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Communication from Türkiye (27/06/2024) 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 : 1507e réunion (septembre 2024) (DH)

Communication de la Türkiye (27/06/2024) relative à l'affaire CHYPRE c. Turquie (requête no° 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.

MEMORANDUM

"Property Rights of Displaced Persons" cluster in the case of "Cyprus v. Turkey" (application no. 25781/94) 18-20 September 2024 1507th meeting (Human Rights) of the Ministers' Deputies (CM(DH))

Introduction

The issue of property rights of Greek Cypriot "displaced persons" will be on the agenda of the September 2024 CM(DH) meeting.

This issue will be examined within the context of supervision of execution of the "Cyprus v. Turkey" case, as well as the cases that remain within the Xenides-Arestis Group.

The practice followed by the CM(DH) since the delivery of the 2001 judgment on merits in "Cyprus v. Turkey"

Shortly after the delivery of the 2001 judgment on merits, Turkish Republic of Northern Cyprus (TRNC) had initially established a compensation commission. Since questions concerning this commission were pending before the European Court of Human Rights (ECtHR or European Court or Court), in December 2003, CM(DH) decided to await the Court's assessment before pursuing its own examination of the property cluster of "Cyprus v. Turkey" judgment.[1]

The Court duly examined this remedy in the *Xenides-Arestis v. Turkey* admissibility decision of 14 March 2005 and identified certain shortcomings, including the lack of possibility for restitution. Following this decision, the Court adopted a pilot judgment procedure in the same case, and on 22 December 2005, it indicated under Article 46 of the European Convention on Human Rights (Convention) the necessity to introduce a remedy which would secure effective redress for the Convention violations identified in all similar applications pending before it, in line with the indications in its admissibility decision.

Subsequently, TRNC had enacted Law No. 67/2005 on the Compensation, Exchange or Restitution of Immovable Property (IPC Law or Law No. 67/2005) which has set up the Immovable Property Commission.

IPC has been operational and effectively functioning since March 2006, and has been securing effective redress for property claims of Greek Cypriots as identified by the European Court for the past 18 years. IPC continues to receive wide acceptance from Greek Cypriot property claimants and 293 new applications had been lodged before it

[1] The decisions adopted at the 863rd meeting (December 2003).

since last September. The statistics of IPC is publicly available at https://tamk.gov.ct.tr/en-us/.

At a time when IPC was established with the sole mandate to address property claims of Greek Cypriots in relation to the properties left in the TRNC, in 2006, the applicant started to put forth a demand for a moratorium on all property transfers or construction activities on the properties in issue, which CM(DH) did not accept.

After the European Court has found the IPC Convention-compliant as it met the requirements set out in its admissibility decision and the judgment on merits in the just satisfaction judgment of *Xenides-Arestis* on 7 December 2006,[2] CM(DH) opted to wait for the ruling of the European Court of Human Rights on the effectiveness of the IPC, as it decided the Court's conclusions on the effectiveness of the IPC mechanism would be conclusive for its own assessment. In the meantime, CM(DH) confined its examination on the measures available to preserve the possibilities offered by the IPC mechanism, in particular on restitution.[3]

In March 2010, the long-awaited decision of the European Court, sitting as the Grand Chamber, was delivered. In the case of *Demopoulos*, the Grand Chamber held that IPC was an effective and accessible domestic remedy which provided an effective framework of redress in respect to Greek Cypriot claims for properties located in the TRNC.[4]

The European Court, *inter alia*, responded to the Greek Cypriot applicants' complaints that IPC did not provide for restitution in all cases. ECtHR paid due regard to the time that has expired since the properties have been left and to the position of the third parties, and decided that "*it would risk being arbitrary and injudicious for it to attempt to impose an obligation on the respondent State to effect restitution in all cases*".[5] Moreover, the Grand Chamber emphasized that "*...from a Convention perspective, property is a material commodity which can be valued and compensated for in monetary terms. If compensation is paid in accordance with the Court's case-law, there is in general no unfair balance between the parties.*"[6] As a result, the European Court concluded that even where only a small portion of the properties would in practice be eligible for

[2] Law No. 67/2005 which established the IPC came into existence as a consequence of the European Court of Human Rights holding in the pilot-judgment *Xenides-Arestis* that the Turkish side had to introduce a remedy to secure an effective redress for the Convention violations identified in that case, as well as all similar applications pending before it, in accordance with the principles for the protection of the rights laid down in Article 8 and Article 1 of Protocol No. 1 (*Xenides-Arestis v. Turkey* (merits), no. 46347/99, § 40, 22 December 2005). Later, in the just satisfaction stage of *Xenides-Arestis*, the Court noted that the remedies offered by the IPC, in principle, have taken care of the requirements of the Court laid down in the *Xenides-Arestis* decision (*Xenides-Arestis v.Turkey* (just satisfaction), no. 46347/99, § 37, 7 December 2006).

[3] See for example CM(DH) decision adopted on 3 December 2009, at the 1072nd CM(DH) meeting.

[4] *Demopoulos v. Turkey*, no. 46113/99 and 7 other applications, 5 March 2010, §127.

[5] *Demopoulos*, §116.

[6] *Demopoulos*, §115.

restitution by the Immovable Property Commission, the effectiveness of the Commission would not be undermined.[7] Accordingly, the *Court* concluded that "*[n]o problem therefore arises as regards the impugned discretionary nature of the restitutionary power under Law no. 67/2005.*"[8]

The only legal conclusion that CM(DH) could draw from the Grand Chamber's *Demopolous* decision on the effectiveness of the IPC was the closure of supervision of examination of the 2001 judgment, as per its past decisions. This was also the legal assessment of the Secretariat,[9] as well as many Delegations, who have conducted legal examination of the consequences of the Grand Chamber's findings in the case of *Demopoulos* had on the supervision of examination of the property cluster of "Cyprus v. Turkey".

The examination of the IPC Law in its entirety in the case of *Demopoulos*, together with the criteria IPC would apply to rule on remedies, namely restitution, compensation and exchange, also brought to an end the examination of CM(DH) on the preservation of possibilities before the IPC which CM(DH) decided to pursue until ECtHR ruled on the effectiveness of the IPC."[10] This was also the legal conclusion of the Secretariat.[11]

ECtHR continued to draw its own legal conclusions from the *Demopoulos* decision, declaring inadmissible for non-exhaustion of domestic remedies all applications by Greek Cypriots who have not applied to the IPC in accordance with Law No. 67/2005.

Regretfully, CM(DH) could not decide on closure of its supervision at the time despite the support expressed by a large number of delegations to the position of the Secretariat.

In order to delay closure, the applicant in the case of "Cyprus v. Turkey" applied to the Grand Chamber under Article 41 of the Convention also in respect of this cluster, and instead of an award of just satisfaction, demanded a "declaratory judgment" in pursuit of its isolationist policies, by calling for a moratorium, this time from the Court, on any dealings with properties claimed by Greek Cypriots in the TRNC, and a negation of the legal consequences the *Demopoulos* decision had on the ongoing execution process before CM(DH). This demand necessitated the acceptance of restitution as the only remedy in all cases, thus a reversal of the Grand Chamber's ruling that restitution did not have to be granted in all cases, and based on this conclusion, the Court's directions that would be tantamount to a moratorium.

[7] *Demopoulos*, §119.
[8] *Demopoulos*, §118.
[9] CM/Inf/DH(2010)21, dated 17 May 2010.
[10] See for example CM(DH) decision adopted on 3 December 2009, at the 1072nd CM(DH) meeting.
[11] CM/Inf/DH(2010)21, dated 17 May 2010 and CM/Inf/DH(2010)36, 2 September 2010, the latter on the reasons why the Committee has been examining the issue of protective measures since 2006, why, following the Court's inadmissibility decision in the Demopoulos case, no further measures were required for purposes of execution.

The applicant then turned to CM(DH) **to demand suspension of the Committee's examination of this question until the Court ruled on this matter**. CM(DH) noted this demand, but continued its examination.[12]

Even before the ECtHR delivered its just satisfaction judgment in May 2014, the European Court announced another landmark ruling that provided yet another answer to the applicant's demand for "declaratory judgment".

In the case of *Meleagrou*,[13] which was delivered on 2 April 2013, the applicants challenged the decision of the IPC, *inter alia*, on the ground that their request for restitution could not be granted as per Law No. 67/2005. ECtHR held that restitution could not be awarded in light of the criteria set out in the said Law, and in order to exhaust domestic remedies in the TRNC, they had to exhaust the alternative remedies offered by the IPC, namely exchange or compensation, which were equally effective for purposes of the Convention. As they failed to do so, their application was declared inadmissible.

While this decision confirmed once again that restitution did not have to be the only remedy to address the alleged continuing violation of Greek Cypriot property rights, and the criteria applied by the IPC to determine whether to grant restitution were Convention-compliant, CM(DH) has continued its supervision.

ECtHR delivered its just satisfaction judgment in May 2014. In respect to this cluster, while ECtHR did not find jurisdiction to rule on the declaration the applicant demanded, in paragraph 63, in an *obiter dictum*, ECtHR proceeded to make certain comments on the assumption that the 2001 judgment had not been complied with given the absence of a decision from the CM(DH) to close its supervision of execution of this cluster.

As part of its comments, the European Court confirmed that the respondent State remained free to choose the means by which it will discharge its legal obligation, and that the supervision of execution of the Court's judgments is the responsibility of the Committee of Ministers. The Court also underlined the relevance of *Demopoulos* for purposes of the work before CM(DH), and called upon the Committee to consider **its consequences** by underlining that "*Demopoulos* on its own" did not dispose the respondent State of its obligations.[14] In other words, the Court did not respond positively to what the applicant had asked it to do, namely to say that "*Demopoulos* **does not have the effect of discharging** the respondent State of its obligations under Article 46".[15]

[12] See for example, 1128th meeting-2 December 2011, 1136th meeting – 8 March 2012.
[13] *Meleagrou and Others v. Turkey* (dec.), no. 14434/09, 2 April 2013.
[14] "Cyprus v. Turkey" (just satisfaction), §63.
[15] "Cyprus v. Turkey" (just satisfaction), §61.

The Court also made comments about whether compliance with the 2001 judgment could be consistent with "unlawful sale or development" of properties.[16]

After the delivery of the just satisfaction judgment, in November 2014, the Secretariat presented to CM(DH) a stock-taking of all the violations identified by the Court in the 2001 principal judgment, as well as an analysis of the impact of the judgment of 12 May 2014 on just satisfaction.[17]

In its assessment, the Secretariat has concluded that the only **justified reading** of the term "unlawful sale and exploitation" referred to in paragraph 63 of the just satisfaction judgment would be that only dealings that are not in conformity with the applicable TRNC law could be deemed unlawful.[18] In case the Committee opted to pursue this interpretation, which meant that the phrase referred "to sale and exploitation which are unlawful under the law applicable" in the TRNC, the Secretariat advised the Committee to ask for information on the existence of practice in this respect, and, **if necessary, to invite the taking of measures without delay to put an end to such practice**." In the same assessment, the Secretariat reasoned that the treatment of any transfers and halting of construction activities made without the consent of Greek Cypriots as "unlawful" would run against the ECtHR's well-established case-law (namely *Demopoulos* and *Meleagrou*) in paragraphs 24-27 of its stock-taking.

The Committee took note with interest the stock-taking document of the Secretariat at its 1214th meeting (4 December 2014), and invited the delegations to submit "**any proposed measures** that may be requested from the respondent State" in relation to the property rights of "displaced person" cluster. **No measure was proposed by any Delegation in response**.

The first substantive decision on this cluster after the delivery of the just satisfaction judgment was adopted in December 2017.

Prior to the meeting, the Secretariat, once again, negated the applicant's reading of the phrase "unlawful sale or exploitation", as "such an interpretation of the judgment goes against the Court's conclusions in its *Demopoulos* decision, according to which the restitution of these properties cannot be required in all cases," "irrespective of who is now living there or whether the property is allegedly in a militarily sensitive zone or used for vital public purposes".[19] In its Notes on the Agenda prepared ahead of the 1302nd CM(DH) meeting in December 2017, the Secretariat further stated by reference to the *Demopoulos* decision that "the Court also recalled its case-law in which it had stated that it was necessary to ensure that the redress of old injuries did not create

[16] "Cyprus v. Turkey" (just satisfaction), §63.
[17] H/Exec(2014)8, 25 November 2014.
[18] Paragraph 23 of H/Exec(2014)8.
[19] CM/Notes/1302/H46-32, 7 December 2017.

disproportionate new wrongs." The Secretariat emphasized the Court's conclusion that "it must leave the choice of implementation of redress for breaches of property rights to Contracting States, who are in the best position to assess the practicalities, priorities and conflicting interests on a domestic level even in a situation such as that pertaining in the northern part of Cyprus." The Secretariat, again, recommended the Committee to "examine whether the two protective procedures integrated in the mechanism of the Immovable Property Commission to which the Turkish authorities refer could be considered as adequate and sufficient" **if the Committee decided that "the term "unlawful sale or exploitation" concerns properties which have been returned to their owners or can still be returned to them according to the criteria announced in the 2005 Law** (which were not called into question by the *Demopoulos* decision, nor by the judgment of 12 May 2014)."

Before the meeting, ECtHR delivered yet another inadmissibility decision in the case of *Loizou v. Turkey*,[20] on 3 October 2017, confirming the effectiveness of IPC.

The decision adopted by CM(DH) on 7 December 2017 unequivocally confirmed the decision of CM(DH) to adopt the only justified interpretation proposed by the Secretariat on the meaning of "unlawful sale and exploitation" mentioned in paragraph 63 of the 2014 just satisfaction judgment. The text of the December 2017 CM(DH) decision is as follows:

> "*The Deputies*
> *1. recalled that to provide redress for the violations found by the European Court in respect to property rights of Greek Cypriot displaced persons, the Turkish authorities set up in the northern part of Cyprus in 2005 a restitution, exchange and compensation mechanism;*
> *2. recalled further that in its inadmissibility decision Demopoulos and Others adopted in 2010 the European Court concluded that the law which set up this mechanism provided for "an accessible and effective framework of redress in respect of complaints about interference with the property owned by Greek Cypriots"; noted in addition that the Court declared the application in the Meleagrou and Others case inadmissible in 2013, as the applicants had not made use of all possibilities for redress offered by that mechanism;*
> *3. recalled 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, participation, acquiescence or otherwise complicity in any unlawful sale and exploitation of Greek Cypriot homes and property in the northern part of Cyprus";*
> ***4. noted the information conveyed by the Turkish authorities on the existing avenues within the framework of the above mechanism to address the issue of possible unlawful sale and exploitation of the properties in question and invited***

[20] *Pavlos Loizou v Turkey*, no. 50646/15.

> ***them to present additional information on their practical implementation to allow the Committee to assess the effectiveness of these avenues, and if necessary the need for further measures;***
> *5. firmly insisted once again that the obligation to pay the just satisfaction awarded by the European Court is unconditional and invited the Turkish authorities to indicate the steps taken for the payment of the just satisfaction awarded in the judgment of 12 May 2014;*
> *6. decided to resume consideration of the issue of the property rights of displaced Greek Cypriots at their 1324th meeting (September 2018) (DH).”* (emphasis added)

Shortly after the CM(DH) decision that confirmed that the legality of sales and transactions in relation to properties in issue will be judged on the basis of TRNC laws, that is within the existing framework of the IPC mechanism, ECtHR delivered yet another important judgment on 12 December 2017 in the case of *Joannou v. Turkey*.[21] In this judgment, ECtHR once again affirmed the effectiveness of the IPC as a remedy to Greek Cypriot property claimants. Rather than making a reference to its statement in paragraph 63 of the “Cyprus v. Turkey” judgment, the Court directed the applicant to complete her pending restitution claim before the IPC,[22] as the existing avenues within the IPC mechanism was also effective for pending restitution claims.

In the next substantive decision adopted at the 1411th meeting, on 14-16 September 2021, CM(DH) noted the information submitted by the Turkish Side on the existing framework that protects against unlawful sale and exploitation following IPC’s decisions on restitution, either immediate or after the settlement of the Cyprus problem, and proceeded to ask further specific questions on the existing avenues within the IPC procedure in furtherance of the only justified reading of the term “unlawful sale and exploitation”. In its decisions, CM(DH)

> *“3. recalling also their decision adopted in December 2017, noted the information provided by the Turkish authorities on the existing avenues, within the framework of the restitution, exchange and compensation mechanism set up in 2005, to address the issue of possible unlawful sale and exploitation of properties owned by Greek Cypriots and situated in the northern part of Cyprus; noted in particular the information on the implementation of the provision according to which, following a decision by the Immovable Property Commission (IPC) providing for immediate restitution of such properties or for their restitution after the solution of the Cypriot problem, they cannot be sold or developed without the consent of their Greek Cypriot owners;*
> *4. recalled, as regards the protection of properties from possible unlawful sale and exploitation more particularly during the period when an application for their restitution is pending before the IPC, that according to the applicable provisions the increase in the value of the properties following the date of the*

[21] *Joannou v Turkey*, no. 53240/14.
[22] *Joannou v Turkey*, no. 53240/14, § 116.

application is not taken into consideration when the IPC decides whether restitution is possible (it is not possible if the property has doubled its value); in this context, 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; 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 the subject of a pending claim for restitution before the IPC;
5. invited the Turkish authorities to submit statistical data on the functioning of the IPC, and in particular, on the number of cases pending, the length of time they have been pending, the number of awards of compensation made and the total amount and the number of awards that have been paid in full so far, as well as the funds and staff at its disposal;"

In September 2021, CM(DH) also proceeded to close its examination of the individual measures in the case of *Alexandrou v. Turkey*[23] in which IPC's decision on restitution had been implemented, consequently CM(DH) finding the protections embodied within the IPC mechanism effective against "unlawful sale and exploitation" following the IPC decision on restitution. In the same CM(DH), the case of *Tymvios v. Turkey*[24] was also closed upon the granting of exchange and compensation as remedies within the IPC mechanism.

The information sought in the September 2021 CM(DH) decisions was provided, and upon an examination of all the exchanges, the Secretariat concluded the following in its analysis in the Notes on the Agenda it has prepared ahead of the September 2022 meeting:[25]

"*In the Secretariat's view, this information provides the clarification requested by the Committee. In any event, it must be underlined that the Court has made a detailed and positive assessment of the powers of the IPC and its workload and resources, notably in the Demopoulos and Meleagrou decisions, and also in the more recent Joannou judgment, adopted in 2017, in which the Court makes no reference to its above statement in the Cyprus v. Turkey just satisfaction judgment, but instead reaffirms the effectiveness of the IPC remedy.*

Finally, it is recalled that the just satisfaction awarded by the Court in this case, which remains unpaid (see below), did not relate to the violations concerning the home and property rights of Greek Cypriots.
Conclusion
In the light of the measures taken since 2005 for the execution of this part of the judgment and the latest information submitted by the Turkish authorities in reply

[23] *Alexandrou v. Turkey*, no. 16162/90.
[24] *Eugenia Michaelidou Developments Ltd and Michael Tymvios*, no. 16163/90.
[25] CM/Notes/1443/H46-28, 22 September 2022.

to the Committee's decisions, the Deputies could consider closing their supervision of the issue of the home and property rights of Greek Cypriots."

Despite the recommendation of the Secretariat no decision could be taken for this cluster in September 2022.

At the same meeting, CM(DH) adopted Resolution CM/ResDH(2022)255 on 22 September 2022 to close the supervision of the execution of the *Loizidou* judgment. As it should be recalled, the *Loizidou* judgment of 1996 on merits was the leading judgment that led the Court to make its ruling in relation to the property rights cluster of "Cyprus v. Turkey". In other words, the Court applied the reasoning and conclusion of the *Loizidou* judgment to make its findings for this cluster. In *Loizidou*, as per the request of CM(DH), IPC made an *ex proprio motu* offer to the applicant, which was for exchange and/or compensation in lieu of the properties in issue, as the application of IPC Law excluded restitution. As the applicant rejected the offer, CM(DH) proceeded to close supervision on the basis of the offer made within the context of IPC mechanism. The same grounds which warrant the closure of supervision of the *Loizidou* judgment on merits apply for the closure of this cluster as well.

In September 2023, the Secretariat once again proposed the closure of examination of this cluster.[26] No decision could be adopted, for the second CM(DH) meeting, despite support expressed by many delegations for the closure of supervision.

At the same meeting, CM(DH) proceeded to adopt a final resolution to close the supervision of execution in the case of *Joannou v. Turkey*[27] on 21 September 2023, in line with the legal analysis of the Secretariat.[28] The decision of CM(DH) in favour of closure is significant as CM(DH) has recognized, *inter alia*, the effective way in which IPC handles pending applications before it. It was the ECtHR which had directed the applicant to complete her pending restitution claim before the IPC in that case and CM(DH) decided to end its supervision following the completion of the IPC proceedings directed by the ECtHR in accordance with Article 1 of Protocol No. 1, and based upon a positive analysis on the updated data on the effective functioning of the IPC.

Latest state of play

In accordance with its established practice, CM(DH) has been waiting for the European Court to pronounce on the effectiveness of the IPC. In turn, ECtHR has been delivering rulings

[26] CM/Notes/1475/H46-37, 22 September 2023.
[27] No. 53240/14, Resolution 269, CM/ResDH(2023) adopted on 21 September 2023.
[28] Notes on the Agenda, CM/Notes/1475/H46-45, *Joannou v. Turkey*, no. 53240/14, 1475th meeting, 19-21 September 2023 (DH).

- on the Convention-compliance of the IPC mechanism in 2006 (*Xenides-Arestis*),
- on its effectiveness in 2010 (*Demopoulos*),
- on the effectiveness of compensation and exchange as redress when restitution cannot be granted according to the criteria set out in the IPC Law in 2013 (*Meleagrou*),
- continuing effectiveness of IPC in 2017 (*Loizou* and *Joannou*), as well as
- IPC's effectiveness in handling pending restitution claims in 2017 (*Joannou*).

CM(DH) has also been closing its supervision of execution of judgments based on the IPC mechanism. CM(DH) closed the supervision of its examination

- following the implementation of the restitution decision within the IPC mechanism in 2021 (*Alexandrou),*
- after the implementation of IPC decision on exchange and compensation in 2021 *(Tymvious*),[29]
- in the leading judgment of *Loizidou* on merits in 2022 in which restitution could not be granted according to IPC Law, and
- in 2023 in the case of *Joannou*, after the applicant received restitution and compensation following Article 1 Protocol No. 1-compliant proceedings before the IPC, and positive analysis of CM(DH) on the effective functioning of IPC.

The applicant's moves to further delay the closure of supervision before CM(DH)

The applicant's demands for moratorium since 2006 based on the understanding that all properties in issue must be restituted had been consistently and repeatedly rejected by the Court and CM(DH).

ECtHR has had before it complaints by the present applicant about "unlawful sale" or "exploitation" at the merits stage of "Cyprus v. Turkey",[30] followed by *Xenides-Arestis v. Turkey*[31], and *Demopoulos*.[32] Instead of detecting any deficiency in the functioning of the IPC in this respect, the Grand Chamber in its landmark *Demopoulos* decision held that the Immovable Property Commission "provides an accessible and effective

[29] *Eugenia Michaelidou Developments Ltd and Michael Tymvios,* no. 16163/90.
[30] See "Cyprus v. Turkey", §179.
[31] See *Xenides-Arestis v. Turkey*, §31.
[32] *Demopoulos v. Turkey*, no. 46113/99 and 7 other applications, §58.

framework of redress in respect of complaints about interference with the property owned by Greek Cypriots."[33]

Following the delivery of the 2014 just satisfaction judgment, CM(DH) has also been acting upon the only justified interpretation of the Court's *obiter dictum* in paragraph 63 of the just satisfaction judgment, in accordance with the legal analysis of the Secretariat set out in its 2014 and 2017 assessments in this respect. Accordingly, CM(DH) has been seeking information to assess the effectiveness of the existing avenues within the IPC mechanism to address unlawful sales and exploitation of properties in issue.

Nevertheless, as soon as the Secretariat advised the Committee to consider closure of supervision of this cluster in September 2022, following a detailed independent legal analysis, the applicant started to mention a request for interpretation from the European Court under Article 46(3) of the Convention, despite the Court's repeated rulings and the conclusive interpretation of CM(DH) in relation to paragraph 63.

As part of its delaying strategy, the applicant has also been opposing to placing this cluster on the agenda of CM(DH) at the CM(DH) meetings held in December 2023, March 2024, and June 2024.

Further delaying maneuvers to reopen concluded issues, including through further discussions on the possibility of a reference under Article 46(3) of the Convention, are devoid of any merit under the Court's case-law and run against the decisions of CM(DH).

Instead, the Delegations are requested to proceed to fulfill their collective responsibility, which is no other than the closure of supervision of this cluster in the upcoming CM(DH) meeting in September 2024.

[33] *Demopoulos,* §127.