



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

FIRST SECTION

CASE OF KOLONA v. CYPRUS

(Application no. 28025/03)

JUDGMENT
(Merits)

STRASBOURG

27 September 2007

FINAL

27/12/2007

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

In the case of Kolona v. Cyprus,

The European Court of Human Rights (First Section), sitting on 6 September 2007 as a Chamber composed of:

Mr C.L. ROZAKIS, *President*,

Mr L. LOUCAIDES,

Mrs N. VAJIĆ,

Mrs E. STEINER,

Mr K. HAJIYEV,

Mr D. SPIELMANN,

Mr S.E. JEBENS, *judges*,

and Mr S. NIELSEN, *Section Registrar*,

Having deliberated, in private on 6 September 2007,

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

PROCEDURE

1. The case originated in an application (no. 28025/03) against the Republic of Cyprus lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Cypriot national, Mrs Eleni Kolona (“the applicant”), on 1 August 2003.

2. The applicant was represented before the Court by Mr A. Demetriades, a lawyer practising in Nicosia. The Cypriot Government (“the Government”) were represented by their Agent, Mr P. Clerides, Attorney-General of the Republic of Cyprus.

3. The applicant died on 23 December 2004. The application is being pursued by her husband, Mr C. Pappas, who is also the administrator of her estate.

4. On 4 November 2005 the Court decided to give notice of the application to the Government. Under the provisions of Article 29 § 3 of the Convention, it decided to examine the merits of the application at the same time as its admissibility.

THE FACTS**I. THE CIRCUMSTANCES OF THE CASE**

5. The applicant was born in 1926 and at the material time lived in Limassol. She died on 23 December 2004.

6. The deceased applicant was the owner (half-a-share) of a plot of land with a house on it in the village of Pelendri in the district of Limassol. The said house was the applicant's home.

7. By letter dated 22 May 1997 the applicant's lawyer at the time informed the Minister of Communications and Works that the applicant had found out, by chance, that the works planned to take place in her village would entail the compulsory acquisition of her house and its demolition. He further noted that the authorities had been misinformed that no one had been living in the house. He emphasised that the applicant would not consent to the loss of her home and would challenge any administrative act for its compulsory acquisition.

8. On 25 July 1997 a notice of compulsory acquisition of the applicant's property was published in the Official Gazette of the Republic of Cyprus (administrative act no. 908). The compulsory acquisition was for the purpose of the construction, improvement, alignment and surfacing of a public road. The notice stated as follows:

“Notification is hereby given that the immovable property described in the Schedule set out below is essential for the following purpose of public benefit, namely for the creation and development of roads in the Republic and its compulsory acquisition is imperative for the following reasons, namely the construction, improvement, alignment and surfacing of the road.”

On the same day a requisition order was issued under the Requisition of Property Law of 1962 (as amended) and published in the Official Gazette (no. 930):

“Because the immovable property described in the Schedule set out below ... is essential for the following purposes of public benefit, namely for the creation and development of public roads in the Republic or for any of these purposes and its requisition is imperative for the following reasons, namely the construction, improvement, alignment and surfacing of the Pelendri main road”

The initial duration of the order was for one year. It was subsequently extended until 23 July 1999 by publication in the Official Gazette of 12 June 1998 and until 22 July 2000 by publication in the Official Gazette of 18 June 1999.

9. By letter dated 29 July 1997 the applicant lodged an objection to the compulsory acquisition and requisition of her property with the Ministry of Communications and Works.

10. The applicant's objection was dismissed and on 15 May 1998 a compulsory acquisition order issued under the Compulsory Acquisition Law 1962 (Law 15/1962 as amended) was published in the Official Gazette (no. 576). The order referred to the earlier notice of compulsory acquisition.

A. Proceedings concerning the compulsory acquisition

11. On 14 July 1998 the applicant lodged a recourse before the Supreme Court (first instance administrative jurisdiction) seeking the annulment of the compulsory acquisition order. She claimed, *inter alia*, that the impugned administrative act would result in her forced displacement from her village and her ancestral roots.

12. In a letter dated 17 February 1999 sent by the Limassol District Officer to the Director General of the Ministry of Communications and Works, the former stated that a plot of State land had been found in the applicant's village and that an exchange had been proposed to the applicant and her family on the basis of the valuations that would be carried out by the Land Registry concerning the value of the house and the plot in question. However, the applicant had demanded, despite the fact that the Land Registry's valuations had not yet been completed, that she should be granted two houses on State land of her preference and that she was not willing to withdraw her recourse before such houses or land of her preference were granted to her or, otherwise, before the costs and a period of six months were given to her for the construction of two new houses. In view of the circumstances the Limassol District Officer considered that there was no possibility of reaching a settlement.

13. On 13 July 2000 the Supreme Court (first instance administrative jurisdiction) dismissed the recourse and upheld the lawfulness of the compulsory acquisition order.

14. On 19 July 2000, whilst the applicant's right of appeal was still in force, the Public Works Department of the Ministry of Communication and Works demolished the applicant's house.

15. On 7 August 2000 the applicant was offered the sum of 450 Cyprus pounds (CYP) as annual rent for the period from 25 July 1997 until 25 July 2000 as compensation for the requisition of her property. The Government submitted that no agreement had been reached between the applicant and the authorities concerning the compensation.

16. On 23 August 2000 the applicant lodged an appeal with the Supreme Court (revisional administrative jurisdiction) challenging the first instance judgment and the demolition of her house pending the expiration of her right to appeal. In her grounds of appeal she noted, *inter alia*, that the authorities had not taken possession of her property until 19 July 2000, namely, the day that they demolished her house and that following the expiry of the requisition order on 22 July 2000 no other requisition order had been issued. She further invoked Article 8 of the Convention.

17. In the context of the appeal proceedings it emerged that, pending the first instance proceedings, the compulsory acquisition order (no. 930) and the preceding notification (no. 908) had been revoked by an order published in the Official Gazette of 20 August 1999 (no. 1004) on the ground, *inter*

alia, that the acquisition of the applicant's property had not been necessary for the public benefit purposes stated in the initial notice of compulsory acquisition. In particular, the revocation order stated as follows:

“...

Whereas in accordance with the provisions of the Compulsory Acquisition Law, the compensation for the aforementioned acquisition was not paid or deposited.

Whereas the Acquiring Authority considers the immovable property which is described in the Schedule of this order which is part of the immovable property which is described in notice no. 908 as not required for the public benefit purposes which are referred to in notice no. 908.

For these reasons, the Minister of Communications and Works, exercising the powers granted to him by the Council of Ministers by section 7 of the Compulsory Acquisition Law ... with the present notification revokes notice no. 908/97 and order no. 567/98 in so far as they concern the immovable property described in the Schedule of this order”.

Both the parties and the first instance court had not been aware of this development at the material time.

18. In a letter dated 6 November 2000 the Land Registry Department of the Minister of the Interior informed the then Attorney-General that the compulsory acquisition order of 15 May 1998 had been revoked because the relevant plans of the Land Registry did not correspond to the actual situation on the site. Furthermore, following the demolition, the applicant had refused the authorities' offers for a friendly settlement and had not replied to the offer made for the period the property was under the requisition order, i.e. from 25 July 1997 until 25 July 2000. In this connection the Land Registry noted that the applicant had sent letters of protest on 19 and 20 July 2000 to the Director of Public Works and the Minister of Interior respectively. Finally, the Land Registry requested advice with regard to the steps to be taken. In particular, it asked whether the Ministry should send an offer for the compulsory acquisition or whether a new compulsory acquisition order should be issued instead.

19. Subsequently, in a letter dated 1 December 2000, by the Limassol District Engineer of Public Works to the Director of Public Works of the Ministry of Communications and Works, the following, *inter alia*, was stated:

“...

following your instructions we proceeded with the immediate demolition of the house on 19 and 20 July 2000 after repeated telephone conversations with the owner's son ...

Before the demolition process commenced we had a telephone conversation with the complainant's son and we once again mentioned the fact that we would proceed with the demolition of the house.

After this, once the house was opened up in the presence of the police, the Limassol District Officer, the Community Chairman and the Community Secretary of Pelendri village, all objects that were in the house were listed by all the abovementioned which were subsequently taken to a safe place and we proceeded to demolish the house”.

20. On 18 May 2001 another order of requisition (no. 454) was published in the Official Gazette. On 19 April 2002 the period of requisition was extended until 17 May 2003 and then extended again on 3 April 2003 until 16 May 2004.

21. In the meantime, on 30 April 2002 a new notice of compulsory acquisition of the applicant's property was published in the Official Gazette (no. 443). Subsequently, on 17 May 2002 an order of compulsory acquisition (no. 499) was published.

22. On 29 May 2002 the applicant was offered the sum of CYP 12,500 as compensation for the compulsory acquisition of her property. The Government submitted that no agreement had been reached between the applicant and the authorities concerning the compensation.

23. On 18 February 2003 the Supreme Court dismissed the appeal (see paragraph 16 above). In particular, it held that the demolition could not be considered as “damage” connected to the compulsory acquisition order that had been revoked, since, as admitted also by the applicant, the demolition had been carried out after the revocation of that order and whilst the requisition order was still in force. The court noted that, in accordance with its jurisprudence, “damage” in this context should be a direct result of the contested act and not of another cause. Accordingly, the court concluded that no issue of “damage” arose and thus no further examination of the validity of the revoked compulsory acquisition order was justified. The court also pointed out that timely notification of the revocation, which had been the Government's responsibility, would have rendered further consideration of the recourse unnecessary and further, took into account the fact that the compulsory acquisition order had been revoked on the ground that the acquisition of the applicant's property was not necessary for the public benefit purposes stated in the initial notice of compulsory acquisition. The Supreme Court granted the costs of the proceedings, both first instance and appeal, in favour of the applicant.

B. Proceedings concerning the demolition

24. In the meantime, on 29 September 2002, following the demolition of her house, the applicant lodged a recourse before the Supreme Court (first instance administrative jurisdiction) challenging the lawfulness of the decision and/or order to demolish her house and the act of demolition. She invoked Articles 8 and 13 of the Convention and Article 1 of Protocol No. 1 in this respect.

25. On 26 March 2002 the Supreme Court dismissed the recourse. The court held that the act of demolition had not been an executory administrative act but the implementation of the administrative act of requisition. Furthermore, the court considered that there had not been a violation of the applicant's rights under Articles 8 and 13 of the Convention. In this respect it noted that under Article 23 (3) of the Constitution limitations to property, by law, were permissible on certain grounds. In the event of a lawful limitation on property, the above Article provided for just compensation which was determined, in the case of disagreement, by the civil courts. The right therefore of the applicant to compensation for the expropriated property was safeguarded. Furthermore the court considered that, in the event the Supreme Court upheld an appeal lodged by the applicant and annulled the compulsory acquisition order, she would be able to claim compensation for any damage suffered as a result of the administrative act under Article 146 (6) of the Constitution.

26. On 7 May 2002 the applicant lodged an appeal before the Supreme Court (revisional administrative jurisdiction) against the first instance judgment. In her appeal grounds the applicant claimed, *inter alia*, that the demolition of her home violated her rights under Article 8 of the Convention and that the Supreme Court, at first instance, had wrongly omitted to examine Article 1 of Protocol No. 1 and to find a violation of Article 13 of the Convention.

27. On 21 November 2006 the Supreme Court dismissed the appeal and upheld the first instance judgment. In particular, it held that the demolition of the applicant's house had not been an executory administrative act. Furthermore, it considered that it was not necessary to examine the question whether the demolition came within the parameters of the requisition order since, even in the case of a negative reply, the act at issue would be that of unlawful trespass falling within the ambit of private law and not public law. A remedy for such an act could be sought only by way of action before the district court. The Supreme Court held that it did not have jurisdiction to examine the case further on the basis of Article 146 of the Constitution and it therefore did not examine the remaining grounds of appeal.

II. RELEVANT DOMESTIC LAW AND PRACTICE

A. Constitutional provisions

28. Article 23 of the Cyprus Constitution provides as follows, in so far as relevant:

“(1) Every person, alone or jointly with others, has the right to acquire, own, possess, enjoy or dispose of any movable or immovable property and has the right to

respect for such a right. The right of the Republic to underground water, minerals and antiquities is reserved.

(2) No deprivation or restriction or limitation of any such right shall be made except as provided in this Article.

(3) Restrictions or limitations which are absolutely necessary in the interests of public safety or public health or public morals, or town and country planning or the development and use of any property for the promotion of the public benefit or for the protection of the rights of others, may be imposed by law on the exercise of such a right.

Just compensation shall be promptly paid for any such restrictions or limitations which materially decrease the economic value of the property; in case of disagreement, such compensation is to be determined by a civil court.

(4) Any movable or immovable property or any right over or interest in any such property may be compulsorily acquired by the Republic, or by a municipal corporation or by a commune for educational, religious, charitable or sporting institutions, bodies or establishments within its competence and only from the persons belonging to its respective community, or by a public corporation or a public utility body on which such a right has been conferred by law and only

(a) for a purpose which is to the public benefit and shall be specially provided by a general law for compulsory acquisition which shall be enacted within a year from the date of the coming into operation of this Constitution;

(b) when such purpose is established by a decision of the acquiring authority and made under the provisions of such law stating clearly the reasons for such acquisition;

(c) upon payment in cash and in advance of just and equitable compensation, to be determined in case of disagreement by a civil court.

5. Any immovable property or any right over or interest in any such property compulsorily acquired shall only be used for the purpose for which it has been acquired. If within three years of the acquisition such purpose has not been attained, the acquiring authority shall, immediately after the expiration of the said period of three years, offer the property at the price it has been acquired to the person from whom it has been acquired. Such person shall be entitled within three months of the receipt of such offer to signify his acceptance or nonacceptance of the offer, and if he signifies acceptance, such property shall be returned to him immediately after his returning such price within a further period of three months from such acceptance.

...

8. Any movable or immovable property may be requisitioned by the Republic or by a Communal Chamber for the purposes of the educational, religious, charitable or sporting institutions, bodies or establishments within its competence and only where the owner and the person entitled to possession of such property belong to the respective Community, and only

(a) for a purpose which is to the public benefit and shall be specially provided by a general law for requisitioning which shall be enacted within a year from the date of the coming into operation of this Constitution; and

(b) when such purpose is established by a decision of the requisitioning authority and made under the provisions of such law stating clearly the reasons for such requisitioning; and

(c) for a period not exceeding three years; and

(d) upon the prompt payment in cash of a just and equitable compensation to be determined in case of disagreement by a civil court.

...

11. Any interested person shall have the right of recourse to the court in respect of or under any of the provisions of this Article, and such recourse shall act as a stay of proceedings for the compulsory acquisition; and in case of any restriction or limitation imposed under paragraph 3 of this Article, the court shall have power to order stay of any proceedings in respect thereof.

Any decision of the court under this paragraph shall be subject to appeal.”

29. Article 146 of the Cyprus Constitution provides as follows, in so far as relevant:

“1. The Supreme Constitutional Court shall have exclusive jurisdiction to adjudicate finally on a recourse made to it on a complaint that a decision, an act or omission of any organ, authority or person, exercising any executive or administrative authority is contrary to any of the provisions of this Constitution or of any law or is made in excess or in abuse of powers vested in such organ or authority or person.

...

4. Upon such a recourse the Court may, by its decision-

(a) confirm, either in whole or in part, such decision or act or omission; or

(b) declare, either in whole or in part, such decision or act to be null and void and of no effect whatsoever, or

(c) declare that such omission, either in whole or in part, ought not to have been made and that whatever has been omitted should have been performed.

5. Any decision given under paragraph 4 of this Article shall be binding on all courts and all organs or authorities in the Republic and shall be given effect to and acted upon by the organ or authority or person concerned.

6. Any person aggrieved by any decision or act declared to be void under paragraph 4 of this Article or by any omission declared thereunder that it ought not to have been made shall be entitled, if his claim is not met to his satisfaction by the organ, authority or person concerned, to institute legal proceedings in a court for the recovery of damages or for being granted other remedy and to recover just and equitable damages

to be assessed by the court or to be granted such other just and equitable remedy as such court is empowered to grant.”

B. The Compulsory Acquisition Law of 1962 (Law 15/62 as amended)

30. Section 4 of the Compulsory Acquisition Law of 1962 (Law 15/162, as amended) provides as follows:

“Where any property is required to be compulsorily acquired for the purpose of a public benefit, the acquiring authority shall cause a notice of the intended acquisition in the form set out in the Schedule hereto ... to be published in the official Gazette of the Republic, containing a description of the property intended to be acquired, stating clearly the purpose for which it is required and the reasons for the acquisition, and calling upon any person interested in such property to submit to such authority within a specified time, being not less than two weeks from the date of the publication thereof, any objection which he may wish to raise to such acquisition ...”

31. Under section 8 (1) of the above law, the acquiring authority must within fourteen months from the publication of the notice of acquisition enter into negotiations for the acquisition of the property referred to in the notice through private agreement and the agreed determination of the compensation as well as its apportionment between all interested persons. If agreement is not reached within the period of time referred to above, the acquiring authority is obliged to make a direct offer of the compensation assessed by it.

32. Under section 9 of the same law, without prejudice to the provisions of section 8 above, if up to the publication of the acquisition order no agreement has been reached as provided by section 8, the acquiring authority or any interested person may by application ask the Court to determine the compensation to be paid for the acquisition as well as, when this is required, the apportionment of such compensation between the persons interested therein. The purpose of this type of proceedings is the determination of such compensation (*Lina Neocleous v. The Attorney-General of Cyprus*, Supreme Court judgment of 31 May 1992). Sections 10 and 11 of the above Law set out the rules governing the assessment and grant of the compensation.

C. The Requisition of Property Law of 1962 (Law 21/62, as amended)

33. Under section 3 of the Requisition of Property Law of 1962 (Law 21/62, as amended), in accordance with the provisions of the Constitution and the provisions of this Law, property may be requisitioned for public benefit purposes.

34. In so far as the duration of a requisition order is concerned, section 4 (3) of the above Law, provides as follows:

“The requisition order shall be in force for a period or periods not exceeding three years in total, specified in such order or, if nothing is provided there for, until three years have elapsed from the commencement of the coming into force of the requisition.

Provided that at any time during the period the requisition order is in force, the requisitioning authority may by an order published in the official gazette of the Republic -

(a) revoke the requisition order or,

(b) extend the period of time specified in the requisition order for a further period or periods, not exceeding the three years from the date on which the requisition order first came into force, as the requisitioning authority may deem necessary”.

35. Under sections 6 and 7 of the Requisition of Property Law, the requisitioning authority acquires a right to gain possession of the property to enable it to execute the works necessary for achieving the purpose specified in the order during the period that the requisition order was in force. In particular, section 6 (1) provides as follows:

“When by virtue of article 4 a requisition order is issued, possession of such property may be acquired by the requisitioning authority on the date specified by the said order as the date of commencement of the coming into force of the order or any later time, and be retained until the validity of such order is terminated as provided by this law”.

36. Sections 8 to 13 of this Law set out the rules governing the assessment and grant of the compensation to be awarded in respect of requisition of property. In particular, the relevant provisions of section 8 provide as follows:

“8 (1) The compensation payable with reference to the requisition of immovable property by virtue of the provisions of this law consists of the following amounts, namely –

...

(c) an amount equal to any diminution in the value of such property which may have resulted from the presence in or on such property, of any building or other construction, work or building of an annex, built or constructed or annexed by the requisitioning authority, or from any damage caused to such property during the period in which possession was retained by virtue of the requisition order, not taking into consideration natural wear and tear or any damage made good by the requisitioning authority.

...

(e) an amount equal to the reasonable expenditure incurred, other than on the part of the requisitioning authority, for the purpose of complying with the requisition order.

Provided that

...

(ii) an amount is not paid by virtue of paragraph (c) with reference to damage to immovable property, greater than the value of such property at the time when possession of it was acquired by virtue of the requisition order, not taking into consideration any increase in the value of the property resulting from the special circumstances under which the requisition of the said property was rendered necessary.

...

(4) Compensation due by virtue of paragraph (c) of section (1) is rendered claimable at the end of the period in which possession of the property was retained by virtue of the requisition order and is paid to the person who was the owner of the property at the time (such term also includes the person who is entitled to be registered as the owner of the property).

...”.

37. Under section 10 the requisitioning authority ought, at the earliest possible time from which the compensation for the requisition became claimable, enter into negotiations for the agreed determination and apportionment thereof among the interested parties. Section 11 states that if within three months from the date when the compensation became claimable no agreement is reached as provided by section 10 or, although the aforesaid period of three months has not elapsed, it is not foreseen that an agreement will be reached in the circumstances, the requisitioning authority or any interested party may ask the Court to proceed to the determination of such compensation or, where this is required, to the apportionment thereof among those interested therein.

D. Relevant domestic case-law

38. In its judgment in the case of *Athinoulla Tamasiou v. the Republic* (judgment of 28 March 1991 in recourse 1133/90) the Supreme Court held, *inter alia*, the following:

“Requisition is an exceptional temporary measure. It is the temporary deprivation of possession, use and enjoyment of property.

Compulsory acquisition is a permanent measure of deprivation of property for the purposes specified in the Constitution and in accordance with the procedure provided for in the relevant legislation.

The limitation of the period of requisition to three years does not exclude the attainment of a public benefit purpose of much longer and even permanent duration.

Commencement of the process for the compulsory acquisition of property, usually follows, or precedes the requisition, which is a temporary measure. When the process of acquisition and transfer of ownership is not complete but it is necessary to commence the execution of works for the public benefit, depending on the circumstances of the case, the property can be legally requisitioned for commencement of the works. In the event that the process of acquisition does not come through, payment of compensation is provided for both under paragraph 8 of Article 23 of the Constitution and section 8 of the Law, for anything done during the period of requisition under the requisition order, including the reinstatement of the property to its original state (*status quo*).

Works for improvement of roads do not affect the lawfulness of the requisition and are made for the purpose for which the requisition order was issued”.

39. In the above case the applicant in question had filed a recourse against the works that the authorities had commenced on her property on the basis of a requisition order which had been issued on the same day of the notice of compulsory acquisition. Her house had not been affected; only the outside part of the shops on the land had been affected without, however, any effect on their operation. Her recourse was dismissed on the basis that the acts she complained about did not constitute executory administrative acts.

40. Furthermore, in the case of *Republic of Cyprus v. N. Pantelides and Others* (judgment of 5 October 1993 in appeal 1487, 1993 3 A.D.D. 456) a requisition order had been issued in respect of part of the respondents' property. They then filed a recourse against that order and also applied for an interim order to suspend the execution of the order until the recourse was decided. The authorities had submitted that a notice of compulsory acquisition was going to be issued in the Official Gazette of the Republic. At first instance the Supreme Court found that the requisition order was unlawful and granted the application for the interim order. On appeal the Supreme Court set aside the first instance judgment and annulled the interim order. The Supreme Court, held, *inter alia*, that in accordance with the domestic jurisprudence the authority to issue a requisition order was independent of the authority to issue a compulsory acquisition order and, that the latter, was not a prerequisite for a requisition order, even if the nature of the works to be executed during the period of requisition for attaining its aim were of a permanent nature. In such a case an acquisition order would be issued to provide a legal basis for the works. The fact that a requisition order could only remain in force for a maximum period of three years did not exclude the carrying out of works within that period for the achievement of the purpose to the public benefit of a much longer or permanent duration.

5. *The Civil Wrongs Law (Cap. 148)*

41. The law of tort provides, *inter alia*, for actions claiming damages in respect of trespass to land. Under section 43 of the Civil Wrongs Law (Cap. 148) unlawful trespass to immovable property consists of any unlawful entry on, or unlawful damage to or unlawful interference with any such property by any person. Under this section trespass is actionable *per se* (see, amongst other authorities, *Adrian Holdings Ltd v. Republic of Cyprus*, Civil Appeal 9486, Supreme Court judgment of 14 October 1998 and *Papakokkinou v. Theodosiou* (1991) 1 CLR 379, at p. 384).

THE LAW

42. The applicant complained under Article 8 of the Convention and Article 1 of Protocol No. 1 of a violation of her right to respect for her home and to peaceful enjoyment of her possessions. Invoking both provisions the applicant complained of the following:

(a) although the compulsory acquisition order concerning her property had been retroactively revoked, this had only been brought to her attention during the appeal proceedings. As a result, from 15 May 1998 until 20 August 1999 she could not deal with her property on the market or otherwise. Nonetheless no compensation had been offered to her in this respect;

(b) her house had been demolished unlawfully whilst the proceedings concerning the compulsory acquisition order of 15 May 1998 were still pending, and despite the fact that this order had been revoked without her or the Supreme Court's knowledge. Furthermore, the authorities had failed to grant her any compensation for this loss.

I. ADMISSIBILITY OF THE APPLICATION

A. The applicant's first complaint concerning compensation

43. The Court notes that on 7 August 2000 the authorities offered the applicant compensation in the form of annual rent for the three-year period for which the requisition order was in force (see paragraph 15 above), namely from 25 July 1997 until 2 July 2000. This period therefore covered the time for which the property was also under the compulsory acquisition order. Consequently, the applicant cannot claim that she was not offered any compensation for this period. Furthermore, the applicant has not substantiated that she suffered any actual damage or loss during the above period.

44. It follows that this complaint is inadmissible under Article 35 § 3 of the Convention as being manifestly ill-founded, pursuant to Article 35 § 4.

B. The applicant's second complaint concerning the demolition of her house

1. Submissions of the parties

(a) The Government

45. The Government submitted that the applicant had not exhausted domestic remedies as required by Article 35 § 1 of the Convention. The Government firstly pointed out that the applicant had not challenged the requisition order by way of administrative recourse under Article 146 of the Constitution but had only challenged the compulsory acquisition order. They argued that in the context of a recourse against the requisition she could have raised and argued the issues under Article 8 of the Convention and Article 1 of Protocol No. 1 and filed an application for a suspension of the order of requisition pending the final outcome of the recourse in order to prevent the execution of works and demolition of her house until final determination of the recourse at first instance and on appeal. She had not taken any of these steps, however, although she had known that her house had been requisitioned and would be demolished.

46. In connection with the above they noted that although the applicant remained the owner of the property in question, under domestic law the requisition order entitled the authorities to gain immediate possession of the property and carry out all the necessary works for the execution of that order. This included the demolition of the house without waiting for the completion of the process of acquisition and transfer of ownership to the Government. The house could not have been demolished under the acquisition order since such an order *per se* did not transfer ownership and did not give rise to rights of possession. It was also clear under domestic law that the two orders were independent and that the revocation of the compulsory acquisition order did not affect the validity of the requisition order and the rights it granted to the requisitioning authority (relying on *Athinoulla Tamasiou v. the Republic*, judgment of 28 March 1991, in Recourse 1133/90 and the *Republic of Cyprus v. N. Pantelides and Others*, judgment of 5 October 1993 in Appeal 1487, 1993 3 A.D.D. 456). Therefore, even if the Supreme Court had annulled the acquisition order this would not have affected the validity of the requisition order and the authorities' rights under that order to enter the property and execute the required works, including demolition.

47. Secondly, the Government submitted that the applicant had failed to seek an interim order restraining the demolition of her house pending the final outcome of her recourse challenging the validity of the compulsory acquisition order and also, to raise her complaints under Article 8 of the Convention and Article 1 of Protocol No. 1 before the Supreme Court in that recourse. She had only raised her complaints under the above provisions after her house had been demolished, at the appeal stage, and in her recourse challenging the demolition.

48. In relation to the above, the Government emphasised that the applicant had known from the beginning, when the procedures of requisition and compulsory acquisition had been set in motion, that the demolition of her house had been necessary in order to carry out the public benefit purpose specified in the order of requisition and in the notice and order of acquisition. This had been evident from the letters dated 22 May 1997 and 29 July 1997 she had sent to the Minister of Communications and Works and from the letter dated 1 December 2000 sent by the Limassol District Engineer to the Director of the Department of Public works.

49. Finally, the Government noted that the applicant had been offered compensation by the authorities for both the requisition and the compulsory acquisition of her property. Since she had not reached an agreement with the authorities in this respect she had a right to apply to the civil courts for the determination of the amount of compensation in accordance with the Requisition of Property Laws of 1962-1998 and the Compulsory Acquisition Law of 1962. In cases such as the instant one in which damage had been caused to property during the requisition period, under section 8 (1) (c) of the Requisition Laws, the amount of compensation had to be equal to the amount of diminution in the value of the property owing to the damage caused to it, provided however that this did not exceed the value the property had at the time of gaining possession of it under the order. The applicant could have sought compensation for the diminution in the value of her property owing to the demolition of her house, which might be equal but not exceed the property's value at the date of demolition.

(b) The applicant

50. The applicant contested the Government's submissions. Firstly, she submitted that although she had not challenged the requisition order, her home could not have been lawfully demolished on the basis of that order, which constituted a measure of a temporary nature. This had been admitted by the Government in their observations. Furthermore, the demolition had taken place while the judicial review of the compulsory acquisition had been under way, namely pending her appeal before the Supreme Court. Even Article 23 (11) of the Constitution provided for the suspension of such a procedure pending the determination of a recourse before the Supreme Court. The applicant maintained that it had not been possible for her to

anticipate the demolition of her house when she had been in the process of challenging the validity of the order which was the only legal basis for carrying out irreversible changes to one's property. Moreover, the compulsory acquisition order had been revoked and had not therefore been in effect on the day the demolition of her house. The Government had failed to notify both the Supreme Court and the applicant of the revocation. The Government had not provided any explanations in this connection.

51. In addition the applicant submitted that she had never been notified about the intended demolition and could not therefore have challenged it before it occurred. This was clear from the letters referred to in the Government's submissions; the letters by the applicant and her lawyer dated 1997 to the Ministry merely concerned the purported compulsory acquisition whilst the latter letter was between two Government departments claiming that the applicant's son knew of the intended demolition.

52. Finally, the applicant pointed out that apart from challenging the compulsory acquisition of her house she had also challenged its demolition. Her recourse, however, had been dismissed by the Supreme Court both at first instance and on appeal. The Supreme Court had failed to rule on the applicant's complaints under Articles 8 of the Convention and 1 of Protocol No. 1. As a result she had been unable to challenge the lawfulness of the demolition of her house.

2. The Court's assessment

53. The Court recalls that the rule of exhaustion of domestic remedies referred to in Article 35 § 1 of the Convention requires applicants first to use the remedies provided by the national legal system before turning to the Court. The rule is based on the assumption that the domestic system provides an effective remedy in respect of the alleged breach. While in the context of machinery for the protection of human rights the rule of exhaustion of domestic remedies must be applied with some degree of flexibility and without excessive formalism, it does not require merely that applications should be made to the appropriate domestic courts and that use should be made of remedies designed to challenge impugned decisions which allegedly violate a Convention right. It normally requires also that the complaints intended to be made subsequently at the international level should have been aired before those same courts, at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law (see, among many other authorities, *Fressoz and Roire v. France* [GC], no. 29183/95, § 37, ECHR 1999-I). In reviewing whether the rule had been observed it is essential to have regard to the particular circumstances of each individual case (see *Akdivar and Others v. Turkey*, judgment of 16 September 1996, *Reports of Judgments and Decisions* 1996-IV, p. 1210-11, §§ 65-69).

54. The Court notes that the Government primarily rely on the fact that the applicant did not

- file an administrative recourse against the requisition order and, in the context of such proceedings file an application for a suspension of that order to prevent the authorities from demolishing her house;

- file an application during the acquisition proceedings for an order to prevent the demolition pending the final outcome of her recourse;

- raise her complaints before the Supreme Court during the compulsory acquisition proceedings at first instance but only on appeal; and

- apply to the civil courts for the determination of the amount of compensation offered for the requisition of her property and in respect of the new compulsory acquisition procedure.

The Court will therefore proceed to examine the above in order to decide whether the Government's plea is well-founded.

55. The Court firstly notes that the Government have emphasised that the applicant should have challenged the lawfulness of the requisition order of 25 July 1997 and applied for an interim order to suspend that order. The Court, however, is not convinced by the Government's arguments that such a recourse would have been effective in the particular circumstances of the instant case. In this connection, the Court notes that it is clear from the facts that the applicant considered that the demolition of her house would take place on the basis of the compulsory acquisition of the property, which was the permanent measure which would lead to deprivation of her property and transfer of title to the authorities. The applicant was informed that this order had been revoked only after the authorities demolished her house during the appeal proceedings (see paragraph 17 above). By that stage the applicant could not pursue a recourse against the compulsory acquisition order or lodge a recourse against the requisition order.

56. Moreover, the Government have not established that the applicant was given effective notification of the intended demolition of her house. The Government have not submitted any information on the procedure followed with regard to the demolition, whether any order was issued in this respect and whether the applicant was given actual notice of the date of the intended demolition. The Court considers that letters relied on by the Government (see paragraphs 7, 9 and 18 above) are not in any way sufficient in this respect.

57. In view of the above, the applicant had no apparent reason to challenge the requisition order and apply for an interim order. In any event, given the findings of the Supreme Court as to the lawfulness of the acquisition order, the Court is not convinced of the effectiveness of a recourse against the requisition order especially bearing in mind that it had been issued on the same day as the notice for compulsory acquisition and for the same purposes as the compulsory acquisition (see paragraphs 8 and 10).

58. As regards the Government's second point that the applicant should have made an application during the acquisition proceedings to prevent the demolition of her house, the Court notes that they have not shown that the applicant should have made such an application or that such an application would have been effective in any way. As they submit, the authorities could not have demolished the house on the basis of the acquisition order since such an order did not authorise them to gain possession of the property for the execution of any works (see paragraph 46 above). In any event, as found above, the applicant was not given effective notification of the intended demolition of her property (see paragraph 56 above).

59. Regarding the Government's third point, the Court notes that the demolition of the applicant's house occurred just after the first instance judgment was delivered in the acquisition proceedings within the appeal period (see paragraph 14 above). It was therefore added as a new element to the appeal proceedings. The applicant then proceeded to appeal challenging the acquisition order and raising the issue of demolition since, at that stage, she had considered that the demolition had taken place on the basis of that order. It was only during the appeal proceedings that the applicant and the Supreme Court were informed that this order had in fact been revoked in August 1999, during the first instance proceedings (see paragraph 17 above).

60. Concerning the Government's last argument that the applicant should have applied to the civil courts for the determination of the amount of compensation offered (see paragraphs 49 and 54 above), the Court notes that although compensation was offered to the applicant in respect of the requisition of her property after the demolition of the house, this was only in respect of annual rents and not for damages suffered by the applicant due to the demolition. In this respect, the Court observes that the Government merely refer to section 8 (1) (e) of the Requisition Law (see paragraphs 36 and 49 above) without making reference to specific, established domestic case-law illustrating the application of this provision by the civil courts and the real possibility of obtaining compensation in the context of such a procedure in respect of the demolition of her house. The judgments of the Supreme Court in the applicant's case are not of any help on this point. As regards the Government's argument that the applicant should have recourse to the civil courts in respect of the compensation offered for the new compulsory acquisition proceedings, the Court notes that the applicant does not complain about this new procedure before this Court.

61. Finally, the Court observes that despite the Supreme Court's finding in its judgment of 21 November 2006 concerning a possible remedy by way of an action for unlawful trespass (see paragraph 27 above), this was not at any point raised by the Government in their pleadings before the Court. Therefore, in line with its case-law on the matter, the Court cannot examine this issue *ex officio* (see, *inter alia*, *De Jong, Baljet and Van den Brink v. the*

Netherlands, judgment of 22 May 1984, Series A no. 77, p. 18, § 36; *Foti and Others v. Italy*, judgment of 10 December 1982, Series A no. 56, p. 17, § 48 and *Deweert v. Belgium*, judgment of 27 February 1980, Series A no. 35, p. 15, § 26). In this respect, the Court reiterates that it is not for the Convention bodies to cure of their own motion any shortcomings or lack of precision in the respondent Government's arguments (see *Stran Greek Refineries and Stratis Andreadis v. Greece*, judgment of 9 December 1994, Series A no. 301-B, p. 77, § 35).

62. Accordingly, the Court concludes that, given the lack of convincing arguments by the Government as to the “effectiveness” and “adequacy” of the remedies they relied on and in light of all the above considerations, this complaint cannot be rejected for failure to exhaust domestic remedies. The Court thus dismisses the Government's plea in this respect. It further notes that this part of the application is not inadmissible on any other grounds. It must therefore be declared admissible.

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

63. The applicant complained about the lawfulness of the demolition of her house and the authorities' failure to grant her any compensation for this loss. She relied on Article 1 of Protocol No. 1, 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.”

1. *Submissions of the parties*

(a) **The applicant**

64. The applicant argued that the demolition of her house violated her rights under 1 of Protocol No. 1. In particular, the applicant contested the lawfulness of the demolition. She emphasised that the demolition could not have been carried out on the basis of a requisition order which was a temporary measure and could not bring about irreparable results. Under domestic law permanent changes to property could only be made through the compulsory acquisition process. The case-law cited by the Government in support of their arguments was not applicable to the facts of the present case. Yet, in her case, the compulsory acquisition order had already been

revoked when the demolition took place. Even if one could argue that a building could be demolished on the basis of a requisition order which constituted a temporary measure this could not apply to a person's home. In the applicant's view having temporary possession of one's home under a three year requisition order as claimed by the Government could not give licence to the authorities to demolish that home.

65. Furthermore, the authorities had failed, firstly, to inform the applicant and the Supreme Court of the revocation of the compulsory acquisition order and secondly, to notify the applicant of the intended demolition. This was clear from the Government's submissions before the Court. The Government had not provided any explanations concerning the revocation and why the Supreme Court and the applicant had not been duly informed.

66. Finally, the applicant submitted that no compensation had been given to her in this respect.

(b) The Government

67. The Government submitted that the demolition of the applicant's house had taken place under the requisition order which had been in force at the material time. In this connection they repeated that under the requisition order the authorities could gain immediate possession of the property and conduct all the necessary works for the execution of that order without waiting for the completion of the process of acquisition and transfer of ownership to the Government. This included the demolition of the house under the requisition order which was independent to the compulsory (relying on the Supreme Court's judgments in the cases of *Athinoulla Tamasiou v. the Republic* and *the Republic of Cyprus v. N. Pantelides and Others*, cited in above). In this respect they referred to their submissions concerning their plea of non-exhaustion of domestic remedies (see paragraph 46 above).

68. The requisition of the property in question had been made in the public interest and had been prescribed by and had been in accordance with domestic law. The revocation of the compulsory acquisition order had not therefore affected the requisition order or the execution of its works under its authority. The public benefit purpose for which the compulsory acquisition order had been made had never been abandoned and following revocation of the acquisition order on expiry of the period of requisition, the process of requisition and compulsory acquisition of the same property for the same public benefit purpose had commenced anew and would result in compensation for the requisition and compulsory acquisition in accordance with the applicable laws. Accordingly, the Government considered that there had been no violation of the applicant's rights under Article 1 of Protocol No. 1 by reason of the demolition following revocation of the acquisition order pending the proceedings challenging that order or by

reason of the fact that the applicant and the Supreme Court had not been informed of the revocation until the appeal hearing in those proceedings.

2. *The Court's assessment*

69. The Court reiterates that Article 1 of Protocol No. 1, which guarantees the right to the protection of property, contains three distinct rules: “the first rule, set out in the first sentence of the first paragraph, is of a general nature and enunciates the principle of the peaceful enjoyment of property; the second rule, contained in the second sentence of the first paragraph, covers deprivation of possessions and subjects it to certain conditions; the third rule, stated in the second paragraph, recognises that the Contracting States are entitled, amongst other things, to control the use of property in accordance with the general interest... The three rules are not, however, 'distinct' in the sense of being unconnected. The second and third rules are concerned with particular instances of interference with the right to peaceful enjoyment of property and should therefore be construed in the light of the general principle enunciated in the first rule” (see, among other authorities, *Anheuser-Busch Inc. v. Portugal* [GC], no. 73049/01, § 62, 11 January 2007).

70. The Court notes that at the time the events in question took place, the applicant was the owner of the property. In view of this, the Court finds that the demolition of her house deprived the applicant of her possessions within the meaning of the second sentence of the first paragraph of Article 1 of Protocol No. 1.

71. The Court must therefore now determine whether this deprivation was justified in accordance with the requirements of that provision. In this connection it reiterates that the first and most important requirement of Article 1 of Protocol No. 1 is that any interference by a public authority with the peaceful enjoyment of possessions should be lawful: the second sentence of the first paragraph authorises a deprivation of possessions only “subject to the conditions provided for by law” and the second paragraph recognises that the States have the right to control the use of property by enforcing “laws”. Moreover, the rule of law, one of the fundamental principles of a democratic society, is inherent in all the Articles of the Convention (see the *Amuur v. France* judgment of 25 June 1996, *Reports* 1996-III, pp. 850-51, § 50).

72. In the instant case the lawfulness of the demolition is being disputed by the parties. On the one hand, the Government submit that the demolition had taken place on the basis of the requisition order of 25 July 1997 for the purpose specified therein. On the other hand, the applicant submits that the demolition could not be carried out on the basis of a requisition order which was a temporary measure, especially when there was no compulsory acquisition order in force.

73. The Court notes that although the compulsory acquisition and restitution orders constituted independent administrative acts, in the Court's opinion, in the present case, they were clearly and inseparably linked to each other. Both the requisition order and the notice of compulsory acquisition were issued on the same day for the same public benefit purpose (see paragraph 8 above). It is also clear that, in domestic law, compulsory acquisition is a permanent measure of deprivation of property in contrast to requisition which is a temporary deprivation of possession, use and enjoyment of property with a maximum time span of three years. However, the authorities proceeded to demolish the applicant's house, not only within the period in which the applicant still had the right to appeal against the first instance judgment on the compulsory acquisition order, but also after that order had been revoked. In this connection, the Court notes that the revocation order clearly stated that the property was not required anymore for the public benefit purpose for which the acquisition notice and order had been issued (see paragraph 17 above). The Court is not convinced therefore by the Government's arguments that the demolition of the applicant's house could have taken place on the basis of the temporary requisition order, particularly in the light of the revocation of the compulsory acquisition order and, bearing in mind, the permanent nature of the effects of such a measure and its economic impact. In reaching this conclusion the Court has also taken into account the following factors:

- in spite of the requisition order, it appears that the authorities did not take possession of the applicant's property and take any steps to commence works under that order up until three days before the expiry of the requisition order when they demolished the applicant's house (see paragraphs 14 and 16 above);

- following the expiry of the requisition order a new order was only issued approximately ten months later (see paragraphs 8 and 20 above). Furthermore, following the abandonment of the first acquisition procedure it took the authorities about two years and eight months to issue a new compulsory acquisition notice and restart the new procedure (see paragraphs 17 and 21 above). Therefore, not only was there no compulsory acquisition order when the house was demolished but a new order was not issued until one year and ten months afterwards. Consequently, following the demolition of the house there was a period of at least ten months during which there was no requisition or acquisition order concerning the applicant's property.

74. The Court cannot find any legal justification in the cases relied on by the Government (see paragraphs 38-40, 46 and 67 above) for the authorities' actions.

75. Moreover as noted above the applicant was not given effective notification of the intended demolition of her property (see paragraph 56 above).

76. Finally, the Court notes the applicant has not been offered or granted any compensation for the demolition of her house despite the duty of the authorities both under the Constitution (see in particular Articles 23 (3) and 23 (8) (d); paragraph 28 above) and the Requisition Law (section 11, paragraph 37 above) to offer and promptly pay compensation. The Government have not provided any explanations at all in this regard. Although it appears from the letter of 6 November 2000 from the Limassol District Officer to the Attorney-General that following the demolition the authorities made some efforts in order to reach a friendly settlement (see paragraph 18 above), no details have been given by the Government in this respect; they have not submitted evidence of any meaningful offers of compensation made by the authorities to the applicant concerning the demolition of her house.

77. In view of all the above, the Court finds that the interference with the applicant's rights under Article 1 of Protocol No. 1 was arbitrary and, consequently, is not compatible with that provision. This conclusion makes it unnecessary to ascertain whether a fair balance has been struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights.

78. There has, accordingly, been a breach of Article 1 of Protocol No. 1.

III. ALLEGED VIOLATION OF ARTICLE 8 OF THE CONVENTION

79. The applicant complained that the demolition of her home had also violated her right to respect for her home under 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.”

80. The parties submitted the same arguments as advanced with regard to Article 1 of Protocol No. 1 (see paragraphs 64-68 above).

81. The Court notes that the house in question was the applicant's home within the meaning of Article 8 of the Convention. The Government have not contested this in their submissions before the Court. The demolition therefore of her house constituted an interference with her right to respect for her home under Article 8.

82. The Court has found above that the demolition of the applicant's home was arbitrary and did not therefore meet the requirement of

“lawfulness” under Article 1 of Protocol No. 1 (see paragraphs 77 and 78 above).

83. For the same reasons, the Court finds that there has been a violation of Article 8 of the Convention by reason of the denial of the right of the applicant to respect for her home.

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

84. 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. The submissions of the parties

1. The applicant

85. The applicant claimed CYP 91,000 in respect of pecuniary damage. Relying on an expert valuation report dated 16 May 2006, she submitted that the above amount represented the value of her share in the property on the above date had her house not been demolished. According to the valuation report the applicant's house, which had been in a residential planning zone, had been two-storey and covered an area of approximately 145 square meters. It had an uncovered veranda with an additional area of 45 square meters and a garden with a parking place covering an area of 25 square meters.

86. The applicant further claimed CYP 45,000 by way of compensation for non-pecuniary damage for the stress and suffering which the compulsory acquisition and demolition of her home had caused her. In this connection, the applicant requested that the Court taken into account both the Government's insensitivity in handling the matter and the unlawful nature of their actions.

87. Finally, with regard to costs and expenses, the applicant claimed CYP 3958.30 inclusive of VAT for those incurred before the Court. This sum included the amount of CYP 460 for the fees paid in respect of the valuation report. The applicant submitted bills of costs and a receipt concerning the valuation fees.

2. The Government

88. The Government contested the applicant's claims concerning pecuniary and non-pecuniary damage. With regard to the applicant's claim as to pecuniary damage they submitted that the amount sought by the

applicant corresponded to the market value of the house in May 2006 whereas under domestic law the courts assessed the market value and the diminution in the value of the property by reference to the time of publication of the notice of acquisition and of gaining possession. In this connection, they re-emphasised that compensation could be sought under the Requisition and Compulsory Acquisition Laws (see paragraphs 32, 36 and 49 above). As regards to the applicant's claim for non-pecuniary damage, the Government were of the opinion that the finding of a violation would constitute in itself sufficient just satisfaction.

89. Finally, the Government submitted that the costs were connected to the applicant's attempts to prevent or obtain redress in respect of her complaints concerning a violation of the Convention and were therefore recoverable as long as the Court was satisfied that they were actually, necessarily incurred and reasonable as to the quantum.

B. The Court's decision

90. The Court reiterates that it has found a violation of Article 8 of the Convention and Article 1 of Protocol No. 1 by reason of the demolition of the applicant's house. The loss in issue therefore is that of the value of the demolished house.

91. Having regard to the information in its possession, the Court considers that the question of the application of Article 41 is not ready for decision. It is therefore necessary to reserve the matter in its entirety, due regard being had to the possibility of an agreement between the respondent Government and the applicant (Rule 75 §§ 1 and 4 of the Rules of Court).

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Declares* the applicant's complaint under Article 8 of the Convention and Article 1 of Protocol No. 1 concerning the demolition of her house admissible and the remainder of the application inadmissible;
2. *Holds* that there has been a violation of Article 1 of Protocol No. 1 to the Convention;
3. *Holds* that there has been a violation of Article 8 of the Convention;
4. *Holds* 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 applicant 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 27 September 2007 pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Søren NIELSEN
Registrar

Christos ROZAKIS
President