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Date: 06/09/2021

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Meeting: 1411th meeting (September 2021) (DH)

Communication from the applicant's representative (06/09/2021) in the case of LOIZIDOU v. Turkey (Xenides-Arestis group) (Application No. 15318/89)

Information made available under Rule 9.1 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 : 1411^e réunion (septembre 2021) (DH)

Communication du représentant du requérant (06/09/2021) relative à l'affaire LOIZIDOU c. Turquie (groupe Xenides-Arestis) (requête n° 15318/89) **[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.1 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.



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R1418/793/EC

DGI

06 SEP. 2021

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6 September 2021

Messrs
Secretariat of the Committee of Ministers
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F-67075 Strasbourg, Cedex
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VIA EMAIL ONLY

Dear Sirs

**Re: Application no. 15318/89 – Loizidou v Turkey,
Judgment of 18/12/1996 (Merits) and
Judgment of 28/07/1998 (Just Satisfaction)**

Thank you for circulating the letter on behalf of the Applicant dated 23 September 2019.

A Individual Measures

- (1) The Applicant would like to remind the Members that she is still the owner of her 10 immovable properties that are the subject matter of her Application and still wants to peacefully enjoy same.
- (2) The compensation awarded in 1998 and paid in 2003 by the Respondent was ONLY for loss of use for the period 1990 – 1998.
- (3) Since she is still the owner of her said properties, she is still entitled to compensation for loss of use from 1998 to date.
- (4) With respect to restitution, the Respondent has failed to provide adequate information as to who is currently using the Applicant's 10 immovable properties and in any event two are still empty even today. These are plots No. 1207 and 755 as already explained in detail in our letter dated 24 May 2019.
- (5) In the light of the above, the Committee should proceed to discuss the individual measures of restitution as requested by the Applicant and not follow the Respondent's request set out in its Memorandum dated 25 June 2021 ("Respondent's Memo") whose content is in any event rejected.
- (6) The structural problems relating to delay and effectiveness of the Immovable Property Commission ("IPC") are being discussed by the Court and have resulted in the finding of a violation of Article 1 of Protocol No 1 of the Convention in the Joannou v Turkey, Judgment of 12 December 2017.



- (7) They are yet to be remedied and the absence of a President in the IPC, does not allow its proper functioning.
- (8) The above are currently before the Court in *Application no. 6178/18 – Theodora Panagi and Evdoxia Shiartou v Turkey* and *Application no. 41120/17 - K. V. Mediterranean Tours Ltd v Turkey* and are progressing despite the delaying tactics of the Respondent.
- (9) In the former the Applicants' Observations on merits and just satisfaction were filed on 1 September 2021 and in the latter same are expected to be filed before 30 September 2021.
- (10) Thus, before any decision on individual measures is taken by the Committee of Ministers, it is submitted that the outcome of these cases before the Court should be awaited.
- (11) In fact, the Committee of Ministers can formally request such information from the Court.

B Former Article 32

- (12) Furthermore, given the reference in the Respondent's Memo in footnote 19 to the effect that "...The Applicant can also make a claim for loss of use for the period between 1987 -1990 which she now wants to pursue under Ex-Article 32" and in an effort to assist the Committee in discharging its obligations, under former Article 32, which is an inseparable part of this case, the Applicant repeats the following:
 - (a) The Committee is competent to consider this matter and has an obligation to decide whether there has been a continuing violation of the Applicant's right to peaceful enjoyment of her possessions under Article 1 of Protocol No 1.
 - (b) The Court's abovementioned judgments are legally binding on the Respondent who cannot deny their effect. This has been confirmed by the payment of the just satisfaction for loss of use in December 2003.
 - (c) Thus, in the absence of any possible legal objection by the Respondent, the Committee must proceed and decide that there has been a continuing violation, following the judgment of the Court of 18 December 1996 on Merits.
 - (d) Furthermore, and following the judgment of the Court of 28 July 1998 on Just Satisfaction, a compensation award plus interest and costs must be made as already claimed by the Applicant.
 - (e) It is stressed that given the legally binding nature of the Court's Judgments on the Respondent, it cannot deny their application to this mandatory procedure under former Article 32.



C Conclusion

In the light of the above the Applicant respectfully requests the continuation of the examination of the individual measures in her case as well as the award of additional compensation for loss of use under former Article 32 as already claimed.

I would also be grateful if this matter is brought to the attention of the Members of the Committee of Ministers prior to their forthcoming meeting 14 – 16 September 2021 pursuant to Rule 9 of its Rules for the Supervision of the Execution of Judgments.

Thanking you in advance for your cooperation and I remain at your disposal should you require any clarifications on the above.

Yours sincerely

Achilleas Demetriades

cc: DGI - Directorate General of Human Rights and Rule of Law
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