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Date: 10/07/2023

DH-DD(2023)833

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Meeting: 1475th meeting (September 2023) (DH)

Communication from Cyprus (07/07/2023) concerning the case of CYPRUS v. Turkey (Application No. 25781/94)

Information made available under Rule 8.2a of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1475e réunion (septembre 2023) (DH)

Communication de Chypre (07/07/2023) relative à l'affaire CHYPRE c. Turquie (requête n° 25781/94) ***[anglais uniquement]***.

Informations mises à disposition en vertu de la Règle 8.2a des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

DH-DD(2023)833: Communication from Cyprus.
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07 JUIL. 2023
SERVICE DE L'EXECUTION DES ARRETS DE LA CEDH

CYPRUS v TURKEY
No. 25781/94
PROPERTY RIGHTS OF DISPLACED PERSONS

MEMORANDUM
BY THE GOVERNMENT OF THE REPUBLIC OF CYPRUS

1475th CM(DH) MEETING, 19 -21 September 2023

EXECUTIVE SUMMARY

1. In its principal judgment of 2001, the Court in the inter-State case found that there was a continuing violation of the Convention by virtue of the fact that displaced Greek Cypriot property owners in the occupied part of Cyprus were being "*denied access to and control, use and enjoyment of their property*".[1]

2. In its just satisfaction judgment of 2014, the Court confirmed that its earlier judgment had not been complied with and that "*compliance could not ... be consistent with any possible permission, participation, acquiescence or other form of complicity in any unlawful sale or exploitation of Greek-Cypriot homes and property in the northern part of Cyprus*".[2]

3. Compliance has not been achieved in the 9 years since 2014, any more than it was in the 13 years beforehand. Indeed, the problem is even more acute than it was then: Greek Cypriot property is being unlawfully sold and exploited as part of a deliberate and expanding plan, promoted by Türkiye, to "*turkify*" the occupied part of Cyprus.

4. The thrust of Türkiye's case is that compliance with the inter-State judgments requires no more than the provision of compensation and/or restitution to property-owners by the Immovable Property Commission ("IPC"), whose status was considered by the Court in *Demopoulos and others*, 2010). However:

   a. It is "*crystal clear*" from the 2014 judgment that "*the Court did not decide in Demopoulos and others that Turkey's obligations under Article 46 to execute the*

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[1] *Cyprus v Turkey* Judgment of 12 May 2014 ("just satisfaction judgment") §63, summarising Judgment of 10 May 2001 §§172-173, 185-187 and 189.
[2] Judgment of 12 May 2014 §63.

Grand Chamber judgment of 2001 had been fulfilled". Rather, full implementation of that judgment required "*the immediate cessation of the continuing unlawful disposal (including sale, lease, use or any other means of exploitation)* of Greek Cypriot-owned land in the occupied part of Cyprus.[3] The CM(DH) has a duty to ensure the implementation of that primary obligation, which is central to the peaceful resolution of the Cyprus problem ("***the primary issue***").

b. The IPC is manifestly ineffective even for its limited purpose of providing a remedy for Türkiye's violations ("***the secondary issue***").

c. Türkiye has further failed to pay the just satisfaction ordered for the benefit of individuals in 2014, notwithstanding an interim resolution adopted by the CM(DH) in September 2021 ("***the just satisfaction issue***").

5. All three issues are here considered in turn. No Decisions having been taken on the last occasion in which the displaced cluster was considered by the CM(DH) (September 2022), and no Memorandum having been received from Türkiye since June 2022,[4] this Memorandum is structured as an amended and updated version of Cyprus's Memorandum of August 2022.[5]

THE PRIMARY ISSUE: USE AND EXPLOITATION

What is required for compliance

6. The key to this issue lies in the Court's explanation, in §63 of its 2014 judgment, of the scope of its ruling in the principal judgment. The background is as follows:

a. In its 2001 judgment, the Court found serious widespread violations of the Convention in respect of the unlawful occupation of the occupied part of Cyprus by Türkiye. The Court found inter alia a continuing violation by Türkiye of Article 8 and Article 1 of Protocol No. 1 by reason of an official policy and administrative practice of physically

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[3] Explanation of the Court's ruling in the concurring opinion of Judge Pinto de Albuquerque joined by Judge Vučinić, §§ 22-23.
[4] DH-DD(2022)683.
[5] DH-DD(2022)875.

excluding Greek Cypriots from their property in the occupied part of Cyprus and permitting the unlawful exploitation and expropriation of their property.[6]

b. The execution of the 2001 judgment was pursued through the CM(DH). This process however came to an impasse, following disagreement as to the effect of the Court's admissibility decision of 1 March 2010 in *Demopoulos and Others*,[7] which held that the IPC was an effective domestic remedy that had to be exhausted by individual applicants before they could have recourse to the Court.

c. The 2011 application to the Court by Cyprus that led to the 2014 judgment specifically requested a resolution to that impasse. In particular, the application requested the Court to clarify that:

    i. Türkiye is required by Article 46 ECHR to abide by the principal judgment in *Cyprus v Turkey* by abstaining from, or permitting, encouraging or acquiescing in, or being otherwise complicit in, the unlawful sale and exploitation of Greek Cypriot homes and property in the occupied part of Cyprus; and

    ii. The Court's admissibility decision in *Demopoulos* does not have the effect of discharging Türkiye's obligation under Article 46 to abide by merits judgment and to co-operate with the COM in supervising the execution of the judgment.[8]

d. Cyprus presented the Court with a substantial body of evidence, which as it stated *"clearly demonstrates the extraordinary extent to which Turkey has been* ***complicit in actively encouraging and facilitating the unlawful exploitation and sale of property belonging to Greek Cypriots****, creating a factual situation which will be difficult if not impossible to remedy ex post facto in a way that respects the Convention rights"*[9] (emphasis added). That evidence illustrated that if Türkiye were permitted to continue

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[6] §§172-173 and §175 (Article 8), 185-187 and §189 (Article 1 of Protocol No.1)

[7] App. No. 46113/99 (2010) 50 EHRR SE14. The impasse is described in more detail in Cyprus's Memorandum of May 2019 (DH-DD(2019)602), paras 10-11.

[8] Application, para 11.

[9] Application, para 16 (emphasis added). That evidence was summarised in Cyprus's Memorandum of May 2019 (DH-DD(2019)602) at para 13; see further the documents annexed to Cyprus's Memorandum for the 1324th CM(DH) of September 2018 (DH-DD(2018)873).

to encourage and permit the use and exploitation of property owned by Greek Cypriots, the possibility of restitution of property through the IPC would be rendered nugatory.[10]

e. Cyprus further highlighted that Türkiye had never claimed that either the IPC or the courts in the occupied part of Cyprus had the power to prevent Turkish officials from tolerating, encouraging and acquiescing in the unlawful interferences with the property rights of Greek Cypriots in the occupied part of Cyprus, including the sale of the property to settlers and commercial enterprises, or indeed to prevent such sales and exploitations.[11]

7. In response to that application, the Grand Chamber in its 2014 judgment stated (§63) that:

"The Court considers that it is not necessary to examine the question whether it has the competence under the Convention to make a "declaratory judgment" in the manner requested by the applicant Government since it is clear that the respondent Government is, in any event, formally bound by the relevant terms of the main judgment. It is recalled in this connection that the Court has held that there had been a continuing violation of Article 1 of Protocol No. 1 by virtue of the fact that Greek-Cypriot owners of property in northern Cyprus are being denied access to and control, use and enjoyment of their property, as well as any compensation for the interference with their property rights (Part III, point 4 of the operative provisions of the principal judgment). ***It thus falls to the Committee of Ministers to ensure that this conclusion, which is binding in accordance with the Convention, and which has not yet been complied with, is given full effect by the respondent Government. Such compliance could not, in the Court's opinion, be consistent with any possible permission, participation, acquiescence of other form of complicity in any unlawful sale or exploitation of Greek-Cypriot homes and property in the northern part of Cyprus. Furthermore, the Court's decision in the case of Demopoulos and Others … to the effect that cases presented by individuals concerning violation-of-property complaints were to be rejected for non-exhaustion of domestic remedies, cannot be considered, taken on its own, to dispose of the question of Turkey's compliance with***

10 Application at paras 48, 63.
11 Application at § 62.

> ***Part III of the operative provisions of the principal judgment in the inter-State case."***

(emphasis added).

8. The concurring opinion of Judge Pinto De Albuquerque, joined by Judge Vučinić, makes it even clearer that the violations exposed in the 2001 judgment had not been resolved by the measures considered in *Demopoulos*. It was noted that:

> *"As a matter of fact, these ongoing violations [disposing of land and property belonging to Greek Cypriots until at least November 2011] did not come to an end by virtue of the enactment of "TRNC" Law 67/2005, since* **the unlawful sale and exploitation of Greek-Cypriot property and homes in the occupied part of Cyprus, with the active encouragement of Turkey, continued after the entry into force of that law***, creating a situation which will be difficult, if not impossible, to remedy ex post facto."*

(§22, emphasis added).

9. The Judges went on to describe the Court's ruling as "*crystal clear*":

> *"...* ***The Court's answer to the claimant State's request is crystal clear: the Court did not decide in Demopoulos and Others that Turkey's obligations under Article 46 to execute the Grand Chamber judgment of 2001 had been fulfilled, nor did the Court hold that the ongoing violations found by the Grand Chamber in its judgment on the merits had come to an end by virtue of the enactment of Law 67/2005****, and this for the simple, but obvious, reason that Demopoulos and Others concerned only domestic remedies in respect of violations of Article of Protocol No. 1 in individual cases. To put it unambiguously,* ***the Demopoulos and Others decision did not interfere with the claimant State's right to full implementation of the Grand Chamber judgment of 2001, including the immediate cessation of the continuing unlawful disposal (including sale, lease, use or any other means of exploitation) of the land and property of Greek Cypriots in northern Cyprus by the "TRNC" authorities with the complicity of the Turkish State****. This is not a mere statement on the interpretation of a previous judgment of the Court. The Court's intention goes much further.* ***This is also an acknowledgement of the existence of a situation of non-***

> ***implementation of the Grand Chamber's judgment of 2001, and therefore of a violation by the respondent State of its obligations under Article 46 of the Convention, to which the Court seeks to put an end.****"*

(§23: emphasis added).

10. It is thus quite plain that the *Demopoulos* decision has not resolved the question of Türkiye's compliance with the 2001 judgment. The term "*unlawful sale or exploitation*", used by Cyprus in its application for just satisfaction, was repeated by the Court in §63 of its 2014 judgment. It describes the administrative practice prevailing in the occupied part since the 2001 judgment, whereby Turkish authorities have presided over an unprecedented boom in the unlawful exploitation of Greek Cypriot plots, many of which have been "transferred" to foreigners and have been built upon without the lawful owners' consent. The Court made it abundantly clear in §63 of its 2014 judgment that Türkiye remains obliged to bring to an end the "*continuing violation*" of unlawful of sale and exploitation of Greek Cypriot properties in the occupied part of Cyprus.

11. However, and regrettably, not even the Court's clear statement of principle has succeeded in resolving the impasse. While acknowledging that the just satisfaction judgment can indeed be interpreted in the sense explained above, the Secretariat has inclined to a restricted interpretation, under which the term "*unlawful use and exploitation*" as used in §63 was intended to apply only to properties that have been returned to their owners or which could still be returned to them according to the criteria in the 2005 Law.[12] **Such an interpretation is simply impossible to reconcile with the scope of the arguments before the Grand Chamber in 2011-2014, or with the terms of the just satisfaction judgment itself.** That judgment confirms beyond any doubt that compliance with the principal judgment continues to require "*the immediate cessation of the continuing unlawful disposal (including sale, lease, use or any other means of exploitation) of the land and property of Greek Cypriots in northern Cyprus by the "TRNC" authorities with the complicity of the Turkish State...*".

[12] See e.g. the Secretariat's Notes for the Agenda for the 1302nd CM(DH) meeting of December 2017: CM/Notes/1302/H46-32.

12. Cyprus would add that the Secretariat has, however, at least acknowledged that there are "*two possible readings*" of the term "*unlawful sale and exploitation*" in §63 of the just satisfaction judgment. In its Notes on the Agenda of December 2017, it defined these as:

    a. "*a sale or exploitation which is unlawful because it has taken place without the consent of the Greek Cypriot owners*", in which case "*the measures to be taken should aim at prohibiting the sale and exploitation without their consent of all their properties, situated in the north of Cyprus*"; and

    b. As concerning "*properties which have been returned to their owners or can still be returned to them according to the criteria announced in the 2005 Law"*, in which case "*the Committee could examine whether the two protective procedures integrated in the mechanism of the [IPC] could be considered as adequate and sufficient*".[13]

13. The first (and, it is submitted, obviously stronger) of those readings is that which has consistently been put forward by Cyprus. Whilst the Secretariat has stated its preference for the second, it can scarcely be denied that the first is, at the very least, a credible reading of the Court's judgment. Not only did the Secretariat so accept in 2017: the Department for the Execution of Judgments wrote in 2014 that if the Committee of Ministers could not agree on an interpretation, '*then the question of a request for interpretation under Article 46(3) of the Convention could arise*'.[14]

Continuing non-compliance by Türkiye

14. Most regrettably, the illegal exploitation of property in the occupied part of Cyprus has continued unchecked. Evidence of this has previously been submitted by Cyprus to the Committee, the accuracy of which has not been disputed.[15]

15. In 2001, illegal development in the occupied part of Cyprus covered approximately 107 sq km. In 2007, it covered 207 sq km, and in 2014, 279 sq km. There is evidence of significant

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[13] *Ibid.*

[14] This was pointed out by the Minister of Foreign Affairs in his letter of 5 October 2022 to the Secretary General of the Council of Europe.

[15] Most recently, in the Memoranda by the Government of the Republic of Cyprus for the 1302nd, 1324th, 1348th and 1411th CM(DH) meetings (December 2017, September 2018, June 2019 and September 2021).

development in the Keryneia District, in the Nicosia District, and in the Morfou, Karpasia and Famagusta, areas respectively.

16. A July 2021 updated report of the Department of Lands of Surveys entitled "Analysis of Illegal Development in the Occupied Areas of Cyprus" pointed to 21 recent developments, together with maps and aerial photos of the developments in question and recent Search Certificates indicating the current owners of the properties, all of whom are Greek Cypriots. It points to the large-scale development of housing units and complexes, villas and hotels in the occupied part of Cyprus in, *inter alia*, Trikomo, Rizokarpaso, Karavas, Fterycha, Kyrenia, Gastria and Ayios Amvrosios.

17. A further update of the same report in July 2022 referred to no fewer than 12 new developments in the occupied area identified since July 2021, in Akanthou, Trikomo, Kalograia, Agios Sergios, Ammochostos, Agios Georgios and Fterycha.

18. The report was updated once again in June 2023, identifying further new developments since July 2022 in the occupied part of Cyprus. Indicatively, 18 new developments identified are "Alagadi Waterfront Homes" (Agios Amvrosios), "Bahamas Homes" (Kalograia), "Blue Mare Suites" (Karavas), "Ciglos Mansions" (Keryneia), "Green and Blue Project" (Aigialousa), "Hawaii Homes" (Akanthou), "Hill Park Homes 4" (Karavas), "Kibris Town Houses" (Karavas), "Kyreneia Jasmine Court Hotel" (Kyreneia), "Luxury Villas" (Vasileia), "Natura Spa and Wellness (Karavas), "Olive Court" (Agios Sergios), "Olive Court 2" (Agios Sergios), "Orchard" (Agios Sergios), "Pearl Bay Hotel" (Karavas), "Pearl Island Homes" (Agios Amvrosios), "Poseidon" (Kalograia) and "Querencia" (Trikomo).

19. Cyprus has previously brought to the attention of the CM(DH) a selection of articles in the Turkish and Turkish Cypriot press demonstrating a continuing and deliberate policy of thwarting the rights of Greek Cypriot owners to restitution of their properties through sale or transfer of such properties or development. [16] This can be seen from:

[16] Annex B to the Memorandum by the Government of the Republic of Cyprus for the 1324th CM(DH) meeting, DH-DD(2018)873. The references could easily be multiplied.

a. the very high rate at which the title to property belonging to Greek Cypriots is transferred;
b. the distribution of plots of land and the public statements that accompany such distributions;

c. the fact that public statements relating to new developments often indicate that the intention is to put the property beyond the reach of Greek Cypriots; and

d. the legislative changes made to facilitate both purchase by foreigners and land development, and the timing of such changes.

20. The deliberate use of property distribution as an instrument of what amounts to ethnic cleansing is exemplified by the words attributed in a press article to Eyfer Said Erkmen, the former Chairman of the IPC which is the very institution entrusted to safeguard the property rights of Greek Cypriots: *"... the more land is Turkified, the right of the Greek Cypriot side to demand land in the north will be abolished. Especially Morfou. ... The Greek Cypriots continuously make a call for the return of Morfou. If we Turkify it the soonest, Morfou will also be lifted from the negotiating table. After they sell their property, why should the Greek Cypriots come to the north?..."*[17].

21. Similarly, in statements in the Turkish Cypriot daily newspaper Kibris on 3 May 2019, the former IPC Chairman stated that 17,586 plots of land had been "*Turkified*" so far. He further claimed that only 33 out of a total of 166 hotels in the occupied part of Cyprus are built on Turkish Cypriot owned land, and stressed the need for all hotels which are built on Greek Cypriot owned land to be "*Turkified*".

22. Of particularly pressing significance in this regard is the recent decision by Türkiye to "open up" Varosha, a quarter of the Cypriot city of Famagusta which was an important tourist destination and a major contributor to the economy of Cyprus until it was occupied, and its inhabitants violently expelled, during the second phase of the Turkish invasion of 1974. The UN Security Council has called for the transfer of Varosha to the administration

[17] Diyalog Turkish Cypriot daily, 24.03.18 (Annex B to September 2018 Memorandum, DH-DD(2018)873, page 2).

of the United Nations, and resolved that "*it considers attempts to settle any part of Varosha by people other than its inhabitants as inadmissible*".[18]

23. The clear Turkish intention is however to develop Varosha and incorporate it into the occupied territory 'administered' by the so called 'TRNC'. For example, on 5 June 2020, the Vice-President of Türkiye stated (live on television) that Türkiye's intention is to allow the fenced area to be "incorporated" into the economy of the 'TRNC';[19] and it was subsequently confirmed that Türkiye "*will proceed all the way with Varosha*".[20] Türkiye has opened the Turkish Consulate General in the wider Varosha area,[21] and also plans to construct a "presidential office" in Varosha because, as President Erdoğan remarked in his statement at the ceremony commemorating the 37th anniversary of the 'TRNC', "*such official buildings have an impact on the perceptions of foreign countries*."[22]

24. The next step in this development process was the "*demilitarization*" of Varosha,[23] i.e., changing its status from a "military area" so as to enable properties within it to be more freely disposed of by the IPC in the occupied part of Cyprus or by the owner,[24] and opening the way for development. On 19-20 July 2021, during a visit of President Erdogan to the occupied part of Cyprus, the so called "TRNC President" Ersin Tatar announced the lifting of the military status of an area which corresponds to approximately 3.4% of the fenced-up area of Varosha. The remainder of Varosha remains designated as a military area, in which it is impossible to return properties.[25]

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[18] Resolution 550 (1984): the status of Varosha as set out in relevant resolutions was recently recalled by the Security Council in Resolutions 2506 (2020) and 2537 (2020).

[19] Statement of 5 June 2020.

[20] Statement of 24 October 2020.

[21] Statement of 9 September 2019, visit of the Turkish Minister for Foreign Affairs Mr Çavuşoğlu to Varosha.

[22] Statement at the ceremony commemorating the 37th anniversary of the "Turkish Republic of Northern Cyprus", 15 November 2020.

[23] Statement of 31 August 2020.

[24] See section 8, 'TRNC Law No. 67/2005 for the Compensation, Exchange and Restitution of Immovable Properties which are within the scope of sub-paragraph (b) of paragraph 1 of Article 159 of the Constitution, < http://www.tamk.gov.ct.tr/dokuman/67-2005yasaING.pdf >.

[25] A point recently made by the senior 'TRNC' politician Oğuzhan Hasipoğlu: "Restitution is not possible in military zone", Kibris newspaper, 5 May 2023 (Appendix A).

25. In October 2022, Mr. Ersin Tatar was quoted as saying that approximately 750,000 local and foreign tourists had already visited the open parts of Varosha, and described the open sections of Varosha as the most popular destination for tourists in the 'TRNC'.[26]

26. These developments (which are part of a wider Turkish strategy of claiming Varosha as 'TRNC' territory) have been repeatedly condemned by the UN Security Council[27], by the European Union[28] and by the international community. They are particularly striking and damaging examples of the policy of "*Turkification*", in defiance of international norms – including the judgments of the Court which are under supervision. In April 2022, an agreement for 'Economic and Financial Cooperation' was signed between the Turkish Government and the 'TRNC', which included specific provisions on the further development of Varosha (para 2.1.18), indicating that "*all necessary infrastructure, zoning works and other services will be completed to make Varosha ready for daily use*".

27. In this context the CM(DH) is asked to note, in particular, Türkiye's use of the IPC as a legal mechanism that enables the creation of 'facts on the ground' in the 'TRNC' in support of its "*Turkification*" agenda. This is clear from Türkiye's express reliance on the availability of the IPC as a defence to the illegality of its recent "opening up" of Varosha and demilitarisation, through public statements by Turkish officials and so-called officials of the 'TRNC'.[29] Such reliance clearly demonstrates Türkiye's attempt to use the IPC mechanism as a 'vehicle' to normalise its illegal conduct in the area and ultimately the illegal occupation, and to create those conditions whereby the occupied part of Cyprus can be developed under the so-called 'authority' of the illegal secessionist entity.

[26] "President Tatar: Nearly 750,000 people visited the Maraş region in the last two years", Kibris Postasi, 7 October 2022 (Appendix A).

[27] See, e.g., its Resolution 2561(2021), expressing "deep concern at developments in Varosha" and calling for "the reversal of this course of action", the Statement of the President of the Security Council of 23 July 2021 (S/PRST/2021/13) to similar effect and more recently UN SC Resolution 2674(2023), of 30 January 2023, at para 3. https://undocs.org/Home/Mobile?FinalSymbol=S%2FRES%2F2674(2023)&Language=E&DeviceType=Desktop&LangRequested=False.

[28] See, e.g., the EU Council conclusions of 10-11 December 2020 condemning "Turkey's unilateral steps in Varosha" and calling for full respect of UN Security Council Resolutions 550 and 789.

[29] See e.g. statements made on 20 July 2021 by Turkish Cypriot leaders Ersan Saner and Ersin Tatar during President Erdoğan's visit to the occupied part of Cyprus, cited in Cyprus's Memorandum of August 2022 (DH-DD(2022)875), fn 23.

Primary issue: proposed action

28. In the last Decisions taken on this cluster, at the September 2021 meeting, the Deputies, having recalled the *Demopoulos* admissibility decision:

> "recalled further that in the judgment on the just satisfaction of 12 May 2014 in the *Cyprus v Turkey* case the European Court expressed the opinion that the compliance with the conclusions of the main judgment 'could not be [...] consistent with any possible permission, acquiescence or otherwise complicity in any unlawful sale or exploitation of Greek Cypriot homes and property in the northern part of Cyprus'".[30]

29. The citation of the just satisfaction judgment §63 is welcome. It constitutes a reminder that compliance with the principal judgment is about not just the provision of remedies for unlawful use and exploitation, but – much more fundamentally – the cessation of such unlawful use and exploitation. It contradicts the suggestion, repeatedly made by Türkiye, that the examination of this cluster should have ended with the *Demopoulos* decision. Indeed as noted above, the Court expressly stated, in the very same paragraph cited in the September 2021 Decisions, that *Demopoulos* had **not** decided either that the principal judgment had been complied with or that the "*ongoing violations*" identified in that judgment had come to an end.[31] That continues to be the case.

30. Cyprus considers that the meaning of §63 of the 2014 judgment is clear, for the reasons explained above. It therefore requests the Deputies, as a minimum:

    a. to reiterate the reference to §63 of the just satisfaction judgment; and
    b. to call upon Türkiye to desist from encouraging and facilitating the unlawful use and exploitation of Greek Cypriot homes and properties in the occupied part of Cyprus.

31. In the alternative, should the Secretariat continue to resist this conclusion, it is asked:

    a. to reiterate its 2017 view that there are two possible readings of §63 of the just satisfaction judgment (para 12 above) and, following the logic of that position,

[30] CM/Del/Dec(2021)1411/H46-36, para 2.
[31] See the full citation of §63 at para 7, above.

b. to endorse the observation of the Department for the Execution of Judgments in 2014 that it is time to consider a request for interpretation under Article 46(3) of the Convention (para 13 above).

It would then be possible for the Deputies, by making an Article 46(3) request, to endorse that obvious and principled solution to this regrettably long-standing disagreement on the legal interpretation of the Court's just satisfaction judgment. Indeed, the Court alone is the only body with competence to authoritatively determine the issue.

THE SECONDARY ISSUE: REMEDIES WITHIN THE SCOPE OF 'LAW NO. 67/2005'

32. In its Decisions of September 2021 the CM(DH):

a. invited the Turkish authorities to clarify whether the ***calculation of increases in property value*** when deciding whether restitution is possible includes only increases due to development or also increases due to inflation;

b. further invited them to provide information on the regulation and application in practice of other avenues to prevent any changes to a ***property which is subject to a pending claim for restitution*** before the IPC; and

c. invited the Turkish authorities to submit ***statistical data on the functioning of the IPC***, and in particular

i. on the number of cases pending,
ii. the length of time they have been pending,
iii. the number of awards of compensation made,
iv. the total amount and the number of awards that have been paid in full so far, and
v. the funds and staff at its disposal.[32]

33. The response to these requests made by Türkiye in her Memorandum of June 2022 was unsatisfactory, for the reasons summarised in Cyprus's Memorandum of August 2022:[33]

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32 CM/Del/Dec(2021)1411/H46-36, paras 4-5.
33 DH-DD(2022)875, §§ 29-50.

a. No useful clarification was provided in relation to either (1) the calculation of increases in property value or (2) the regulation and application in practice of other avenues to prevent any changes to a property which is subject to a pending claim for restitution before the IPC.

b. To the extent that statistical data was provided on the functioning of the IPC, it afforded no grounds for reassurance.

The three points identified in the September 2021 Decisions were addressed as follows in Cyprus's Memorandum of August 2022.

Calculation of increases in property value

34. In its Notes on the Agenda prior to the September 2021 CM(DH), the Secretariat recalled that under 'Law 67/2005' restitution is not possible if a property has doubled its value, and commented:

> "In that context, it would be useful to clarify whether the calculation of increases in property value when deciding whether restitution is possible includes only increases due to development or also increases due to inflation. ***If increases due to inflation are included, this would appear to constitute a major barrier to restitution***." (emphasis added).

35. It may indeed be that the extremely low numbers of properties in respect of which restitution has been ordered, confirmed by Türkiye in her June 2022 Memorandum,[34] was prompted in part by the method by which increases in property value are calculated. Hence the request for clarification in para 4 of the September 2021 Decisions.

36. Türkiye in her June 2022 Memorandum offered no specific answer to this request for clarification. She made the point that the IPC has granted "*restitution after the settlement of the Cyprus problem*" in only one case (which may in itself be significant), but does not

[34] Türkiye stated at para 23 that "*out of the 252 applications where the claim was for restitution only, IPC ruled for restitution in 12 cases*". There were no doubt many other claims (out of a recorded total of 7120) in which requests were not "*for restitution only*", or – as stated in para 24 – were changed to requests for compensation while they were pending.

set out any rule or practice of the IPC in relation to the issue of adjustments for inflation. No analysis appears to have been performed of the decisions in which restitution was *refused* on the basis of excessive increase in value, with a view to determining whether those conclusions were reached on the basis of nominal or inflation-adjusted values. There was, in short, no indication in Türkiye's account that a calculation to adjust for inflation has ever been performed, whether in the case that it cites or in any other. The clarification requested in the December 2021 Decisions was not provided: a matter of real significance since, as the Secretariat pointed out, a failure to adjust for inflation is liable to function as a major barrier to restitution.

Ensuring that properties are not changed pending claims for restitution

37. Türkiye in her June 2022 Memorandum inaccurately and with excessive generality paraphrased the request in the September 2021 Decisions, para 4, as being "*for additional information concerning ... properties which are the subject of pending restitution claims before the IPC*". The Memorandum then set out *in extenso* sections 8(1) and (2) of 'Law 67/2005', which as it points out was considered in *Demopoulos*, before supplying a variety of (in this context, irrelevant) statistical information. It was, however, silent on the actual subject-matter of the request from the CM(DH). Indeed its final comment –

> "IPC's practice on restitution claims do not call for further examination to determine need for additional measures to prevent changes to a property which is the subject of a pending claim for restitution" –

amounted to a refusal to answer the very precise request for clarification that was made in the September 2021 Decisions.

38. That request was explained in the Notes on the Agenda prior to the September 2021 CM(DH) in the following terms:

> "Information could also be requested from Turkey on existing avenues to prevent any other changes to property which is the subject of a pending claim for restitution before the IPC, for example the possibility for the IPC to issue interim injunctions or the possibility for claimants to apply to the courts for a preventive order under

the 'first day rule' mentioned above. If such avenues exist, information could be requested on the implementation in practice of such orders."

If no such injunction or preventive order is available, it would be a simple matter for those in possession of a Greek Cypriot-owned property to alter the nature of that property while an application for its restitution is pending.

39. As recorded earlier in the Notes on the Agenda, the "first day rule" was stated by Türkiye to exist in a communication of 2009 prior to the Court's decision in *Demopoulos*.[35] Only ever claimed to be an uncodified principle of administrative law, it was said to have the effect that "*from the moment the IPC is seized with an application, any action aimed at modifying the factual situation of the property will be deemed null and void and will have no bearing on the redress ordered by the IPC*". No evidence of such a rule having ever been formulated, used or applied has, however, been provided. The phrase "*if such avenues exist*", in the Notes on the Agenda for the September 2021 CM(DH), is indicative of a degree of scepticism that Cyprus considers to be entirely justified.

40. The alleged mechanisms referred to in the Notes on the Agenda and alluded to in para 4 of the September 2021 Decisions, which supposedly offer protection while a claim for restitution is pending before the IPC, have been the subject of fruitless enquiry in the past. In particular:

    a. In the Notes for the Agenda for the 1302nd meeting (December 2017), the Secretariat noted that Türkiye had referred to a rule that from the moment the IPC is seized, any action aimed at modifying the factual situation of the property at stake will be deemed null and void and will not be taken into account for the evaluation of the redress to be provided.[36]

    b. The CM(DH) Decisions of December 2017 requested Türkiye to provide information on the practical implementation of such mechanisms.[37]

35 DD(2009)611.
36 CM/Notes/1302/H46-32, p3.
37 CM/Del/Dec(2017)1302H46-32.

c. Türkiye's failure to comply with that request was noted by the Deputies in their Decisions of September 2018.[38]

d. Further purported compliance in Türkiye's Memorandum of 15 May 2019 was limited to an account of the "law" which was said to be applicable in the extremely rare cases in which the IPC actually orders the restitution of immovable property, and had nothing to say about the so-called first-day rule.[39]

e. Türkiye provided no relevant supplementary information in its brief and legalistic Memorandum of June 2021, or in its Memorandum of June 2022 which, as stated above, did not address the issue but simply asserted that it does not call for further examination.

41. Türkiye's June 2022 Memorandum accepted that changes to property when an application is pending before the IPC can constitute a ground for rejecting restitution – precisely the mischief that interim relief is necessary in order to avert. It claimed however (1) that there has not been recourse to the 'TRNC Supreme Court' challenging such rejections; and (2) that in two cases when the applicants asked for an interim order when their restitution applications were pending, they decided not to pursue their requests as they chose to switch their claim from restitution to compensation. But these facts are entirely consistent with the *absence* of any interim remedy: they do nothing to establish that recourse to the 'TRNC Supreme Court' is provided for under 'TRNC law', or that interim orders are ever granted (or even available) in such circumstances.

42. Türkiye's assertion that there are fully effective avenues to the restitution of Greek Cypriot immovable property remains therefore unsupported by evidence, despite numerous requests. There remain live and acute concerns about the capacity of the IPC proceedings to protect Greek Cypriot properties in the occupied part of Cyprus from "*Turkification*".

[38] CM/Del/Dec(2018)1324/20.

[39] DH-DD(2019)552. These criticisms were made in Cyprus's Memorandum submitted later that month: DH-DD(2019)602, paras 29-30.

Statistical data on functioning of IPC

43. As noted above, Türkiye was asked to provide statistical data regarding the functioning of the IPC under five distinct heads. To the extent that such data were provided, they provide no reassurance as to the effectiveness of the IPC: indeed on the contrary, and when combined with information from the IPC's own website, they clearly demonstrated the reverse.

Cases pending

44. The figure for number of cases pending (head 1) was alarming: no fewer than 5,750 cases were said to be pending, in only 1,849 of which additional documents were currently awaited from the applicants. No information was provided under head 2 (time for which such cases have been pending), save that these applications were "*primarily filed from 2010 onwards*". It is not possible to calculate an average duration from that statement, which did however clarify that **some cases had been pending for in excess of 12 years**.

45. Further information was provided on the IPC website, which revealed that the large majority of all claims before the IPC (4864, 68% of the total number of 7111 to April 2022) were brought in the three calendar years 2011, 2012 and 2013.[40] A further 840 were brought before 2011. Since a total of only 1370 cases had been resolved by April 2022 (1336 by friendly settlement and 34 by decision of the IPC), it follows that at least 4334 cases *predating* 2014 remained before the Tribunal (the actual figure is likely to be greater, since at least some of the cases already resolved were presumably brought after 2013). Cyprus thus submitted in June 2022 that long delays were an endemic part of IPC procedure.

46. The latest figures on the IPC website (accessed 25 June 2023) show that this picture has not substantially changed. In summary:

    a. The total number of claims has risen to 7292, of which only 1,491 have been resolved.

[40] http://www.tamk.gov.ct.tr/dokuman/istatistik_nisan22ing.pdf.

b. No fewer than 78.2% of claims to date were brought before the end of 2013 (5704 out of 7292).

c. It is therefore quite plain that unacceptably long delays are not isolated instances, but an endemic feature of the IPC's procedure.

47. It will be recalled that in the case of *Joannou*, relied upon by Türkiye in her Memorandum, Türkiye was found to have violated the Convention because "*the IPC did not act with coherence, diligence and appropriate expedition concerning the applicant's compensation claim as required under Article 1 of Protocol No. 1*".[41] By the time of judgment, that case had been pending for some 9 years:[42] it can be stated with certainty that this is *less* time than *several thousand* of those currently before the IPC. **While there may not have been sufficient evidence before the Court in *Joannou* for it to find almost six years ago (December 2017) that the IPC system was compromised by systemic delay, conclusive evidence plainly exists now.**

Awards of compensation

48. Head 3 is the number of awards of compensation made: the figure given by Türkiye in June 2022 was 1141, compared to 5381 applications in which only compensation was sought (and according to the IPC website, 7111 applications brought in total), of which 1370 are said to have been concluded. It followed that while compensation had been awarded in 83% of cases concluded (1141/1370, suggesting that the great majority of cases are well-founded), it had been awarded in only 16% (1141/7111) of the cases in which applications have been made since 2006.

49. The figures as of 25 June 2023 are not substantially different: according to the IPC's website, and notwithstanding the passage of a further year, **compensation has still been awarded in less than 21% (1263/7292) of the cases in which applications have been made since 2006, despite the great majority of cases being well-founded**.

[41] *Joannou v Turkey*, no. 53240/14, judgment of December 2017, §104.
[42] *Ibid.*, §91.

50. Head 4 is the total amount and the number of awards that have been paid in full so far. On Türkiye's figures, the number of awards paid as of June 2022 was only 64% of the number of awards made (731/1141), and the total amount paid was only 61% of the total amount awarded (£205m/£335m). **This demonstrates a gigantic backlog in the payment of awards, to add to the monumental backlog in proceedings before the IPC itself.**

Funds and staff

51. Head 5 is the funds and staff at the IPC's disposal. Türkiye's answer of June 2022 exposed the complete mismatch between the funding of the IPC and the awards that it purports to make. The budget for the payment both of compensation and of other expenses incurred in the application of the IPC Law (presumably including premises and staffing costs) is said to be c. £12.5 million in the 2022 budget. Even if the whole of that budget could be devoted to the payment of outstanding awards, which of course is impossible, **it would have taken more than 10 years to make up what Türkiye admitted in 2022 to be a £130m shortfall on awards *already ordered***. Since as developed above (1) those awards related in June 2022 only to 16% of applications made and (2) 83% of finalised applications had resulted in awards, the utter inadequacy of this budget is manifest.

Commentary in the Turkish Cypriot press

52. Should they be in any doubt as to the endemic ineffectiveness of the IPC, the Deputies are referred to recent comments in the Turkish Cypriot press. Thus:

    a. The columnist Cenk Mutlukayali, writing in Yeni Düzen newspaper in August 2022, took the example of the Jasmine Court Hotel in Keryneia, in which a decision to pay compensation was not paid for two years. The columnist noted that this was a common phenomenon and predicted that the finding in *Demopoulos* that the IPC offered an effective legal remedy was likely to be reversed.[43]

    b. In a subsequent column in April 2023, the same columnist cited the statistics for applications and compensation awarded, before commenting that the great majority of

[43] "It wants its hotel back", Yeni Düzen, 12 August 2022, Appendix A.

hotels and schools in the occupied part of Cyprus are located on Greek Cypriot land, and observing acerbically:

"You may say, 'It is going well!' At this rate, the property problem can probably be solved in three thousand years!"[44]

c. The columnist Reşat Akar, writing in Diyalog newspaper in August 2022, noted that a very large proportion of applications for compensation had not been concluded, due to "*insufficiency of resources*", and noted that a 'law' to deal with the issue had not passed through the 'Assembly'.[45]

d. The same columnist noted in September 2022 that:

"The [IPC] cannot produce decisions 'because of lack of money' for many years. We should not forget that in case the [IPC] is not made to work, the ECHR decisions will be turned against us after a while. The price of not making the [IPC] in the north to work will be heavy of course."[46]

53. Cyprus is not aware that any substantive steps have been taken to remedy these systemic and catastrophic delays and shortages of funds.

Functioning of the IPC: conclusion

54. Fake settlements consisting only of facades, once erected to impress Catherine the Great and foreign visitors to Russia, were known as "Potemkin villages". The IPC may justly be characterised, on the basis of the evidence produced by Türkiye herself and on the IPC's website, as a "Potemkin tribunal". Of the thousands of cases brought before it over the past 16 years, no more than about a fifth (as of June 2023) have been resolved, nearly all of them informally. Of the compensation that has been agreed or ordered in that limited number of cases, some £130m had not (as of June 2022) been paid. The IPC's annual budget is so small as to make it quite impossible for either of these systemic defects to be successfully

44 "Our land(!)", Yeni Düzen, 25 April 2023, Appendix A.
45 "Why is the Immovable Property Commission not allowed to operate?", Diyalog, 22 August 2022, Appendix A.
46 "Now is the exact time to make the Commission work", Diyalog 26 September 2022, Appendix A.

addressed in the short or medium term. These manifest inadequacies may well explain why only 34 applicants had (as of June 2022) persisted to the point of obtaining a remedy from the IPC, and why a far greater number have either withdrawn their applications, accepted a "*friendly settlement*", or simply continue to wait for progress in cases which routinely last for 10 years or more.

55. **These are not the ordinary problems that afflict any national court system: they are an indicator that the IPC (quite apart from its apparent role as an agent of "*Turkification*": see under the primary issue, above) is simply not fit for purpose.**

56. Criticisms of the IPC have been made in the local press (as detailed above) and even from within the institution. Cyprus has referred in a previous Memorandum to a local newspaper report in which the then Chairman of the IPC (having voiced, quite improperly, his commitment to the process of "*Turkification*") complained that the IPC was unable to pay the sums that it awarded due to a lack of funding by Türkiye.[47]

57. Continuing concerns about the operation of the IPC have been expressed also in proceedings before the Court. For example, unacceptable delay in proceedings before the IPC was found by the Court in *Joannou v Turkey*.[48] Systematic deficiencies in the operation of the IPC are also demonstrated by further cases that have been communicated to Türkiye in recent years, e.g. in *Kyriakides v Turkey*[49] where the Court referred in one question to the Turkish Government to "*the prolonged non-enforcement of the IPC award*". Additionally, more recently, the case of *Philitas v Türkiye* was communicated the complaint in which concerns the same subject matter but also the non- payment of statutory interest payable on IPC awards[50]. Furthermore, in *K.V. Mediterranean Tours v Turkey*[51] a possible breach of the applicant company's rights under Article 6 § 1 of the Convention and/or Article 1 of Protocol No. 1 by reason of the length of proceedings before the IPC is in issue. The length of proceedings before the IPC is also the object of the complaint in the case of *Panagi and Shiartou v Turkey*[52] which is pending before the Court, in which the Court

47 Comments attributed to Eyfer Said Erkmen in *Kibris*, 3 May 2019: see DH-DD(2019)602 at paras 26 and 42.
48 Application no. 5320/14.
49 Application no. 82604/17.
50 Application no. 82604/17. The application was communicated on 26 May 2023.
51 Application no. 41120/17.
52 Application no. 6178/18.

referred in one question to the Turkish Government to "*the length and the practical operation of the proceedings before the IPC*" when asking whether there has been a breach of the applicants' rights under Article 6§1 and 8 of the Convention and Article 1 of Protocol 1.

58. The Convention has long stood for remedies that are practical and effective, not theoretical and illusory. It must by now be plain, not least by reason of Türkiye's June 2022 answers to the September 2021 questions of the CM(DH), and from the June 2023 figures on the IPC's website, that the IPC – irrespective of the strongly-felt arguments about its legitimacy – is neither practical nor effective. **The Deputies are urged not to avoid the reality: that underpowered and underfunded, the IPC is simply inadequate to perform the task assigned to it in accordance with the standards required by the Convention.**

Secondary issue: proposed action

59. Cyprus is grateful to the Deputies for having requested clarifications, in its Decisions on September 2021, on the issues considered in this section of the Memorandum. Those clarifications having either not been provided or disclosed manifest and serious deficiencies, it is incumbent on the CM(DH) to take the further steps necessary to secure Türkiye's compliance with the inter-State judgments. To the extent that relevant updated information is ascertainable from the IPC's website, it is not suggestive of meaningful improvement and provides no reassurance.

60. Accordingly, the Deputies are requested in their Decisions, as a minimum:

   a. to request Türkiye to take all necessary measures to ensure that increases due to inflation are left out of account when calculating increases of property value in order to decide whether restitution is possible, and to provide the consequent legal texts to the CM(DH);

   b. to request Türkiye to take all necessary measures to ensure that properties cannot be altered while applications for restitution of such properties are pending before the IPC, and to provide the consequent legal texts to the CM(DH); and

c. to request Türkiye to present the CM(DH) with a realistic and fully funded plan, to ensure that:

   i. the backlog of cases before the IPC is drastically reduced, so as to allow applications to be heard and determined within a reasonable period of time;

   ii. awards of compensation made by the IPC, including those made in the past, are promptly paid; and

   iii. the IPC is adequately resourced.

THE JUST SATISFACTION ISSUE

61. The Grand Chamber ruled in the 2014 judgment that Türkiye was to pay the Government of Cyprus, by 12 August 2014, €30m in respect of non-pecuniary damage suffered by the relatives of missing persons and €60m in respect of non-pecuniary damage suffered by the enclaved Greek Cypriot residents of the Karpas peninsula. It indicated that these amounts should be distributed by the Government of Cyprus to the individual victims, under the supervision of the Committee, within 18 months of the date of payment or any other period considered appropriate by the Committee.

62. The Committee has recalled in each of its decisions on the inter-State case since June 2015 that the obligation to pay the just satisfaction awarded by the Court is unconditional, and has called upon the Turkish authorities to pay the sums awarded by the Court. Despite these calls, Türkiye has consistently failed to provide any reason for non-payment, or to hold out any prospect of payment. These failures over a period of more than eight years are a clear indication of Türkiye's contempt both for the Court and for the CM(DH).

63. At its September 2021 meeting, the CM(DH) issued an interim resolution in which it expressed profound concern that the just satisfaction had not yet been paid despite its repeated appeals, firmly reiterated its insistence on the unconditional obligation to pay, and

strongly urged the Turkish authorities to abide by its obligation and pay the just satisfaction, together with interest, without further delay.[53]

64. To this development, Türkiye's June 2022 Memorandum did not even provide the courtesy of a response Türkiye persists, instead, in cynically and deliberately ignoring the remedial and enforcement systems provided under the Convention. The losers are the individuals who are supposed to benefit from the just satisfaction, and – more broadly – the rule of law.

Just satisfaction issue: proposed action

65. The Deputies are invited to express their dismay and outrage that Türkiye has failed to honour (or even to acknowledge) the award of just satisfaction that was made in 2014, and strongly to urge Türkiye to comply with that unconditional obligation.

66. The CM(DH) is invited to note also (even if not in the text of its Decisions) that Türkiye's refusal to pay is simply the most blatant example of her many failures, catalogued so far as is relevant for present purposes in this Memorandum, to comply with the 2001 and 2014 judgments of the Court.

[53] CM/ResDH(2021)201.

APPENDIX A

A. Footnote 25

Source: **Kıbrıs newspaper**
Date: **5 May 2023**
Page: **16**
Title: **A special law on Maraş [Tr. Note: Varosha] can be thought**
Text: **Excerpt**

[…]
Subtitle: "Restitution is not possible in military zone"
Oğuzhan Hasipoğlu added that it is not possible to return properties granted to a "citizen of the TRNC" or given "title deeds" in areas designated as military area; that 96.5 per cent of the closed area of Maraş [Trans. Note: Varosha] has the status of a military zone and that therefore return is possible for applications concerning only 3.5 per cent of the closed city.
Hasipoğlu continued saying the following:

"However, if there are those who want to sell, the only authority to appeal is again the IPC. Citizens of the Greek Cypriot Administration of South Cyprus who want to sell their hotel or their land should appeal to the IPC. Greek Cypriots cannot sell their properties by making a sale with a direct agreement. Selling by agreement has no legal effect for properties under Law No. 67-2005. They should definitely apply to the IPC and get permission for the sale.

For an investor from the TRNC to purchase real estate properties that [their owner] surrendered to the IPC and proved that he is the pre-1974 owner is only possible under Law No. 13-2008, which was amended by Law No. 25-2018..."

Subtitle: "A special law may be needed"

Oğuzhan Hasipoğlu also said that they may feel the "need" to enact a "special law" for Maraş, due to the ongoing process of opening up the town and the special situation there and said the following:

"Because the closed Maraş has not been opened for settlement, there are still no tenants or owners of private properties. An Investment Office like YAGA should be set up in relation to the closed Maraş and take decisions within the IPC in relation to private properties, work on urban planning and infrastructure should also be completed. The most important element for

an investor is the clarity of the law. This investment office will ease bureaucracy, can bring on the agenda regulations that will open the way for investors, including incentives.

We need to come to a certain point in the improvements and investments made in public spaces with the support of our motherland and when the process becomes sustainable in the sense of infrastructure, decisions in relation to private properties should also conclude and commercial and social life can begin. Along with this principle it is possible that the number of visitors to the area of the closed Maraş, which until now has been visited by more than a million people, will increase fivefold and the whole island in general, and especially Famagusta, will benefit from the economic income that will be obtained." […]

B. Footnote 26

Source: Kıbrıs Postası newspaper
Date: 7 October 2022
Title: President Tatar: Nearly 750 thousand people visited the Maraş region in the last two years
Website: https://www.kibrispostasi.com/c35-KIBRIS_HABERLERI/n441552-cumhurbaskani-tatar-son-iki-yilda-750-bine-yakin-kisi-maras-bolgesini-ziyaret-etti
Text: Excerpt

President Ersin Tatar gave information about the opening process of the Maraş [Tr. Note: Closed Varosha] region, which was realised 2 years ago after 46 years, and said that approximately 750 thousand local and foreign tourists have visited the open parts of Maraş so far. […]

Tatar said: "Starting the gradual opening process of Maraş was fated to us. With the support given to me by the President of the Republic of Turkey Recep Tayyip Erdoğan, I would like to characterise the opening of this place as a success as the Prime Minister of that time. The opening of Maraş has made a significant contribution to the tourism and economy of the TRNC and the development of Maraş." […]

Emphasizing that one of the main goals of the Turkish Cypriot people is to ensure the recognition of their own state, the TRNC, Tatar said that they believe that they will achieve this, but that this is an exhausting process. […]

Subtitle: "Former owners will be able to regain their properties in Maraş"

Underlining that the Greek Cypriots should apply to the Immovable Property Commission (IPC), which is an effective domestic remedy of the TRNC, for their properties in Maraş, Tatar stated the following:

"Nearly 500 Greek Cypriots have applied to the IPC for the Maraş region so far…"

Tatar said that after the IPC's decision, the former owners can regain their properties in Maraş, and that Greek Cypriots can modify these properties and live in Maraş or sell them to anyone who wants them.

Tatar pointed out that Maraş has become a brand place and has a great contribution to the TRNC economy even in its current state.

Emphasising that he was very happy with the change and development of the face of the pilot section of the Maraş region, Tatar noted that the opening of Maraş was a dream when he became Prime Minister, but they realised it with the support of Turkey.

Tatar pointed out that there are many touristic places in the TRNC, but currently the most popular destination for tourists is the open sections of Maraş.

President Tatar thanked everyone from Gazimağusa [Tr. Note: Famagusta] Municipality and Turkey who supported the opening process in Maraş and the arrangements in the region and emphasised that the next step in the opening of Maraş could be the opening of some public buildings in the region.

Subtitle: Maraş Opening

At the Council of Ministers meeting on 18 June 2019 in the TRNC, it was decided to take steps to open Maraş, which has been closed since 1974, and to carry out a scientific inventory study with an expert team.

The public Democracy Street and a part of the coastal part of Maraş within the TRNC borders were opened on 8 October 2020.

With the decision of the Council of Ministers, on 12 July 2021, another region was demilitarised as part of the second phase of the opening of Maraş, and thus 3.5 percent of Maraş was civilianised.

The Turkish and TRNC authorities are reiterating their call for Greeks and other citizens who own property in Maraş to apply to the Immovable Property Commission.

The aim is to open all of Maraş under Turkish administration, with former residents returning to their properties in the area in the future.

C. Footnote 43

Source: Yeni Düzen newspaper
Date: 12 August 2022
Page: 9
Title: It wants its hotel back
Website: https://www.yeniduzen.com/otelini-geri-istiyor-19444yy.htm
Columnist: Cenk Mutluyakalı
Text-Excerpt

We have formed a structure called "Immovable Property Commission" in order to abolish the shame of property. It would secure reconciliation on the basis of "Exchange, Compensation, Return" with people the property of whom had been taken away from them by force. In this manner, our embarrassment in front of the world would decrease. It is not happening!

There is a very striking example, a hotel in Girne [Tr. Note: Keryneia]. Jasmine! It stands "closed" for a long time, but on paper it appears "as if it is open". The "State Real Estate and Materials Department" had leased it to an enterprise from Turkey. When such places are leased, the "coasts" are also lost. In this manner, entering the most beautiful beaches is not possible. The access of the community to the sea is also prevented.

The legal and first owner of Jasmine Court Hotel in the sense of international ownership is an international bank: the Bank of Scotland. It is said that the Queen of England is also one of the shareholders of the hotel. It has Cypriot partners as well. They applied to the "Immovable Property Commission" and a decision for a compensation of 22.7 million sterling pounds was taken. Two years passed. The decision was not implemented. The compensation was not paid. Now if these people go to the International Court of Human Rights, one more file will be added to the so many others. Turkey will probably be condemned-once more. The last time I investigated, there were 68 files, the decision of which "had not been implemented", some properties originating from Maraş (Varosha) have not even been examined…

The Immovable Property Commission had been established in order to create an effective local remedy for properties in the northern part of Cyprus. In its decision dated 1 March 2010 as a

result of the Demopoulos case filed against Turkey, the European Court of Human Rights had declared that the commission "offers an effective legal remedy". If it goes in this manner, this decision will also be withdrawn and the half of the island will completely be foisted on our head!

It is said that the British Embassy has been activated and went as far as the President of Turkey Erdoğan. Eventually, the "effective and actual" control is in Turkey. An international enterprise wants its property back. Its own property. Moreover, it is closed and problematic for years. We both want to open to the world and we are afraid, because we know that it will continue. It cannot happen by saying "I have established a state", by violating the territorial integrity through the "property" of others. If it was like this, a state would be established in every corner!

Very well, what will happen? Either this issue will be solved, the property, the estate, the hotel will be given to its real owners. This facility will enter in the service of tourism, the country will gain, everyone will gain. Or "its compensation" will be paid to the company-if it accepts. It is not possible to live by ignoring all the universal rights, values and law… […]

D. Footnote 44

Source:	**Yeni Düzen newspaper**
Date:	**25 April 2023**
Page:	**9**
Website:	**https://www.yeniduzen.com/topraklarimiz-20454yy.htm**
Title:	**Our land (!)**
Columnist:	**Cenk Mutluyakalı**
Text:	**Full**

In the discussions on Cyprus, order-loving nationalists play on a "post-truth" perception and say "our lands", by using social needs and sensitivities.
All of them!
Thus, they want to legitimise the separate state declared by intervening in the territorial integrity of Cyprus and normalise the tableau that emerged with the logic of conquest.

There is a concept called "post-truth".
It describes the determination of truths based on a set of feelings and beliefs instead of objective evidence.
Our "lands" are like this!
However, even the "state" itself does not believe this "lie".

That is why there is the "Immovable Property Commission".
Well, does life itself believe in this lie that the commission created within the "TRNC" denies?
No!
That's why properties which are "Turkish Property" are more expensive, "Greek Cypriot Property" is for free!

Subtitle: The number of applications to the commission exceeded 7 thousand
As of April 2023, there are **7,248 applications** to the Immovable Property Commission for properties in the north of the island.
There are also compensations paid and those waiting to be paid!
The truth of the matter is that the "Turkish Cypriot" authorities are confronting themselves with the commission.
The majority of this land is not ours!
Come on, let's compromise!
It also draws my attention that the word "TRNC" is not mentioned anywhere in the **"Immovable Property Commission"**!

***

According to the most recent data, 7,248 applications were made to the Commission.
Of these, 1,449 resulted in settlements and 34 in hearings.
To date, compensation of £ 382,541,826 has been decided in 1,233 applications.
4 applications resulted in restitution, 2 applications resulted in exchange and compensation, and 8 applications resulted in restitution and compensation.
You may say, "It is going well"!
At this rate, the "property" problem can probably be solved in 3 thousand years (!)
Because there are 1 million 453 thousand acres of Greek Cypriot property in the north of the island and the solutions produced by the commission do not even constitute 5 per cent of the whole.
(According to the 2018 data of the European Statistical Office, Turkish Cypriot property in the south is 455 thousand acres...)

A few reminders...
- Of the 166 hotels in the north, 133 are located on Greek Cypriot land, while the number of hotels on Turkish Cypriot land is 33.
- The picture is no different for schools.
- It is rumoured that at least £10 billion is needed to solve the entire "property problem" excluding Maraş [Trans. Note: Varosha].

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Let us recall the official terms of reference of the Immovable Property Commission...

"The Immovable Property Commission, in accordance with the provisions of Law No. 67/2005, examines requests for restitution, compensation and exchange. In the assessments made, the principles of bi-zonality and bi-communality, which constitute the main element of the 1977-1979 High Level Agreements and all the plans prepared by the United Nations for the solution of the Cyprus Problem, are taken into consideration. The Commission is working to fulfil the demands of the property owners without prejudice to the rights of the Turkish Cypriot Community."

As you can see, the definition of "bi-communality" also appears here.
And the "United Nations" resolutions!
The policy of two separate states described as "sovereign equality and international equal status" does not comply with the Constitution "guaranteed" by Turkey, nor does it comply with any international custom!
Even the Immovable Property Commission!

Subtitle: President of the Immovable Property Commission Növber Ferit Veçhi: "We are working intensively to finalise the upcoming files"

I have received the most recent data of the Commission from Növber Ferit Veçhi, of course, the political interpretation of the issue is entirely my own.

Növber Ferit Veçhi states the following:
"The Immovable Property Commission continues its work within the framework of our law, in accordance with the judgement of the European Court of Human Rights, and we are working hard to finalise the upcoming files. The existence of the Commission is extremely important and it needs resources to be sustainable. The financial dimension of the work is, of course, beyond the responsibility of the Commission. In the assessments made, the principles of bi-zonality and bi-communality, which constitute the main element of the 1977-1979 High Level Agreements and all the plans prepared by the United Nations for the solution of the Cyprus Problem, are taken into consideration. The Commission works to fulfil the demands of property owners in a manner that does not prejudice the rights of the Turkish Cypriot Community. The Immovable Property Commission continues its activities in order to find a fair, fast and effective remedy for property claims. Thus, the Commission aims to contribute to finding a comprehensive solution to the Cyprus Problem."

Subtitle: Jasmine file: Cancellation of a new contract

National Westminster Bank (Royal Bank of Scotland), in which the British royal family is a shareholder, together with the other shareholder Pharos Estate Ltd, wants the return of its property in Girne [Tr. Note: Kyrenia], including the Jasmine Court Hotel. It wants 'restitution' because the decision taken for the compensation of the relevant property was not implemented.

The Immovable Property Commission accepted the application numbered 77/2010 on a total of 150 acres, 7 quarters and 200 feet of property, including the Jasmine Court Hotel, and unanimously decided on 28 November 2017 to compensate 22 million 773 thousand 940 pounds.

The decision has not been implemented for 6 years due to 'lack of resources'.

However, there is now a new development.

On 2 February 1996, a 49-year lease agreement was signed between the State Property and Supplies Department of the Ministry of Economy and Finance and Emper Otelcilik Ltd. owned by Ömer Lütfi Topal and his family for the operation of Jasmine Court Hotel for an annual rent of 100 thousand dollars.

The hotel has been closed for a while, not providing service or providing service for 'special customers'.
This is the new development!
The contract for the operation of the hotel is being cancelled.
A formula is being sought for "eviction".

Why?
22 million 773 thousand 940 pounds sterling compensation is looking for a new "customer" to pay.
Or the inevitable result is "return."
Let's see what happens...

E. <u>Footnote 45</u>

Source: Diyalog newspaper
Date: 22 August 2022
Page: 5
Title: Why the Immovable Property Commission is not allowed to operate?
Website: https://www.diyaloggazetesi.com/tasinmaz-mal-komisyonu-neden-calistirilmiyor-makale,11410.html
Columnist: Reşat Akar
Text-Excerpt

[…] The Immovable property commission stuck heart and soul in the job during the first months and started examining the mass applications coming from Greek Cypriots. Until today,

more than 6 thousand Greek Cypriots applied for selling their property in the north. A very big part of these was not concluded, due to the 'insufficiency of resources'. Why resources cannot be found?

Turkey, has justifiably recommended to the TRNC governments an application under the name of 'Local Improvement Tax'. This practice provides for taking a tax of 20 per cent from those who have in their possession thousands of dunums [Tr. Note: a land measure of about 1000 square meters] of Greek Cypriot plots of land and will gain a profit of at least twice as the price of today, in case these are transferred by 'their legal owner'. Where is the mistake in this? Turkey will pay 80 per cent of the money and the current owner of the property 20 per cent.

However, the law which was prepared on this issue did not pass from the Assembly. The politicians, who are under the influence of those who have in their possession thousands of dunums of Greek Cypriot land, did not do this at the cost of threatening the future of all of our people. However, Turkey's proposal included also the Ziraat Bank to provide credits with low interest rate and very long termed.

Those who say "we took them, it is over", are wrong. Some may think regarding the Greek Cypriot properties that "we took them, it is over, we are not giving them". And they may succeed in wasting this golden opportunity that we got. But it should not be forgotten that one day no Greek Cypriot property will remain in no one's hand in front of a different development.

Within the framework of a law passed from the Greek Cypriot Assembly about 8 years ago, imprisonment up to 7 years is provided for those who purchase and sell property 'without the legal transfer of its owner', rent it and are tenants. No one should ignore this reality.

Turkey is justifiably asking the question "if my brother you are not paying even 20 per cent for Turkifying a thousand donums of Greek Cypriot land, why am I paying the whole of it?" Our duty is to evaluate this opportunity very well and conclude quickly the applications made to the Immovable Property Commission. Everyone who loves their people and nation and mainly the government must get into action on this issue and work for the law that awaits at the Assembly to enter into force. Because this law is of vital importance. […]

F. Footnote 46

Source: Diyalog newspaper
Date: 26 September 2022
Page: 5
Title: Now is the exact time to make the commission work
Columnist: Reşat Akar
Website: https://www.diyaloggazetesi.com/komisyonu-calistirmanin-tam-zamani-makale,11490.html
Text-Excerpt

The latest decision taken by the European Court of Human Rights regarding the Titina Loizidou case who has property in Girne [Tr. Note: Keryneia] is being intensively debated in south Cyprus. […]

The TRNC officials do not say something in front of this so important development. However, the ECHR’s decision shows to the Greek Cypriots the Immovable Property Commission as an address of application. Then, our duty is not to cower in fear, but on the contrary, it is to make the commission work the soonest. However, the Immovable Property Commission established in the northern part of Cyprus cannot produce decisions ‘because of lack of money’ for many years. We should not forget that in case the Immovable Property Commission is not made to work, the ECHR decisions will be turned against us after a while. The price of not making the Immovable Property Commission in the north to work will be heavy of course. […]
In the first years, the commission realized the sale of some properties as well, by using money sent by Turkey. However, when the resources were exhausted within a short period of time, the commission could not take new decisions.
In front of this recent development, an opportunity was offered to us again. We must put aside the initiatives of some persons to prevent the ‘local improvement tax’, which will create resources for the Immovable Property Commission. With a new law we must put an additional tax on the sale of Greek Cypriot properties and make the Immovable Property Commission work. It is a very big mistake not to pass from the Assembly for a so long time the law, which provides for a tax cut of 20% on the sales of Greek Cypriot Immovable Properties, in the direction of Turkish President Mr Erdoğan’s proposal. […]

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