



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

1959 · 50 · 2009

FOURTH SECTION

CASE OF ALEXANDROU v. TURKEY

(Application no. 16162/90)

JUDGMENT

(Just satisfaction - friendly settlement)

STRASBOURG

28 July 2009

This judgment is final. It may be subject to editorial revision.

In the case of Alexandrou 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 Lawrence Early, *Section Registrar*,

Having deliberated in private on 7 July 2009 delivers the following judgment, which was adopted on that date:

PROCEDURE

1. The case originated in an application (no. 16162/90) 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 a Cypriot national, Mr Andromachi Alexandrou (“the applicant”), on 26 January 1990.

2. The Turkish Government (“the Government”) were represented by their Agent, Mr Z.M. Necatigil.

3. The applicant complained, *inter alia*, that the Turkish occupation of the northern part of Cyprus had prevented her from having access to her properties.

4. Following communication of the application to the Government by the Commission, the case was transferred to the Court on 1 November 1998 by virtue of Article 5 § 2 of Protocol No. 11 to the Convention. On 24 August 1999, having obtained no observations by the respondent Government within the time-limit fixed for that purpose, the Court declared the application admissible in so far as it concerned the applicant's complaints under Article 1 of Protocol No. 1, taken alone and in conjunction with Article 14 of the Convention. The applicant's further complaints were declared inadmissible.

5. The applicant 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)).

6. On 20 January 2009 the Court delivered a judgment on the merits of the case. It held that there had been a violation of Article 1 of Protocol No. 1

to the Convention and that it was not necessary to examine whether there had been a violation of Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1. The Court further decided to reserve the question of the application of Article 41 of the Convention in whole.

7. On 20 April 2009 the Government requested that the case be referred to the Grand Chamber. However, in a letter of 21 April 2009, the Government noted that a friendly settlement agreement had been reached between the authorities of the “Turkish Republic of Northern Cyprus” (the “TRNC”) and the applicant, who had signed a statement showing her intention not to pursue her claims for just satisfaction. The Government requested the Court “to strike the case out of its list, and once it delivers a judgment to that effect, to consider the Government's request for the referral of the case to the Grand Chamber made on 20 April 2009, as being revoked”.

THE FACTS

8. The applicant was born in 1933 and lives in Nicosia.

9. The applicant claimed that she was the owner of 109 plots of land in the District of Kyrenia. However, she submitted claims for just satisfaction only in relation to 63 plots of land. She alleged that as a result of the 1974 Turkish military intervention, she had been refused access to her properties, which were located in the area under the occupation and overall control of the Turkish military authorities. In May 1996 the applicant transferred part of her properties to her children. On 11 February 2008 she informed the Court that on 30 June 2003 she had transferred to her daughter the ownership of ten plots of land.

10. On 24 November 2008 the applicant filed an application (no. 72/2008) with the Immovable Property Determination, Evaluation and Compensation Commission instituted by Law no. 67/2005 (the “Commission”), a body with jurisdiction to award compensation for Greek-Cypriot immovable properties in the “TRNC”. She requested financial compensation (10 million euros (EUR)) for the loss of use of the 63 plots of land for which she had claimed just satisfaction before the Court. She specified that a total of 53 plots had been transferred to her children in 1996 and 2003 (see paragraph 8 above and paragraphs 10 and 46 of the Court's judgment of 20 January 2009). She moreover underlined that another plot (identified by serial number 63 in the list of her properties) had been included in her application due to an oversight. This plot, located in Lapithos, had been registered in the name of her son, Mr Yiannos Alexandrou, since 1973.

11. On 15 April 2009 two of the applicant's children (Alec Alexandrou and Yiannos Alexandrou) filed another application (no. 16/2009) with the Commission in order to obtain compensation with respect to 11 plots of land which had previously been owned by their mother and her late sister (Mrs Efthymia Tymviou).

12. In a decision of 17 April 2009, the Commission first noted that only the following 9 plots were currently registered in the applicant's name:

(a) Vasilia, registration no. 5946, sheet/plan XI/5.W.2, plot no. 32/41, use: building site; share: whole; area: 557 m²;

(b) Vasilia, registration no. 5960, sheet/plan XI/13.W.1, plot no. 392, 5/1, use: building site; share: whole; area: 641 m²;

(c) Vasilia, registration no. 5964, sheet/plan XI/13.W.1, plot no. 400, use: building site; share: whole; area: 641 m²;

(d) Vasilia, registration no. 5962, sheet/plan XI/13.W.1, plot no. 5/6, use: building site; share: whole; area: 762 m²;

(e) Vasilia, registration no. 5967, sheet/plan XI/13.W.1, plot no. 5/7, use: building site; share: whole; area: 780 m²;

(f) Vasilia, registration no. 447, sheet/plan XI/5E1&E2, plot no. 140/2, use: field; share: ½; area: 22,408 m²;

(g) Vasilia, registration no. 78, sheet/plan XI/5, plot no. 27/2, use: field; share: ½; area: 40,691 m²;

(h) Vasilia, registration no. 5970, sheet/plan XI/13.W.1, plot no. 397, use: building site; share: whole; area: 604 m²;

(i) Vasilia, registration no. 5371, sheet/plan XI/5, plot no. 28/1, use: field; share: ½; area: 5,212 m².

However, on 28 January 2009 the applicant had revoked her claims concerning the properties described under (a) and (b) above.

13. In the light of the above and having taken into account the relevant documents submitted to it, the Commission ordered the restitution of one of the properties claimed by the applicant's children; it further invited the Ministry Responsible for Housing Affairs to pay to the applicant and to her children 1,500,000 British Pounds (£) as compensation in lieu of the properties as well as for loss of use. The Commission concluded as follows:

“This in turn will satisfy the claims of the applicant before the European Court of Human Rights in [their] entirety. The restitution and payment of compensation shall become valid upon the European Court of Human Rights' decision to strike the case out of its list under Article 37 § 1 (a) and/or Article 37 § 1 (b) of the Convention.

The applicant of application no. 72/2008 expressed satisfaction that the damage[s] suffered with respect to the claimed properties were fully recovered and, in turn, she informs the Court regarding her application no. 16162/90, *inter alia*, declaring full satisfaction with this remedy. The applicant attached the letter to the Court expressing her request from the Court to strike case no. 16162/90 out of the list under Article 37 § 1 (a) [and/or] (b) of the Convention since the restitution and compensation reached [were] of a kind to provide a solution to the matter.

Also, the applicant shall not seek any damages from the respondent State in the principal judgment in respect of any damages, including loss of use, pecuniary and/or non-pecuniary damages, arising from the judgment of the Court to constitute a violation of Article 1 of Protocol No. 1 to the Convention.

In addition, the applicant declares that she considers the case settled and that she will not institute any further proceedings before the Court, national or international authorities in respect to her claimed properties and also shall not pursue to apply for just satisfaction under Article 41 of the Convention.”

THE LAW

14. On 21 April 2009 the Court received from the Government a copy of the Commission's decision of 17 April 2009 (see paragraphs 12 and 13 above), as well as a copy of a document entitled “friendly settlement”, dated 17 April 2009 and signed by the applicant, her two children and the “TRNC” Ministry Responsible for Housing Affairs. In so far as relevant, this document reads as follows:

“We declare and accept that with the execution of the decision of the Immovable Property Commission dated 17 April 2009 and numbered 79 served to us regarding the restitution and compensation, the damage[s] we have suffered with respect to the relevant immovable properties are fully recovered.

We declare and accept that we shall not claim any right regarding the immovable properties set forth in our applications (before the Immovable Property Commission, European Court of Human Rights, national or international authorities and we shall not pursue to apply for just satisfaction under Article 41 of the European Convention on Human Rights in application no. 16162/90) upon the decision of the Immovable Property Commission to compensate us paying £ 1,500,000 (one million five hundred thousand Sterling) by the Ministry Responsible for Housing Affairs, according to the laws of the Turkish Republic of Northern Cyprus in receipt of compensation in lieu of the said properties pursuant the application of the Law.

I, Andromachi Alexandrou, no longer intend to pursue my application in accordance with Article 37 § 1 (a) of the Convention. We also accept that the decision of the Immovable Property Commission to restitute the immovable property set forth in the principal judgment (City/Village: Kyrenia/Vasilia, Registration no. 6013, sheet/plan no. XI/21E1&13.E.2, plot no. 77/6/5/2/1(258)), within reasonable period of time, according to the laws of the Turkish Republic of Northern Cyprus, and to compensate us paying £ 1,500,000 (one million five hundred thousand Sterling) by the Ministry Responsible for Housing Affairs, pursuant to the application of the Law for Compensation, Exchange and Restitution for Immovable Properties, which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution (Law No. 67/2005), shall become valid upon the decision of the European Court of Human Rights to strike the case out of its list under Article 37 § 1 (a) [and/or] (b) of the Convention.

If the Court strikes the case out of its list under Article 37 § 1 (a) [and/or] (b) of the Convention, we accept not to bring any claims should the restitution and compensation decision not be executed beyond the control and powers of the authorities of the Turkish Republic of Northern Cyprus.”

15. In a letter of 23 April 2009 the Court's registry forwarded the documents received from the Government to the applicant and requested her to confirm “her wish to strike the remainder of the case (just satisfaction: Article 41 of the Convention) out”.

16. In a letter dated 25 April 2009, the applicant informed the Court that she had reached a friendly settlement. She produced the following declaration signed by her:

“I have the honour to inform the Court that a friendly settlement agreement has been reached in the judgment of *Andromachi Alexandrou v. Turkey* (application no. 16162/90) that is currently pending before the Court after it was found admissible on 24 August 1999 and the judgment on the merits was delivered on 20 January 2009. I submit this letter on behalf of myself. Accordingly, I request the Court to strike the case out of its list under Article 37 § 1 (a) and/or (b) of the European Convention on Human Rights (hereinafter “the Convention”) since the matter has been resolved.

The attached bundle includes details of the friendly settlement agreement [of] 17 April 2009, namely the reasoned judgment of the Immovable Property Commission in response to my application no. 72/2008 and my sons' application no. 16/2009 to the Immovable Property Commission and the friendly settlement agreement whereby I, *inter alia*, declared and accepted the execution of the said judgment of the Immovable Property Commission.

Accordingly, both my sons and I regarding the immovable properties set forth in the principal judgment accept not to claim any rights before national or international authorities and we shall not pursue to apply for just satisfaction under Article 41 of the Convention. I no longer intend to pursue my application in accordance with Article 37 § 1 (a) of the Convention. We also accept that the decision of the Immovable Property Commission to restitute the immovable property set forth in the principal judgment (City/Village: Kyrenia/Vasilia, Registration no. 6013, sheet/plan no. XI/21E1&13.E.2, plot no. 77/6/5/2/1(258)), within reasonable period of time, according to the laws of the Turkish Republic of Northern Cyprus and to compensate us by paying £ 1,500,000 (one million five hundred thousands Sterling) through the Ministry Responsible for Housing Affairs, pursuant the application of the Law for Compensation, Exchange and Restitution for Immovable Properties, which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution (Law No. 67/2005) shall become valid upon the decision of the European Court of Human Rights to strike the case out of its list under Article 37 § 1 (a) and/or (b) of the Convention.

Also, I will be fully satisfied that the damage suffered with respect to the immovable properties in the principal judgment is fully recovered and, in turn, I declare full satisfaction with this remedy.

Furthermore, I shall not seek any damages from the respondent State in principal judgment in respect of any damages, including loss of use, pecuniary and/or non-

pecuniary damages, arising from the judgment of the Court to constitute a violation of Article 1 of Protocol No. 1 to the Convention.

I appreciate your instant attention for this matter.”

17. The Court takes note of the agreement reached between the parties (Article 39 of the Convention). It is satisfied that the settlement is based on respect for human rights as defined in the Convention or its Protocols (Article 37 § 1 *in fine* of the Convention and Rule 62 § 3 of the Rules of Court).

18. Accordingly, the remainder of the case should be struck out of the list.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Decides* to strike the remainder of the application out of its list of cases;
2. *Takes note* of the revocation of the Government's request for the referral of the case to the Grand Chamber and of the applicant's undertaking not to pursue her claims for just satisfaction under Article 41 of the Convention.

Done in English, and notified in writing on 28 July 2009, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Lawrence Early
Registrar

Nicolas Bratza
President