRNC” Constitution.

89. The Court notes that the applicants submitted no pleadings on the issue of applicability of Article 13. It considers therefore that it is not

necessary to examine this complaint (see *Demades* (merits), cited above, § 48).

IX. APPLICATION OF ARTICLE 41 OF THE CONVENTION

90. 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

91. Between January and March 2008, following a request from the Court for an update on developments in the case, the applicants submitted updated claims for just satisfaction, which were meant to cover the period of loss of use of the properties from January 1987, when the respondent Government accepted the right of individual petition, to 31 December 2007. They produced several expert reports assessing the value of their losses, which included the loss of annual rents collected or expected to be collected from renting out their properties, plus interest from the date on which such rents were due until the day of payment. The applicants did not claim compensation for any alleged expropriation since they were still the legal owners of the properties. The valuation reports contained a description of the properties in respect of which a claim under Article 1 of Protocol No. 1 was being brought before the Court and of the different villages and towns in which the applicants' plots were situated.

92. The starting point of the valuation reports was, as a general rule, the annual rental values of the properties at issue in 1974, calculated on the basis of a percentage of their market value or assessed by comparing the rental values of similar plots at the relevant time. These sums were subsequently adjusted upwards according to an average annual rental increase. Compound interest for delayed payment was applied at a rate of 8% or 6%.

93. In particular, the applicants requested the following sums for pecuniary damage.

94. Applicant no. 1 sought 20,149,419 Cypriot pounds (CYP – approximately 34,427,297 euros (EUR)). The sum due for the loss of use was CYP 10,788,127, while the interest amounted to CYP 9,361,289.

95. Applicant no. 2 sought EUR 25,956,370. The sum due for the loss of use was EUR 14,489,374, while the interest amounted to EUR 11,466,996.

96. Applicant no. 3 sought CYP 118,098 (approximately EUR 201,782). The sum due for the loss of use was CYP 58,724, while the interest amounted to CYP 59,374. The 1974 open market value of the property described in paragraph 17 above was CYP 14,000.

97. Applicant no. 5 sought CYP 23,533,903 (approximately EUR 40,244,198). The sum due for the loss of use was CYP 12,328,174, while the interest amounted to CYP 11,225,724.

98. Applicant no. 6 sought CYP 229,448 (approximately EUR 392,034). The sum due for the loss of use was CYP 114,092, while the interest amounted to CYP 115,356. The 1974 open market value of the property described in paragraph 21 above was CYP 34,000.

99. The heirs of applicant no. 9 sought CYP 3,940,800 (approximately EUR 6,733,250). The sum due for the loss of use was CYP 2,200,033, while the interest amounted to CYP 1,740,767. The 1974 total open market value of 23 of the properties described in paragraph 23 above was CYP 165,950.

100. Applicant no. 12 sought EUR 799,480. The sum due for the loss of use was EUR 446,327, while the interest amounted to EUR 353,153. The 1974 open market value of the property described in paragraph 25 above was EUR 40,400.

101. Applicant no. 13 sought CYP 13,107,598 (approximately EUR 22,395,641). The sum due for the loss of use was CYP 6,781,725, while the interest amounted to CYP 6,325,873. The 1974 rental value of the property described in paragraph 26 above was CYP 1,440. The 1974 rental values of the properties described in paragraph 27 above were the following: property (1): CYP 15,351; property (2) CYP 20,160; property (3): CYP 9,936 CYP; property (4): CYP 5,160. For the property described under paragraph 27 (5) above, the expert appointed by applicant no. 13 gave the 1974 open market value, which was CYP 194,180.

102. The applicants further claimed EUR 50,000 each in respect of non-pecuniary damage.

(b) The Government

103. The Government filed comments on the applicants' claims for just satisfaction on 30 June and 30 September 2008 and 6 January 2009. They pointed out that the present application was part of a cluster of similar cases raising a number of problematic issues and maintained that the claims for just satisfaction were not ready for examination. The Government had in fact encountered serious problems in identifying the properties and their present owners. The information provided by the applicants in this regard was not based on reliable evidence. As concerned specifically the present application, the Government noted that almost all the property located in the Maraş area of Famagusta belonged to a religious trust known as *Vakif*. Once

the latter had acquired ownership, its real estate could not be alienated, transferred or inherited. The applicants had not produced their original title deeds in respect of the Maraş area, but simple “certificates of ownership” obtained from the Greek-Cypriot Department of Lands and Surveys, which were not reproductions of the relevant page of the land records. These documents could not be considered authentic and exclusive proof of ownership in respect of *Vakif* properties, and expert evidence was needed in order to determine whether the titles had been “acquired” (or usurped) contrary to the principles relating to this kind of property. In particular, the applicants should have produced not only the relevant original land records, but also the “*vakfiye*” or “deed of endowment”. The Government submitted that the issues raised relating to *Vakif* should be left to the domestic courts and that the European Court of Human Rights should not deliver judgments which might prejudice the rights of the Cyprus Evkaf Administration (which had jurisdiction over *Vakif* properties) and those of the beneficiaries.

104. Moreover, owing to the lapse of time since the lodging of the application, new situations might have arisen: the properties could have been transferred, donated or inherited within the legal system of southern Cyprus. These facts would not have been known to the respondent Government and could be certified only by the Greek-Cypriot authorities, which, since 1974, had reconstructed the registers and records of all properties in northern Cyprus. The 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 (as in the case of applicant no. 9) 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.

105. The Government further noted that some applicants had shared properties and that it had not been proved 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. For instance, certain properties in which applicant no. 13 personally had a 49% share seemed later to have been transferred as a whole to a company named *Mandrides Properties Ltd*, in which applicant no. 13 had a 51% share (see paragraph 27 above). The latter company, a legal person distinct from the shareholders, was not a party to the proceedings before the Court and applicant no. 13 had not submitted an authorisation to make claims on behalf of a limited company.

106. In any event, no claim for loss of use on behalf of applicant no. 9 could be entertained after the date of his death (11 April 2001) and any non-pecuniary damages would be extinguished by his demise. His heirs should

have provided information about their relationship with the deceased and about the nature of their family links.

107. Applicant no. 6 had declared that he was the sole owner of the property described in paragraph 21 above; however, it appeared from the valuation report submitted in 2008 that his father, Mr Petros Stefou Evangelides, also owned a share in that plot. Applicants nos. 2, 9 and 12 had failed to submit the updated information required by the Court within the extended time-limit requested by their representative (six weeks from 24 January 2008); as a consequence, they should not be entitled to claim just satisfaction at a later stage.

108. On 9 January 2009 the Government filed further comments on the applicants' just satisfaction claims. They observed that in order to obtain compensation the applicants could have applied to the IPC instituted by the authorities of the "TRNC". However, not all the applicants would fulfil the conditions required by the IPC because the registration references were not specified for some of the properties claimed by applicants nos. 1, 5 and 9. Moreover, some of the properties claimed by applicant no. 2 had not been owned by him before 1974 or had changed owner after the application was declared admissible, and part of the real estate claimed by applicants nos. 1, 2, 9 and 13 were *vakif* properties belonging to *Abdullah Paşa Vakif* or *Lala Mustafa Paşa Vakif* which were dedicated in perpetuity to the Muslim religious foundation and could not have been transferred to individuals. Some of the properties in the name of applicants nos. 3, 12 and 13 were subject to a mortgage restriction.

109. The Government produced valuation reports 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 sale prices in the areas where the properties were situated. These reports contained two proposals, assessing both the sums 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 of selling the properties to the State, thereby relinquishing title and claims thereto.

110. The reports prepared by the Turkish-Cypriot authorities specified that neither restitution nor compensation could be envisaged for the *vakif* properties. The other immovable properties referred to in the application were either occupied by refugees or located in military areas; they could not be the subject of an immediate restitution order (the latter being possible only after the settlement of the Cyprus problem) but the applicants might be entitled to financial compensation, to be calculated on the basis of the loss of income (by applying a 5% rent to the 1974 market values) and increase in value of the properties between 1974 and the date of payment. It should also be taken into account that some of the properties claimed by applicants nos. 1, 2 and 5 had been registered in their names only in 1991, 1992 and 1993. Had the applicants applied to the IPC, the latter would have offered

them CYP 1,612,866.73 (approximately EUR 2,755,744) to compensate the loss of use and CYP 1,836,130.34 (approximately EUR 3,137,211) for the value of the properties.

111. According to experts appointed by the “TRNC” authorities, the 1974 open market value of the properties (or shares in the properties) claimed by the applicants and which, in the Government's view, could give rise to financial compensation, could be resumed as follows:

- applicant no. 1: CYP 92,250.3 (approximately EUR 157,618) in total (total current value of the properties: CYP 564,555.46; total loss of use of the properties as of 31 December 2007: CYP 525,636.68);
- applicant no. 2: CYP 51,495.6 (approximately EUR 87,985) in total (total current value of the properties: CYP 315,143.93; total loss of use of the properties from 31 December 2007: CYP 295,872.12);
- applicant no. 3: CYP 4,237 (approximately EUR 7,239) for the property described in paragraph 17 above (total current value of the property: CYP 25,929.69; total loss of use of the property from 31 December 2007: CYP 24,344.03);
- applicant no. 5: CYP 109,957.3 (approximately EUR 187,873) in total (total current value of the properties: CYP 672,919.15; total loss of use of the properties from 31 December 2007: CYP 525,183.37);
- applicant no. 6: CYP 12,711.8 (approximately EUR 21,719) for the property described in paragraph 21 above (total current value of the property: CYP 77,793.96; total loss of use of the property from 31 December 2007: CYP 73,036.67);
- applicant no. 12: CYP 7,627 (approximately EUR 13,031) for the property described in paragraph 25 above (total current value of the property: CYP 46,675.89; total loss of use of the property from 31 December 2007: CYP 43,821.54);

112. No calculation was done for applicants nos. 9 and 13 as all the plots claimed by them were *vakif* properties.

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

114. Finally, the Government did not comment on the applicants' submissions under the head of non-pecuniary damage.

(c) The third-party intervener

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

2. The Court's assessment

116. The Court first notes that the Government's submission that doubts might arise as to the applicants' title of ownership in respect of the properties at issue (in particular, by reason of the applicability of the “*vakif*”

principles – see paragraphs 103-08 above) is, in substance, an objection of incompatibility *ratione materiae* with the provisions of Article 1 of Protocol No. 1. Such an objection should have been raised before the application was declared admissible or, at the latest, in the context of the parties' observations on the merits. In this connection, the Court observes that in the final decision on the admissibility of the application it noted that the respondent Government had not challenged any of the titles regarding the immovable properties claimed by the applicants (see paragraph 29 above). In any event, the Court cannot but confirm its finding that the properties for which applicants nos. 1, 2, 3, 5, 6, 9, 12 and 13 produced written *prima facie* evidence of ownership, which were registered in their names and mentioned in the decision on admissibility (see paragraphs 54-57 above – see also *Kyriakou v. Turkey* (merits), no.18407/91, §§ 48 and 56, 27 January 2009) constitute their “possession” within the meaning of Article 1 of Protocol No. 1.

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

B. Costs and expenses

118. The applicants sought the following sums for the costs and expenses incurred before the Court (these amounts included the cost of the expert valuations of their properties): applicant no. 1: EUR 42,253.33 (cost of the expert valuations: EUR 39,297.83); applicant no. 2: EUR 60,455.50 (cost of the expert valuations: EUR 57,500); applicant no. 3: EUR 3,530.50; applicant no. 5: EUR 43,235.77 (cost of expert valuations: EUR 40,280.27); applicant no. 6: EUR 3,530.5; heirs of applicant no. 9: EUR 20,205.50 (cost of valuations: EUR 17,250); applicant no. 12: EUR 7,555.50 (cost of expert valuations: EUR 4,600); applicant no. 13: EUR 19,657.08 (cost of expert valuations: EUR 16,701.58).

119. The Government did not comment on this point.

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

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

FOR THESE REASONS, THE COURT

1. *Holds* unanimously that the wife and children of applicant no. 9 have standing to continue the present proceedings in his stead;
2. *Decides* unanimously to strike the application out of the list of cases in so far as it concerns applicants nos. 7 and 11 and to continue the examination of the application with regard to applicants nos. 1 to 6, 8 to 10, and 12 and 13;
3. *Dismisses* by six votes to one the Government's preliminary objections of non-exhaustion of domestic remedies and lack of victim status;
4. *Upholds* unanimously the Government's preliminary objection that the claim under Article 1 of Protocol No. 1 is incompatible *ratione materiae* with the provisions of the Convention with regard to applicants no. 4, 8 and 10 (see paragraphs 18, 22 and 24 above), to the properties claimed by applicant no. 2 and belonging to his wife and mother (see paragraph 16 above), to the property claimed by applicant no. 9 described in paragraph 23 (1) above and to the properties claimed by applicants no. 1 and 5 after the adoption of the decision on the admissibility of the application (see paragraphs 14 and 20 above);
5. *Dismisses* by six votes to one the remainder of the Government's preliminary objection of incompatibility *ratione materiae*;
6. *Dismisses* unanimously the Government's preliminary objection of incompatibility *ratione temporis*;
7. *Holds* six votes to one that there has been a violation of Article 1 of Protocol No. 1 to the Convention with regard to applicants nos. 1, 2, 3, 5, 6, 9, 12 and 13;
8. *Holds* unanimously that there has been no violation of Article 8 of the Convention with regard to applicants nos. 4, 8, 9 and 10;
9. *Holds* six votes to one that there has been a violation of Article 8 of the Convention with regard to applicants nos. 1, 2, 3, 5, 6, 12 and 13;

10. *Holds* unanimously that it is not necessary to examine whether there has been a violation of Article 13 of the Convention and of Article 14 of the Convention taken in conjunction with Article 8 of the Convention and Article 1 of Protocol No. 1;
11. *Holds* unanimously that the question of the application of Article 41 is not ready for decision;
accordingly,
 - (a) *reserves* the said question in whole;
 - (b) *invites* the Government and the applicants to submit, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, their written observations on the matter and, in particular, to notify the Court of any agreement that they may reach;
 - (c) *reserves* the further procedure and *delegates* to the President of the Chamber the power to fix the same if need be.

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

Fatoş Aracı
Deputy Registrar

Nicolas Bratza
President

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

N.B.
F.A.

PARTLY DISSENTING OPINION OF JUDGE KARAKAŞ

(Translation)

Unlike the majority, I take the view that the objection raised by the Government as to non-exhaustion of domestic remedies should not have been rejected and that there has been no violation of Article 1 of Protocol No. 1 in the present case.

The requirement to exhaust domestic remedies is intended to afford Contracting States the opportunity to prevent or provide redress for alleged violations before they are referred to the Court. That reflects the subsidiary nature of the Convention system.

To assess whether domestic remedies have been exhausted the Court will **normally** consider those available at the time when the application is lodged. However, there are exceptions to that rule which may be justified by the **particular circumstances of each case** (see *Baumann v. France*, no. 33592/96, § 47, ECHR 2001-V).

Examples of such exceptions are to be found in the cases against Italy which raised similar questions and in which Court found that certain specific facts justified **departing from the general principle** (see *Brusco v. Italy* (dec.), no. 69789/01, ECHR 2001-IX).

In other examples, the Court has also taken the view, in the light of the specific facts of the cases concerned and having regard to the subsidiary nature of the Convention mechanism, that new domestic remedies have not been exhausted (see *Nogolica v. Croatia* (dec.), no. 77784/01, ECHR 2002-VIII; *Slaviček v. Croatia* (dec.), no. 20862/02, ECHR 2002-VII; *Slaviček v. Croatia* (dec.), no. 20862/02, ECHR 2002-VII; *Andrášik and Others v. Slovakia* (dec.), nos. 57984/00, 60237/00, 60242/00, 60679/00, 60680/00, 68563/01 and 60226/00, ECHR 2002-IX; and *İçyer v. Turkey* (dec.), no. 18888/02, ECHR 2006-I).

Since the Court may reject “**at any stage of the proceedings**” (Article 35 § 4 of the Convention) an application which it considers inadmissible, any new facts brought to its attention may lead it, even when examining the case on the merits, to reconsider the decision in which the case was declared admissible and ultimately declare it inadmissible pursuant to Article 35 § 4 of the Convention, taking due account of the context (see, for example, *Medeanu v. Romania* (dec.), no. 29985/96, 8 April 2003, and *Azinas v. Cyprus* [GC], no. 56679/00, §§ 37-43, ECHR 2004-III).

The existence of a “**new fact**” which has come to light after the admissibility decision may prompt the Court to reconsider that decision.

This is the idea that has been developed in my dissenting opinions (see, for example, *Solomonides v. Turkey*, no. 16161/90, 20 January 2009; *Alexandrou v. Turkey*, no. 16162/90, 20 January 2009; *Iordanis Iordanou v. Turkey*, no. 43685/98, 22 September 2009; and *Anthousa Iordanou*

v. Turkey, no. 46755/99, 24 November 2009) concerning the objection of non-exhaustion of domestic remedies in judgments on the merits for violations of Article 1 of Protocol No. 1 predating the Grand Chamber's decision of 1 March 2010 in the case of *Demopoulos and Others v. Turkey* ((dec.), nos. 46113/99, 3843/02, 13751/02, 13466/03, 10200/04, 14163/04, 19993/04 and 21819/04, ECHR 2010-...).

In my view, that reasoning is all the more applicable in the context of the present application, *Lordos and Others*, which was lodged on 20 December 1989, declared admissible on 27 June 2000, adjourned on 2 June 2009 and heard on the merits on 5 October 2010.

The case of *Lordos and Others* is the only one in which the Court had not ruled on the merits before the Grand Chamber gave its decision in *Demopoulos and Others*.

Unlike judgments concerning just satisfaction, which fall solely under Article 41 of the Convention (see, for example, *Solomonides v. Turkey* (just satisfaction), no. 16161/90, 27 July 2010, and *Economou v. Turkey* (just satisfaction), no. 18405/91, 22 June 2010), in the case of *Lordos and Others* there is no *res judicata* preventing the pursuit (*Solomonides v. Turkey* (just satisfaction), no. 16161/90, §18, 27 July 2010) of its examination in accordance with the Grand Chamber's decision in *Demopoulos and Others*.

The **new fact** in the context of the *Lordos and Others* case is no longer merely the existence of Law no. 67/2005 concerning compensation for immovable property or the work of the Commission established under that law.

The **new fact** to be taken into account is the case-law that our Court has developed in the meantime, that is to say between the decision on admissibility and the decision on the merits of the case. The Court, as I have argued in my dissenting opinions, may always reverse its admissibility decision (see *Azinas*, cited above), and that position is not at odds with the approach preferred by the Chamber concerning the application of a Grand Chamber decision to a case where a decision on the merits is pending.

Moreover, in the *Demopoulos and Others* decision: “the Court maintains its view that it must leave the choice of implementation of redress for breaches of property rights to Contracting States, **who are in the best position to assess the practicalities, priorities and conflicting interests on a domestic level ...**” (§ 118).

That finding by the Court gives rise to questions that are both essential and difficult for an international court: the reality of the property claims and the victim status of the applicants.

In my opinion, the present case of *Lordos and Others* encompasses some very complex factual and legal points.

The question of property belonging to the *Vakif* (a feature of Ottoman law that dates back 500 years and is still valid in Cyprus) constitutes a difficult issue on account of its legal and factual aspects. For that reason, I

consider that the third-party intervention requested by the “Evkaf Administration” could have been granted for the purpose of clarifying the situation (see paragraph 9 of the judgment).

I have serious doubts about the title to the properties concerned by the application. The Grand Chamber also expressed similar doubts in the case of *Demopoulos and Others* (§ 111):

“At the present point, many decades after the loss of possession by the then owners, property has in many cases changed hands, by gift, succession or otherwise; those claiming title may have never seen, or ever used the property in question. **The issue arises to what extent the notion of legal title, and the expectation of enjoying the full benefits of that title, is realistic in practice. The losses thus claimed become increasingly speculative and hypothetical.**”

This wise statement of the Court clearly illustrates the impossible mission of an international jurisdiction.