

Concept Stretching and Substantive Change', *European Integration online Papers* 4(8), Available at: <http://eiop.or.at/eiop/texte/2000-008a.htm>

Radaelli, Claudio M. (2003). 'The Europeanization of Public Policy', in Kevin Featherstone and Claudio M. Radaelli (eds), *The Politics of Europeanization* (Oxford: Oxford University Press), 27-56.

Radaelli, Claudio M. (2004). 'Europeanisation: Solution or Problem?', *European Integration online Papers* 8(16), Available at: <http://eiop.or.at/eiop/texte/2004-016a.htm>

Republic of Cyprus. (1999). *Chapter 13: Employment and Social Affairs, Position Paper CONF-CY 9/00* (Nicosia: Office of the Coordinator for Harmonization).

Risse, Thomas, Cowles, Maria Green and Caporaso, James. (2001). 'Europeanization and Domestic Change: Introduction', in Maria Green Cowles, James Caporaso and Thomas Risse (eds.), *Europeanization and Domestic Change: Transforming Europe* (Ithaca: Cornell University Press), 1-20.

Stefanou, Constantin. (2005). 'Introduction', in Constantin Stefanou (ed.), *Cyprus and the EU: The Road to Accession* (Aldershot: Ashgate), 1-10.

Venieris, Dimitris. (2003). 'Social Policy in Greece: Rhetoric versus Reform', *Social Policy and Administration* 37(2): 133-47.

## Loizidou vs. Turkey and the Future of Property Compensation for Refugees in Cyprus and Beyond

Vasilios S. Spyridakis

*Oh country and home,  
Never, never may I be without you,  
Living the hopeless life,  
Hard to pass through and painful,  
Most pitiable of all.*

- Euripides, *Medea*

The invasion of Kuwait by Iraq in 1990, which prompted immediate military intervention by the United States and ignited the abysmal U.S.-Iraqi conflict which continues to date, brought back into focus an analogous event in recent history, that of the invasion of Cyprus in 1974 by Iraq's neighbor, Turkey. While the United States and Great Britain were quick to defend the territorial sovereignty of Kuwait and zealously uphold the pertinent United Nations resolutions condemning the invasion, similar interest remains to be shown for the plight of Cyprus. Over thirty years after the Turkish military invasion of the Mediterranean island created over 200,000 Greek-Cypriot refugees, Turkey continues to occupy northern Cyprus notwithstanding the countless resolutions issued by the United Nations General Assembly



and Security Council throughout the years calling for the complete withdrawal of Turkish forces and the safe return of all refugees to their homes.<sup>1</sup> Despite Cyprus' entry into the European Union in 2004, the island remains ethnically divided and one of the most heavily militarized areas of the world. The seemingly irreconcilable reactions of the United Nations and United States to the invasions of Cyprus and Kuwait might indicate that *realpolitik* and selective moral indignation, as opposed to objective humanitarian concerns, provide the basis for the enforcement of international law. While the chance of a political solution reunifying the island and terminating the enduring conflict appears dismal, a key decision<sup>2</sup> by the European Court of Human Rights has sparked considerable hope for Greek-Cypriot refugees who, while permanently barred from accessing their real property in occupied northern Cyprus, are nevertheless entitled to monetary compensation for it under the *European Convention for the Protection of Human Rights*<sup>3</sup> (hereinafter "Convention").

In 1996, the European Court of Human Rights (ECHR) issued a bold decision in a suit filed by one Greek-Cypriot refugee, Mrs. Titina Loizidou.<sup>4</sup> She alleged, among other things, a continued and unjustified interference with her right to peaceful enjoyment of her property in northern Cyprus by Turkey in violation of Article 1 of Protocol 1 of the Convention.<sup>5</sup> Holding 11-6 that Turkey's denial to Loizidou of access to her property violated the Convention, the Court eventually ordered Turkey to pay Loizidou handsome compensation, totaling 458,000 Cypriot pounds (roughly \$940,000 U.S. dollars).<sup>6</sup> This unprecedented decision, which prompted several thousand lawsuits from Greek-Cypriot refugees scattered throughout Europe,<sup>7</sup> is especially significant since it marked the first time that an international court declared Turkey responsible for the consequences of its invasion.<sup>8</sup> Moreover, the decision raises important implica-

tions for the future of property compensation for refugees in continental Europe and beyond. Regrettably, however, this significant case has gone largely unnoticed by scholars of international human rights and refugee law alike, especially in the United States.

While the decision of *Loizidou v. Turkey* has been consistently upheld in a series of ECHR cases<sup>9</sup> and arguably constitutes weighty international law precedent, enforcement of the Court's judgments remains a serious obstacle, as Turkey's defiant delay of payment to Loizidou illustrates.<sup>10</sup> Nonetheless, the decision continues to inspire international action, reaching even to the U.S. Congress. In partial response to the favorable decision, for instance, the U.S. Senate and House of Representatives are considering passage of the *American-Owned Property in Occupied Cyprus Claims Act*,<sup>11</sup> a bill that would amend the *International Claims Settlement Act of 1949*<sup>12</sup> to allow U.S. district courts to hear causes of action against Turkey and individual occupiers which are asserted by U.S. nationals who have been excluded from their property in northern Cyprus. The bill would also authorize the president to initiate a claims program under which the claims of U.S. nationals excluded from their property in northern Cyprus by Turkey could be judged by the Foreign Claims Settlement Commission (FCSC) and compensated through intergovernmental negotiations between the United States and Turkey.<sup>13</sup>

The *Loizidou* decision has been viewed as a potential panacea for various ethnic refugee groups by some scholars arguing for the extension of its principles to similar cases arising from military occupation and expulsion. A few creative commentators have gone so far as to suggest the possible applicability of the decision for acquiring property compensation from Israel for Palestinian refugees.<sup>14</sup> In 2006, a group of German expellees, mostly from the historically German region of Silesia prior to its annexation by Poland



after World War II, filed claims against the Polish government in the ECHR for property compensation.<sup>15</sup> While the group will undoubtedly rely upon the *Loizidou* decision as a possible basis for its compensatory claims, the likelihood of its benefiting from the decision remains unknown given the ECHR's lack of judgment on such claims to date. In order to fully appreciate the legal and historical significance of *Loizidou*, it is first necessary to examine the decision within a wider legal context.

#### LEGAL BACKGROUND AND FACTS OF *LOIZIDOU*

Prior to the *Loizidou* case, in which the rights of Greek-Cypriot refugees were vindicated in the European Court of Human Rights, the legal struggle for the recognition of Greek-Cypriot property rights north of the green line commenced in a far more distant and unpredictable forum, the United States District Court for the Southern District of Indiana. The dispute, between Plaintiffs the Autocephalous Greek-Orthodox Church of Cyprus and the Republic of Cyprus, and Defendant, an American art dealer, concerned not inaccessible real property as in *Loizidou* and its progeny, but stolen Byzantine artwork stripped from a church in northern Cyprus and sold on the international antiquities market. Accordingly, the dispute was not framed as an international human rights case, but took the form of a simple action for replevin, a civil remedy derived from the English common law providing for the return of personal property taken or detained unlawfully. An examination of this 1989 "Byzantine Mosaics" case, as it is commonly known, is especially useful for understanding *Loizidou* since it reflects the view of an American federal court, shared by the international community (apart from Turkey) that the government of the Republic of Cyprus remains the sole legitimate government of the entire island, and that the property ownership rights of Greek-

Cypriots in northern Cyprus which were not voluntarily relinquished in the aftermath of the Turkish invasion remain valid, notwithstanding theft or expropriatory legislation to the contrary. This legal reasoning would be echoed by the European Court of Human Rights in *Loizidou*.

In *Autocephalous Greek-Orthodox Church of Cyprus v. Goldberg & Feldman Fine Arts, Inc.*,<sup>16</sup> the United States District Court for the Southern District of Indiana awarded possession of four sixth-century Byzantine mosaics stolen from the Church of the Panagia Kanakaria in northern Cyprus after the Turkish invasion to the Republic of Cyprus and the Autocephalous Greek-Orthodox Church of Cyprus. The plaintiffs, through diligent efforts, had located the mosaics in Indiana, where they had been transported from Europe by an American purchaser, Peg Goldberg.<sup>17</sup> Goldberg purchased them in Geneva from an individual claiming to have "found" the mosaics in the rubble of an "extinct" church while working as "an archaeologist from Turkey assigned to northern Cyprus."<sup>18</sup> The court found that the Church of Cyprus had never intended to relinquish title to or possession of the mosaics, had never voluntarily abandoned the Kanakaria church from which the mosaics were taken, and had never authorized the removal of the mosaics.<sup>19</sup> Given the finding that the mosaics were unlawfully taken, the court proceeded to apply Indiana property law, which provides that "a thief obtains no title to or right to possession of stolen items and can pass no title or right to possession to a subsequent purchaser."<sup>20</sup> Therefore, the court concluded that Goldberg possessed stolen property and could not have received valid title through her purchase.<sup>21</sup> The court ordered Goldberg to return the mosaics to the Church of Cyprus, a decision upheld on appeal.<sup>22</sup>

Two major points in the published trial and appellate court opinions of the case are especially important for understanding the relevant considerations of the American courts in



resolving disputes concerning property in northern Cyprus, and foreshadow the reasoning later adopted by the European Court of Human Rights in deciding the *Loizidou* case and others. First, in denying a motion of the "Turkish Republic of Northern Cyprus" (hereinafter TRNC) to intervene in the lawsuit, the trial court expressly refused to recognize the entity's status as a legitimate government, noting that "this Court denied the TRNC's motion to intervene because that government is not recognized by the United States."<sup>23</sup> The court's ruling on the motion was not surprising; in its recitation of the facts of the case, the court summarized the post-invasion history of northern Cyprus as follows:

This region has remained under Turkish military occupation since the invasion. After the invasion, the Turkish military established in essence a puppet government in northern Cyprus called the "Autonomous Cyprus Turkish Administration." That government was succeeded in February 1975 by the "Turkish Federated State of Cyprus." In 1983, the Turkish Federated State of Cyprus was succeeded by the "Turkish Republic of Northern Cyprus." The Turkish Republic of Northern Cyprus is recognized as a legitimate government by only one nation in the world: Turkey. It is not recognized, nor has it ever been recognized, by the United States government. The United States government recognizes only the plaintiff Republic of Cyprus as the legitimate government of all the people of Cyprus.<sup>24</sup>

The TRNC requested to intervene in the lawsuit as a plaintiff, claiming that the mosaics were the property of the TRNC and had been improperly removed from the church in violation of TRNC law.<sup>25</sup> Defendant Goldberg, however, argued throughout the trial that the mosaics were properly

exported and that their removal was authorized by Turkish Cypriot law.<sup>26</sup> The trial court's refusal to recognize the legitimacy of the TRNC proved fatal for both positions.<sup>27</sup>

Second, in exploring on appeal defendant Goldberg's claim that various confiscatory decrees of the northern Cypriot pseudo state legitimized the taking of the mosaics from the church and effectively divested the Church of title to them, the appellate court also refused to recognize the legitimacy of the TRNC or any of its predecessor states established in northern Cyprus after the invasion.<sup>28</sup> The appellate court rejected arguments characterizing the TRNC as a "de facto" government whose decrees are entitled to recognition and legal effect, likening the TRNC instead to the ultimately unsuccessful American Confederacy, whose laws depended upon the success and recognition of the new government for their validity.<sup>29</sup> The appellate court concluded that the TRNC was neither successful nor recognized despite the longevity of its control over northern Cyprus, given the failure of the invading Turkish forces to completely supplant the Republic of Cyprus and its officers, as well as the refusal of the non-Turkish world to recognize the TRNC.<sup>30</sup>

The *Autocephalous Greek-Orthodox Church of Cyprus* case sets a powerful precedent for future cases concerning property in northern Cyprus which are litigated in American courts. Its affirmation of the status of the Republic of Cyprus as the single sovereign nation of the entire island and its rejection of confiscatory laws passed by the TRNC purporting to expropriate properties from expelled Greek-Cypriots, resound in the court's decision in *Loizidou*. Though the opinion of the American court was in no way binding upon the European Court of Human Rights, the decision undoubtedly provided impetus and hope for both the Republic of Cyprus and Greek-Cypriot refugees, who would next seek justice in faraway Strasbourg.



The case brought by Mrs. Titina Loizidou has a different dimension. Mrs. Titina Loizidou, a Cypriot citizen, was born and raised in Kyrenia, on the northern coast of what is now occupied northern Cyprus.<sup>31</sup> There, she owned several plots of land on which she had planned to build flats, including one as a summer family home.<sup>32</sup> She married in 1972 and moved with her husband to Nicosia, the island's capital.<sup>33</sup> By the time of the Turkish invasion in July 1974, construction work had begun on the summer home in Kyrenia. Since the invasion, however, Loizidou has been physically barred from accessing her land and exercising any ownership rights as a result of the presence of Turkish forces.<sup>34</sup> Additionally, the TRNC has implemented a policy of confiscation of all lands north of the green line and their redistribution to Turkish Cypriots and mainland Turkish settlers.<sup>35</sup>

On March 19, 1989, a Greek-Cypriot women's group, "Women Walk Home," organized a peaceful march with the intention of crossing the green line into northern Cyprus.<sup>36</sup> The group's aim is the reunification of the island through peaceful means,<sup>37</sup> the elimination of military barriers separating the Greek and Turkish communities, and the exercise of the right of refugees to safely return to their homes.<sup>38</sup> Loizidou, a participant in the march, led fifty other women across the Turkish green line toward a church in the occupied territory.<sup>39</sup> She and the others were immediately arrested by Turkish-Cypriot policemen and detained for more than ten hours before being released to U.N. officials and returned to the south by ambulance.<sup>40</sup> In her initial application to the European Commission of Human Rights, Loizidou alleged violations of various provisions of the Convention by Turkey, including Articles 3, 5, and 8 relating to her arrest and detention, as well as Article 8 and Article 1 of Protocol 1 for the continuing denial of access to her property.<sup>41</sup> Without amicable settlement by the parties, the Commission produced a report opining that Turkey had violated none of

the provisions of the Convention as alleged by Loizidou.<sup>42</sup> The Government of the Republic of Cyprus, an intervening plaintiff in the suit, then exercised its option to refer the case to the European Court of Human Rights.<sup>43</sup> It limited the issues, however, to those related to the alleged violations of Loizidou's property rights under Article 1 of Protocol 1 and the right to respect for her home under Article 8. Turkey immediately raised preliminary objections on jurisdictional grounds.

### PRELIMINARY OBJECTIONS

Determined to procure the case's prompt dismissal, Turkey adopted a vigorous defense during the preliminary stages, objecting to the standing of the Government of the Republic of Cyprus (hereinafter Cyprus) and to the Court's jurisdiction to hear the case. Turkey refused to recognize the status of Cyprus as the sole legitimate government representing the entire island, referring to Cyprus instead as the island's "Greek Cypriot Administration" throughout the proceedings. The Court answered this objection by affirming Cyprus' *locus standi*, pointing to its international recognition as the government of the Republic of Cyprus.<sup>44</sup> Moreover, the Court held that the recognition of an applicant government by a respondent government is not required to refer cases to the Court.<sup>45</sup> Turkey next argued that the intention of Cyprus in referring the case to the Court was an abuse of process motivated by a desire to create inappropriate political propaganda concerning the legitimacy of the TRNC.<sup>46</sup> The Court noted that Turkey was precluded from advancing this claim as a preliminary objection since it had neglected to raise it in its response to the original complaint before the Commission.<sup>47</sup> Furthermore, because the concern for applicant Loizidou and other similarly situated refugees motivated Cyprus to refer the case to the Court, such motivation did not amount to an abuse of process.<sup>48</sup>



Turkey raised three additional preliminary objections. First, Turkey argued that it was the wrong defendant, insisting that the alleged Convention violations did not take place within Turkey's jurisdiction, but rather within that of the TRNC, an independent constitutional state enjoying free elections and other democratic features.<sup>49</sup> Since Turkey was the only contracting party to the Convention which recognized the TRNC, with whose "government" it enjoyed close diplomatic relations, its proper role before the Court must be limited to that of an *amicus curiae*, since the TRNC was not a party to the proceedings. The Court rejected this view, noting that the concept of "jurisdiction" within Article 1 of the Convention is not limited to the national territory of a contracting party to the Convention, but includes areas outside national territory over which a country exercises effective control as a consequence of either lawful or unlawful military action.<sup>50</sup> In the words of the Court, "The obligation to secure, in such an area, the rights and freedoms set out in the Convention derives from the fact of such control whether it be exercised directly, through its armed forces, or through a subordinate local administration."<sup>51</sup> Furthermore, pursuant to the Rules of Court, respondent Turkey could not unilaterally alter its status in the proceeding to appear on behalf of an illegal entity that had been established in contravention of international law and remains unrecognized by the international community. Reserving the question of Turkey's actual responsibility for the alleged violations for the merits phase of the case, the Court held that the matters complained of were capable of falling under Turkey's jurisdiction despite their occurrence outside Turkish national territory.<sup>52</sup> It was undisputed by the parties that Loizidou was prevented by Turkish military forces from accessing her property, and such an overwhelming military presence sufficed under the principles of international law to establish the requisite control over the territory for jurisdictional purposes.

Turkey's second and third preliminary objections were that its declarations under Articles 25 and 46 of the Convention created both territorial and temporal limitations (*ratione loci* and *ratione temporis*) on the application of the Convention to the country, thus defeating jurisdiction in this case. Turkey's declarations under Articles 25 and 46 of the Convention, through which the country submitted to the jurisdiction of the Commission and Court, contained specific limitations on the applicability of the Convention to acts and events taking place outside of its national territory, as well as those events occurring before Turkey's formal declaration of acceptance of the Court's jurisdiction under Article 46 on January 22, 1990.<sup>53</sup> In a daring and unpredictable interpretation of Articles 25 and 46, the Court held the territorial restrictions on Turkey's declarations of jurisdictional acceptance invalid on policy grounds.<sup>54</sup> In the Court's view, allowing a contracting party to the Convention to qualify its consent to uphold human rights and submit to the Court's jurisdiction based on territorial distinctions would "diminish the effectiveness of the Convention as a constitutional instrument of European public order."<sup>55</sup> The temporal restriction, however, signifying prospective acceptance of the Court's jurisdiction upon declaration, was entirely permissible.<sup>56</sup> The Court therefore severed the invalid territorial limitation from the declaration, leaving a valid acceptance of the court's jurisdiction from 1990 onward.<sup>57</sup>

The questions of whether the alleged violations occurred prior or subsequent to Turkey's acceptance of the Court's jurisdiction, as well as Turkey's actual responsibility for them, were joined to the merits of the case.<sup>58</sup> Turkey had failed to obtain a dismissal and was now legally responsible for any human rights violations occurring in northern Cyprus after January 22, 1990, including those actions that took place prior to that date but constituted "continuing violations."



### MERITS

The ECHR in Strasbourg conducted a hearing on the merits of *Loizidou*<sup>59</sup> on September 25, 1995. Over a year later, on December 18, 1996, the Court rendered its judgment. Addressing the questions that had been joined to the merits during the preliminary objections stage, the Court proceeded to first discuss the limitation *ratione temporis* that qualified Turkey's acceptance of the Court's jurisdiction to those Convention violations occurring after its formal declarations of acceptance on January 22, 1990. Having determined the validity of such temporal limitations due to their prospective nature during the preliminary objections stage, it remained for the Court to examine the nature of the alleged violations in order to classify them as either continuing violations or instantaneous acts that would preclude jurisdiction.

Turkey maintained that the taking of Loizidou's property began with the invasion of the island in July 1974 and became an irreversible expropriation fully justified under Article 159 of the Constitution of the TRNC and the international law doctrine of necessity.<sup>60</sup> Therefore, since the property was taken instantaneously either during the invasion in 1974, or at the very latest in 1985 with the implementation of the TRNC constitution and its confiscatory provision of Article 156, the alleged property rights violations occurred well before Turkey's acceptance of the Court's jurisdiction in 1990, and rendered the Court's jurisdiction invalid.<sup>61</sup> The Court, however, looked to a series of international resolutions and the practice of the international community which do not regard the TRNC as a valid state under international law, and which recognize only the government of the Republic of Cyprus as the island's sole legitimate government.<sup>62</sup> The Court explained that "the principles underlying the Convention cannot be interpreted and applied in a vacuum."<sup>63</sup> The Convention must, given its special character as a human rights treaty, consider any relevant rules of

international law concerning its jurisdiction.<sup>64</sup> Therefore, at least for purposes of the Convention, the Court could not attribute legal validity to the provisions of the constitution of the TRNC on which Turkey relied for its defense. Because the constitution of the TRNC is invalid, any governmental action taken under the authority of its provisions, such as Article 159, is likewise void.<sup>65</sup> This conclusion proved decisive. Mrs. Loizidou, the Court declared, could not have lost title to her property through any actions of Turkey or the TRNC, and thus remained the legal owner of the land in northern Cyprus for purposes of Article 1 of Protocol 1 and Article 8 of the Convention.<sup>66</sup> Because Mrs. Loizidou remained the legal owner of her land and Turkey conceded that she has been and continues to be prevented by Turkish troops from accessing her property, the court recognized a continuing violation of Article 1 of the Convention.<sup>67</sup>

The issue of Turkey's responsibility had also been reserved for determination during the merits stage. Loizidou asserted that the continuous denial of access to her property which resulted in the complete loss of her peaceful enjoyment of possession in violation of Article 1 of Protocol 1 was imputable to the Turkish government. During the preliminary objections stage, the Court dismissed Turkey's contention that matters occurring in northern Cyprus fell outside its jurisdiction for purposes of Article 1 since the TRNC was outside Turkish national territory.<sup>68</sup> In the same vein, the Court had rejected Turkey's second preliminary objection *ratione loci* which invoked a territorial limitation on the application of the Convention to areas outside Turkish national territory.<sup>69</sup> It remained, then, for the Court at the merits stage to decide Turkey's liability for the acts of the TRNC giving rise to Loizidou's claims of violations of Article 1 of Protocol 1 and Article 8. The Court simply reiterated two points from its preliminary objections opinion. First, under the Convention, liability for actions and events occurring



outside a state's territory may arise where the state exercises effective control in that outside territory as a result of either legal or illegal military action.<sup>70</sup> Second, it is clear from the 35,000 Turkish troops stationed in northern Cyprus that the Turkish army does indeed exercise effective control over the northern part of the island.<sup>71</sup> Thus, the actions of the TRNC, whether it is deemed an independent regime or a subordinate local Turkish administration, are directly imputable to Turkey.<sup>72</sup>

Having found a continuing violation of Article 1 of Protocol 1 of the Convention, the Court turned to Loizidou's second claim, the violation of Article 8, which states that "Everyone has the right to respect for...his home...."<sup>73</sup> While Loizidou emphasized her family's ties to Kyrenia for generations and her regard for the area as her home town, the Court was unable to find a violation of her rights under Article 8, due to Loizidou's move from Kyrenia to Nicosia in 1972.<sup>74</sup> Although she retained ownership of various plots of land in Kyrenia and had begun construction of a summer home prior to the invasion, the court found that it would strain the meaning of "home" contemplated by Article 8 to include property on which a house is planned to be built.<sup>75</sup> For this reason, Loizidou's Article 8 claim failed.

While the Court found Turkey directly responsible for a violation of Article 1 of Protocol 1 but not Article 8, it did not pass judgment on the issue of the just satisfaction, or compensation, owed to Mrs. Loizidou under Article 50. Since Turkey had not yet commented on the Article 50 issue and the Court wished to allow the parties a chance for agreement on compensation, the issue was reserved for a future proceeding.<sup>76</sup>

### JUST COMPENSATION

Not surprisingly, Mrs. Loizidou and the Government of Turkey failed to reach an agreement regarding compensation

for the established violation of Article 1 of Protocol 1 of the Convention. Therefore, the Court held a separate proceeding to decide the issue.<sup>77</sup> Turkey continued to assert that it was not liable for acts occurring in the TRNC.<sup>78</sup> Turkey further argued that since the "question of property rights and reciprocal compensation is the very crux of the conflict in Cyprus," the solution lies not in individual judicial remedies but in political negotiations such as those for bi-communality and bi-zonality.<sup>79</sup> Any compensation awarded under Article 50 of the Convention, Turkey claimed, would undermine the various political negotiations between the two communities and disrupt the efforts to reach an agreeable political settlement.<sup>80</sup> The Court rejected both arguments. Turkey's unjustified interference with property rights in violation of Article 1 of Protocol 1 of the Convention was a matter of *res judicata* which warranted compensation under Article 50, notwithstanding the political dimensions of the controversy.<sup>81</sup>

Mrs. Loizidou stressed that whatever compensation was owed to her came not from any purported expropriation of her property, since she remained its legal owner, but from the loss of use of the land and the opportunity to develop or lease it.<sup>82</sup> She asked for 621,900 in Cypriot pounds as pecuniary damages accruing from the period between January 22, 1990, the date of Turkey's acceptance of the compulsory jurisdiction of the Court, and the end of 1997.<sup>83</sup> The Court found this figure excessive, as it represented the total ground rents that could have been collected from 1990 to 1997, calculated as 6 percent of the estimated market value for each of those years.<sup>84</sup> While favoring the general method of assessing loss according to annual ground rent, calculated as a percentage of the property's market value that could have been earned from 1990 to 1997, the Court recognized a flaw in presupposing the steady growth of the real estate market as Loizidou had done in her estimate.<sup>85</sup> Considering the specu-



lation involved due to lack of certain data, the Court awarded Loizidou 300,000 Cypriot pounds in pecuniary damages.<sup>86</sup> Loizidou also claimed non-pecuniary damages from the emotional distress related to the deprivation of her property and the complicated legal proceedings.<sup>87</sup> The Court awarded her 20,000 Cypriot pounds.<sup>88</sup> For legal fees and additional expenses, the Court awarded her 137,084.83 Cypriot pounds.<sup>89</sup> Altogether, the Court awarded Loizidou 457,084.83 Cypriot pounds, to be paid to her by Turkey within three months.<sup>90</sup> An annual interest of 8 percent would accrue from the end of the three-month period until payment.<sup>91</sup> The judgment for compensation was issued in 1998, and Turkey finally paid its dues in December of 2003, perhaps anticipating the talks concerning its possible entry into the European Union.<sup>92</sup>

### SUBSEQUENT DEVELOPMENTS

In his dissenting opinion on the merits of *Loizidou*, Judge R. Bernhardt of Germany observed that:

...[T]he Court's judgment concerns in reality not only Mrs. Loizidou, but thousands or hundreds of thousands of Greek Cypriots who have (or had) property in northern Cyprus. It might also affect Turkish Cypriots who are prevented from visiting and occupying their property in southern Cyprus. It might even concern citizens of third countries who are prevented from traveling to places where they have property and houses.<sup>93</sup>

His words proved prophetic. The *Loizidou* decision inspired thousands of suits by Greek-Cypriot refugees with circumstances similar to those of Mrs. Loizidou. Such suits continue to be regularly filed in the ECHR.<sup>94</sup> Likewise, the prediction of Judge F. Gölcüklü of Turkey that the judgment "will certainly have consequences for future cases –

whose origins go back to the Second World War – against new members of the Council of Europe, such as the countries in Central or Eastern Europe previously governed by communist regimes," looms real.<sup>95</sup> To date, however, the German property compensation claims against Poland have yet to produce a favorable judgment. In contrast, Cypriots and Turkish Kurds have utilized the *Loizidou* decision to secure property compensation with remarkable success.

The first major case to affirm *Loizidou* came in 2001 with *Cyprus v. Turkey*,<sup>96</sup> in which the ECHR rendered the longest judgment in its history.<sup>97</sup> Cyprus alleged that Turkey had continuously violated the entire set of human rights guaranteed by the Convention, with the exception of the right to marry, since its invasion and subsequent occupation of northern Cyprus. Citing *Loizidou*,<sup>98</sup> the Court affirmed the valid ownership rights of the expelled Greek-Cypriots over their property in northern Cyprus.<sup>99</sup> Accordingly, the Court confirmed that the total and continuing denial to Greek-Cypriots of access to their property constitutes a violation of Article 1 of Protocol 1 of the Convention and warrants proper compensation.<sup>100</sup> The Court ruled, however, that the issue of compensation, or "just satisfaction," was not ready for decision, given the apparent multiplicity of interests involved.<sup>101</sup> The decision would be reserved for a later time, which to date has not occurred.

The Court in *Cyprus v. Turkey* added a critical dimension to the dispute by raising a requirement under the Convention that a complaining party must exhaust the domestic remedies of the offending government in order for the case to be admissible in the ECHR.<sup>102</sup> The rationale behind the requirement is to allow governments the opportunity to correct their Convention violations prior to resorting to ECHR intervention. The Court's consideration of the remedies available in the TRNC marks a significant departure from *Loizidou*, which refused to recognize the TRNC as a legitimate state



and held invalid its confiscatory constitutional provisions for purposes of the Convention. Invoking what is sometimes called the "Namibia exception," a term referring to the occupation of Namibia by South Africa, the Court observed that even the acts and laws of states lacking international recognition may be given effect when they concern purely private local matters, such as registration of births, deaths, and marriages.<sup>103</sup> It was imperative that courts existed in northern Cyprus to protect the rights of its residents, and the ECHR's recognition of such courts would in no way be "putting in doubt either the view adopted by the international community regarding the establishment of the TRNC or the fact the Government of the Republic of Cyprus remains the sole legitimate government of Cyprus."<sup>104</sup> Thus, the Court held that remedies available in the courts of the TRNC may be regarded as "domestic remedies" of Turkey for purposes of the exhaustion of domestic remedies requirement.<sup>105</sup>

Exhaustion, the Court explained, was required only for remedies which were effective, accessible, capable of providing redress, and which offered reasonable prospects of success.<sup>106</sup> While Turkey pointed to an elaborate multi-tiered court system in the TRNC which dispensed justice to the local inhabitants and purportedly could provide the same for Greek-Cypriots, the Court found that there were no effective remedies available to Greek-Cypriot refugees for property compensation, since the deprivation of the properties of Greek-Cypriots was authorized by provisions of the TRNC constitution which the TRNC courts were legally bound to uphold.<sup>107</sup> Since the legality of the interference with the property of Greek-Cypriot refugees in northern Cyprus was completely unassailable in the TRNC courts, the Court found an exception to the exhaustion of domestic remedies requirement.<sup>108</sup> While the requirement posed no obstacle to the admissibility of Cyprus' complaints concerning violations of Article 1 of Protocol 1 in the case of *Cyprus v. Turkey*, the

issue of exhaustion would reappear in the subsequent case of *Xenides-Arestis v. Turkey*,<sup>109</sup> discussed *infra*, to cast serious doubt on what had previously seemed to be considerable progress for Cypriot property compensation claims in the ECHR, a concern which persists to the present day.

Two subsequent cases, decided on July 31, 2003, and involving circumstances nearly identical to those in *Loizidou*, also exhibited the Court's strong adherence to the *Loizidou* precedent. In *Eugenia Michaelidou Developments Ltd. and Tymvios v. Turkey*<sup>110</sup> and *Demades v. Turkey*,<sup>111</sup> the Court found that the applicant Greek-Cypriot landowners (one is a Cypriot corporation) who had been expelled from northern Cyprus and were prevented from returning remained the rightful owners of their property and were entitled to compensation.<sup>112</sup> While awarding the applicants the proper sums for their costs and expenses, the Court held unanimously that the question of pecuniary and non-pecuniary damages was not yet ready for decision.<sup>113</sup> Turkey objected that the applicants had failed to exhaust domestic remedies as required under Article 35, in light of the enactment of the "Law on Compensation for Immovable Properties Located within the Boundaries of the Turkish Republic of Northern Cyprus" by the Parliament of the Turkish Republic of Northern Cyprus on June 30, 2003, which purportedly provided Greek-Cypriots a remedy by allowing them to apply to a special commission for property compensation.<sup>114</sup> Because Turkey had neglected to raise the exhaustion objection at the admissibility stage of the proceedings, it was precluded from raising it in the litigation.<sup>115</sup>

The Court in *Cyprus v. Turkey* made clear that remedies provided by the TRNC that were deemed "effective" would be regarded as domestic remedies which applicants would be required to exhaust.<sup>116</sup> Because no effective remedies for Greek-Cypriots seeking property compensation were found in the TRNC at the time of the *Cyprus v. Turkey* deci-



sion, the Court left open the possibility that Turkey might later introduce such remedies and thereby preclude future Greek-Cypriot litigants from bypassing the institutions of the TRNC. The issue was again explored in 2005 in the case of *Xenides-Arestis v. Turkey*.

In *Xenides-Arestis v. Turkey*, Plaintiff Myra Xenides-Arestis sought property compensation from Turkey for the denial of access to her home and other land in Famagusta, northern Cyprus.<sup>117</sup> Her case was ruled admissible notwithstanding the exhaustion of domestic remedies requirement since the Court determined that the "Law on Compensation for Immovable Properties Located within the Boundaries of the Turkish Republic of Northern Cyprus," which had been raised too late in *Cyprus v. Turkey* but was timely in the instant case, did not constitute an "effective" or "adequate" remedy for Greek-Cypriot refugees such as Ms. Xenides-Arestis.<sup>118</sup> Reaffirming the principles of *Loizidou*, the Court found a violation of Article 1 of Protocol 1 of the Convention, as well as of Article 8, since the property to which Xenides-Arestis was denied access included her home.<sup>119</sup> On the issue of remedies, the Court ordered Turkey to introduce a remedy securing the effective protection of the rights provided in Article 1 of Protocol 1 and Article 8 of the Convention, not only for Ms. Xenides-Arestis but for all similarly situated Greek-Cypriot plaintiffs with pending property compensation claims concerning northern Cyprus in the ECHR, numbering around 1,400.<sup>120</sup> Pending the implementation of such a remedy, the Court's consideration of all such property claims was adjourned.<sup>121</sup> In the meantime, the Court awarded Ms. Xenides-Arestis 65,000 euros for costs and expenses.<sup>122</sup> Her damages would be determined in a later proceeding.

After the judgment on the merits in *Xenides-Arestis*, Turkey responded to the Court's order by introducing its newest remedy for Greek-Cypriot owners of property in northern Cyprus, the "Immovable Property Commission,"

created by the provisions of the new compensation law titled the "Law for the Compensation, Exchange and Restitution of Immovable Properties" (Law no. 67/2005).<sup>123</sup> This property compensation commission comprises five to seven members, including two non-Turkish members: Mr. Hans-Christian Krüger, former Secretary to the European Commission of Human Rights and former Deputy Secretary General of the Council of Europe; and Mr. Daniel Tarschys, former Secretary General of the Council of Europe.<sup>124</sup> The commission is authorized to decide on restitution, exchange of properties, or payments of compensation, and provides a right of appeal to the TRNC High Administrative Court.<sup>125</sup>

Ms. Xenides-Arestis immediately challenged the new property compensation law, pointing to the Court's affirmation of the validity of Greek-Cypriot property rights in northern Cyprus in *Loizidou* and arguing that the new "Immovable Property Commission" operated to issue compensation as if lawful expropriation of the properties by the TRNC had occurred, since the commission provided no means for displaced Greek-Cypriots to contest the legality of their exclusion from their properties in the north.<sup>126</sup> She also contested the adequacy and effectiveness of the new commission as a remedy by noting its failure to end violations of Article 1 of Protocol 1 and restore access to her property.<sup>127</sup> The commission was also plagued with additional flaws. Payment of restitution was entirely non-mandatory, leaving considerable discretion to the commission members and a potential for routine denial amounting to unfair abuse.<sup>128</sup> The law governing the commission also imposed numerous limitations on restitution awards, excluding for instance the area of Famagusta (Varosha in Turkish), where Ms. Xenides-Arestis had her home, and which remains a fenced area under the exclusive control of the Turkish military.<sup>129</sup> Turkey countered that Ms. Xenides-Arestis had rejected the property commission's invitation to consider her claims, and that the com-



mission had nevertheless opined that her claim would have been awarded 466,289 Cypriot pounds, reflecting loss of use and the actual value of the property.<sup>130</sup> Regarding restoration of access to the property, the commission announced that it would be entitled to decide to restore the property to Ms. Xenides-Arestis, but such a decision would take effect only after the political settlement of the Cyprus problem.<sup>131</sup>

In deciding the adequacy of Turkey's new property commission as a remedy, the Court concluded that "the new compensation and restitution mechanism, in principle, has taken care of the requirements of the decision of the Court" in *Xenides-Arestis*.<sup>132</sup> However, the judgment for Ms. Xenides-Arestis having already been rendered on the merits, she would not be required to apply to the commission.<sup>133</sup> The Court awarded her 800,000 euros for pecuniary damages, 50,000 euros for non-pecuniary damages, and 35,000 euros for costs and expenses.<sup>134</sup> Although undoubtedly a victory for Ms. Xenides-Arestis individually, the *Xenides-Arestis* case, which represents the most current state of the law, presents a major setback for displaced Greek-Cypriot litigants seeking property compensation in the ECHR, arguably undermining *Loizidou*. Assuming an unsuccessful appeal of the Court's determination of the adequacy of the TRNC property compensation commission as a domestic remedy which must be exhausted, Greek-Cypriot property compensation claims might be left to the discretion of a commission which refuses to acknowledge the illegality of interference with Greek-Cypriot properties in northern Cyprus and claims to be incapable of restoring access to property until the Cyprus problem is resolved. The future of the issue remains to be seen, but appeals are certainly expected.

As previously noted, Greek-Cypriots have not been alone in benefiting from the *Loizidou* decision. In *Djavit An v. Turkey*, for instance, a Turkish-Cypriot barred from crossing the green line into far wealthier southern Cyprus to

pursue employment opportunities and attend various meetings promoting the union of the island successfully recovered non-pecuniary damages and legal fees from Turkey for violating his Article 11 right to freedom of assembly.<sup>135</sup> Although not a property compensation case, the Court relied heavily upon *Loizidou* in attributing liability to Turkey, who predictably sought to shift responsibility to the TRNC as in prior cases.<sup>136</sup> The Court ultimately held that the plaintiff's right to freedom of assembly included the right to peacefully assemble with Greek-Cypriots across the green line.<sup>137</sup> The importance placed by the Court on access to human contact across the green line might indicate a future receptiveness to claims by Turkish-Cypriots against Turkey for denial of access to their properties in southern Cyprus.

Recently, members of the Kurdish minority in Turkey have also found relief in the ECHR. Their typical claims against Turkey arise from the expulsion of Kurds from their homes following the frequent clashes between Turkish security forces and members of the separatist Kurdistan Worker's Party (PKK) in southeastern Turkey. In a series of cases from 2004 which were brought by various Turkish Kurds, the Court found violations of Article 1 of Protocol 1 and Article 8, citing *Loizidou* as precedent.<sup>138</sup> The cases concerned three separate missions of the Turkish security forces into Kurdish villages, in which entire hamlets were ordered evacuated and the inhabitants were either forbidden from returning through coercion or left with nowhere to return after the homes and earth had been set ablaze.<sup>139</sup> These cases illustrate that the Convention does not require physical barriers preventing access to and enjoyment of property, as in *Loizidou*. Given the frequency of such encounters in eastern Turkey, more suits may be expected.



## CONCLUSION

*Loizidou v. Turkey* is especially significant in the fields of international human rights and refugee law since it provides weighty precedent for refugees seeking property compensation from governments that have either illegally expropriated their property, barred them from accessing and enjoying it, or both. Its unique place in the corpus of ECHR case law, however, makes it nonbinding outside its court of origin and thus limits its applicability in cases involving parties who have not accepted the Convention and the ECHR's jurisdiction. In the cases of Greek-Cypriot refugees, *Loizidou* has provided the basis for a much-needed remedy available to hundreds of thousands of refugees who may never again see or enjoy their homes, a right truly beyond monetary value.

## Notes

<sup>1</sup> See in particular U.N. Resolutions 37/253 (1983), demanding "the immediate withdrawal of all occupation forces from the Republic of Cyprus" and 1987/19 (1987), calling for "the full restoration of all human rights to the whole population of Cyprus, including the freedom of movement, the freedom of settlement and the right to property..."

<sup>2</sup> *Loizidou v. Turkey*, (1997) 23 E.H.R.R. 513.

<sup>3</sup> Article 1 of Protocol 1 of the *European Convention for the Protection of Human Rights* provides: "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and the general principles of international law." Article 8 states: "1) Everyone has the right to respect for his private and family life, his home and his correspondence."

<sup>4</sup> *Loizidou v. Turkey*, (1997) 23 E.H.R.R. at 513.

<sup>5</sup> *Op. cit.*, p.522.

<sup>6</sup> *Loizidou v. Turkey*, (1998) 26 E.H.R.R. CD 5, 5.

<sup>7</sup> Charles Spies, *European Court of Human Rights Rules Turkey Responsible for Refugee Property in Turkish-Occupied Northern Cyprus*, 11 Geo. Immigr. L.J. 663, 666 (1997).

<sup>8</sup> *Op. cit.*, p.663.

<sup>9</sup> See *Cyprus v. Turkey* (2002) 35 E.H.R.R. 30; *Demades v. Turkey* (2003) no. 16219/90; *Michaelidou Ltd. and Tymvios v. Turkey* (2004) 39 E.H.R.R. 36; *Xenides-Arestis v. Turkey* (2005) no. 46347/99; *Xenides-Arestis v. Turkey* (2006) (just satisfaction) no. 46347/99, all available at : <http://cmiskp.echr.coe.int/tkp197/default.htm>

<sup>10</sup> *Turkey Pays Loizidou Compensation*, *Hurriyet* (March 12, 2003), available at: <http://www.hri.org/news/turkey/trkpr/2003/03-12-03.trkpr.html#05>

<sup>11</sup> S. 695, 110<sup>th</sup> Cong. (2007); H.R. 1456, 110th Cong. (2007).

<sup>12</sup> 22 U.S.C. § 1621 *et seq.*

<sup>13</sup> S. 695, 110<sup>th</sup> Cong. (2007); H.R. 1456, 110th Cong. (2007).

<sup>14</sup> See e.g. Susan Akram, *Palestinian Refugee Rights: Part Three—Strategies for Change*, *Palestinian Center Information Brief No. 44* (August 21, 2000), available at: <http://www.palestinecenter.org/cpap/pubs/20000821ib.html>; Arjan El Fassed, *Loizidou v. Turkey: A Precedent for Palestinian Refugees?*, *Palestinian Center Information Brief No. 69* (February 23, 2001), available at: <http://www.palestinecenter.org/cpap/pubs/20010223ib.html>; Michael Jansen, *Homeward Bound*, *Al-Ahram Weekly* (December 11-17, 2003), available at: <http://weekly.ahram.org.eg/2003/668/in3.htm>

<sup>15</sup> *Poles Angered by German WWII Compensation Claims*, *Der Spiegel Online* (December 18, 2006), available at: <http://www.spiegel.de/international/0,1518,455183,00.html>

<sup>16</sup> *Autocephalous Greek-Orthodox Church of Cyprus v. Goldberg & Feldman Fine Arts, Inc.*, 717 F.Supp. 1374 (S.D. Ind. 1989).

<sup>17</sup> *Op. cit.*, p.1381.

<sup>18</sup> *Ibid.*

<sup>19</sup> *Op. cit.*, p.1398.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Op. cit.*, p.1399.

<sup>22</sup> *Op. cit.*, p.1405.

<sup>23</sup> *Op. cit.*, pp.1377, 1379 fn. 3.

<sup>24</sup> *Op. cit.*, p.1378.

<sup>25</sup> *Op. cit.*, p.1398, fn. 20.

<sup>26</sup> *Ibid.*

<sup>27</sup> *Ibid.*

<sup>28</sup> *Autocephalous Greek-Orthodox Church of Cyprus v. Goldberg & Feldman Fine Arts, Inc.* 917 F.2d 278, 292 (7<sup>th</sup> Cir. 1990).

<sup>29</sup> *Op. cit.*, p.293.

<sup>30</sup> *Ibid.*



- <sup>31</sup> *Loizidou v. Turkey*, (1997) 23 E.H.R.R. 513, 518.  
<sup>32</sup> *Ibid.*  
<sup>33</sup> Spies at 663.  
<sup>34</sup> *Loizidou v. Turkey*, (1997) 23 E.H.R.R. at 518.  
<sup>35</sup> *Op. cit.*, pp.519-520.  
<sup>36</sup> *Op. cit.*, p.518.  
<sup>37</sup> Mission Statement of Women Walk Home For A United Cyprus, available at <http://www.cyprus.com.cy/womenwalkhome.htm>  
<sup>38</sup> *Loizidou v. Turkey*, (1997) 23 E.H.R.R. at 518.  
<sup>39</sup> *Ibid.*  
<sup>40</sup> *Ibid.*  
<sup>41</sup> *Op. cit.*, p.522.  
<sup>42</sup> *Ibid.*  
<sup>43</sup> *Loizidou v. Turkey*, (1995) 20 E.H.R.R. 99, 99.  
<sup>44</sup> *Ibid.*  
<sup>45</sup> *Ibid.*  
<sup>46</sup> *Op. cit.*, p.100.  
<sup>47</sup> *Ibid.*  
<sup>48</sup> *Ibid.*  
<sup>49</sup> *Ibid.*  
<sup>50</sup> *Op. cit.*, p.101.  
<sup>51</sup> *Ibid.*  
<sup>52</sup> *Ibid.*  
<sup>53</sup> *Op. cit.*, p.102.  
<sup>54</sup> *Ibid.*  
<sup>55</sup> *Ibid.*  
<sup>56</sup> *Op. cit.*, pp.104-105.  
<sup>57</sup> *Ibid.*  
<sup>58</sup> *Op. cit.*, p.105.  
<sup>59</sup> *Loizidou v. Turkey*, (1997) 23 E.H.R.R. 513.  
<sup>60</sup> *Op. cit.*, pp.523-524.  
<sup>61</sup> *Op. cit.*, p.524.  
<sup>62</sup> *Op. cit.*, p.527.  
<sup>63</sup> *Op. cit.*, p.526.  
<sup>64</sup> *Ibid.*  
<sup>65</sup> *Ibid.*  
<sup>66</sup> *Op. cit.*, p.527.  
<sup>67</sup> *Op. cit.*, p.533.  
<sup>68</sup> *Loizidou v. Turkey*, (1995) 20 E.H.R.R. at 101.  
<sup>69</sup> *Op. cit.*, p.104.  
<sup>70</sup> *Loizidou v. Turkey*, (1997) 23 E.H.R.R. at 515.  
<sup>71</sup> *Ibid.*

- <sup>72</sup> *Op. cit.*, p.516.  
<sup>73</sup> *European Convention for the Protection of Human Rights* (1950)  
<sup>74</sup> *Loizidou v. Turkey*, (1997) 23 E.H.R.R. at 533.  
<sup>75</sup> *Op. cit.*, p.534.  
<sup>76</sup> *Ibid.*  
<sup>77</sup> *Loizidou v. Turkey*, (1998) 26 E.H.R.R. CD 5.  
<sup>78</sup> *Ibid.*  
<sup>79</sup> *Ibid.*  
<sup>80</sup> *Ibid.*  
<sup>81</sup> *Ibid.*  
<sup>82</sup> *Ibid.*  
<sup>83</sup> *Ibid.*  
<sup>84</sup> *Ibid.*  
<sup>85</sup> *Ibid.*  
<sup>86</sup> *Ibid.*  
<sup>87</sup> *Ibid.*  
<sup>88</sup> *Ibid.*  
<sup>89</sup> *Ibid.*  
<sup>90</sup> *Ibid.*  
<sup>91</sup> *Ibid.*  
<sup>92</sup> *Turkey Compensates Cyprus Refugee*, *BBC News Europe* (2 December 2003) available at: <http://news.bbc.co.uk/2/hi/europe/3257880.stm>.  
<sup>93</sup> *Loizidou v. Turkey*, (1997) 23 E.H.R.R. at 536 (Bernhardt, J., dissenting).  
<sup>94</sup> Spies at 666.  
<sup>95</sup> *Loizidou v. Turkey*, (1997) 23 E.H.R.R. at 551 (Gölcüklü, J., dissenting)  
<sup>96</sup> *Cyprus v. Turkey*, (2002) 35 E.H.R.R. 30.  
<sup>97</sup> Bernard H. Oxman, *European Convention on Human Rights-Attribution of Human Rights Violations in Northern Cyprus to Turkey-Exhaustion of Local Remedies-Obligation to Conduct Investigations Into Fate of Missing Persons-Refugees' Right to Return--Living Conditions in Northern Cyprus*, 96 Am. J. Int'l L. 445, 445 (2002).  
<sup>98</sup> *Loizidou v. Turkey*, (1997) 23 E.H.R.R. 513.  
<sup>99</sup> *Cyprus v. Turkey*, (2002) 35 E.H.R.R. at 851.  
<sup>100</sup> *Op. cit.*, p.746.  
<sup>101</sup> *Ibid.*  
<sup>102</sup> *Op. cit.*, pp.784-785.  
<sup>103</sup> *Op. cit.*, pp.791-792.  
<sup>104</sup> *Ibid.*  
<sup>105</sup> *Op. cit.*, p.792.  
<sup>106</sup> *Op. cit.*, p.740.  
<sup>107</sup> *Op. cit.*, p.746.  
<sup>108</sup> *Ibid.*



<sup>109</sup> *Xenides-Arestis v. Turkey* (2005) no. 46347/99; *Xenides-Arestis v. Turkey* (2006) (just satisfaction) no. 46347/99

<sup>110</sup> *Michaelidou Ltd. and Tymvios v. Turkey* (2004) 39 E.H.R.R. 36.

<sup>111</sup> *Demades v. Turkey* (2003) no. 16219/90, available at: <http://cmiskp.echr.coe.int/tkp197/default.htm>

<sup>112</sup> *Ibid.*

<sup>113</sup> *Ibid.*

<sup>114</sup> *Ibid.*

<sup>115</sup> *Ibid.*

<sup>116</sup> *Cyprus v. Turkey*, (2002) 35 E.H.R.R. at 740.

<sup>117</sup> *Xenides-Arestis v. Turkey*, no. 46347/99, see Sections 9-13, 22 December 2005.

<sup>118</sup> *Op. cit.*, see Section 5.

<sup>119</sup> *Op. cit.*, see Sections 22, 32.

<sup>120</sup> *Op. cit.*, see Section 40.

<sup>121</sup> *Ibid.*

<sup>122</sup> *Op. cit.*, see Section 58.

<sup>123</sup> *Xenides-Arestis v. Turkey* (just satisfaction), no. 46347/99, See Sections 10-11, 7 December 2006.

<sup>124</sup> *Op. cit.*, see Section 11.

<sup>125</sup> *Ibid.*

<sup>126</sup> *Op. cit.*, see Section 19.

<sup>127</sup> *Op. cit.*, see Section 20.

<sup>128</sup> *Op. cit.*, see Section 22.

<sup>129</sup> *Ibid.*

<sup>130</sup> *Op. cit.*, see Section 26.

<sup>131</sup> *Op. cit.*, see Section 28.

<sup>132</sup> *Op. cit.*, see Section 37.

<sup>133</sup> *Ibid.*

<sup>134</sup> *Op. cit.*, see Sections 42, 47, 54.

<sup>135</sup> *Djavit An v. Turkey* (2003) no. 20652/92, available at: <http://cmiskp.echr.coe.int/tkp197/default.htm>

<sup>136</sup> *Op. cit.*, see Sections 18-23.

<sup>137</sup> *Op. cit.*, see Sections 67-69.

<sup>138</sup> See *Hasan Ilhan v. Turkey* (2004) no. 22494/93; *Ayder and Others v. Turkey* (2004) no. 23656/94; and *Dogan and Others v. Turkey* (2004) nos. 8803-8811/02, 8813/02 and 8815-8819/02, all available at: <http://cmiskp.echr.coe.int/tkp197/default.htm>

<sup>139</sup> *Ibid.*

## The Economy of the "Turkish Republic of Northern Cyprus"

Andreas Theophanous, Yiannis Tirkides  
and Theodore Pelagidis

### Abstract

Despite growth in recent years, the economy of the "Turkish Republic of Northern Cyprus" (TRNC) remains fragile and sustainability without reform and restructuring is questionable. For sustained investment and growth, far-reaching reforms are certainly required in the private and public sectors, in banking and finance and in the workings of a market economy. This paper presents an overview of the TRNC economy, develops the appropriate policy framework and sets clear strategic objectives for growth and efficiency. An overall assessment is that growth and developmental objectives can be better met within the framework of a unified Cypriot economy, which is part of the European and international economy.

### 1. Introduction<sup>1</sup>

Ever since the Turkish invasion of 1974, the occupied northern part of Cyprus has remained almost totally dependent on Turkey economically as well as politically.<sup>2</sup> In the last few years, however, especially after April 23, 2003, the economy of the Turkish Republic of Northern Cyprus (TRNC) has been able to have more contacts with the outside world as