

SECRETARIAT GENERAL

SECRETARIAT OF THE COMMITTEE OF MINISTERS
SECRETARIAT DU COMITE DES MINISTRES



Contact: Abel Campos
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Date: 28/02/2013

DH-DD(2013)222

Documents distributed at the request of a Representative shall be under the sole responsibility of the said Representative, without prejudice to the legal or political position of the Committee of Ministers.

Meeting: 1164 DH meeting (5-7 March 2013)

Item reference: Communication from the authorities (27/02/13) – booklet of information concerning the rights of enclaved persons

Communication from Turkey concerning the case of Cyprus against Turkey (Application No. 25781/94).

Information made available under Rule 8.2.a 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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Les documents distribués à la demande d'un/e Représentant/e le sont sous la seule responsabilité dudit/de ladite Représentant/e, sans préjuger de la position juridique ou politique du Comité des Ministres.

Réunion : 1164 réunion DH (5-7 mars 2013)

Référence du point : Communication des autorités – booklet d'information concernant les droits des personnes enclavées

Communication de la Turquie relative à l'affaire Chypre contre Turquie (requête n° 25781/94)
(anglais uniquement).

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

DH-DD(2013)222 : distributed at the request of Turkey / distribué à la demande de la Turquie.

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*Permanent Representation
of Turkey
to the Council of Europe*

Strasbourg, 27 February 2013


**2012/AVKO/8612735
Cyprus v. Turkey
Application no. 25781/94**



Mr Director General,

In accordance with the decision taken at the 1157th DH meeting in December 2012, I have the pleasure to enclose herewith the English version of the "Information Booklet - Property Rights of Greek Cypriot Residents of Karpaz and their Heirs" prepared by the TRNC authorities.

Please accept, Mr Director General, the assurances of my high consideration.


Nilgün ERDEM ARI
Deputy Permanent Representative

Enc: a/s

Mr. Philippe Boillat
Director General
Directorate General of Human Rights and Rule of Law

cc: Mr. Abel De Campos
Senior Administrator (Human Rights meetings and monitoring mechanisms)
Secretariat of the Committee of Ministers
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Information Booklet

Property Rights of Greek Cypriot Residents of Karpaz and their Heirs

2013



TRNC Ministry of Interior and Local Administrations

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Introductory Note

The authorities of the Turkish Republic of Northern Cyprus (TRNC) have been making enormous efforts in order to bring its legislation in line with the Council of Europe standards. This is also necessary to implement the decisions of and to eliminate the violations found by the European Court of Human Rights.

To that end, a number of new laws have been introduced in recent years which were absent at the time when the Court handed down its decisions.

With this booklet in your hands, we aim at raising awareness among the residents of the TRNC's Karpaz region, their relatives and legal heirs with respect to the services provided, and the procedures to be followed regarding rights associated with immovable property in the region.

This booklet is meant for you in case YOU wish to:

- move to South Cyprus on a long-term basis; and/or
- maintain your connection with the Karpaz region; or
- you are a legal heir of passed-away Karpaz residents.

You can use this booklet as:

- An overview
- A checklist
- A reference guide
- A gateway to relevant services

With any enquiries you may have in relation to your immovable property in Karpaz, please contact the relevant local authorities. You will find contact information and example scenarios highlighted in the sidebar on each page.

Please also bear in mind that you may bring all actions of the authorities before the TRNC courts.

Contacting us

TRNC Ministry of Interior
and Local Administrations
Address: İçişleri ve Yerel
Yönetimler Bakanlığı,
Şht Fevzi Mahmet Sokak ve
Selçuklu Caddesi arası
Nicosia.
Tel: 0392 6111100
Fax: +90 392 611 11 70 or 71
or 72
Website:
<http://www.icisleri.gov.ct.tr/>

Frequently asked questions :

FAQ 1

"I am a Greek Cypriot residing in Karpaz in the TRNC and have taken a decision to move to South Cyprus to live. I also wish to maintain my connection with the northern part of the island alive and strong. What are my options with regard to the immovable property that I own in the region?"

- You can keep the ownership of the properties by maintaining minimum contacts with the property and/or with the region in which the immovable property is located. You can show that you have minimum contacts by having a bank account in the TRNC and/or working in the TRNC and/or being a member of an association in the TRNC and/or investing in the property and/or similar factors. You must inform the Lands and Surveys Department of the TRNC Ministry of Interior and Local Administrations about your intention to maintain minimum contacts with the property and the region. The Ministry will assess your application and inform you of the outcome. This decision is subject to judicial review.
- You can also transfer the property to another person within 1 year from the date on which you moved to South Cyprus. If the person that you are transferring the property to is not a citizen of the TRNC then you will have to get permission to transfer the property from the TRNC Council of Ministers as required under Law 52/2008. However, if the person is a close relative then you can transfer the property with the approval of the TRNC Ministry of Interior and Local Administrations.
- If you fail to have minimum contacts and then do not transfer the property within 1 year and your property is deemed abandoned by law, then you can apply to the Immoveable Property Commission, which has the powers under law 67/2005 of the TRNC to provide remedies for properties which have been abandoned or are deemed abandoned under the TRNC laws. Once you prove that you were the legal owner of the property in 1974 or are the legal heir to the owner of the property, the Immoveable Property Commission can offer the remedies of compensation, exchange and/or restitution.

Did You Know?

There are 7 crossing gates between the TRNC and the South of Cyprus at Ledra Palace, Lokmacı, Metehan (Ayios Dhometios), Beyarmudu (Pergamos), Bostancı (Zodeia), Yeşilirmak (Limnidi) and Akyar (Strovilia).

Example Scenario

Christos lives in the Karpaz region in the TRNC. He decides that he wants to move to South Cyprus permanently. If he wants to keep the ownership of his property he will have to apply to the Lands and Surveys Department of the Ministry of Interior and Local Administrations and inform the Department that he will keep minimum contacts with the property and the region. Christos can do this for example by showing that he will regularly visit the property, that he has a bank account in the TRNC and/or by investing in the property by doing restoration.

If Christos does not want to keep ownership of the property in the Karpaz region he can transfer the property to someone else as long as he transfers it within 1 year from the date on which he moves to South Cyprus. That is if he moves for example on the 1st of January 2013 then he can transfer the property to someone else by the 1st of January 2014. If Christos does not want to transfer the property to someone else or has failed to transfer it within 1 year then he can apply to the Immoveable Property Commission and ask for compensation, exchange and/or restitution of properties.

FAQ 2

"I am a legal heir to a Greek Cypriot who passed away while living in Karpaz in the TRNC and who at the time of his/her death had property in the TRNC?"

What options do I have in relation to the properties left behind?"

If your Greek Cypriot relative died before 27th of February 2008:

- You could have applied for administration of estate within 1 year from the date of your relative's death according to the Decision of the TRNC Council of Ministers dated 8 August 2002. If you did not apply within 1 year from the date of death and the property has already been deemed abandoned, then you can apply to the Immovable Property Commission and claim the remedies of compensation, restitution and/or exchange.

If your Greek Cypriot relative died after 27th of February 2008 then you can follow the following procedure to apply for administration of estate:

- Go to the local authority, the Mukhtar, where the Greek Cypriot person died and get a certificate. The certificate will include information such as the date of death, names and addresses of the heirs, list of properties left and whether there is any heir with a disability.
- Then you apply to the District Court's Probate Register, so that they can issue a letter of administration.
- After the formalities are fulfilled, then the applicant is appointed as administrator of the estate and the administration of the property vests in the administrator. If there is an heir with a disability then there will be 2 administrators.
- The administrator must administer the estate according to the laws. The administrator must pay the debts of the deceased, collect and distribute the assets amongst the heirs, register the properties in the name of the heirs and give final accounts to the court about the administration. The administration process then is complete.
- The same procedures will apply to all legal heirs irrespective of their nationality or where they live.

Contacting us

Immovable Property Commission

Address: Sarayönü Sokak
No.1/C (Mahkemeler Karşısı)
Nicosia
Tel: +90 392 228 5346
Fax: +90 392 228 5446
Email: comcom@north-cyprus.net
Website: www.tamk.gov.ct.tr

Local Authority for Karpaz
İskele Kaymakamlığı

Tel: +90 392 371 2419

Famagusta District Court
Probate Register

Tel: +90 392 366 1904

Famagusta Land Registry
Office

Tel: +90 392 3665631

Did you know?

Since 1979, administration has been set up for 76 Karpaz residents who passed away while residing in the TRNC

FAQ 3

“What further options do I have once the administration of the estate is complete and the property has been transferred into my name?”

- You can keep the ownership of the properties by maintaining minimum contacts with the property and/or with the region in which the immovable property is located. The first option listed on page 4 explains what is required to show that you are maintaining minimum contacts.
- You can also transfer the property to another person within 1 year from the date on which the Lands and Surveys Department informs you of the outcome of your application that you do not maintain minimum contacts. If the person that you are transferring the property to is not a citizen of the TRNC then you will have to get permission to transfer the property from the TRNC Council of Ministers as required under Law 52/2008. However, if the person is a close relative then you can transfer the property with the approval of the TRNC Ministry of Interior and Local Administrations.
- If you fail to have minimum contacts and then do not transfer the property within 1 year and your property is deemed abandoned by law, then you can apply to the Immovable Property Commission, which has the powers under law 67/2005 of the TRNC to provide remedies for properties which have been abandoned or are deemed abandoned under the laws of the TRNC. Once you prove that you were the legal owner of the property in 1974 or are the legal heir to the owner of the property, the Immovable Property Commission can offer the remedies of compensation, exchange and/or restitution.

Example Scenario

Eleni used to live in the Karpaz region of the TRNC. She passed away in March 2004. Eleni left all of her properties in the TRNC to her nephew named Alex in a will. Alex is also the executor of the will. Alex should have begun administration of the estate of Eleni by March 2005. However, if he didn't and Eleni's properties are deemed abandoned, then Alex can apply to the Immovable Property Commission and request compensation, restitution and/or exchange.

Example Scenario 2

Stavrinou used to live in the Karpaz region of the TRNC. He passed away in December 2012. Stavrinou died intestate, leaving behind two daughters Anna and Anastasia who live in South Cyprus. Anna and Anastasia must firstly begin the administration of estate procedures. They will have to go to the local Mukhtar of the Karpaz region and get a certificate. Once they get that certificate they will then have to go to the Famagusta District Court and apply to the Probate Registrar who will issue a letter of administration. Once the requirements of the law have been complied with and the necessary documents have been submitted to the Registrar, letters of administration will be granted to Anna and Anastasia to administer the estate of their father Stavrinou. They can then administer the estate according to the law. As part of administration, the properties may vest in their names. Anna and Anastasia then have the option to keep the ownership of the properties by maintaining minimum contacts as explained above.

FAQ 4

“My property has been deemed abandoned and the authorities of the TRNC have allocated it to other persons. What should I do?”

- You can apply to the Immovable Property Commission, which has the powers under Law No. 67/2005 to provide remedies for properties which have been abandoned or are deemed abandoned under the laws of the TRNC. Once you prove that you were the legal owner of the property in 1974 or are the legal heir to the property, the Immovable Property Commission can offer the remedies of compensation and/or exchange.

Contacting us

Immovable Property
Commission

Address: Sarayönü Sokak No.1/C
(Mahkemeler Karşısı) Nicosia

Tel: +90 392 228 5346

Fax: +90 392 228 5446

Email: comcom@north-
cyprus.net

Website: www.tamk.gov.ct.tr

Did you know?

112 applications out of a total of 3844 applications lodged with the Immovable Property Commission concern the Karpaz region. 3 of the applications concerning the region have been finalised with restitution and/or compensation.

FAQ 5

"I am not satisfied with the decision of the TRNC Ministry of Interior and Local Administrations or the Immovable Property Commission and/or there is an interference with my property rights. What should I do?"

Decision of the TRNC Ministry of Interior and Local Administrations

You can challenge administrative acts and decisions under Article 152 of the Constitution at the Supreme Administrative Court of the TRNC. You do not need to be a TRNC citizen to apply to the Courts of the TRNC. For example, you can challenge the decision that you are not maintaining minimum contacts. When you make an application to the TRNC Ministry of Interior and Local Administrations they should respond within 30 days. Then you have 75 days to make an application to the Supreme Administrative Court of the TRNC to review the decision if you wish.

Immovable Property Commission

You can appeal decisions of the Immovable Property Commission to the Supreme Administrative Court under Article 152 of the Constitution of the TRNC.

Interference with your property rights

You can apply to the civil courts of the TRNC if you believe that there has been an interference with your property rights under the Civil Wrongs Law (Cap, 148). You should apply to the Famagusta District Court which has jurisdiction over your property if it is located in the Karpaz region.

Contacting us

TRNC Ministry of Interior and Local Administrations

Address: İçişleri ve Yerel Yönetimler Bakanlığı,
Şht Fevzi Mahmet Sokak ve Selçuklu Caddesi arası
Nicosia.

Tel: 0392 6111100

Fax: +90 392 611 11 70 or 71 or 72

Website:

<http://www.icisleri.gov.ct.tr/>

Registry of the Supreme Court of the TRNC

Address: Sarayönü Sokak,
Nicosia.

Tel: +90 392 228 51 85 or + 90 392 228 51 86

Website:

www.mahkemeler.net

Famagusta District Court

Civil Cases Registry

Tel: +90 392 366 5331

The TRNC legislation concerning property rights

The TRNC Constitution, 1985

Article 13 of the TRNC Constitution states that the rights and liberties referred to in the Constitution may be restricted by Law in respect of aliens (foreigners) in accordance with international law.

Article 159(1) (b) and (3) of the Constitution foresees that ownership of all properties which were found abandoned on 13th of February, 1975 when the Turkish Federated State of Cyprus was proclaimed or which were considered by law as abandoned or not being owned after the 13th of February, 1975, shall be transferred to persons or legal entities in accordance with laws.

Housing, Land Distribution and Special Property Law (Law numbered 41/1977) known as the "Housing" Law

Law numbered 41/1977 regulates properties of "foreigners" which are abandoned as of 13 February 1975 or are deemed as abandoned under the law, by vesting such properties under the control of the Ministry responsible for Housing and allowing the allocation of the properties to others in accordance with Article 159 (1) (b) and 3 of the TRNC Constitution.

"Foreigners" are defined as "Greek Cypriot and Greek persons or companies, partnerships, firms, social groups or corporations or their shares in such institutions established or owned by Greek Cypriots or Greek persons or any other citizen of another nation as defined as "foreigner" by a decision of the Council of Ministers".

This law was enacted to allow the allocation of properties abandoned by Greek Cypriots who moved to South Cyprus permanently to Turkish Cypriots who were left without homes when they moved from the south to the north and to allow abandoned agricultural lands in the TRNC to be cultivated.

Decision of the Council of Ministers of the TRNC dated 08 August 2002

This Decision states that foreigners who move their permanent residence from the TRNC to the Greek Cypriot Administration and who do not exercise the option to transfer their properties within 1 year of their permanent departure will be deemed to be a "foreigner" for the purposes of Law numbered 41/1977.

The properties of people who are considered as foreigners who pass away while permanently residing in the TRNC shall pass to their heirs, provided that the heirs initiate the necessary procedures for administration of estates within 1 year of the death of such property owners.

Did you know?

The European Convention on Human Rights and its First Protocol applies as a part of the TRNC laws as it was ratified in 1962 and the TRNC Constitution foresees that laws in force before 1963 will be part of the laws of the TRNC.

For lawyers:

Bar Association of the TRNC
Address: 8 Müftü Ziya sokak
Nicosia.

Tel: +90 392 227 0841

Fax: +90 392 2270840

Accessing the laws (in Turkish)

<http://www.mahkemeler.net>

Decision of the Council of Ministers of the TRNC dated 27 February 2008

This Decision foresees that foreigners who move their permanent residence from the TRNC to the territory of the Greek Cypriot Administration and do not transfer their property within 1 year of their permanent departure will be deemed as a “foreigner” for the purposes of Law numbered 41/1977.

Permanent residence will be determined by the foreigner’s intent, in determining the intent to move permanent residence the foreigner’s workplace, family ties, participation in public life, financial investments and the place of home of the foreigner as well as similar factors will be considered.

Properties of persons who are considered as foreigners who pass away while permanently residing in Karpaz in the TRNC are subject to the same laws regarding inheritance that apply to the citizens of the TRNC.

The Decision of the Council of Ministers of the TRNC dated 8 August 2002 has been revoked with this Decision.

Immovable Property Commission (Law numbered 67/2005)


Under this Law any person can apply to the Immovable Property Commission with a claim of right in respect of properties that come under the scope of Article 159 (1) (b) of the Constitution of the TRNC. This includes properties that have been abandoned or are deemed abandoned by a law of the TRNC.

The applicant must prove beyond a reasonable doubt that the property was registered in his name on 20 July 1974 or that he is the legal heir to such a person and that according to the Land Registry Office records there are no other persons claiming rights to the property. The Commission once satisfied can offer remedies in the form of compensation, exchange and/or restitution under certain conditions under section 8 of the Law.

Legal heirs can directly apply to the Immovable Property Commission without resorting to the administration of estate procedures in the TRNC.


Immovable Property and Long-Term Lease (Foreigners) Law (Law numbered 52/2008)

Law numbered 52/2008 regulates the sale or long-term lease of properties of persons who do not have TRNC citizenship. It states that all foreign persons can purchase immovable property or transfer immovable property in the TRNC with the permission of the Council of Ministers of the TRNC. Family members can transfer properties with the permission of the TRNC Ministry of Interior and Local Administrations.

 The English version can also be found of this Law at the following link:

<http://www.mahkemeler.net/cgi-bin/elektroks.aspx>

Write 67/2005 and press BUL then the Law can be downloaded.

 Forms in relation to land transfers by Foreigners can be obtained from the following website:

<http://www.icisleri.gov.ct.tr/tr-tr/yanmenu/indirilebilenformlar.aspx>

Download the form from under the heading “Yabancıların Taşınmaz Mal Alımı Müracaatı İçin”

Contact details of relevant authorities in the TRNC

TRNC Ministry of Interior and Local Administrations

Address: İçişleri ve Yerel Yönetimler Bakanlığı,
Şht Fevzi Mahmet Sokak ve Selçuklu Caddesi arası
Nicosia.

Telephone no: 0392 6111100

Fax no: +90 392 611 11 70 or 71 or 72

Immovable Property Commission

Address: Sarayönü Sokak No.1/C
(Mahkemeler Karşısı)
Nicosia

Telephone no: +90 392 228 53 46

Fax no: +90 392 228 54 46

Email: comcom@north-cyprus.net

Website: www.tamk.gov.ct.tr

Famagusta Land Registry Office

Tel: +90 392 3665631

İskele Kaymakamlığı

Tel: +90 392 371 2419

Registry of the Supreme Court of the TRNC

Address: Sarayönü Sokak,
Nicosia.

Telephone no: +90 392 228 51 85 or + 90 392 228 51 86

Website: www.mahkemeler.net

Bar Association of the TRNC

Address: 8 Müftü Ziya Sokak
Nicosia.

Tel: +90 392 227 0841

Fax: +90 392 2270840

İskele Polis Headquarters

Tel: +90 392 371 2333

Karpaz Police Station

Tel: +90 392 372 2344

Did you know?

That the TRNC officials at any one of the institutions listed on the left will be happy to assist you with any of your enquiries.