



Greece ordered to pay 4.2 million euros for infringements of property rights

In today's Chamber judgments in the cases of [Anonymos Touristiki Etairia Xenodocheia Kritis v. Greece](#) (application no. 35332/05) and [Theodoraki and Others v. Greece \(no. 9368/06\)](#), which are not final,¹ the European Court of Human Rights unanimously awarded a total of 4,220,000 euros (EUR) for pecuniary damage,² plus sums for costs and expenses. The cases were decided on the merits in 2008.

The cases concerned the impossibility of developing large expanses of land in tourist areas, on account of restrictions or prohibitions on building resulting from the classification of the land as part of an environmental protection area, with no payment of compensation.

Principal facts, complaints and procedure

In the first case the applicant, Anonymos Touristiki Etairia Xenodocheia Kritis, is a company based in Agios Nikolaos (Crete). In the early 1970s it purchased a plot of land with a view to building a hotel complex. In 1984 the Ministry of Culture classified the region in question as "zone A – full protection" – that is, as an area in which construction was completely prohibited, although when the land had been purchased, the relevant legislation had not prohibited the construction of a hotel complex. After various unsuccessful applications to the relevant authorities for renewal of the initial planning permission, the applicant company applied to the Ministry of Culture, seeking to have the property expropriated. A subsequent application by the company for judicial review of the authorities' refusal to expropriate the land was dismissed by the Supreme Administrative Court in 2005.

In the second case the applicants are Georgia Theodoraki, Olga Kladi and Anastasios Kladis, three Greek nationals from the same family who live in Athens, and Limni Makri SA, a tourism and hotel company based in Laganas (Greece) and owned by Georgia Theodoraki. The applicants are the owners of a total of 307,000 sq. m of land that has belonged to their family for many years on the island of Zante (one of the Ionian Islands in western Greece). From 1984 onwards their land, on which construction had previously been permitted, was gradually subjected to restrictions and prohibitions on building, for environmental protection purposes. Work was halted on the fourth applicant's building of a 102-room hotel complex. The applicants applied for judicial review of the relevant administrative decisions but were unsuccessful. In 2005 the Supreme Administrative Court acknowledged that the applicants were entitled to seek compensation from the

1 Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day.

Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: www.coe.int/t/dghl/monitoring/execution

2 The sums awarded in these cases are not the highest awards the Court has made by way of just satisfaction (see, in particular, the [Stran Greek Refineries and Stratis Andreadis v. Greece](#) judgment of 9 December 1994).

administrative authorities, but no action was taken when they applied for compensation on that account.

The applications were lodged with the European Court of Human Rights on 13 September 2005 and 27 February 2006 respectively.

In Chamber judgments of 21 February 2008 ([Anonymos Touristiki Etairia Xenodocheia Kritis v. Greece](#)) and 11 December 2008 ([Theodoraki and others v. Greece](#)) the Court held that there had been a violation of the applicants' right to protection of property (Article 1 of Protocol No. 1) and their right to a fair hearing within a reasonable time (Article 6 § 1). In *Theodoraki and Others* it also found that no effective remedy (Article 13) had been available in respect of the violation of the right of property.

In both cases the Court considered that the question of the possible award of just satisfaction (Article 41), to compensate for any damage resulting from the violations found, was not ready for decision and reserved it.

Composition of the Court

Judgment was given by a Chamber of seven judges, composed as follows:

Nina **Vajić** (Croatia), *President*,
Christos **Rozakis** (Greece),
Khanlar **Hajiyev** (Azerbaijan),
Dean **Spielmann** (Luxembourg),
Sverre Erik **Jebens** (Norway),
Giorgio **Malinverni** (Switzerland),
George **Nicolaou** (Cyprus), *Judges*,

and also André **Wampach**, *Deputy Section Registrar*.

Decision of the Court (just satisfaction)

Pecuniary damage

The Court reiterated that its findings of violations in the judgments on the merits concerned the applicants' inability to develop their property and their lack of compensation on that account. It therefore considered that a pecuniary award would be liable to compensate for the damage they had sustained. However, the circumstances of the case did not lend themselves to a precise assessment of pecuniary damage, since the facts concerned a very lengthy period (from 1985 – when Greece had recognised the right of individual application to the Court – to the present) and there were substantial divergences between the claims and calculation methods submitted by the parties to the proceedings. Making its assessment on an equitable basis, the Court considered it reasonable to award EUR 500,000 to the Anonymos Touristiki Etairia Xenodocheia Kritis company (in the first case) and EUR 3,600 000 jointly to Georgia Theodoraki, Olga Kladi and Anastasios Kladis and EUR 120,000 to Limni Makri SA (in the second case) in respect of pecuniary damage.

Non-pecuniary damage

The Court considered that its findings of violations on the merits constituted sufficient just satisfaction for any non-pecuniary damage sustained by the applicants.

Costs and expenses

In respect of costs and expenses, the Court awarded EUR 22,000 to the Anonymos Touristiki Etairia Xenodocheia Kritis company (in the first case) and EUR 18,550 jointly to the other applicants (in the second case).

The judgments are available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.