

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

FIRST SECTION

CASE OF NIKOLAOU AND OTHERS v. CYPRUS

(Application no. 37068/18)

JUDGMENT
(*Merits*)

Art 1 P1 • Deprivation of property • Domestic authorities' refusal to return to the applicants 3,974 square metres of expropriated land which remained unused for over thirty years not based on a public-interest requirement • Fair balance between competing interests upset

Prepared by the Registry. Does not bind the Court.

STRASBOURG

30 April 2026

FINAL

21/09/2026

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



In the case of Nikolaou and Others v. Cyprus,

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

Ivana Jelić*, President*,
Erik Wennerström,
Georgios A. Serghides,
Raffaele Sabato,
Frédéric Krenc,
Alain Chablais,
Anna Adamska-Gallant*, judges*,
and Ilse Freiwirth, *Section Registrar,*

Having regard to:

the application (no. 37068/18) 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 ten Cypriot nationals ("the applicants"), whose names and particulars are set out in the appended table, on 31 July 2018;

the decision to give notice to the Cypriot Government ("the Government") of the complaint concerning Article 1 of Protocol No. 1 to the Convention and to declare the remainder of the application inadmissible;

the parties' observations;

Having deliberated in private on 27 May 2025, 25 November 2025 and 17 March 2026,

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

INTRODUCTION

1. The case concerns the authorities' refusal to return to the applicants 3,974 square metres of expropriated land which allegedly remained unused.

THE FACTS

2. The applicants were represented by Mr A. Demetriades and Ms L. Nikolaou, lawyers practising in Nicosia and Limassol respectively.

3. The Government were represented by their Agent, Mr G. L. Savvides, Attorney General of the Republic of Cyprus.

4. The facts of the case, as submitted by the parties and as they appear from the documents submitted by them, may be summarised as follows.

I. EXPROPRIATION, SUBSEQUENT ACTIONS AND REFUSAL TO RETURN THE PROPERTY

5. On 5 February 1976 the Council of Ministers decided to create an industrial area in the Agios Athanasios sector of Limassol. Various stretches

of land needed to be expropriated to bring the plan to fruition, including the largest part of plot no. 243, which at the material time belonged to the applicants or their ancestors. Plot no. 243 measured 7,693 square metres, of which a 7,024-square-metre portion was expropriated.

6. On 6 February 1976 the Council of Ministers published Expropriation Notice no. 99 in the Official Gazette of the Republic of Cyprus. It described the purpose of the project as follows:

> "[The land is needed] for a purpose in the public interest, namely the promotion and development of industry ..., and the expropriation thereof is imposed for the following reasons: the creation of an industrial area, the leasing of the said area or part thereof in parcels or otherwise to industrial tenants for the development of industry, and/or the leasing or usage of the area or part thereof for any other purpose contributing to the development of industry."

7. On 17 December 1976 the Council of Ministers published Expropriation Order no. 1022 in the Official Gazette. The order gave full effect to the expropriation by extinguishing the property rights of the applicants and transferring ownership of the 7,024-square-metre portion of plot no. 243 and the other expropriated properties to the Republic of Cyprus. The applicants received 7,215 Cypriot pounds (12,327.56 euros (EUR)) as compensation.

8. Meanwhile, the Department of Town Planning and Housing of the Ministry of the Interior prepared a regulatory plan for the development of the industrial area, which was to include the construction of industrial buildings, car parks, green spaces and a so-called "administrative centre" with facilities to serve the local area, such as a childcare centre, a bank, a post office, a pharmacy and restaurants. From land plan no. 5789/2403 adduced by the Government it is evident that plot no. 243 fell within the perimeter of the industrial area. From references in the material submitted to the Court it is further apparent that that land was part of the parcel on which the administrative centre was to be built.

9. In 1979 it was decided that a new road network would be built in the area. A 3,050-square-metre portion of the expropriated land previously belonging to the applicants was allocated to that project. The remaining 3,974-square-metre portion of the expropriated land was left unused and forms the object of the present case ("the disputed land").

10. The regulatory plan for the area remained in force, with the disputed land allocated for the construction of an administrative centre.

11. Between 1990 and 2021 the Ministry of Commerce, Industry and Tourism ("the Ministry") engaged in discussions and negotiations with regard to the use of the disputed land. These included talks with the local industry association and the municipality with a view to creating a childcare centre, an administrative centre, public-interest services and a car park. None of those projects ever materialised.

12. Specifically, various plans to create an administrative centre on the disputed land in the years 2001-2006 and 2017-2022 failed to materialise, either for financial or other, unknown, reasons, despite efforts to that end on behalf of the local industry association. Two requests by the industry association in 2010 and 2013 to develop an administrative centre and a car park were dismissed because of the pending appeal proceedings brought by the applicants (see paragraph 20 below). In addition, it appears from the material submitted to the Court by the Government that the construction of a childcare centre started in 2021, although not on the disputed land.

13. In 1996 the Ministry planned to lease the land to an individual for the construction of a sports centre. That project also never materialised.

14. On 26 September 2014 a company called Christmas Mystery Ltd requested permission to temporarily use the unused expropriated land between December 2014 and January 2015 for a Christmas market. On 30 September 2014 the Ministry gave its approval, and the Christmas market was carried out as planned.

15. It is apparent from the parties' submissions that the disputed land was occasionally used as a waste-disposal site and as a car park, in the alleged absence of sufficient parking in the Agios Athanasios industrial area.

16. In a letter of 6 March 2008 addressed to the Ministry, the applicants requested the return of their land in exchange for the amount they had received as compensation. They argued, relying on Article 23 § 5 of the Constitution and section 15 of the Compulsory Acquisition Law (see paragraphs 27 and 30 below), that after thirty-two years the purpose of the expropriation of the land had not been achieved.

17. In a letter of 17 March 2008 the Ministry refused the applicants' request, explaining that the expropriated land formed part of the "open space" at the entrance of the industrial area, which fulfilled the stated aim of the expropriation. The letter read, in so far as relevant:

> "(b) Following the expropriation of the private property referred to, the Department of Town Planning and Housing prepared a regulatory plan for the creation of the Industrial Area. On the basis of this plan, industrial plots were developed, along with roads, car parks, green spaces and open space at the entrance to the site. Our Ministry has completed all the necessary infrastructure works for the creation of the Industrial Area in accordance with the town-planning blueprint, and all the industrial plots have been leased and factories have been built on them.
>
> (c) The regulatory plan for the Agios Athanasios Industrial Area is an integral part of the current Local Development Plan for Limassol, as approved by the Cabinet.
>
> (d) The portion of [the applicants'] property that was expropriated and used for the development of the Industrial Area forms part of the open space at the entrance to the site. The claim made by [the applicants] that it has not been used for the purpose for which it was expropriated is therefore unfounded."

II. FIRST-INSTANCE JUDICIAL PROCEEDINGS

18. The applicants challenged the refusal of the Ministry by way of a recourse for judicial review (no. 781/2008) before the Supreme Court, which at the material time exercised first-instance jurisdiction in administrative-law cases. They argued that since the stated aim of the expropriation had not been fulfilled, they were entitled to the restitution of their property. They pointed out that a portion of the expropriated land previously owned by them remained unused thirty-two years later (see paragraph 9 above), arguing that this was indicative of the fact that the authorities had either abandoned the purpose of the expropriation or failed to bring it to fruition. The applicants also claimed that the refusal of the domestic authorities to return the land to them constituted a violation of Article 23 §§ 4-5 of the Constitution and of section 15 of the Compulsory Acquisition Law (see paragraphs 27-32 below). The respondent – the State *via* the Ministry – contended that the purpose of the expropriation had been to develop a fully functional industrial area and that that purpose had been achieved in relation to the unused portion of plot no. 243, since the land in question had been intended as "open space". Moreover, the respondent submitted that the authorities still had the intention of developing an administrative centre and that the disputed land would be used for that purpose.

19. On 21 September 2011 the Supreme Court, sitting in single-judge formation, dismissed recourse no. 781/2008, endorsing the arguments of the respondent State as regards the purpose of the expropriation. It accepted that that purpose had been achieved by including the disputed land in the wider industrial area, as envisaged in the regulatory plan. It further found that the land formed part of the block allocated for the industrial area's administrative centre, which naturally would only be developed after the project's industrial facilities had been completed and the administrative needs of the area had thus been clarified. The court referred to various agreements between the Ministry and the Agios Athanasios municipality or the industry association as demonstrating that the purpose of the expropriation had not been abandoned. In sum, the Supreme Court judge considered that the purpose of the expropriation had in large part been achieved and, at the same time, that the domestic authorities had demonstrated their intention of bringing to fruition the few remaining works which fell within the ambit of the stated aim of the expropriation.

III. APPEAL PROCEEDINGS

20. The applicants appealed against the first-instance judgment to the Supreme Court, exercising its second-instance jurisdiction (revisional appeal no. 152/2011). They alleged that the first-instance court had contradicted itself in accepting that the disputed land formed part of the industrial area's

open space while at the same time finding that the stated aim of the expropriation could and would still be fulfilled by the development of an administrative centre on that land. According to the applicants, the administrative centre and more specifically the childcare centre did not fall within the ambit of the purpose of the expropriation. The applicants contended that the industrial area had been completed twenty years earlier, whereas the disputed land remained unused. They argued that the disputed land was in excess of the real needs of the industrial project and should therefore be returned to them.

21. On 2 February 2018 the Supreme Court, sitting as a bench of five judges, dismissed revisional appeal no. 152/2011 by a majority of three votes to two.

22. The majority held that the purpose of the expropriation in Expropriation Order no. 1022 had been formulated in very broad terms, thus allowing the authorities wide discretion to determine the precise ways in which to implement the stated aim of the expropriation. They accepted that these could range from keeping the plot unused to approving the construction of any building, including a sports centre. The three judges considered that the purpose of the expropriations for the development of the industrial area had been based on a broad and general understanding of the needs of the sector and that the disputed land formed an integral part of that area. They assessed that purpose broadly and did not investigate what had been done specifically on every single expropriated plot, concluding that the stated aim of the expropriation had been fulfilled.

23. As regards the proportionality of the interference with the applicants' proprietary rights, the Supreme Court ruled that the applicants had not proved that the domestic authorities had failed to take any reasonable action to bring to fruition the planned development on the disputed land. On the contrary, it considered that the various attempts to lease and develop the applicants' former land demonstrated that they had fulfilled their obligations and that the proportionality requirement had been satisfied.

24. The three judges in the majority found, *inter alia*, as follows (original emphasis):

> "It is apparent from the administrative file that the situation is as described by the respondents. The purpose for which the disputed parcel was expropriated has been achieved by its inclusion in the wider industrial area, of which it is an integral part, in accordance with the existing regulatory plan. This industrial area appears to have been developed gradually after the expropriation, with all necessary infrastructure works being completed to contribute to the construction and start-up of industrial facilities on the designated industrial plots. The creation of the industrial area's administrative centre, including on the disputed parcel, is provided for in the approved plans, and the development of this specific area for the stated purposes should logically follow the start-up of the industrial facilities. Deciding which needs to prioritise in the development of the administrative centre is a task that has to follow the completion of the industrial facilities, so as to allow a greater opportunity to assess and evaluate the actual needs of the area. The fact that buildings have not been erected in the

administrative-centre area is clearly because the authorities are waiting for all the industrial facilities to be operational, so that they can identify the actual needs, set priorities and determine which services should be established in order to be genuinely beneficial for the promotion and development of industry, as outlined in the relevant expropriation notice. The leasing of this specific area to the local industry association and the municipality of Agios Nikolaos clearly indicates that the purpose of the expropriation has not been abandoned, and that its achievement is still feasible.

In the case of Zinon Efthymiadis Ltd v. the Republic (2006) 3 A.A.D. 166, it was stated:

'... The concept of feasibility refers not to the subjective intentions or desires of the authorities but to the objective facts relating to the actions of the authorities in the implementation of the project.'

In the present case, the objective facts of the matter lead to the sound conclusion that the purpose for which the applicants' parcel was expropriated has largely been achieved. What remains is for some minor works to be completed, which logically could not have been done before the development of the industrial plots, as the authorities reasonably explained. The completion of these remaining works is intended to create a fully organised and functional industrial area, which clearly aligns with the purpose of the expropriation."

25. The two dissenting judges issued a separate opinion in which they stated that the applicants' appeal should have been successful. They argued that according to *Zinon Efthymiadis Ltd* and subsequent case-law of the Supreme Court, the requirement that the purpose of an expropriation should be realistically feasible within the three-year deadline set by the Constitution remained in force as a continuous obligation beyond that time-limit. The requirement in question also prohibited the authorities from remaining inactive in a way which deprived the applicants of their property for no apparent or substantial reason.

26. In relation to the facts of appeal no. 152/2011, the two dissenting judges found that the Agios Athanasios industrial area, whose creation was the reason behind all the 1976 expropriations, had in fact been fully completed and functional for years, whereas the disputed land still remained unused. They accepted the respondent's submissions that the area needed an administrative centre, that one such centre had been envisaged and that construction could only take place after the industrial units in the area had been completed. However, they considered that the disputed land had exceeded the needs of the industrial project. Specifically, they concluded:

"As already stated, the concept of feasibility refers not to the subjective intentions or desires of the authorities, but to the objective facts of the case concerning the steps taken by the authorities towards completing the project. In the present case, the authorities, objectively, not only failed to take any steps towards utilising the contested property for the purpose for which it had been expropriated, in a way that would continually make that purpose fully achievable, but, with their stated intention to grant a long-term, renewable right of use for part of the open space to a third party, outside the scope of the expropriation notice, they also disregarded the purpose of the expropriation and confirmed that there was no real need to continue depriving the appellants of their

property. The proposed lease in no way aligned with the purpose of the expropriation, which was the development of industry or projects contributing to that development."

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. CONSTITUTION OF THE REPUBLIC OF CYPRUS

27. Chapter Two of the Constitution of the Republic of Cyprus is titled "Fundamental Rights and Freedoms" and includes Articles 6 to 35 of the Constitution.

28. Article 23, in so far as relevant, provides:

"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 right.

The right of the Republic to underground water, minerals and antiquities is reserved.

...

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 Communal Chamber for the 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 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; and

(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; and

(c) upon the payment in cash and in advance of a 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 non-acceptance 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."

29. Article 33 of the Constitution, in so far as relevant, provides:

"1. Subject to the provisions of the Constitution relating to the state of emergency, the fundamental rights and freedoms guaranteed by this Chapter shall not be subject to any other condition, constraint or restriction except those prescribed in this Chapter.

2. The provisions of this Chapter which refer to such conditions, constraints or restrictions shall be interpreted narrowly and shall not be applied for any purpose other than that for which they were enacted."

II. COMPULSORY ACQUISITION LAW OF 1962 (LAW No. 15/1962)

30. Section 15(1) of the Compulsory Acquisition Law of 1962 provides, in so far as relevant:

"For any property expropriated after the entry into force of the Constitution, where the purpose of the expropriation has not been achieved within three years from the date of the expropriation, or where the purpose has been abandoned by the expropriating authority, or where it has been shown that all or part of such property was in excess of the real needs of the expropriating authority, the following provisions shall apply:

(a) the expropriating authority shall make a written offer to sell the property at the price at which it acquired it, to the person to whom such property belonged before the expropriation or, where that person is deceased, to that person's representatives or heirs, who in reply shall indicate in writing within three months whether they accept or reject the offer; if no reply is received within the time-limit, the offer shall be considered rejected ...;

(b) where the person mentioned in paragraph (a) accepts the offer, that person shall within a further three months from the acceptance ... pay the agreed or determined price to the expropriating authority; the authority shall thereafter transfer ownership of the property."

31. Section 15(2) governs what happens in the event that no agreement with the former owner of a property can be reached. In such a scenario, the authorities offer the expropriated property for sale *via* a public auction.

32. Section 15(3) provides, in so far as relevant:

"The provisions of subsection 2 shall not apply if all or part of the immovable property becomes necessary for another purpose pursued by the expropriating authority, as long as such purpose is in the public interest as provided for in the present Law and as long as the authority issues a confiscation order (*διάταγμα επισχέσεως*) published in the Official Gazette of the Republic ..."

III. DOMESTIC CASE-LAW

33. The full bench of the Supreme Court in the leading case of *Zinon Efthymiadis Ltd v. the Republic* (2006) 3 A.A.D. 166 crystallised the principle that not only should an expropriation be formally justified but its purpose should also be actively pursued in order to prevent the State from indefinitely holding expropriated property without fulfilling its stated public-interest purpose. The case concerned a 1992 expropriation of 6,990 square metres of land for the construction of the government's new printing office. By 1998 the construction had still not taken place. In the meantime, town-planning zones had changed, placing the plot in a residential area and raising further hurdles for the construction of the building in question. The former owner of the land had thus requested its return. That request had been refused by the

government on the grounds that architectural plans had been prepared and that the project was still feasible. The former owner had unsuccessfully challenged that refusal. On appeal, the Supreme Court decided to harmonise the divergent case-law on the interpretation of Article 23 § 5 of the Constitution (concerning whether the purpose of an acquisition has been attained and, where this is not the case, the return of the property).

34. The full bench of the Supreme Court analysed the conflicting case-law on the matter and held that the authorities had an ongoing duty – extending beyond three years – to actively pursue the stated public-interest purpose for which the property had been expropriated. In deciding whether the purpose of the expropriation had been attained, the focus should be on objective feasibility, that is, on whether the project could realistically be implemented. Importantly, the burden was on the former owner to show that the authorities had not taken the necessary steps to implement the project.

35. As to the specific circumstances of the case, the Supreme Court considered that the retention of the property based on a potential future decision to pursue the stated purpose amounted to an unjustified benefit for the State. At the same time, it imposed an indefinite burden on the former owner, especially given that the value of the property had increased since the expropriation – as was usually the case.

36. Lastly, the Supreme Court reiterated that Article 23 of the Constitution provided for the extinguishment of property rights when an expropriation took place, but at the same time granted the right to reclaim the property subject to certain conditions and other statutory provisions.

THE LAW

I. PROCEDURAL SUCCESSION

37. The application was lodged with the Court on 31 July 2018 under Article 34 of the Convention by ten applicants. They or their ancestors previously owned plot no. 243.

38. After the application had been lodged, applicant no. 9, Mr Savvas Nikolaou, passed away. In a letter of 31 May 2023 his children and heirs, Nikolaos, Chrysis and Marina Nikolaou, expressed their wish to pursue the application in his stead. The Government did not submit any objections.

39. In a number of cases in which an applicant has died in the course of the proceedings, the Court has taken into account the statements of the applicant's heirs or of close family members expressing the wish to pursue the proceedings, or the existence of a legitimate interest claimed by a person wishing to pursue the application (see *Mraović v. Croatia* (striking out) [GC], no. 30373/13, § 23, 9 April 2021, and the cases cited therein).

40. In the circumstances of the present case, and in view of the absence of any objections from the Government, the Court considers it justified to permit Mr Savvas Nikolaou's children to pursue the application in his stead.

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

41. The applicants complained that the continuous deprivation of their property and the refusal of the domestic authorities to return the disputed land to them breached their rights under Article 1 of Protocol No. 1 to the Convention, which reads:

> "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."

A. Admissibility

42. In the present case, the applicability of Article 1 of Protocol No. 1 is not in question. The Court notes that this complaint is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicants

43. The applicants accepted that the initial purpose of the expropriation of their plot of land had been in the public interest, namely the development of an industrial area. However, they argued that that purpose had not been achieved for the unused land in dispute and that the continuous deprivation of their property therefore violated Article 1 of Protocol No. 1. The applicants contended that the expropriated land in question had never been used for the general interest of the community and that it had in fact been used for purposes other than those set out in Expropriation Notice no. 99.

44. Citing Article 23 § 5 of the Constitution and its interpretation in domestic case-law (see paragraph 34 above), the applicants submitted that an expropriation was considered lawful only for as long as the expropriated property was being used for the purpose for which it had been acquired by the State. The time-limit laid down in the Constitution was a safeguard for the individual's property rights, setting a maximum period within which the

interest of the community had to be served. However, should that purpose not be achieved within the set period, the authorities had an obligation to return the property to the original owner, according to both domestic case-law and the Court's case-law. In the applicants' view, given that the authorities had failed to return the disputed land to them within the time-limit set by the Constitution, they had remained legally obliged to do so in 2008 when the applicants had lodged a request to that effect, because thirty-two years had passed since the expropriation and no public-interest projects had materialised on the unused land.

45. The applicants argued that their land had been expropriated too early for, or in excess of, the real needs of the development of the industrial area. In view of the subsequent failure of the authorities to use the disputed land for the purpose for which it had been expropriated, their refusal to return it had upset the fair balance that they were obliged to maintain between the general interest of the community and the protection of the property rights of the applicants as individuals. According to the applicants, the property had generated an increase in value of which they had been deprived. They had therefore had to bear an unnecessary economic burden which, to date, no compelling public-interest need had been shown to counterbalance.

(b) The Government

46. The Government accepted that the expropriation of the applicants' land constituted an interference amounting to a deprivation of their possessions. They contended, however, that both the expropriation and the subsequent refusal of the authorities to return the disputed land to the applicants had been in accordance with the procedure laid down in domestic law.

47. In relation to the purpose of the expropriation, the Government first asserted that it had been feasible to achieve within three years from the expropriation. They further submitted that the disputed land formed part of the wider industrial area. Since its conception, the industrial area had included open space for functional purposes. Moreover, the Government cited the various discussions between the national authorities and other stakeholders concerning the administrative centre, arguing that these had been indicative of the intention to use the land in the public interest. The Government submitted that the applicants had not shown that the land was not being used for the needs of the State, understood in a broad sense.

48. The Government further contended that the development of an industrial area was consistent with the public-interest purpose under the Convention. They argued that the domestic authorities enjoyed a wide margin of appreciation in that regard. According to the Government, the expropriation measures had not targeted the applicants specifically but had been applied in a general manner and had affected many property owners. The Government alleged that the local community largely benefited from the

development of the industrial area and other related public-interest services that were based around it. They denied any disproportionality or arbitrariness on the part of the domestic authorities, who had acted in an orderly and timely manner during the administrative and judicial proceedings concerning the disputed land.

2. The Court's assessment

(a) General principles

49. The Court reiterates that the taking of property can be justified under Article 1 of Protocol No. 1 to the Convention only if it is shown, *inter alia*, to be "in the public interest" and "subject to the conditions provided for by law". In this connection, because of their direct knowledge of their society and its needs, the national authorities are in principle better placed than the international judge to appreciate what is "in the public interest". Here, as in other fields to which the safeguards of the Convention extend, the national authorities enjoy a certain margin of appreciation. Furthermore, the notion of "public interest" is necessarily extensive. In particular, the decision to enact laws expropriating property will commonly involve consideration of political, economic and social issues. The Court finds it natural that the margin of appreciation available to the legislature in implementing social and economic policies should be a wide one and will respect the legislature's judgment as to what is "in the public interest" unless that judgment is manifestly without reasonable foundation (see *Malama v. Greece*, no. 43622/98, § 46, ECHR 2001-II). Likewise, in an area as complex and difficult as that of land development, the Contracting States should enjoy a wide margin of appreciation in order to implement their planning policy (see *Terazzi S.r.l. v. Italy*, no. 27265/95, § 85, 17 October 2002, and *Elia S.r.l. v. Italy*, no. 37710/97, § 77, ECHR 2001-IX). Nevertheless, in the exercise of its power of review the Court must determine whether the requisite balance was maintained in a manner consonant with the individual's right of property (see *Abdilla v. Malta* (dec.), no. 38244/03, 3 November 2005).

50. Not only must a measure depriving a person of his or her property pursue, on the facts as well as in principle, a legitimate aim in the public interest, but there must also be a reasonable relationship of proportionality between the means employed and the aim sought to be realised. The fair balance to be struck between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights is thus upset if the person concerned has had to bear a disproportionate burden (see *Beneficio Cappella Paolini v. San Marino*, no. 40786/98, § 33, ECHR 2004-VIII (extracts)).

51. The Court has held that when a significant amount of time passes between the expropriation of a property and the actual implementation of the public-interest project underlying that measure, the continuous deprivation of

the property may deprive the former owner of any increase in its value during that period. Where such a deprivation is not itself based on a public-interest justification, the individual may therefore, depending on the circumstances of the case, be made to bear an additional burden that is incompatible with the requirements of Article 1 of Protocol No. 1 (see *Motais de Narbonne v. France*, no. 48161/99, §§ 19 and 22, 2 July 2002; *Beneficio Cappella Paolini*, cited above, § 33; *Keçecioğlu and Others v. Turkey*, no. 37546/02, §§ 27-29, 8 April 2008; *Vassallo v. Malta*, no. 57862/09, § 42, 11 October 2011; *Frendo Randon and Others v. Malta*, no. 2226/10, § 61, 22 November 2011; and *B. Tagliaferro & Sons Limited and Coleiro Brothers Limited v. Malta*, nos. 75225/13 and 77311/13, § 73, 11 September 2018).

(b) Application of those principles to the present case

52. The Court notes that the domestic legal order – specifically Article 23 § 5 of the Constitution, read in the light of its interpretation and application by the domestic courts – confers on the original owners of expropriated land a right to have that land returned to them if the purpose of the expropriation has not been attained (see paragraphs 34 and 36 above). The applicants relied on that right to claim back the 3,974 square metres of their former land which had remained unused. Their claim was examined in substance by the domestic courts. The Court also observes that the essence of the dispute between the parties domestically concerned whether the stated purpose underpinning the expropriation of the disputed land had been fulfilled or not.

53. It is common ground between the parties that a right of restitution exists in domestic law. There is also agreement that the expropriation constituted a deprivation of possessions, that it was in accordance with the Compulsory Acquisition Law, that it pursued a public interest and that adequate compensation was paid. What therefore remains to be decided is whether the authorities' refusal to return the disputed land in itself had a legitimate aim in the public interest and struck a fair balance between the demands of the general interest of the community and the requirements of the protection of the individual's fundamental rights (see, *mutatis mutandis*, *Motais de Narbonne*, §§ 19 and 22; *Beneficio Cappella Paolini*, § 33; *Keçecioğlu and Others*, §§ 27-29; *Vassallo*, § 42; *Frendo Randon and Others*, § 61; and *B. Tagliaferro & Sons Limited and Coleiro Brothers Limited*, § 73, all cited above).

54. The Court reiterates that it is an accepted fact that part of the initially expropriated property – namely a 3,050-square-metre portion – was used for road development and that the remaining 3,974 square metres constitute the disputed land in issue in the present case. In the years following the expropriation, the disputed land was the subject of extensive negotiations for construction projects in line with the purpose of the expropriation (see paragraphs 11-12 above). Specifically, in 1979 it was designated in the regulatory plan for the area (see paragraph 8 above) to be used for the

construction of an administrative centre, which would serve the needs of the industrial area under development. In the following thirty-one years the authorities made several plans and entered into various agreements for the development of the land to that end. However, none of those plans materialised, either for financial or other, unknown, reasons (see paragraph 12 above). As a result, the disputed land has remained unexploited. This fact is accepted and forms common ground between the parties.

55. According to the plans proposed over the years and submitted to the Court by the Government, the disputed land was not originally intended to remain "open space". It was only in 2008, following the applicants' request for the return of the property (prompted by the failure to implement the original – or any other – project), that the domestic authorities referred to its designation as "open space", presenting this as the basis for its continued retention (see paragraph 17 above). Moreover, the Supreme Court did not consider, either in the first-instance or in the appellate proceedings that the disputed land was destined to remain "open space", but found that the authorities had shown their intention to complete any remaining works needed to create a fully functional industrial area (see paragraphs 19 and 24 above). The Court acknowledges that open space serves a useful and necessary function in town planning and that it will generally respect the domestic authorities' judgment as to what is in the general interest unless that judgment is manifestly without reasonable foundation (see paragraph 49 above and *Immobiliare Saffi v. Italy* [GC], no. 22774/93, § 49, ECHR 1999-V). However, it cannot remain passive, in exercising the European supervision incumbent on it, where a domestic court's interpretation of a legal act appears "unreasonable, arbitrary or ... inconsistent ... with the principles underlying the Convention" (see *Michael Theodossiou Ltd v. Cyprus*, no. 31811/04, § 78, 15 January 2009). In the particular circumstances of the present case, the Court cannot disregard the Government's own actions and submissions that contradict the land's designation as "open space", asserting that there is a maintained intention to construct a public-service building on the disputed land, and accepting that the land has been used for other-than-the-stated purposes such as for private-profit (see paragraph 14 above), as an informal car park and as a waste-disposal site (see paragraph 15 above). These contradictions aside, the Government have also failed to clarify before the Court the specific public interest justifying the land's continued designation as "open space" over an extended period of time, instead suggesting – as did the domestic courts in their examination of the case – that it might still be developed into an administrative centre (see, *a contrario, Özer and Others v. Türkiye* (dec.), no. 58734/16, §§ 16-17, 10 December 2024, where the absence of construction on part of the expropriated land fulfilled a specific public interest, as it served to protect against electromagnetic waves emitted by the weather station built on the rest of the expropriated land).

56. While the Court accepts that projects of a certain scale – such as the transformation of an entire area for industrial use – may need to allow scope for further expansion. However, when expropriating land, the authorities should have had some concrete plans at least for its forthcoming, if not for its imminent, development (see *Frendo Randon and Others*, cited above, § 61). Despite the assertion that the Expropriation Notice was worded in broad terms (see paragraph 22 above) and the Government's submission that the applicants had not proven that the land was not being used for the State's needs understood in a broad sense (see paragraph 47 above), the Court cannot consider that this absolved the national authorities from their obligations under Article 1 of Protocol No. 1. In this connection, the Court notes that the domestic courts accept there was a legal obligation under Article 23 § 5 of the Constitution to fulfil the stated purpose of the expropriation within three years, and that former owners retained the right to challenge an alleged non-fulfilment of the stated purpose well beyond that deadline (see paragraphs 28, 33-36 above). Given the absence of clear arguments about the use and purpose of the land in relation to the public interest requirement, as well as the uncontested fact that it remains unexploited by the authorities, it cannot be said, in the light of the Court's relevant case-law, that the delay in using the land is itself based on any public-interest concern.

57. Thus, the Court finds that the authorities' refusal to return the disputed land to the applicants was not in itself based on a public-interest requirement. Since the land has indisputably generated an increase in value over the years, of which the applicants have been deprived, the Court finds that in the circumstances of the present case the fair balance between the demands of the general interest of the community and the requirements of the protection of the individuals' fundamental rights has been upset.

58. There has accordingly been a violation of Article 1 of Protocol No. 1 to the Convention.

III. APPLICATION OF ARTICLE 41 OF THE CONVENTION

59. 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 damage

1. The parties' submissions

(a) The applicants

60. The applicants sought first and foremost the restitution of their property, namely the unused 3,974-square-metre portion of plot no. 243.

They expressed their willingness to return the amount received from the authorities as compensation for the expropriation in 1976. They accepted, however, that such redress remained at the discretion of the respondent State.

61. In view of the above, the applicants made claims for pecuniary damage corresponding to the current market value of the property, for 3,576,600 euros (EUR), and to the loss of use/rental income plus annual interest as of 1989, when the Court acquired jurisdiction *ratione temporis* in respect of Cyprus, for EUR 4,426,106.31. They alleged that they had been deprived of the increase in value generated by the property while it remained unused, in the absence of any public-interest requirement justifying its expropriation.

62. According to the expert valuation prepared by a chartered surveyor hired by the applicants, the market value of the disputed land in 2023 amounted to EUR 900 per square metre, which meant that the value of the unused portion of the disputed land would total EUR 3,576,600.

63. In respect of the value of the loss of use/rental income, the applicants' chartered surveyor calculated the initial rental value as 3% of the market value of the plot per year. The surveyor then added 9% annual interest on the rental income from 1989 to 2014, at which time that rate, according to the surveyor, dropped to 3%. The applicants submitted that the loss of use/rental income along with the interest payable therefore amounted to EUR 4,426,106.31 for the period between 1989 and 2023.

(b) The Government

64. The Government rejected the applicants' claims as excessive and unreasonable. They argued that the applicants had not shown a clear causal link between the damages claimed and the alleged violation of the Convention. The Government further disagreed with the applicants' contention that they should be awarded damages on the basis of the current market value of the disputed land, instead arguing that any such calculation should be made on the basis of the market value in 1976. To that effect, the Government submitted that any increase in the value of the land had been the result of the industrial development around it, which had been carried out by the authorities. The Government also argued that the applicants could not claim damages prior to 2008, when they first requested the restitution of their property. Lastly, the Government submitted their own valuation – as prepared by the Director of the Department of Lands and Surveys of the Republic of Cyprus – of the market value of the property over the years and of the value of any loss of use/rental income.

65. The Government's valuation of the land in dispute was EUR 300 per square metre, which would amount to a total market value of EUR 1,192,000 in 2023 for the unused portion of the expropriated plot. They considered that it would be reasonable to round this amount down to EUR 1,190,000. They submitted that in 2018, when the present application had been lodged with

the Court, the plot was valued at EUR 250 per square metre, which would amount to a total market value of EUR 993,500. The Government further submitted that a reasonable value for the disputed land in 1976, considering its current physical and legal characteristics, would be EUR 5 per square metre, which would result in a total market value of EUR 19,870.00. According to the Government, EUR 20,000 would be a reasonable value to attribute to the disputed land.

66. In respect of any loss of use/rental income, the Government argued that the value should be determined in a comparative manner, as was done with the market value. The Government's valuation was based on rental-income estimates for five-year periods between 1989 and 2023. According to their submissions, between 1989 and 1993 the rental value of each square metre of the land was EUR 0.05 and by the period 2019-2023 this value had risen to EUR 0.80. On the basis of those calculations, the value of the loss of use/rental income from 1989 to 2023 would amount to EUR 631,866.44.

2. The Court's assessment

67. As the Court has held on a number of occasions, a judgment in which it finds a breach imposes on the respondent State a legal obligation to put an end to the breach and make reparation for its consequences in such a way as to restore as far as possible the situation existing before the breach. The Contracting States that are parties to a case are in principle free to choose the means whereby they will comply with a judgment in which the Court has found a breach. This discretion as to the manner of execution of a judgment reflects the freedom of choice attached to the primary obligation of the Contracting States under Article 1 of the Convention to secure the rights and freedoms guaranteed. If the nature of the violation allows of *restitutio in integrum* it is the duty of the State held liable to effect it, the Court having neither the power nor the practical possibility of doing so itself. If, however, national law does not allow – or allows only partial – reparation to be made for the consequences of the breach, Article 41 empowers the Court to afford the injured party such satisfaction as appears to it to be appropriate (see *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 33, ECHR 2000-XI, and *Guiso-Gallisay v. Italy* (just satisfaction) [GC], no. 58858/00, § 90, 22 December 2009).

68. In the circumstances of the present case, the Court considers that the question of the application of Article 41 in respect of pecuniary damage is not ready for decision. That question must accordingly be reserved, and the subsequent procedure fixed, having 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. Non-pecuniary damage

69. The applicants claimed a total sum of EUR 127,750 in respect of non-pecuniary damage for the stress and anguish suffered by each of them over a long period of time.

70. The Government rejected as unfounded and excessive the applicants' claim that they had suffered stress and anguish due to the alleged violation of the Convention. They advanced instead that a mere finding of a violation by the Court would constitute sufficient compensation in the applicants' case.

71. The Court considers the applicants' claim for non-pecuniary damage excessive. Nonetheless, it considers that the applicants must have experienced frustration, having regard to the nature of the breach. Deciding on an equitable basis as required by Article 41 of the Convention, the Court awards the applicants jointly the sum of EUR 12,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

C. Costs and expenses

72. The applicants also claimed EUR 8,353.80 for the costs and expenses incurred before the Court and EUR 2,380 for the expense of the expert valuation of the property.

73. The Government submitted that the amount claimed was excessive and that the applicants had not proved that the total amount of EUR 10,733.80 had been actually incurred.

74. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. In the present case, regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 5,000 for the proceedings before the Court, plus any tax that may be chargeable to the applicants.

FOR THESE REASONS, THE COURT,

1. *Holds*, unanimously, that the heirs of the late Mr Savvas Nikolaou (the ninth applicant) have standing to continue the present proceedings in his stead;

2. *Declares*, unanimously, the application admissible;

3. *Holds*, by six votes to one, that there has been a violation of Article 1 of Protocol No. 1 to the Convention;

4. *Holds*, by six votes to one, that the question of the application of Article 41 of the Convention in respect of pecuniary damage is not ready for decision, and accordingly,
   (a) *reserves* the said question in whole;
   (b) *invites* the Government and the applicants to notify the Court within six months 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;

5. *Holds*, by six votes to one,
   (a) that the respondent State is to pay the applicants jointly, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
      (i) EUR 12,000 (twelve thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 5,000 (five thousand euros), plus any tax that may be chargeable to the applicants, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

6. *Dismisses*, by six votes to one, the remainder of the applicants' claim for just satisfaction.

Done in English, and notified in writing on 30 April 2026, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Ilse Freiwirth Registrar	Ivana Jelić President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the following separate opinions are annexed to this judgment:

(a) concurring opinion of Judge Serghides;
(b) dissenting opinion of Judge Sabato.

CONCURRING OPINION OF JUDGE SERGHIDES

1. I concur with the present judgment and its finding. However, given the particular relevance of the domestic legal framework in the present case, I consider it useful, as the national judge in the case, to develop further the relationship between domestic law and the pertinent provision of the Convention, namely, Article 1 of Protocol No. 1 to the Convention. In my view, a more detailed examination of the underlying principles of domestic law not only reinforces the Court's conclusions but also illustrates how national standards may operate in harmony with the Convention's guarantees and even serve to enhance them further. However, I do not lose sight of the fact that the Court is called upon to apply the provisions of the Convention – most notably those contained in Protocol No. 1 – rather than the domestic legal provisions of the respondent State. In discharging its judicial function, the Court's primary task is to interpret and give effect to the Convention as an international instrument, ensuring that its guarantees are practical and effective.

2. The constitutional regime governing compulsory acquisition in Cyprus is both exceptional in nature and strictly circumscribed. Under paragraphs 1 and 2 of Article 23 § 1 of the Constitution, the right to property is expressly guaranteed and constitutes the primary constitutional safeguard against interference. The State's power to compulsorily acquire property arises only under Article 23 § 4, and even then, solely for a genuine public benefit and only to the extent necessary to secure that benefit. Accordingly, compulsory acquisition operates as a narrow, purpose-bound exception to the general constitutional protection of property under Article 23 § 1.

3. Article 23 § 5 introduces a critical qualification to this regime: where the public purpose for which property was compulsorily acquired ceases to exist or cannot be fulfilled, the property "shall be returned" to the person from whom it was acquired or to his/her heirs, under terms prescribed by law. This provision regulates not only the legality of expropriation but also its temporal legitimacy. Public purpose operates as a justification for acquisition of private property by the State.

4. Paragraphs 1, 2, 4 and 5 of Article 23 must therefore be interpreted as forming a single, integrated constitutional scheme. Paragraph 1 establishes the fundamental right to property; paragraph 2 confirms that deprivation cannot occur except as provided by the Constitution itself; paragraph 4 defines the exceptional circumstances under which compulsory acquisition may occur; and paragraph 5 operates as a safeguard ensuring that paragraph 4 does not undermine the guarantees contained in paragraphs 1 and 2. Read together, these provisions ensure that compulsory acquisition remains strictly confined, purpose-driven, and subject to continuous constitutional supervision.

5. Within this integrated scheme, Article 23 both recognises the right to property and permits compulsory acquisition only under carefully circumscribed constitutional conditions.

6. In this constitutional architecture, Article 23 § 5 is not merely a mandatory provision but must also be interpreted strictly. This follows from Article 33 § 2 of the Constitution, which provides that all constitutional limitations "shall be interpreted strictly and shall not be applied for any purpose other than those for which they have been prescribed". Since Article 23 § 5 operates as a limitation on the deprivation power under Article 23 § 4, while simultaneously functioning as a safeguard for the right guaranteed under Article 23 §§ 1–2, it falls squarely within the scope of Article 33 § 2.

7. In the light of the foregoing, the protection of property under the Constitution of Cyprus reveals a constitutional design that both parallels and strengthens the guarantees contained in Article 1 of Protocol No. 1 to the Convention. In particular, Articles 23 § 5 and 33 § 2 of the Constitution create a constitutional structure in which expropriation is not merely conditioned at the moment of acquisition but remains subject to continuing constitutional scrutiny throughout the duration of State ownership.

8. Among the safeguards embedded in Article 23 § 5, the provision performs a particularly significant function: it prevents compulsory acquisition from degenerating into permanent dispossession where the declared public purpose is not realised.

9. In this context, the interaction between Articles 23 § 5 and 33 § 2 gives rise to a doctrine of conditional expropriation. Under this approach, the legality of compulsory acquisition does not end with the initial act of deprivation but remains constitutionally dependent on the continuing existence and active pursuit of the public purpose that justified it.

10. From a doctrinal standpoint, Article 23 § 5 generates multiple layers of constitutional obligation. First, it establishes a *substantive obligation* by linking the validity of State ownership to the persistence of the public purpose that justified the acquisition. If and once that purpose disappears, the constitutional basis for the deprivation of property collapses. Secondly, the provision creates a *procedural obligation*, since it provides that the return of property must occur "under the terms and conditions prescribed by law", as set out in section 15(1)-(3) of the Compulsory Acquisition Law of 1962 (Law 15/1962).

11. Article 23 § 5 also embodies a *negative obligation*, prohibiting the State from retaining expropriated property once the constitutional justification for its acquisition no longer exists. It therefore not only imposes a duty of restitution but also limits the scope of permissible State interference with property rights. Once the declared purpose ceases to exist or cannot be fulfilled, the State's continued ownership becomes constitutionally untenable, and a deprivation initially justified as lawful expropriation is transformed into unjustified retention. In such circumstances, the legal basis

of the deprivation collapses. Continued possession becomes: (a) *ultra vires*, as the constitutional conditions authorising retention no longer exist; (b) unconstitutional, since the property is no longer being used, nor capable of being used, for the declared purpose; (c) in breach of Article 23 § 1, which guarantees the right to property; and (d) in direct violation of Article 23 § 5, whose mandatory restitution mechanism is thereby triggered. This is not merely a matter of administrative delay, but a substantive failure of purpose that converts what was initially a lawful interference into an arbitrary deprivation of property.

12. At the same time, the mandatory language of Article 23 § 5 ("shall be returned") gives rise to *positive obligations* requiring the State to restore the property right once the public purpose disappears. The provision thus imposes two connected obligations on the State. First, the State must genuinely pursue and realise the public purpose that justified the acquisition. Domestic case-law has clarified that this obligation is not exhausted by the three-year period referred to in the relevant legislation; rather, the authorities remain under a continuing duty to actively and diligently pursue the implementation of the declared public-interest project for as long as the property remains under State control (see paragraph 34 of the judgment). Secondly, if that purpose is not achieved, cannot be achieved, or otherwise ceases to exist, the State must restore the property to its original owner.

13. Within this framework, Article 23 § 5 contains a constitutional mechanism that prevents compulsory acquisition from becoming indefinite. The provision stipulates that compulsorily acquired property shall only be used for the purpose for which it has been acquired and requires the acquiring authority, if that purpose has not been attained within three years, to offer the property back to the former owner immediately, with restitution to follow once the offer is accepted. The wording "shall only be used for the purpose for which it has been acquired" is structurally parallel to the formula in Article 33 § 2 that a limitation "shall not be applied for any purpose other than that for which it has been prescribed". This constitutional framework requires the State to implement the declared public purpose actively and substantively within the prescribed three-year period. It is therefore not sufficient merely to announce such a purpose; the State must actively and continuously pursue its realisation in fact.

14. The Constitution does not permit the State to reinterpret or expand the declared "purpose", substitute it for a different objective, or retain the property on any basis other than that which originally justified the expropriation. Article 33 § 2 reinforces this framework by requiring that limitations on fundamental rights be interpreted strictly and applied only for the purposes for which they were prescribed. This rule precludes any expansive interpretation of expropriation powers and ensures that the concept of public purpose cannot be relied upon to justify the indefinite retention of property. Accordingly, the justification for compulsory acquisition must

remain unchanged and proportionate throughout the duration of the interference.

15. Domestic case-law also recognises a closely related principle. Where a significant period of time elapses between the expropriation of property and the effective implementation of the public-interest project underlying that measure, the continued deprivation of the property may prevent the former owner from benefiting from any increase in its value during that period (see paragraph 57 of the judgment). In such circumstances, the prolonged retention of the property risks upsetting the constitutional balance between the public interest and the protection of property rights, since the former owner bears the economic consequences of the delay while the State retains control over an asset whose value may have significantly increased.

16. When viewed within the broader European human rights framework, the Cypriot constitutional provisions appear particularly robust. Article 1 of Protocol No. 1 to the Convention protects the peaceful enjoyment of possessions and permits deprivation of property only in the public interest and subject to the requirements of legality and proportionality. The jurisprudence of the Court has increasingly emphasised that expropriation must be supported by a genuine and sufficiently concrete public-interest project. In *Frendo Randon and Others v. Malta*, no. 2226/10, § 61, 22 November 2011, the Court observed that when land was expropriated the authorities "should have had some concrete plans at least for its forthcoming, if not for its imminent, development".

17. Against this background, decades of complete non-use, administrative inertia, and refusal to acknowledge the collapse of the declared public purpose, as occurred in the present case, cannot satisfy the Convention requirement that an interference must continue to pursue a legitimate aim and maintain a fair balance between the general interest and the protection of individual rights.

18. Where the public-interest objective underlying an expropriation has ceased to exist or can no longer be realised, the continued retention of property is liable to be regarded as arbitrary and incompatible with the guarantees of Article 1 of Protocol No. 1. The Convention system, as interpreted by the Court, does not tolerate any form of arbitrariness; such arbitrariness is incompatible with the fundamental principle of the effective protection of human rights. When this reasoning is transposed to the Cypriot constitutional context, the protective effect becomes even more stringent. If the Court requires the existence of concrete development plans in order to justify expropriation under the Convention, the constitutional framework established by Articles 23 § 5 and 33 § 2 must be understood as imposing an even stricter standard.

19. Article 53 of the Convention provides that nothing in the Convention shall be interpreted as limiting or derogating from any human rights and fundamental freedoms that may be ensured under the laws of any High

Contracting Party (see further analysis on this Convention provision in paragraphs 6, 11 19 and 55 of my dissenting opinion joined by Judge Adamska-Gallant in *Constantinou and Others v. Cyprus*, no. 77396/19 and 4 others, 13 November 2025). Article 23 § 5 of the Constitution constitutes such a higher standard, establishing a clear and mandatory right to restitution. Accordingly, this stricter constitutional safeguard must be given effect, and the State cannot rely on the more flexible Convention standards to dilute or circumvent that obligation. Article 1 of Protocol No. 1, which provides that "no one shall be deprived of his possessions except in the public interest and subject to the conditions provided by law", must be interpreted in the light of the domestic legal framework defining those conditions. In Cyprus, those conditions include the requirements of Article 23 § 5, with the result that the legality of expropriation remains dependent on strict adherence to the declared public purpose and, where that purpose fails, on restitution. Accordingly, where the State abandons the declared purpose or seeks to use the property for unrelated objectives, the expropriation loses its legal foundation. A deprivation initially justified in the public interest is thereby transformed into an arbitrary retention of property, incompatible with both Article 23 of the Constitution and Article 1 of Protocol No. 1. The obligation to restore the property is therefore immediate and unavoidable.

20. Ultimately, the Cypriot Constitution constructs a model of property protection in which expropriation is not merely authorised but constitutionally conditioned. Through the combined operation of Articles 23 § 5 and 33 § 2, the public purpose underlying compulsory acquisition functions not simply as an initial justification but as a continuing requirement of constitutional legality. The State may acquire property in the public interest, but it cannot retain it once that interest has disappeared. In this respect, the Constitution does not abandon the logic of proportionality that underlies Article 1 of Protocol No. 1 to the Convention; rather, it gives that principle a more concrete institutional expression.

21. By requiring the genuine pursuit of the declared purpose and mandating restitution where that purpose ceases to exist, the Constitution ensures that the balance between the public interest and the protection of property rights is preserved throughout the entire duration of the interference. It follows that the justification for compulsory acquisition must remain proportionate for as long as the interference persists. That was not the case here; accordingly, there has been a violation of Article 1 of Protocol No. 1.

DISSENTING OPINION OF JUDGE SABATO

1. With great regret I must express my respectful yet firm dissent from the judgment adopted by the majority in the present case (hereinafter, "the majority's judgment"), as well as disagreeing with the concurring opinion of my distinguished colleague Judge Serghides.

2. My assessment of the case proceeds from the text of Expropriation Notice no. 99, which on 6 February 1976 was published by the Council of Ministers in the Official Gazette of the Republic of Cyprus. Its text (as it appears in paragraph 6 of the majority's judgment – and I must assume that the Expropriation Order no. 1022, mentioned in paragraph 7, is worded likewise) refers globally both to the 7,024-square-metre portion of land belonging, at that time, to the applicants or their ancestors and to the much larger plots of land expropriated for the realisation of an Industrial Area in the Agios Athanasios sector of Limassol. It reads as follows (emphasis added):

> "[The land is needed] for a purpose in the public interest, namely the promotion and development of industry ..., and the expropriation thereof is imposed for the following reasons: the creation of an industrial area, the leasing of the said area or part thereof in parcels or otherwise to industrial tenants for the development of industry, and/or the leasing or usage of the area or part thereof for any other purpose contributing to the development of industry."

The majority, regrettably, appear entirely to disregard not only – as I shall explain – the principle that the role of the Court cannot be to substitute itself for the domestic courts in the assessment of the facts of the case and the application of domestic law, save where arbitrariness is established, but also especially – within the facts of the case – the aforementioned clear wording of the Expropriation Notice. That wording identifies the "purpose" of the expropriation with reference to the entire area subject to expropriation as that of serving as an industrial area, whether through the direct establishment of industrial tenants or through indirect sub-purposes, defined teleologically as being apt to "contribut[e] to the development of industry".

3. Along with the above lack of consideration of the Expropriation Notice, the majority – having recalled that the essence of the dispute between the parties at the domestic level was whether the purpose had been achieved (paragraph 52 of the majority's judgment, *in fine*) – engage in an unwarranted "fragmentation" of their assessment. They attribute the "purpose" to be achieved not to the entirety of the area subject to expropriation, intended to accommodate multiple factories, facilities and roads, but solely to the modest 7,024 sq. m expropriated from the applicants or their ancestors. Notably, this corresponds almost exactly to the (relatively limited) area of a standard football pitch.

In practical terms, it is as though the majority – entirely disregarding the precise wording of the Expropriation Notice, which also refers to "any other

purpose contributing to the development of industry" – were henceforth to require, for all expropriations to be carried out (and, alas, even those already carried out, as I shall explain) in Europe, that the principal objective (in the present case, the establishment of industrial tenants) be pursued in every part of a wider area, without ancillary buildings, roads, or open spaces. Like a mortgage under ancient law, the industrial destination "*est tota in toto et in qualibet parte*"! Yet this is not, and cannot be, the case in matters of expropriation, as is well known to anyone familiar with an expropriation plan.

4. Be that as it may, the majority have unfortunately gone further. At paragraph 54 of the majority's judgment, they acknowledge that, in reality, nearly half of the area (namely a portion of 3,050 sq. m) had indeed been used for a purpose clearly falling within the objective of the expropriation, namely the construction of a roadway, leaving only the remaining 3,974 sq. m unused. At that point, the majority could have – even within their fragmented approach – concluded that the area had in fact been utilised.

Yet this was not the case! Surprisingly, accepting a quite clever argument of the applicants, the majority operate a further fragmentation of their assessment: the majority focus exclusively on the remaining unbuilt area of 3,974 sq. m. We are thus dealing with little more than half of the standard football pitch referred to above, since the remainder – from the opposite goal to the halfway line (a distance which a footballer might cover in some seven-eight seconds) – is, as noted, occupied by a road. Strikingly, the majority consider that this area lacks any designation, and that the State was under an obligation to assign one. They further deem contradictory the State's conduct in having, over the more than thirty years in question (see paragraph 14 of this opinion as to this extensive time-span considered by the majority), altered the designation of the 3,974 sq. m from "administrative centre" to "open space", while the area was in fact used temporarily as an informal parking lot and for waste disposal (paragraphs 54 and 55 of the majority's judgment).

5. By thus declining to take into account the overall purpose of the entirety of the development of the expropriated land, and not even the use as a roadway of almost half of the single expropriated plot, the majority:

– on the one hand, have paid lip-service to the Court's case-law, recalling (at paragraph 55 of their judgment) that the Court generally respects the findings of the domestic authorities regarding the requirement of pursuing a public interest in expropriation "unless that judgment is manifestly without reasonable foundation" or where the domestic courts' reasoning appears "unreasonable, arbitrary or ... inconsistent with the principles underlying the Convention", and noting (at paragraph 56) that in expropriation cases the authorities "should have some concrete plans at least for its forthcoming, if not for its imminent, development";

– on the other hand, and in contradiction with those very principles (as I shall explain), have concluded that the fact that the Expropriation Notice was

worded in broad terms as regards its purpose was insufficient to justify the absence of development: the land in question had remained "unexploited", and the refusal to return it therefore violated Article 1 of Protocol No. 1 to the Convention (paragraphs 56 and 57 of the majority's judgment).

6. But why do the majority consider the land to be "unexploited"? In reaching this conclusion, they attach weight to intentions of change expressed by the State after the request for restitution, whereas the proper focus should have been solely on the designation attributed at the time of the implementation of the overall development. In no expropriation is the designated use fixed and immutable, unless one were to accept the permanent crystallisation of the territory of a given area. What matters, in my view, is that, in the letter of 17 March 2008 by which the Ministry refused the applicants' request, the State formally explained that the expropriated land formed part of the "open space" at the entrance to the industrial area, thus fulfilling the stated aim of the expropriation.

The letter – cited at paragraph 17 of the majority's judgment – read as follows (emphasis added):

> "(b) Following the expropriation of the private property referred to, the Department of Town Planning and Housing prepared a regulatory plan for the creation of the Industrial Area. On the basis of this plan, industrial plots were developed, along with roads, car parks, green spaces and open space at the entrance to the site. Our Ministry has completed all the necessary infrastructure works for the creation of the Industrial Area in accordance with the town-planning blueprint, and all the industrial plots have been leased and factories have been built on them.
>
> (c) The regulatory plan for the Agios Athanasios Industrial Area is an integral part of the current Local Development Plan for Limassol, as approved by the Cabinet.
>
> (d) The portion of [the applicants'] property that was expropriated and used for the development of the Industrial Area forms part of the open space at the entrance to the site. The claim made by [the applicants] that it has not been used for the purpose for which it was expropriated is therefore unfounded."

7. In the face of this clear and indeed only truly official position, I fail to see why the majority chose instead to speculate on other possible past or future uses: such possibilities always remain open and ought not to have influenced the majority. The Court could only take note that the State considered the "purpose" to have been achieved in respect of the area as a whole and did not intend to assess individual parts in isolation. It acknowledged that a portion, admittedly (relatively) small, had remained unbuilt, but stated that it served as open space; yet an open space, particularly when adjacent to a road, is not an "unexploited" space. In holding otherwise, the Court – lacking any urban-planning expertise – substituted its own assessment for that of the planners and of the Republic of Cyprus. This constitutes a serious breach of the principle of subsidiarity.

8. However, what is of greatest importance – and upon which my respectful dissent from the distinguished colleagues of the majority is even firmer – is that the only two key aspects, namely:

(a) the necessity that the attainment of the "purpose" be assessed globally, rather than by "fragmenting" the expropriated area, as has been done through two successive fragmentations, first by moving from the overall urban development to the single portion belonging to the applicants, and then even further by focusing, within that portion, solely on the approximately one-half not occupied by the road; and

(b) the compatibility, even within the unacceptable logic of such fragmentation, of designation as "open space" with the teleological function – provided for in the Expropriation Notice – of "contributing" to industrial development),

had in fact already been examined, in a manner that was certainly not arbitrary, by the Cypriot courts.

Indeed, it must not be overlooked (and, save for a general reference to the "domestic courts" at paragraph 56, my colleagues of the majority appear to lose sight of this in the concluding part of their judgment) that on 2 February 2018 the Supreme Court of Cyprus dismissed revisional appeal no. 152/2011. Drawing on what is set out in paragraphs 21–23 of the judgment of this Court, the following findings may be recalled. In general terms, the Supreme Court held (emphasis added):

> "... that the purpose of the expropriation in Expropriation Order no. 1022 had been formulated in very broad terms, thus allowing the authorities wide discretion to determine the precise ways in which to implement the stated aim of the expropriation. They accepted that these could range from keeping the plot unused to approving the construction of any building... [T]he purpose of the expropriations for the development of the industrial area had been based on a broad and general understanding of the needs of the sector and that the disputed land formed an integral part of that area. They assessed that purpose broadly and did not investigate what had been done specifically on every single expropriated plot, concluding that the stated aim of the expropriation had been fulfilled."

The Supreme Court also examined the possible future use of what had become an open space and, by citing its precedent in *Zinon Efthymiadis Ltd v. the Republic* (2006) 3 A.A.D. 166, referred to the principle that the purpose of the expropriation is to be assessed against the criterion of objective, global implementation, which "ha[d] largely been achieved"; more specifically, the Supreme Court held as follows (emphasis added):

> "It is apparent from the administrative file that the situation is as described by the respondents. The purpose for which the disputed parcel was expropriated has been achieved by its inclusion in the wider industrial area, of which it is an integral part, in accordance with the existing regulatory plan. This industrial area appears to have been developed gradually after the expropriation, with all necessary infrastructure works being completed to contribute to the construction and start-up of industrial facilities on the designated industrial plots. The creation of the industrial area's administrative centre, including on the disputed parcel, is provided for in the approved plans, and the

development of this specific area for the stated purposes should logically follow the start-up of the industrial facilities. Deciding which needs to prioritise in the development of the administrative centre is a task that has to follow the completion of the industrial facilities, so as to allow a greater opportunity to assess and evaluate the actual needs of the area. The fact that buildings have not been erected in the administrative-centre area is clearly because the authorities are waiting for all the industrial facilities to be operational, so that they can identify the actual needs, set priorities and determine which services should be established in order to be genuinely beneficial for the promotion and development of industry, as outlined in the relevant expropriation notice. The leasing of this specific area to the local industry association and the municipality of Agios Nikolaos clearly indicates that the purpose of the expropriation has not been abandoned, and that its achievement is still feasible.

In the case of Zinon Efthymiadis Ltd v. the Republic (2006) 3 A.A.D. 166, it was stated:

'... The concept of feasibility refers not to the subjective intentions or desires of the authorities but to the objective facts relating to the actions of the authorities in the implementation of the project.'

In the present case, the objective facts of the matter lead to the sound conclusion that the purpose for which the applicants' parcel was expropriated has largely been achieved. What remains is for some minor works to be completed, which logically could not have been done before the development of the industrial plots, as the authorities reasonably explained. The completion of these remaining works is intended to create a fully organised and functional industrial area, which clearly aligns with the purpose of the expropriation."

9. To conclude, the highest domestic court found, particularly in view of the integration of the expropriated property into a larger project, that its use as an open space could be regarded as serving a public purpose, and observed that an administrative centre would be constructed there at a later stage. The majority, in substance, disagree with that conclusion.

In my respectful view, this places the Court in the uncomfortable position of a fourth-instance tribunal. The Court must respect the manner in which national decision-makers and, above all, domestic courts conceive the requirements of "public utility" or "public interest" which justify expropriation under paragraph 1 of Article 1 of Protocol No. 1, unless those findings are "manifestly devoid of any reasonable basis" (see, *inter alia*, *Sud Parisienne de Construction v. France*, no. 33704/04, §§ 35-36, 11 February 2010). The majority themselves, as noted above, pay lip-service to this principle, referring at paragraph 55 of their judgment to language drawn from the Court's case-law to the effect that European supervision in this field is limited to situations which are "manifestly without reasonable foundation" or "unreasonable, arbitrary or ... inconsistent ... with the principles underlying the Convention".

Regrettably, however, in the concluding part of the judgment, not a single word is devoted to explaining why the reasoning of the Supreme Court of Cyprus would be unreasonable or arbitrary in assessing the attainment of the purpose of the expropriation in the manner described. In my view, this renders

the majority's judgment seriously at odds with the subsidiary nature of the Court's role, and calls for correction by the Grand Chamber, which could – in the present context – provide valuable clarification on the notion of a fourth-instance judgment, also in response to the observations made in national jurisprudence and by scholars that the Court, even after the entry into force of Protocol No. 15, does not always refrain from discussing aspects that should be left to domestic decision-makers.

10. Without prejudice to my foregoing conclusion, I must now address two complementary aspects. The first concerns the fact that, even if one were to accept one of the errors committed by the majority (namely, focusing on the purpose of a fraction of the area specifically expropriated from the applicants, rather than on the purpose pursued globally), the majority's conclusion would nonetheless be untenable: indeed, the Court's case-law clearly establishes that the absence of construction on expropriated land does not necessarily imply that it is not used for a public purpose, since the lack of construction may itself serve such a purpose. Given that the majority themselves cite, in this regard, a Committee decision (see paragraph 55 of the majority's judgment, *in fine*), which the Court should not normally rely upon other than for illustrative purposes, in view of its lack of precedential value, I shall likewise refer, for illustrative purposes, to *Özer and Others v. Türkiye* ([Committee] (dec.), no. 58734/16, §§ 16 and 17, 10 December 2024), where an undeveloped plot forming part of a larger complex served as a protection zone against waves emitted by antennas, and where the Court held that such use served the general interest, and to *Yazıcıoğlu v. Türkiye* ([Committee] (dec.), no. 15687/13, § 11, 13 September 2022), where an area left without infrastructure served as a buffer zone in relation to a building whose security had to be ensured. At paragraph 55 of their judgment, the majority seek to distinguish the present case from that of *Özer*; however, in my view, they do not succeed in doing so, as the similarities (in particular, the adjacency to a roadway in the present case) outweigh the differences.

11. The second complementary aspect concerns the principles established in the Court's case-law, according to which:

(a) Article 1 of Protocol No. 1 is not to be interpreted as imposing an obligation of restitution or compensation where property, duly expropriated and initially used in the public interest for a certain period of time, subsequently ceases to be so used (see, for example, *Çiftçiler Joint Stock Company and Göksun v. Turkey* (dec.), nos. 62323/09 and 64965/09, § 78, 24 November 2020); and

(b) moreover, the use of property for a purpose other than that for which its ownership was transferred to the public authorities does not, as such, give rise to an issue under the Convention and does not confer any right of restitution on the former owner (see, for example, *Saglik Insaat Turizm Sanayi Taahhut Ve Ticaret Ltd. Sti. v. Turkey* (dec.), no. 55549/11, §§ 41-42,

7 April 2015, and *Gültekin v. Turkey* (dec.), no. 19449/08, §§ 55-56, 16 June 2015).

In my view, the majority have not given sufficient consideration to these principles, which, if properly applied, would have resolved the issue at its root.

12. It is to these principles, albeit implicitly and in order to counter them in the present case, that my distinguished colleague Judge Serghides refers in his concurring opinion, where he states – at paragraph 19 – that the Cypriot State "cannot rely on the more flexible Convention standards to dilute or circumvent [its] obligation", since "Article 23 § 5 of the Constitution constitutes ... a higher standard, establishing a clear and mandatory right to restitution", which is relevant under "Article 53 of the Convention [which] provides that nothing in the Convention shall be interpreted as limiting or derogating from any human rights and fundamental freedoms that may be ensured under the laws of any High Contracting Party". He concludes that "this stricter constitutional safeguard must be given effect".

13. Now, whilst it is certainly true that the Cypriot Constitution, in Article 23 § 5, expressly provides for a right to restitution "if within three years of the acquisition [the] purpose has not been attained" (a right which many European legal systems enshrine in ordinary, rather than constitutional, legal provisions), it is equally true that constitutional provisions, as well, require interpretation. In a system governed by subsidiarity, once again, such interpretation does not fall to this Court, but to the domestic courts. Those courts – without prejudice to the separate question of the extent to which the meaning of Article 23 § 5 has been argued at the national level and, consequently, before this Court – have held, as I have sought to demonstrate, that what is decisive under Cypriot law is the global assessment of the "purpose". This excludes the possibility that the Court – as advocated by my distinguished colleague Judge Serghides – might advance a different reading of the constitutional order of a High Contracting Party, suggesting that it imposes a requirement of permanent "strict adherence" for each parcel of land "to the declared public purpose", such that "where that purpose fails, ... restitution" must follow; that "[a]ccordingly, where the State abandons the declared purpose or seeks to use the property for unrelated objectives, the expropriation loses its legal foundation"; and that "[a] deprivation initially justified in the public interest is thereby transformed into an arbitrary retention of property", so that "the obligation to restore the property is therefore immediate and unavoidable".

What is striking in this highly radical approach is not only – or not so much – its fourth-instance character, which I have already criticised in relation to the substitution of the Court's assessment for that of the domestic courts in relation to ordinary statute law, but above all a position so extreme as to derive from the Cypriot Constitution (a legal corpus that the Court should not deal with absent strong reasons for doing so) an imprescriptible right to

restitution, thereby opening the way to claims for the return of land in Cyprus in respect of all undeveloped areas or areas whose use has changed over time following expropriation, and effectively imposing upon expropriated land a form of perpetual constraint akin to a mediaeval mortmain, precluding any subsequent change in land use.

14. Consistent with this radical and, in my view, unacceptable approach, albeit without stating so explicitly, is the position adopted by the majority themselves. While substituting their own assessment for that of the domestic courts in a manner I find objectionable, they merely allude, without drawing any consequences, to what is, in my view, an almost abusive feature of the applicants' claim: the expropriation dates from 1976, whereas the applicants first sought restitution in 2008 (see paragraph 16 of the majority's judgment), that is to say, well beyond the three-year period and after thirty-two years from the compulsory acquisition – a lapse of time which, across Europe, would typically have given rise to adverse possession. Accordingly, my concern as to the emergence of a new form of mortmain is, in my view, borne out!

Although I am fully aware that adverse possession was not argued in the present case, it remains the fact – and this is my overall conclusion – that the majority have delivered a judgment which – unless promptly rectified by the Grand Chamber – introduces more than one serious flaw into the Court's case-law and, for sure, serious dangers for freedom in the use of land for States in Europe.

APPENDIX

List of applicants:

No.	Applicant's name	Year of birth	Nationality	Place of residence
1.	Maria Nikolaou	1963	Cypriot	Limassol
2.	Elpida Dionysiou	1934	Cypriot	Limassol
3.	Chrysis Nikolaou	1976	Cypriot	Limassol
4.	Chryso Nikolaou	1971	Cypriot	Limassol
5.	Erasmia Nikolaou	1941	Cypriot	Limassol
6.	Lena Nikolaou	1972	Cypriot	Limassol
7.	Maroula Nikolaou	1947	Cypriot	Limassol
8.	Panagiota Nikolaou	1969	Cypriot	Limassol
9.	Savvas Nikolaou	1931 Deceased in 2018 Heirs: Nikolaos Nikolaou 1971 Chrysis Nikolaou 1974 Marina Nikolaou Aristotelous 1972	Cypriot	Limassol
10.	Vasos Nikolaou	1960	Cypriot	Limassol