



## Türkiye should further expedite property proceedings brought by Greek Cypriots in the “Turkish Republic of Northern Cyprus”

In today’s **Chamber** judgment<sup>1</sup> in the case of [K.V. Mediterranean Tours Limited v. Türkiye](#) (application no. 41120/17) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 1 of Protocol No. 1 (protection of property)** to the European Convention on Human Rights.

The case concerned the effectiveness of the Immovable Property Commission (IPC) as a legal avenue for compensation claims brought by Greek Cypriots in the “Turkish Republic of Northern Cyprus”. It also concerned the participation of a religious foundation in the IPC proceedings and the alleged lack of impartiality of the High Administrative Court (appeal panel) as a higher judicial authority for IPC cases.

In general, the Court acknowledged the progress made by the IPC in processing property claims. It also noted the diverse range of remedies provided, including compensation, exchange, and restitution, and welcomed the ongoing efforts. In this case, however, the Court found that the protracted nature of the proceedings had been mainly due to the passive approach of the IPC and the procrastination of the “TRNC” authorities towards preparing documents and gathering evidence. The IPC had not acted coherently, diligently and quickly enough in examining the claim.

**Under Article 46 (binding force and enforcement of judgments) the Court found that consistent and long-term efforts had to be continued, in particular as far as expediting IPC proceedings was concerned and creating a remedy which secured genuinely effective redress in respect of delays.**

A legal summary of this case will be available in the Court’s database HUDOC ([link](#)).

### Principal facts

The applicant company, K.V. Mediterranean Tours Limited, is a Cypriot company established in 1967 and based in Nicosia. Its shareholders and directors are of Greek Cypriot origin.

The company owns a building complex located in the fenced-up area of Famagusta in northern Cyprus. It abandoned the property following the Turkish military operation in 1974 and, in July 2010, applied to the Immovable Property Commission (IPC), claiming compensation for the loss of use of its building complex. It also claimed restitution of the property, compensation for non-pecuniary damage, statutory interest and legal costs.

In the absence of a reply from the relevant authorities of the “Turkish Republic of Northern Cyprus” (“TRNC”), K.V. Mediterranean Tours Limited applied, on 1 November 2010, for a default judgment. Ten hearings were subsequently held between early December 2010 and end of June

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](http://www.coe.int/t/dghl/monitoring/execution).

2012. At each of them, the “TRNC” Office of the Attorney General successfully requested adjournments due to a missing report regarding the property.

On 23 October 2012 the company complained of delays in the processing of the case. At the subsequent hearing, the Attorney General’s Office indicated that the “TRNC” Land Registry and Surveys Department had not drafted a report that was needed for the preparation of the defence. Moreover, the preliminary assessment of the case suggested that the property was registered to an Islamic religious organisation, Abdullah Paşa Foundation, which was managed by the Evkaf Administration – the organisation overseeing the functionality of vakıfs (foundations) and their registered properties in Cyprus. On 23 November 2012, the IPC found that the Evkaf Administration should therefore be admitted to the proceedings as a third party.

Two weeks later, K.V. Mediterranean Tours Limited complained to the “TRNC” Administrative Court of unjustified adjournments and delays in the proceedings and challenged the admission of the Evkaf Administration as a third party to the proceedings.

Three years later, in November 2015, the Administrative Court found that the Evkaf Administration could not be admitted as a third party to the proceedings on the grounds that it would render the restitution of the property to the applicant company impossible. The Administrative Court also held that it did not have jurisdiction to rule on the complaint of adjournments and delays in the IPC proceedings.

The “TRNC” authorities and the Evkaf Administration contested the decision not to admit Evkaf as a party to the proceedings before the “TRNC” High Administrative Court, whereas K.V. Mediterranean Tours Limited contested the decision on the adjournments and delays in the proceedings.

On 29 November 2016 the High Administrative Court held that it had exclusive jurisdiction to decide on all matters relating to proceedings before the IPC. It held that adjournments and delays in the proceedings were not subject to a judicial review. Referring to a judgment of the “TRNC” Famagusta District Court of 27 December 2005, according to which the current registered owner of the property in question was the Evkaf Administration, it held that the Evkaf Administration should be admitted as a party to the proceedings.

The “TRNC” authorities filed their submissions with the IPC three years later, on 11 December 2019. In January, February, June and October 2020, K.V. Mediterranean Tours Limited and its representative refused to attend the IPC hearings. On 22 February 2024 the representative attended a hearing before the IPC and agreed to forward to the company any proposals for compensation which the Government might make. However, K.V. Mediterranean Tours Limited and its representative later stated that any settlement could be reached in the course of the proceedings before the Court.

The proceedings before the IPC are still ongoing.

## Complaints, procedure and composition of the Court

Relying on Articles 6 (right to a fair hearing), 13 (right to an effective remedy) and Article 1 of Protocol No. 1 (protection of property) to the Convention, K.V. Mediterranean Tours Limited complained that the procedure for restitution of and compensation for its property located in the fenced-up area of Famagusta had been protracted and ineffective, that there had been no possibility for it to complain about the participation of a third party in the proceedings, and that the High Administrative Court (appeal panel) judges had allegedly been involved in transactions concerning property belonging to Greek Cypriots. It also complained of a violation of Article 14 (prohibition of discrimination) in the enjoyment of its right under Article 1 of Protocol No. 1 and alleged that such discrimination had been based on the national and ethnic origin, language and religious beliefs of its shareholders and director.

The application was lodged with the European Court of Human Rights on 25 May 2017.

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

Arnfinn Bårdsen (Norway), *President*,  
Saadet Yüksel (Türkiye),  
Jovan Ilievski (North Macedonia),  
Péter Paczolay (Hungary),  
Anja Seibert-Fohr (Germany),  
Gediminas Sagatys (Lithuania),  
Juha Lavapuro (Finland),

and also Hasan Bakırcı, *Section Registrar*.

## Decision of the Court

The Court proceeded on the assumption that Türkiye was responsible for the circumstances complained of by the applicant company. However, that did not in any way call into doubt the view adopted by the international community regarding the establishment of the “TRNC” or the fact that the Government of the Republic of Cyprus remained the sole legitimate government of Cyprus (see [Cyprus v. Turkey \[GC\]](#) and [Demopoulos and Others v. Turkey \(dec.\) \[GC\]](#)).

### Article 1 of Protocol No. 1

Having been provided with official certificates in support of K.V. Mediterranean Tours Limited’s property claim, the Court considered the company to be the legal owner of the property for its assessment of the case.

The Court reiterated that, since its decision in [Demopoulos and Others](#), it had emphasised that property claims had to be submitted to the IPC, and the IPC had provided an accessible and effective framework of redress for a number of applicants. The Court acknowledged the progress made by the IPC in processing property claims, as reflected in the statistical information that had been submitted. It also noted the diverse range of remedies provided, including compensation, exchange, and restitution, and welcomed the ongoing efforts.

The applicant company had claimed compensation for and restitution of property in its application to the IPC and had agreed to consider any compensation proposals that might be made. Therefore, the proceedings could not be deemed to be ineffective. However, as regards the purported availability of effective remedies for excessive delays in proceedings before the IPC, the Government had failed to provide any concrete examples of cases in which complainants had successfully sought and obtained compensation before the High Administrative Court.

In this particular case, with regard to the length of the proceedings, which had commenced in 2010 and were still ongoing, the Court observed that a significant delay had been caused by the “TRNC” Attorney General’s failure to reply to the applicant company’s claim until December 2019. In the Court’s view, the protracted nature of the proceedings had been mainly due to the passive approach of the IPC and the procrastination of the “TRNC” authorities towards preparing documents and gathering evidence. The Court found that the IPC had not acted coherently, diligently and quickly enough in examining the claim. There had therefore been a violation of Article 1 of Protocol No. 1.

### Articles 6 and 13

The Court pointed out that the participation of the Evkaf Administration in the IPC proceedings as a potentially affected party had been necessary to comply with the principle of a fair trial. K.V. Mediterranean Tours Limited had failed to convincingly demonstrate how the Evkaf Administration’s involvement had rendered the proceedings unfair. The IPC had not automatically assigned

ownership to the religious foundation, and the company had had the opportunity to contest the foundation's ownership claims in the IPC proceedings. The issue of the third-party intervention had also been examined in depth not only by the IPC but also by the courts. It therefore rejected as unsubstantiated the allegations under Articles 6 and 13.

As regards the alleged partiality of the judges at the High Administrative Court, the Court considered that there was no evidence to suggest that any of the judges on the appeal panel held a personal bias or hostility towards K.V. Mediterranean Tours Limited. In the Court's view, in order for a judge's impartiality to be called into question in this context, the pecuniary interests of the judge concerned had to be directly related to the subject matter of the dispute at the national level. Since these proceedings had concerned only procedural issues, the judges had had no direct interest in the outcome. Moreover, the applicant company had not sought recusal of the judges concerned, and the judges had no claim to the company's property. Therefore, the Court rejected this complaint as manifestly ill-founded.

#### Article 14 taken in conjunction with Article 1 of Protocol No. 1

As in previous cases relating to Greek Cypriot property claims in the northern part of Cyprus, the Court did not find it necessary to carry out a separate examination of the admissibility and merits of complaints under Article 14 of the Convention.

#### Article 46 (binding force and enforcement of judgments)

The issue of excessive length of proceedings before the IPC is not a new one. In previous similar cases, the Court has criticised the protracted nature of the proceedings and has referred to the "TRNC" authorities' failure to respond to the applicants' claims before the IPC in a timely manner. It has also made clear that it remains attentive to the developments in the functioning of the IPC remedy and its ability to effectively address Greek Cypriot property claims (see [Joannou v. Turkey](#)).

The Court took note of the recent statistical data demonstrating progress in the IPC's processing of Greek Cypriots' property claims. Although there was still room for improvement, the Court noted the progress achieved and also the efforts made by the Turkish authorities to bring the IPC proceedings into compliance with the Convention requirements. Nevertheless, the current case clearly showed that consistent and long-term efforts had to be continued, in particular as far as expediting proceedings was concerned (especially replies from the relevant "TRNC" authorities to property claims before the IPC) and creating a remedy which secured genuinely effective redress in respect of delays in the IPC proceedings.

#### Just satisfaction (Article 41)

The Court held that Türkiye was to pay the applicant 7,000 euros (EUR) in respect of non-pecuniary damage and EUR 11,000 in respect of costs and expenses. It found, by 5 votes to 2, that the question of pecuniary damage was not yet ready for decision, and reserved it for future decision.

#### Separate opinion

Judges Yüksel and Paczolay expressed a partly dissenting opinion which is annexed to the judgment.

*The judgment is available only in English.*

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