

CYPRUS

DOCUMENT

The European Court of Human Rights [sitting in Chamber] unanimously **declared admissible** the application lodged against Turkey by Cypriot national Ms. **Myra Xenides-Arestis**, who was displaced from her home and property during Turkey's military invasion of Cyprus in 1974².

The application was lodged with the European Court of Human Rights on 4 November 1998. The Government of the Republic of Cyprus as of right intervened in the proceedings. The Court held a public hearing on 2 September 2004 and published its decision on 6 April 2005.

In essence, the Court concluded that:

Turkey's Government continues to exercise overall military control over the northern part of Cyprus and have not been able to show that there has been any change in this respect and it is therefore responsible for violations of human rights occurring in that area.

European Court of Human Rights

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Press release issued by the Registrar

ADMISSIBILITY DECISION

XENIDES-ARESTIS v. TURKEY

A Chamber of the European Court of Human Rights has unanimously **declared admissible** the application lodged in the case of *Xenides-Arestis v. Turkey* (application no.46347/99). (The decision is available only in English.)

The applicant

The applicant, Myra Xenides-Arestis, was born in 1945 and is a Cypriot national of Greek-Cypriot origin. She lives in Nicosia.

Summary of the facts

The applicant claims to own half a share in a plot of land in the area of Ayios Memnon, in Famagusta (Northern Cyprus), which was given to her by her mother. There are a shop, a flat and three houses on the land. She maintains that one of the houses was her home, where she lived with her husband and children, and that the rest of the property was either used by members of the family or rented out. She also states that she owns part of a plot of land with an orchard.

The applicant maintains that in August 1974 she was forced with her family by the Turkish military forces to leave Famagusta and abandon their home, property and possessions. She states that since then she has been prevented from having access to, from using and enjoying her home and property.

On 30 June 2003 the “Parliament of the Turkish Republic of Northern Cyprus” enacted the “Law on Compensation for Immovable Properties Located within the Boundaries of the Turkish Republic of Northern Cyprus”. A “commission” was set up under this “law” with a mandate to deal with compensation claims.

The United Nation’s plan for the reunification of Cyprus (the Foundation Agreement – Settlement Plan) was put to the vote in Cyprus on 24 April 2004, with two separate referendums being held for the Greek-Cypriot and Turkish-Cypriot communities. However, the plan was rejected in the Greek-Cypriot referendum and did not, therefore, enter into force.

Complaints

The applicant complains of a continuing violation of her rights under Article 8 (right to respect for home) of the European Convention on Human

Rights and Article 1 of Protocol No. 1 (protection of property) to the Convention in that, since August 1974, she has been deprived of her right to property and her home. She also maintains that Turkish military forces prevent her from having access to, from using and enjoying her home and property because she is Greek Orthodox and of Greek-Cypriot origin, in violation of Article 14 (prohibition of discrimination) of the Convention in conjunction with the other two Articles invoked.

Procedure

The application was lodged with the European Court of Human Rights on 4 November 1998. The Cypriot Government intervened as a third-party in the proceedings. The Court held a public hearing in the Human Rights building on 2 September 2004.

Decision of the Court

The Court declared the application admissible, without prejudging the merits of the case. It rejected the respondent Government's objections on jurisdiction concerning the victim status of the applicant and the exhaustion of domestic remedies. In particular, as regards the latter, the Court considered that the remedy established in the "Turkish Republic of Northern Cyprus" could not be regarded as an "effective" or "adequate" means for redressing the applicant's complaints.

Accordingly, the Court considered, in the light of the parties' submissions, that the complaints raised serious issues of fact and law under the Convention, the determination of which required an examination of the merits.

Registry of the European Court of Human Rights

The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights. Since 1 November 1998 it has

sat as a full-time Court composed of an equal number of judges to that of the States party to the Convention. The Court examines the admissibility and merits of applications submitted to it. It sits in Chambers of 7 judges or, in exceptional cases, as a Grand Chamber of 17 judges. The Committee of Ministers of the Council of Europe supervises the execution of the Court's judgments.