

## **Illegal Exploitation of Greek Cypriot properties by Turkey in occupied areas**

The northern area of the Republic of Cyprus, under military occupation by Turkey since 1974, has been experiencing an unprecedented construction and "property sale" boom. The vast majority of the properties affected by this boom are owned by Greek Cypriots who were forcibly expelled from their homes due to the Turkish invasion. These displaced people are to this day prevented by the Turkish Armed Forces from returning and repossessing their homes and properties. A recent development is that the occupied area has become a haven for corrupt and unscrupulous businessmen out to make a quick profit from the illegal "sale" of Greek Cypriot property.

According to the 1964 Land and Registry record, approximately 82% of the privately owned land in the territory now under Turkish occupation was owned by persons belonging to the Greek Cypriot community, while persons belonging to the Turkish Cypriot community owned approximately 16.7%. That position still obtained in 1974.

The building and "sales" boom exploded after the submission, in 2002, of a controversial United Nations plan to solve the Cyprus Problem. The proposed Plan only minimally facilitated the legal right of displaced persons to get property restitution. The Plan's provisions favoured the transfer of property titles to the current occupiers of these properties. A large proportion of the properties from which Greek Cypriot owners were expelled were unlawfully distributed to and are currently being used by the 120,000 Turkish settlers illegally brought into the occupied area by Turkey, to change the demographic structure of Cyprus.

Had the UN Plan been implemented, it would have allowed for the settlers to continue to stay on such properties, thus legitimising Turkey's policy of ethnic cleansing in Cyprus. Moreover, the Plan propagated the separation of Cyprus' two indigenous communities of Greek Cypriots and Turkish Cypriots.

In August 2004 Ahmet Uzun, the so-called "Finance Minister" of Turkey's puppet regime in the occupied area, stated that the UN Plan provided an incentive to build on Greek Cypriot property located there, because persons investing in such property could have had priority over the legitimate Greek Cypriot refugee title-holder in its ownership. Such provisions were indeed an incentive, and facilitated the rush to build on usurped properties and to "sell" them mainly to British and other European citizens seeking a home in the sunny Mediterranean.

On 23 August 2004, Turkey's Deputy Prime Minister and Minister

responsible for Cypriot affairs, Abdullatif Sener, was reported by Milliyet as having stated that the amount of properties that foreigners had "bought" in the occupied areas of Cyprus had increased tenfold over the last two years!

Nonetheless, anyone who has "bought" or is seeking to "buy" Greek Cypriot owned property in the occupied part of the Republic does so illegally. As first discovered by a British couple in October 2004, anyone contributing to the ongoing plunder of such properties becomes a potential target for criminal and civil law suits in the courts of the Republic of Cyprus. The resulting arrest warrants and decisions could then be judicially enforced abroad.

## **LEGAL PARAMETERS**

International organisations and treaties protect basic human rights and fundamental freedoms, including the rights of ownership and restitution of properties.

The United Nations Security Council and General Assembly have repeatedly stressed, in several of their resolutions on Cyprus, the violation of human rights by the Turkish occupation forces. In particular, the UN General Assembly, through its resolution [37/253 \(13/5/1983\)](#), "calls for the restoration and respect of the human rights and fundamental freedoms of all Cypriots, including the freedom of movement, the freedom of settlement and the right to property."

The right of refugees to restitution the world over was reaffirmed in August 2004. The UN Sub- Commission on the Promotion and Protection of Human Rights unanimously approved "Principles on Housing and Property Restitution for Refugees and Displaced Persons" and declared that these principles "emphasized the importance of restitution as a form of restorative justice... They reflect the view that a human rights approach to return and restitution will yield equitable and sustainable results in achieving the restoration of housing and property rights for refugees and displaced persons and in creating long-term stability."

Moreover, the European Court of Human Rights, in its [decision of 18 December 1996](#), on the appeal by a Greek Cypriot refugee from Kyrenia Mrs. Titina Loizidou against Turkey, concluded that Turkey violated the ownership rights of Mrs. Loizidou by preventing her from enjoying her property in Kyrenia.

The same Court, having examined the Fourth Interstate Appeal of Cyprus against Turkey, [ruled on 10 May 2001](#), by 16 votes for and one against - that of Turkey - that Turkey is committing a "continuous

violation of Article one of Protocol No.1 (protection of property), because the Greek Cypriot land owners in north Cyprus are deprived of their right to free access and control, use and enjoyment of their property as well as any compensation for the interference with their property rights (paragraph 189).” The Government of Turkey is obliged to compensate the refugees for the time period of the deprivation of use and to allow them to return to their homes. Ankara has not done this, thus violating the fundamental human rights principles with which an EU candidate country must comply in order to start accession negotiations.

The Court also decided that “the Republic of Cyprus remains the sole legal Government of Cyprus. This means that the Republic of Cyprus continues to maintain full legal rights over its entire area and population, albeit temporarily hindered from exercising such rights in the occupied areas due to the use of military violence”. As a result, no so-called “authority” in occupied Cyprus has jurisdiction to perform administrative acts on any issue including the transfer of property ownership. This is the message sent to the international community and to Britain in particular, since more and more Britons are reportedly lining up to buy houses and plots of land in the Turkish occupied areas of Cyprus at very low prices. Such sales are illegal and invalid, and the buyers will not only lose their money but also commit a criminal offence by violating the right of ownership of the legal owners.

**ECHR: “Compensation Commission” of pseudo-state not considered an effective domestic remedy**

The European Court of Human Rights (ECHR) decided on 6 April 2005 that the so-called “Compensation Commission” that has been established in the Turkish-occupied areas is not considered as an effective or adequate remedy to which Greek Cypriots must apply with regard to claims on their property in the Turkish- occupied areas. Consequently the Greek Cypriots are not obliged to exhaust domestic remedies to be able to appeal directly to the European Court of Human Rights.

This decision concerns the application lodged in the case of [Myra Xenides- Arestis v. Turkey](#), which was declared admissible by the Court and will take its course before it. The decision, which was taken by the Third Section of the Court, was unanimous, with the Turkish judge also voting in favour.

With this decision, the European Court of Human Rights reconfirms all its previous decisions which concern this issue.

## Summary of the facts

Mrs Myra Xenides-Arestis, who was born in Famagusta in 1945, lodged an application against Turkey on 4 November 1998. In the application it is stated that in August 1974 Mrs Arestis and her family were forced by the Turkish military forces to abandon their home, property and possessions. Since then, Mrs Arestis has been prevented from having access to, from using and enjoying her home and property. 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 claims that the 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 two previous articles.

## Observations by the Attorney General of the Republic

The Attorney General of the Republic Mr Solon Nikitas, in a statement on 6.4.2005, welcomed the decision by the European Court of Human Rights stressing that the decision consolidates and strengthens the statehood and international status of the Republic of Cyprus.

He also notes that the ECHR emphatically stresses three points:

1. That the fact that the two communities had an equal status and treatment during the negotiations on the Annan Plan does not signify recognition of the illegal regime neither does it give this regime the status of a state.
2. That Turkey continues to exercise absolute military control in the northern part of Cyprus and was not in a position to show any kind of change in this respect.
3. That the rejection of the Annan Plan by the Greek Cypriots does not have the legal consequence of bringing to an end the continuing violation of the displaced persons rights, because even the adoption of the Plan would not have afforded immediate redress.

## **Purchasers of land will have to face a European arrest warrant**

European citizens who are thinking of buying or exploiting properties belonging to Greek Cypriots in the Turkish-occupied area of the Republic of Cyprus will have to think very hard before doing so, since their action constitutes a criminal offence for which they will have to face a European arrest warrant in whichever one of the 25 EU countries they may be.

More specifically, in the event that a Cypriot citizen appeals to a Court of the Republic of Cyprus accusing a European citizen who lives in the Turkish-occupied areas of illegally possessing or exploiting his property, the Court may approve the issue of a warrant for his arrest so that he can be charged. In the impossibility of an arrest because the European defendant lives in the occupied areas or has already left for another European country, the Court will have the power to issue a European arrest warrant. Consequently, the defendant will be liable for an arrest in whichever one of the 25 countries he may find himself.

The Courts of the Republic of Cyprus have this power following the passing of a law on 17.3.2005 by the Cyprus House of Representatives which amends Article 281 of the Penal Code, as a result of which the crime of illegal occupation, cultivation, distribution or use of immovable property carries a prison sentence of up to two years or/and a fine of up to £5000. Before the approval of the amendment the law provided, for this crime, a prison sentence of 6 months or/and a fine of £450, which did not allow for the issue of an arrest warrant to trespassers. The reason for this was that for a European arrest warrant to be issued, on the basis of the community law which also applies to Cyprus, the crime for which the warrant is issued must carry a prison sentence of at least one year.

### **Foreign Governments advise their citizens**

#### Britain

The British Government strongly advises its citizens interested in purchasing property in occupied Cyprus to seek independent qualified legal advice since property issues are closely linked to the political situation on the island. The aforementioned advice is included in the [website](#) of the British Foreign and Commonwealth Office (see Travel advice by country), in which it is noted, inter alia, that “The non-recognition of the ‘Turkish Republic of Northern Cyprus’ and the possibility of a future political settlement in Cyprus could have significant practical or financial implications for those considering buying property in the north” and “there is also a risk that purchasers would face legal proceedings in the courts of the Republic of Cyprus”.

#### Canada

The Canadian Foreign Ministry has included in its [website](#) a travel directive on the possible dangers in relation to the purchase of immovable property in the Turkish occupied areas. The directive states that Canadian citizens who are interested in purchasing property in occupied Cyprus should seek independent qualified legal advice due to the possibility of facing law suits and their property being questioned by Cypriots who were displaced in 1974.

### France

The French Government also warns about the risks of purchasing property in Cyprus' occupied areas and calls on French citizens to seek legal advice before any purchase of property there. In a statement included on its [website](#), the French Foreign Ministry notes that because the "Turkish republic of northern Cyprus" is not internationally recognized, and in anticipation of a solution to the Cyprus problem, any action concerning property in the northern part of the island poses "serious financial and legal risks". It further notes that since Cyprus' accession to the European Union on 1st May 2004, those who have purchased property or who are living in property that is in dispute (an issue of illegal exploitation of property since 1974) could be faced with lawsuits, not only by the Republic of Cyprus but also by any EU member state.

### Russia

The Ministry of Foreign Affairs of the Russian Federation has issued a travel advice discouraging Russian citizens from purchasing Greek Cypriot properties in the Turkish occupied areas of Cyprus, while pointing out that decisions by Cypriot courts could be executed in Russia as well. The advice specifically recommends that Russians take into account the legal right of property of Greek Cypriots who own property in the occupied north, and warns that any move overlooking that right of property could lead to long court proceedings and hefty fines.

### Spain

The Spanish Ministry of Foreign Affairs included a travel instruction in its [website](#), warning travellers to Cyprus of the legal and other consequences arising from the illegal purchase of Greek Cypriot properties in the Turkish occupied areas. More specifically, the travel instruction warns Spanish citizens of the risks associated with the purchase of properties in the occupied areas of Cyprus, because many pieces of land and properties, which are on offer, belong to Greek Cypriots, who lost them after the Turkish invasion of 1974. The travel instruction points out that the Greek Cypriots continue to claim their title deeds through legal means, as a result of which, on many occasions, the Courts of the Republic have issued decisions against tourists, asking them to demolish the houses that they had acquired through fraudulent legal means.

### United States

The US State Department has included a travel instruction in the consular information section of its official [website](#) on the purchase of property in the Turkish occupied areas of the Republic, noting the following: "US citizens who buy or lease property, particularly in northern Cyprus, may find their ownership challenged by people

displaced in 1974. Prospective property buyers should seek legal advice before buying."

### **Foreign media report on the unlawful misappropriation of property**

The British newspaper "Observer" stresses in an article by Ben West on Sunday 27 March 2005 that the buying of property in the Turkish occupied area of Cyprus "could become a financial and legal nightmare." The article which is entitled "Tread carefully in Paradise" warns the British who have been fuelling the buying boom in the Turkish-occupied part of Cyprus to watch out and adds: "Properties in the TRNC have Turkish, foreign or TRNC title deeds. The first two demonstrate Turkish Cypriot or foreign ownership pre-1974 and are in short supply. They therefore cost considerably more than those with TRNC title deeds which comprise the majority of properties in northern Cyprus and were Greek-owned before 1974." The author of the article refers to the 168,000 Greek Cypriots who own property and land in northern Cyprus, which they were forced to abandon in 1974 and points out that "for any one who now owns a property with TRNC title deeds, there remains the possibility that a Greek owner who lost his home in 1974, could reclaim it."

In addition, the Dutch state radio broadcasted on 28 April 2005, during the popular show "Radio 1 Journaal", a report by journalist Bernard Bouwman from Cyprus, drawing attention to the dangers entailed in the purchase of a holiday home in the occupied areas on land belonging to Greek Cypriots. The report includes an interview with Greek Cypriot lawyer Mr Costas Kantounas who outlines the legal issues pertaining to occupied G/C properties in the north. Following the radio broadcast, the Dutch daily *NRC Handelsblad* published on 4 May 2005 an article by the same journalist entitled "Holiday homes in north Cyprus can be a trap".

The Belgian newspaper "Gazet van Antwerpen" notes, in an article by Paul Verbraeken on 11 May 2005 entitled "The Turks sell off occupied land in Cyprus to tourists", that in a new attempt to prevent Greek Cypriots from returning to their occupied properties the Turkish regime is selling G/C land to tourists from West Europe. That could have serious repercussions for tourists, especially British, German and Dutch, the article warns, while it clarifies that this does not concern Belgians. The journalist points out that on a legal level, serious problems might arise for tourists who bought holiday homes built on "illegal" plots of land in occupied Cyprus, and makes reference to the decision of a Cyprus court in the Orams case and the ECHR decision in the case of Myra Xenides-Arestis.

## RECENT FACTS, FIGURES AND STATEMENTS EVIDENCING ILLEGAL PROPERTY DEVELOPMENT

### 1. Imports of construction materials into the occupied territories

	IRON TONNES	IRON VALUE (US\$)	CEMENT TONNES	CEMENT VALUE (US\$)
<b>YEAR</b>				
<b>2001</b>	17,856	3,672,000	50,914	2,654,000
<b>2002</b>	23,848 (+33.6%)	5,528,000	50,950 (+0.07%)	2,570,000
<b>2003</b>	38,222 (+60.3%)	11,392,000	85,268 (+67.4%)	4,366,000
<b>2004 (until July)</b>	42,335 (+10.8%)	17,979,000	106,200 (+24.5%)	5,489,000

*(Turkish Cypriot newspaper Kibris, 2 August 2004)*

### 2. Applications lodged with the occupation regime by foreign nationals for the "purchase" of immovable properties in the occupied territories:

YEAR	APPLICATIONS
2000	228
2001	309 (+35.5%)
2002	591 (+91.3%)
2003	955 (+61.6%)
2004 (until 8 September)	1,701 (+78.1%)
	<i>N.B.: The so-called "minister of interior" of the puppet regime, Mr. Ozkan Murat, predicted that by the end of 2004 the number of applications for the said year will match the total number of applications for ALL previous years taken together!</i> <i>(Turkish Cypriot newspaper Yeni Dózen, 3 October 2004).</i>

*(Turkish Cypriot newspaper Yeni Duzen, 9 September 2004)*

### 3. Referring to the intense land development being observed in the occupied territories since 2002, Turkey's Deputy Prime Minister and State Minister, Mr. Abdullatif Sener, stated, inter alia, that:

in 2001 foreigners "purchased" 63,000 square meters ("s.m.") of land, in 2002, 290,000 s.m.,

in 2003, 613,000 s.m.

Mr. Sener admitted that Greek Cypriot properties are involved in the abovementioned transactions. (Turkish newspaper Milliyet, 23 August 2004).

4. The so-called "finance minister" of the puppet regime, Mr. Ahmet Uzun, admitted that the property provisions of the Annan Plan gave investors the incentive to build on Greek Cypriot properties and observed that construction activities will make the return of Greek Cypriots to the northern part of Cyprus more difficult. (Turkish Cypriot newspaper Kibrisli, 20 August 2004).

5. Turkish Cypriot politician, Mr. Izzet Izcan, stated on 2 September 2004 that in the period April-September 2004 the value of property "sales" in the occupied territories reached \$2 billion. (Phileleftheros, 4 September 2004).

6. Noting that the sale of residences in the occupied territories had reached 10,000 the former chairman of the Turkish Cypriot Chamber of Commerce, Mr. Eren Ertanin, stated that over the past two years the prices of immovable properties there have doubled. (Turkish newspaper Milliyet, 12 October 2004).

7. The chairman of the Turkish Cypriot Chamber of Industry, Mr. Salih Tunar, stated that the on-going construction of 4 large hotels in the vicinity of the occupied Greek Cypriot village of Vokolidha will substantially increase the already existing number of tourist beds in the puppet regime. (Turkish Cypriot newspaper Kibris, 12 October 2004).

### **Legal and practical implications of unlawful misappropriation of property**

1. Aggravation of continuing violations of the home and property rights of lawful owners in a manner that could potentially engage both criminal and civil responsibility of all persons assisting in the illegal development by supplying goods, services and capital to the actual trespassers.

2. Potentially prejudicing, on a daily basis, a just and law-conforming settlement of the Cyprus problem that will respect and safeguard the twin freedoms of establishment and property ownership/possession across the country.

3. Creation of conditions which encourage the transfer of labourers from Turkey who end up settling down and colonizing the occupied

territories with Turkey's blessing and in direct violation of international law.

4. Destruction of the natural environment and of archaeological sites to make room for unbridled development.

5. Construction upon mass graves, reportedly containing the remains of Greek Cypriot missing persons murdered during Turkey's military invasion of 1974, desecrating their memory and complicating efforts to identify and transfer their remains to their loved ones for proper burial.

Source: Press and Information Office  
August 2005