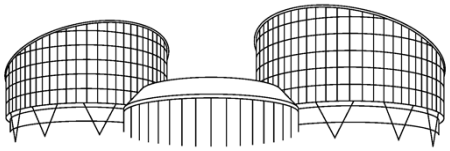

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

SECOND SECTION

CASE OF K.V. MEDITERRANEAN TOURS LIMITED v. TÜRKİYE

(Application no. 41120/17)

JUDGMENT
(Merits)

Art 6 § 1 (civil) • Participation of a religious foundation as a third party in proceedings before the Immovable Property Commission (IPC) initiated by the applicant company in respect of property abandoned in northern Cyprus in 1974 • Fair balance between the interests of the plaintiff and the need to ensure the proper administration of justice, including the interests of the third party • Participation of third party necessary to comply with the principle of a fair trial • Absence of arbitrariness • Absence of unfairness in the proceedings as a whole
Art 1 P1 • Peaceful enjoyment of possessions • IPC failure to act with coherence, diligence and appropriate expedition in examining the applicant company's claim
Art 46 • Execution of judgment • General measures • Respondent State required to continue efforts to accelerate proceedings before the IPC and create an effective remedy securing genuine redress in respect of delays

Prepared by the Registry. Does not bind the Court.

STRASBOURG

10 June 2025

FINAL

10/09/2025

This judgment has become final under Article 44 § 2 of the Convention.
It may be subject to editorial revision.

In the case of K.V. Mediterranean Tours Limited v. Türkiye,

The European Court of Human Rights (Second Section), sitting as a Chamber composed of:

Arnfinn Bårdsen*, President*,
Saadet Yüksel,
Jovan Ilievski,
Péter Paczolay,
Anja Seibert-Fohr,
Gediminas Sagatys,
Juha Lavapuro*, judges*,
and Hasan Bakırcı, *Section Registrar,*

Having regard to:

the application (no. 41120/17) against the Republic of Türkiye lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Cypriot company, K.V. Mediterranean Tours Limited ("the applicant company"), on 25 May 2017;

the decision to give notice to the Turkish Government ("the Government") of the complaints alleging a lack of effectiveness of the proceedings the applicant company had instituted before the Immovable Property Commission seeking compensation in respect of real property located in the "Turkish Republic of Northern Cyprus", a violation of its right to a fair and impartial tribunal and discrimination under Articles 6, 13 and 14 of the Convention and Article 1 of Protocol No. 1;

the parties' observations;

the comments submitted by the Republic of Cyprus;

Having deliberated in private on 13 May 2025,

Delivers the following judgment, which was adopted on that date:

INTRODUCTION

1. The present case concerns the length of proceedings before the Immovable Property Commission ("the IPC") and, in particular, the practice applied to the Famagusta fenced-up area in connection with the intervention of an Islamic Foundation in the proceedings, as well as the alleged lack of impartiality of the High Administrative Court (appeal panel) as a higher judicial authority for the IPC cases. The complaints raised in this application arise out of the Turkish military operation in northern Cyprus in 1974. The general context of the property issues arising in this connection is set out in the cases of *Cyprus v. Turkey* ([GC], no. 25781/94, §§ 13-16 and 28-33, ECHR 2001-IV), and *Demopoulos and Others v. Turkey* (dec.) ([GC], nos. 46113/99 and 7 others, §§ 4-16, ECHR 2010).

THE FACTS

2. The applicant company, conducting its activities in Nicosia, was established in 1967 and was represented by Mr A. Demetriades, a lawyer practising in Nicosia.

3. The Government were represented by their Agent at the time, Mr Hacı Ali Açıkgül, former Head of the Department of Human Rights of the Ministry of Justice of the Republic of Türkiye.

4. On 19 March 2019 notice of the application was given to the Government.

5. On 21 January 2020 the Government submitted a unilateral declaration to the Court. On 23 March 2021 the Court examined the Government's unilateral declaration and decided not to accept it.

6. The facts of the case may be summarised as follows.

7. The applicant company is the owner of a building complex located in the fenced-up area of Famagusta, in northern Cyprus. Its shareholders and directors are of Greek Cypriot origin.

8. The applicant company abandoned its property following the Turkish military operation in 1974.

9. On 23 July 2010 the applicant company applied to the IPC claiming compensation for the loss of use of its property, together with the applicable statutory interest. It also claimed restitution of the immovable property in question, compensation for non-pecuniary damage, statutory interest and legal costs.

10. As the relevant authorities of the "Turkish Republic of Northern Cyprus" ("TRNC") did not reply to the applicant company's claim, on 1 November 2010 the applicant company applied for a judgment in default.

11. At hearings to examine the application for a default judgment, held on 7 December 2010, 2 February 2011, 12 April 2011, 5 May 2011, 22 June 2011, 30 September 2011, 5 December 2011, 20 February 2012, 18 April 2012 and 25 June 2012, the "TRNC" Office of the Attorney General requested adjournments on the grounds that a report regarding the property in dispute had not been provided. Its requests were granted on each occasion.

12. On 23 October 2012 the applicant company complained of delays in the processing of the case.

13. At the same hearing, the Office of the Attorney General indicated that the "TRNC" Land Registry and Surveys Department had not drafted a report that was necessary for the preparation of the defence. Moreover, the preliminary assessment of the case suggested that the property in question was registered in the name of a religious organisation, Abdullah Paşa Foundation, which was managed by the Evkaf Administration.

14. On 23 November 2012 the IPC found that the Evkaf Administration was possibly affected by the applicant company's claim and that it should therefore be admitted to the proceedings as a third party.

15. On 6 December 2012 the applicant company complained to the "TRNC" Administrative Court of unjustified adjournments and delays in the proceedings before the IPC. It also challenged the admission of the Evkaf Administration as a third party to the proceedings.

16. On 6 November 2015 the Administrative Court found that the Evkaf Administration could not be admitted as a third party to the proceedings on the grounds that it would render the restitution of the property to the applicant company impossible. The Administrative Court also held that it did not have jurisdiction to rule on the complaint of adjournments and delays in the proceedings before the IPC.

17. The parties challenged that decision before the "TRNC" High Administrative Court: the "TRNC" authorities and the Evkaf Administration contested the decision not to admit Evkaf as a party to the proceedings, whereas the applicant company contested the decision on the adjournments and delays in the proceedings.

18. On 29 November 2016 the High Administrative Court held that it had exclusive jurisdiction to decide on all matters relating to proceedings before the IPC. As regards the applicant company's complaint about adjournments and delays in the proceedings, the High Administrative Court held that these issues were not subject to a judicial review.

19. As regards the complaint by the "TRNC" authorities and the Evkaf Administration, the High Administrative Court referred to a judgment of the "TRNC" Famagusta District Court of 27 December 2005, according to which the current registered owner of the property in question was the Evkaf Administration. The High Administrative Court therefore held that the Evkaf Administration should be admitted as a party to the proceedings.

20. On 11 December 2019 the "TRNC" authorities filed their submissions with the IPC.

21. On 9 January 2020 the applicant company and its representative refused to attend the IPC's hearings. Further hearings were subsequently scheduled by the IPC on 20 February 2020, on 18 June 2020 and on 22 October 2020, but the applicant company and its representative did not attend these hearings either.

22. On 22 February 2024 the applicant company's representative attended a hearing before the IPC and agreed to forward to the applicant company any proposals for compensation which the Government might wish to make. However, later the applicant company and its representative stated that any settlement could be reached in the course of the proceedings before the Court.

23. The proceedings before the IPC are still pending.

RELEVANT LEGAL FRAMEWORK AND PRACTICE

I. LAW AND PRACTICE

24. For the relevant law and practice, in particular, IPC Rules, see *Demopoulos and Others* (cited above, §§ 33-40), and *Joannou v. Turkey* (no. 53240/14, §§ 39-45, 12 December 2017).

25. In particular, on 22 December 2005 Law no. 67/2005 ("the Law") came into effect. The Law provides that all natural and legal persons claiming rights to immovable or movable property may bring a claim before the IPC. Under the provisions of the Law, the burden of proof rests upon the applicant, who must prove beyond reasonable doubt that, *inter alia*, the immovable property was registered in his or her name on 20 July 1974 (or that he or she is the legal heir to such a person), that he or she owned the movable property before 13 February 1975 and was forced to abandon it because of circumstances beyond his or her own volition, and that according to the Land Registry records, there are no other persons claiming rights to the claimed immovable property (section 6).

26. The Law also provides as follows:

Section 7

"In respect of applications to be made under this Law, the defendant party shall be the Ministry and/or the Turkish Republic of Northern Cyprus's Attorney-General representing the Ministry. The Commission shall issue an invitation to the person who, according to the legislation of the Turkish Republic of Northern Cyprus, holds the property right or the right to use the property in respect of which a claim is made, to participate in the proceedings before the Commission. The person invited to the Commission has the same rights as interested parties in administrative cases."

Section 8

"The Commission, after having heard the arguments of the parties and witnesses, and having examined the documents submitted, shall, within the scope of the purposes of this Law, taking into consideration the below-mentioned matters, decide as to restitution of the immovable property to the person whose right in respect to the property has been established, or to offer exchange of the property to the said person, or decide as to payment of compensation. In cases where the applicant claims compensation for loss of use and/or non-pecuniary damages in addition to restitution, exchange or compensation in return for immovable property, the Commission shall also decide on these issues.

(1) Immovable properties that are subject to a claim for restitution by the applicant, ownership or use of which has not been transferred to any natural or legal person other than the State, may be restituted by the decision of the Commission within a reasonable time period, provided that the restitution of such property, having regard to the location, and the physical condition of the property, shall not endanger national security and public order and that such property is not allocated for public-interest reasons and that the immovable property is outside the military areas or military installations.

..."

27. In the 2000s the Evkaf Administration and the Department of Religious Affairs asked the "TRNC" Famagusta District Court to declare that a religious foundation was the owner of a list of properties located in the Varosha-Famagusta region. They stated that the foundation had been founded by Abdullah Paşa, who had died in 1761. He had established a *mülhak vakıf* (religious endowment managed on a hereditary basis) by contributing some land he owned in that area, the relevant formalities being carried out in 1748 and the documents being still in the Turkish archives.

28. On 27 December 2005 the "TRNC" Famagusta District Court held that the properties listed in the plaintiffs' submissions belonged to the Abdullah Paşa religious foundation.

29. In 2017 that decision was challenged by one of the owners of a property located in the area in the case of *Akinita I. Th. Ioannou & Yi Limited*. On 21 October 2019 the "TRNC" High Administrative Court rejected the claim but noted that, when considering a property claim, the IPC could only take into account the title deeds relating to 1974 and could not change the land registry records containing information about the owners as of 1974 or establish any fraud in respect of transfers of the relevant property. Moreover, the fact that the Evkaf Administration was a party to the proceedings before the IPC did not have any impact on the claimants' rights once they proved that their title deeds had been issued before 20 July 1974.

30. On 31 August 2023 the High Administrative Court, in the case of *Engomi Beach Hotel Ltd*, reviewed a decision of the IPC from, *inter alia*, the perspective of diligence and good faith, having regard in particular to the manner in which the IPC had handled a default application lodged by the plaintiff. The court assessed the reasonableness of the length of the proceedings in the light of the circumstances of that particular claim, having regard to the complexity of the case, the conduct of the plaintiff and the relevant authorities. However, it dismissed the plaintiff's claim concerning the allegedly excessive length of the proceedings before the IPC.

II. CASES BEFORE THE IPC

31. According to the currently available statistical information provided by the IPC (available at http://www.tamk.gov.ct.tr), as of 25 October 2024, 7,800 applications have been lodged with the IPC and 1,869 of them have been finalised. The IPC has awarded 482,971,921 pounds sterling (GBP) to the claimants in the relevant cases as compensation. Moreover, it has ruled in favour of exchange and compensation in three cases, restitution in five cases and restitution and compensation in eight cases. In one case it has delivered a decision ordering restitution after the settlement of the Cyprus problem, and in one case it has ruled in favour of partial restitution.

III. RELEVANT INTERNATIONAL MATERIAL

32. For the relevant international materials, see *Joannou* (cited above, §§ 48-55).

33. Moreover, in the course of its examination of the Court's judgment in the case of *Cyprus v. Turkey* (cited above), at its 1411th meeting in September 2021, the Committee of Ministers of the Council of Europe noted the information provided by the Turkish authorities on the existing avenues within the framework of the IPC mechanism to address the issue of the possible unlawful sale and exploitation of the properties in question.

34. The Committee of Ministers noted, in particular, the information on the implementation of the provision according to which, following a decision by the IPC providing for immediate restitution of such properties or for their restitution after the solution of the Cypriot problem, they could not be sold or developed without the consent of their Greek Cypriot owners.

35. It noted, as regards the protection of properties from possible unlawful sale and exploitation more particularly during the period when an application for their restitution was pending before the IPC, that according to the applicable provisions, the increase in the value of the properties following the date of the application was not taken into consideration when the IPC decided whether restitution was possible (it was not possible if the property had doubled its value).

36. The Committee of Ministers invited the Turkish authorities: (1) to clarify whether the calculation of increases in property value when deciding whether restitution was possible included only increases due to development or also increases due to inflation; (2) to provide information on the regulation and application in practice of other avenues to prevent any changes to a property which was the subject of a pending claim for restitution before the IPC; and (3) to submit statistical data on the functioning of the IPC, and in particular, on the number of cases pending, the length of time they had been pending, the number of awards of compensation made and the total amount and the number of awards that had been paid in full so far, as well as the funds and staff at its disposal.

37. On 22 September 2022, at the 1443rd meeting of the Ministers' Deputies, the Committee of Ministers decided to close the supervision of *Loizidou v. Turkey* ((merits), 18 December 1996, *Reports of Judgments and Decisions* 1996-VI) (see Resolution CM/ResDH(2022)255).

38. On 21 September 2023, at the 1475th meeting of the Ministers' Deputies, the Committee of Ministers examined the execution of the *Joannou* judgment (cited above), in which the Court had found that in the applicant's individual case, the IPC had not acted with coherence, diligence and appropriate expedition concerning the applicant's compensation claim lodged in 2008 as regards her properties situated in the northern part of Cyprus (violation of Article 1 of Protocol No. 1). In the light of the individual measures adopted and the clarifications provided by the Turkish authorities

in response to the issues raised by the applicant, and their conclusion that it was not necessary to adopt general measures, as the Court's findings were limited to the way an otherwise effective remedy had functioned in the applicant's case, it was proposed to close the supervision of this case and a final resolution was adopted in that respect (CM/ResDH(2023)269).

39. As regards the *Xenides-Arestis* group of cases brought by applicants who were hindered from returning to their homes and properties in northern Cyprus, at its 1507th meeting held between 17 and 19 September 2024 the Committee of Ministers took note of the payment of an overall sum awarded to the applicant company in *Rock Ruby Hotels LTD v. Turkey* ((just satisfaction), no. 46159/99, 26 October 2010) by the IPC covering all aspects of its property claims, including the sums awarded by the Court, together with default interest. The Committee further decided to close its supervision of this case and adopted Final Resolution CM/ResDH(2024)207. As regards the remaining cases, since the Committee had not received confirmation of the payment of the just satisfaction award, it exhorted the Government to make the payments in these cases, together with accrued default interest, without further delay.

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 1 OF PROTOCOL No. 1 TO THE CONVENTION

40. The applicant company complained that the procedure before the IPC by means of which it had sought restitution and compensation for its property in the "TRNC" had been protracted and ineffective and thus in breach of Articles 6 and 13 of the Convention and Article 1 of Protocol No. 1.

41. The Court finds that a question relating to the applicant company's claim for compensation before the IPC may arise under any of the provisions relied on by the applicant company. In the circumstances of the case, the Court, which is the master of the characterisation to be given in law to the facts of the case (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, §§ 110-26, 20 March 2018, and *Grosam v. the Czech Republic* [GC], no. 19750/13, § 90, 1 June 2023), and noting that the core of the applicant company's complaint concerns its inability to obtain restitution of and compensation for its property, considers that this complaint should be examined solely under Article 1 of Protocol No. 1 (see, for a similar approach, *Shesti Mai Engineering OOD and Others v. Bulgaria*, no. 17854/04, § 64, 20 September 2011).

42. Article 1 of Protocol No. 1 provides as follows:

> "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 by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deems necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

A. Admissibility

1. The parties' arguments

(a) The Government

43. The Government submitted that the applicant company had lodged an application with the Court prematurely, while the relevant proceedings before the IPC were still pending. The fact that the property was located in the Famagusta area, a territory subject to a special regime, could not in itself preclude the applicant company from obtaining compensation for or restitution of its property. In this connection, they cited the decision of the "TRNC" High Administrative Court in *Akinita I. Th. Ioannou & Yi Limited v. the Evkaf Administration* (nos. 1/2018 and 2/2018 (D.2/2019), 21 October 2019). The ruling emphasised that, insofar as property within the fenced-off areas of Varosha – abandoned in 1974 – fell under the definition of "abandoned property" under Article 159 § 1 (b) of the Constitution, the IPC had the authority to provide compensation, restitution, or exchange as appropriate.

44. Referring to the decision of the High Administrative Court of 31 August 2002 in the case of *Engomi Beach Hotel Ltd* (see paragraph 30 above), the Government contended that there were effective remedies in the domestic law of the "TRNC" in which the decisions of the IPC could be reviewed, including in respect of alleged excessive delays in its proceedings, on the basis of the criteria set out in the case-law of the Court. In view of the fact that the applicant company has not raised its complaints concerning the excessive length of the proceedings and that the proceedings are still pending before the IPC, the application should be dismissed for failure to exhaust domestic remedies.

(b) The applicant company

45. The applicant company contended that it had decided to apply to the Court at that time because the proceedings before the IPC had not been fair and effective, particularly in view of the long delay in reaching a decision in its case. It argued that the IPC had failed to come to a decision even though it was in possession of all the relevant information concerning its property claim. The applicant company emphasised that its property was located in the fenced-up area of Famagusta and was registered to an Islamic foundation, that fact making the restitution of its property impossible. Moreover, the proceedings before the IPC had been pending for too long through the fault

of the "TRNC" authorities. Therefore, in its opinion, the IPC remedy was ineffective.

(c) Government of the Republic of Cyprus

46. The Cypriot Government submitted that the Court had to remain attentive to developments in the functioning of the IPC remedy, and that the applicant company's case showed that the IPC could not remain an effective remedy, being part of the "Turkification" agenda. They pointed out that there were systemic flaws to the IPC procedure which had a significant impact on its efficiency. In particular, the procedure in question was unreasonably long, the present case being a notable example of unnecessarily protracted proceedings lasting more than ten years with numerous adjournments and a failure by the "TRNC" authorities to file any defence submissions for a long period of time. Moreover, they referred to specific aspects of the IPC procedure – such as provisions of section 8(2)(A) of the Law – which were flawed, difficulties with the enforcement of the IPC's awards and the need to ensure the independence and impartiality of judges who were allegedly benefiting from the property of Greek Cypriots.

2. The Court's assessment

47. The Court will proceed on the assumption that Türkiye is responsible for the circumstances complained of by the applicant company. Having said that, the Court would stress that this does not in any way call into doubt either the view adopted by the international community regarding the establishment of the "TRNC" or the fact that the Government of the Republic of Cyprus remains the sole legitimate government of Cyprus (see *Cyprus v. Turkey* [GC], no. 25781/94, § 90, ECHR 2001-IV), and *Demopoulos and Others v. Turkey* (dec.) [GC], nos. 46113/99 and 7 others, § 89, ECHR 2010).

48. As to the Government's objection of inadmissibility for non-exhaustion of domestic remedies due to the fact that the proceedings before the IPC are still pending, the Court finds that the question of exhaustion of domestic remedies is closely linked to the merits of the applicant company's complaint that it has been unable to obtain restitution of or compensation for property as a result of the protracted and ineffective proceedings before the IPC. The Court therefore considers that the Government's objection should be joined to the merits of the applicant company's complaint.

49. The Court notes that the applicant company's complaint is not manifestly ill-founded within the meaning of Article 35 § 3 (a) of the Convention. It further notes that it is not inadmissible on any other grounds. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

(a) The applicant company

50. The applicant company submitted that the proceedings before the IPC were ineffective because of the delaying and arbitrary practices of the "TRNC" authorities, and because the relevant statistics showed that a substantial number of cases were still pending before the IPC. In that connection, the applicant company also argued that other applicants to the IPC faced various obstacles in proving their claims and in obtaining the payment of compensation awarded by the IPC.

51. The applicant company further submitted that the IPC had not so far held a real hearing but only directions meetings for the purpose of assessing its case. Since it had lodged its application with the IPC there had been no serious progress in the case and the examination of the substance of its claim had been repeatedly adjourned; such delaying practices had been continuous, systemic and deliberate. Moreover, as a result of the implementation of section 8(1) of the Law, its restitution claim had no prospect of success, as that provision limited an award for restitution to immovable properties the ownership or use of which had not been transferred to any natural or legal person other than the State. Accordingly, given that the IPC had unlawfully recognised the Evkaf Administration as the entity holding title to the property in question, the applicant company's restitution claim was bound to fail.

(b) The Government

52. The Government argued that the Court had confirmed its finding in *Demopoulos and Others* (cited above) that the procedure before the IPC provided an adequate and effective remedy for Greek Cypriot property claims relating to properties located in northern Cyprus. The Government noted that the proceedings before the IPC were complex and involved the participation of a third party which allegedly had the ownership rights to the property in question. The applicant company had initiated separate proceedings in that regard which had resulted in delaying the main proceedings before the IPC. Moreover, the delay could also be explained by the need to wait for the outcome of the proceedings in the above-mentioned case of *Akinita I. Th. Ioannou & Yi Limited*. In addition, the applicant company had failed to produce all the relevant documents before the IPC in due time. In particular, it had not produced an authentic land office record; instead, it had provided a document issued by the Greek Cypriot authorities which had been drafted on the basis of witness statements, the original land records having been found after 1974 and kept by the Turkish Cypriot authorities.

53. Finally, the assumption that the restitution of property would be blocked because of the Evkaf Administration's participation in the proceedings and its claims in respect of that property was wrong and

premature at this stage of the proceedings. The IPC was competent to provide various remedies, be it restitution, compensation or exchange. In its decisions in *Demopoulos and Others* (cited above), followed by *Meleagrou and Others v. Turkey* ((dec.), no. 14434/09, 2 April 2013) and *Loizou v. Turkey* ((dec.), no. 50646/15, 3 October 2017), the Court had held that the restitution and the relevant criteria set out in the Law as applied by the IPC were in line with the Convention requirements. In *Meleagrou and Others*, the Court had found that exchange and compensation were also effective remedies along with restitution.

(c) Government of the Republic of Cyprus

54. The Government of the Republic of Cyprus submitted that the applicant company had provided the relevant official certificate of ownership from the Department of Lands and Surveys of the Republic of Cyprus proving that it was the owner of the relevant property. Any claims by the Evkaf Administration to properties in the Republic of Cyprus which, according to the official records of the Republic of Cyprus Department of Lands and Surveys, belonged to Greek Cypriots and/or other registered owners were without merit. On 27 October 2005 the "TRNC" Famagusta District Court had held that certain immovable property in the fenced-up Varosha area belonged to the Abdullah Paşa Foundation, and the "TRNC" land office records had subsequently been amended to record the Evkaf Administration as the owner of the relevant property. The Greek Cypriot owners, including the applicant company, had not participated in those proceedings. Moreover, some seventeen years had passed after the IPC's establishment, and there was clearly an established pattern of delay evidencing a systemic failure to settle the Greek Cypriots' claims, which in some cases had been exacerbated by claims on the part of the Evkaf Administration.

2. The Court's assessment

(a) Preliminary issues

55. The Court observes at the outset that it has not been disputed between the parties that the applicant company had to abandon some property in the northern Cyprus after the Turkish military operation in 1974. It has been provided with the relevant official certificates in support of the applicant company's property claim. Therefore, for the purpose of its assessment under Article 1 of Protocol No. 1, the applicant company could be regarded as the legal owner of the property in question.

56. In *Demopoulos and Others* (cited above, §§ 127-28), the Court held that the IPC provided an accessible and effective framework of redress in respect of complaints about interference with property owned by Greek Cypriots.

57. Since its decision in *Demopoulos and Others*, the Court has continuously emphasised the necessity to submit property claims to the IPC in accordance with Law no. 67/2005 (see, for instance, *Joannou v. Turkey,* no. 53240/14, § 106, 12 December 2017; *Cacoyanni and Others v. Turkey* (dec.), nos. 55254/00, 1 June 2010; *Papayianni and Others v. Turkey* (dec.), nos. 479/07 et al., 6 July 2010; *Marios Eleftheriades and Others v. Turkey* (dec.), nos. 3882/02 et al., 5 October 2010; *Papaioannou and Others v. Turkey* (dec.), no. 58678/00, 7 December 2012; *Meleagrou and Others*, cited above, § 13; and *Efthymiou and Others v. Turkey* (dec.), nos. 40997/02, 7 May 2013).

58. In *Meleagrou and Others* (cited above), the Court did not find that the proceedings before the IPC had been unduly protracted or otherwise ineffective. Moreover, there are other cases before the Court showing that individual Greek Cypriot applicants have terminated their cases before the IPC in a satisfactory manner (see *Alexandrou v. Turkey* (just satisfaction and friendly settlement), no. 16162/90, 28 July 2009, and *Angoulos Estate Ltd v. Turkey* (dec.), no. 36115/03, 9 February 2010) and that the awards made by the IPC have been duly enforced (see *Loizou* (dec.), cited above, § 81, and *Mousoupetrou Mcrobert v. Türkiye* (dec.) [Committee], nos. 51601/17 and 7 others, 4 June 2024).

59. Finally, in *Joannou* case, where the proceedings before the IPC had lasted some nine years, the Court reiterated that it was perfectly possible that a remedy which had been generally found to be effective had operated inappropriately in the circumstances of a particular case. However, this did not mean that the effectiveness of the remedy as such, or the obligation of other applicants to avail themselves of that remedy, should be called into question. Moreover, the fact that there was currently a high number of pending claims could not be relied on to prove that any particular claims had not been or would not be handled with due expedition (see *Joannou*, cited above, §§ 83 and 86).

60. Bearing in mind the above considerations, and without calling into question the effectiveness of the IPC remedy as such, the Court will next address the applicant company's allegations concerning the manner in which the proceedings before the IPC operated in its particular case (see *Joannou*, cited above, § 87).

(b) General principles

61. The relevant principles in this regard are set out in *Joannou* (cited above, §§ 88-90).

62. In particular, in each case involving an alleged violation of Article 1 of Protocol No. 1, the Court must ascertain whether by reason of the State's action or inaction the person concerned had to bear a disproportionate and excessive burden. In assessing compliance with that requirement, the Court must make an overall examination of the various interests at issue, bearing in

mind that the Convention is intended to safeguard rights that are "practical and effective". In that context, it should be stressed that uncertainty – be it legislative, administrative or arising from practices applied by the authorities – is a factor to be taken into account in assessing the State's conduct. Indeed, where an issue in the general interest is at stake, it is incumbent on the public authorities to act in good time, in an appropriate and consistent manner (see *Ališić and Others v. Bosnia and Herzegovina, Croatia, Serbia, Slovenia and the former Yugoslav Republic of Macedonia* [GC], no. 60642/08, § 108, ECHR 2014; *Kirilova and Others v. Bulgaria*, nos. 42908/98 and 3 others, § 106, 9 June 2005; and *KIPS DOO and Drekalović v. Montenegro*, no. 28766/06, § 128, 26 June 2018, with further references).

(c) Application of these principles in the present case

63. The applicant company's complaints concerning the ineffectiveness of the proceedings before the IPC in which it had sought restitution of and compensation for its property located in the "TRNC" revolve around two principal issues. The first concerns the alleged lack of an opportunity to recover its property located in the fenced-up area of Famagusta on account of the claims of a third party and the second relates to the protracted length of the proceedings, which commenced in 2010 and are still ongoing. The Court will address these two issues in turn.

64. With regard to the first issue, the complaint relating to the impossibility of restitution in the applicant company's case, it seems that no concrete decision regarding title to the property in question has yet been adopted by the IPC. The Court cannot at this stage of proceedings before the IPC speculate on their possible outcome. The IPC did not automatically decide to grant ownership rights to the religious foundation, but merely invited the Evkaf Administration to participate in the proceedings in order to be able to take account of all available information about the property in question.

65. In any event, the Court has already held that restitution does not have to be afforded in every case. The range of remedies available before the IPC, which includes not only restitution but also exchange of land and the payment of compensation for pecuniary and non-pecuniary damage, has been found to be effective in the circumstances (see *Demopoulos and Others*, cited above, §§ 106-19, and *Meleagrou and Others*, cited above, § 14). In the present case, the applicant company claimed compensation for and restitution of property in its application to the IPC. Moreover, at one of the more recent hearings it agreed to consider any proposals as to compensation that the Turkish Government might wish to make (see paragraph 22 above). Accordingly, there is nothing that persuades the Court to conclude that in this respect the proceedings fell short of the requirement of effectiveness.

66. With regard to the allegedly protracted length of the proceedings concerning the applicant company's claim, a significant delay was principally due to the failure of the "TRNC" Attorney General to submit a reply to the applicant company's claim until December 2019, whereas the proceedings had been initiated in July 2010 (see paragraph 20 above). This delay was caused to some extent by the need to await the result of the parallel proceedings in which the applicant company had challenged the admission of the third party to the case and the length of the proceedings. It should also be noted that the applicant company refused to attend the IPC hearings from January 2020 onwards, before finally attending a hearing in February 2024 (see paragraphs 21 and 22 above). Even if it can be assumed that the latter period of inactivity was fully caused by the applicant company, it is clear that during the initial stage of the proceedings all delays were the fault of the "TRNC" authorities. In particular, the relevant IPC Rules require the competent "TRNC" authorities to submit their initial observations concerning a property claim within a period of thirty working days following submission of the claim (Rule 3(8) of the IPC Rules, for the relevant text see *Joannou*, cited above, § 43). Therefore, the "TRNC" authorities were required to provide their reply to the claim long before those separate proceedings had been initiated. Although this time-limit was significantly overstepped in the case at issue, the IPC took no action aimed at ensuring that the parties' submissions were properly obtained and examined. In this connection, the Court wishes to reaffirm the importance of administering justice without delays which might jeopardise its effectiveness and credibility. Indeed, the Court has already observed that excessive delays in the administration of justice constitute a significant threat, in particular, as regards respect for the rule of law (see *Di Mauro v. Italy* [GC], no. 34256/96, § 23, ECHR 1999-V). Moreover, the separate proceedings themselves lasted several years although they were of an "interim" nature and did not concern complex problems. It took the "TRNC" courts more than three years to reach a decision on an interim procedural issue. Taking into account the above and the findings of the High Administrative Court (see paragraph 18), it should also be emphasised that these separate proceedings proved to be ineffective in remedying the excessive length or speeding up the proceedings before the IPC in the case of the applicant company.

67. That being so and being aware of the applicant company's refusal to attend the IPC hearings at some point (see paragraph 66 above), the Court does not consider it plausible that the period of nearly fifteen years during which the proceedings have been pending before the IPC can be explained by the applicant company's conduct alone. The Court considers that such a passive attitude on the part of the IPC may have contributed to a lack of coherence in the proceedings and the prolongation of the examination of the case for a significant period of time.

68. In the Court's view, the protracted nature of the proceedings in the present case was mainly due to the passive approach of the IPC and the procrastination of the "TRNC" authorities. Much of it could have been avoided if they had, from the outset, tried to prepare documents and gather evidence in relation to them in a more efficient manner (see Rule 7(1) of the IPC Rules, for the relevant text see *Joannou*, cited above, §43; and compare *Beyeler v. Italy* [GC], no. 33202/96, § 120, ECHR 2000-I, and *Finger v. Bulgaria*, no. 37346/05, § 102, 10 May 2011).

69. Finally, the Court acknowledges the progress made by the IPC in processing property claims, as reflected in the resolution of 1,869 applications and the awarding of GBP 482,971,921 in compensation. The Court also notes the diverse range of remedies provided, including compensation, exchange, and restitution, and welcomes the ongoing efforts in this regard (see paragraph 31 above). However, it remains unpersuaded by the Government's argument regarding the recent practice of the High Administrative Court and the purported availability of effective remedies for excessive delays in proceedings before the IPC (see paragraph 30 above). In particular, the Government have failed to furnish any concrete examples of cases in which complainants have successfully sought and obtained compensation before the High Administrative Court. In the absence of such evidence, the Court is not persuaded that the High Administrative Court can be considered an effective remedy in practice or in preventing delays and expediting such cases and that it provides an appropriate and sufficient redress for the excessive duration of IPC proceedings. In this respect, the Court reiterates that the remedies must be available not only in theory but also in practice in order to be effective (see *Burdov v. Russia (no. 2)*, no. 33509/04, § 104, ECHR 2009).

70. In view of the above considerations, the Court finds that, in the present case, the IPC did not act with coherence, diligence and appropriate expedition in examining the applicant company's claim.

71. This is sufficient for the Court to conclude that there has been a violation of Article 1 of Protocol No. 1.

72. It follows that the Government's preliminary objection, which has been joined to the merits, must be dismissed. The Court reiterates that this finding is limited to the current case and that a claim lodged with the IPC in principle remains a remedy to be pursued by other applicants who wish to invoke their rights under the Convention before the Court.

II. ALLEGED VIOLATION OF ARTICLES 6 AND 13 OF THE CONVENTION

73. The applicant company complained under Articles 6 and 13 of the Convention about the participation of the Evkaf Administration in the civil proceedings regarding its property claim and the lack of an effective remedy by which to complain about the involvement of a third party to the

proceedings before the IPC. It further complained of a lack of impartiality on the part of the High Administrative Court (appeal panel) judges on account of their alleged involvement in transactions with the property of Greek Cypriots. The relevant part of Articles 6 and 13 provide:

Article 6

"1. In the determination of his civil rights and obligations ... everyone is entitled to a fair ... hearing ... by an independent and impartial tribunal established by law. ..."

Article 13

"Everyone whose rights and freedoms as set forth in [the] Convention are violated shall have an effective remedy before a national authority notwithstanding that the violation has been committed by persons acting in an official capacity."

A. The parties' submissions

74. The Government argued that these complaints were inadmissible within the meaning of Article 35 of the Convention. They stated, in particular, that Article 6 did not apply to the interim proceedings as they had not concerned the applicant company's civil rights. In any event, the participation of the third party had been in line with the provisions of the Law and had been necessary to comply with the fair trial principle. As regards the applicant company's allegation of bias on the part of the judges, the Government stated that the applicant company had not submitted any challenge against judges on the panel, and therefore had not exhausted domestic remedies. Moreover, the application had been lodged with the Court on 25 May 2017, whereas the applicant company had lodged its appeals on 12 May 2016, more than six months before the date of its application. The panel in question had not examined the issue of the applicant company's property rights but rather an interlocutory issue. Lastly, although some Greek Cypriot property had been transferred to the husband of one of the judges, while the other two judges had obtained such property from their parents, none of those properties were located in Varosha and they had been received under Law no. 41/1977 on Housing, Allocation of Land and Property of Equal Value. Under the provisions of that Law, Turkish Cypriots who had had property in Southern Cyprus at the time of the events of 1974 could ask the competent authorities of the "TRNC" to be granted immovable property of the same value in exchange for their properties left in Southern Cyprus. The judges had not been involved in any transactions concerning the applicant company's property, nor did they have any other interest in that property.

75. As regards the involvement of the Evkaf Administration in the proceedings before the IPC, the applicant company submitted that the mere fact of its participation had made it impossible to claim the restitution of its property; in particular, by virtue of section 7 of the Law, any property belonging to a religious foundation was inalienable. In its opinion, the

religious foundation in question did not have any rights to its property, but by admitting it to the proceedings before the IPC, the "TRNC" authorities had automatically recognised the religious foundation as the owner of the property. Moreover, there had been no opportunity to challenge the admission of the Evkaf Administration to the proceedings. As to the impartiality of the judges, the applicant company stated that all three judges had a pecuniary interest in property belonging to the Greek Cypriots and the Government had confirmed that in their observations. The applicant company had learned about this after the conclusion of the proceedings.

B. The Court's assessment

76. In view of its findings and conclusions below (see paragraphs 77-96) regarding inadmissibility of the complaints as being manifestly ill-founded and incompatible *ratione materiae*, it is not necessary for the Court to examine the Government's preliminary objections concerning the applicability of Article 6 to the interim proceedings and compliance with the six-month rule.

1. Participation of the third party in the IPC proceedings

(a) Fair trial

77. The applicant company primarily argued that the involvement of the Evkaf Administration in the IPC proceedings had made property restitution impossible. This was due to Section 7 of the Law, which classified property owned by religious foundations as inalienable. Additionally, the company claimed that by allowing the religious foundation to participate in the proceedings, the authorities had effectively and automatically recognised it as the rightful owner of the property.

78. While Article 6 of the Convention guarantees the right to a fair hearing, it does not lay down any rules on the admissibility of evidence or the way it should be assessed, which are therefore primarily matters for regulation by national law and the national courts (see *Garcia Ruiz v. Spain* [GC] no. 30544/96, § 28, ECHR 1999-I). Similarly, it is in the first place for the national authorities, in particular the courts, to interpret domestic law, and the Court will not substitute its own interpretation for theirs in the absence of arbitrariness. That being said, the Court's task remains to ascertain whether the proceedings in their entirety, including the way in which evidence and procedural decisions were taken, were fair (see *Ramos Nunes de Carvalho e Sá v. Portugal* [GC], nos. 55391/13 and 2 others, § 186, 6 November 2018, and *Tamminen v. Finland*, no. 40847/98, § 38, 15 June 2004).

79. The Court reiterates that the adversarial principle and the principle of equality of arms, which are closely linked, are fundamental components of the concept of a "fair hearing" within the meaning of Article 6 § 1 of the Convention (see *Regner v. the Czech Republic* [GC], no. 35289/11, § 146,

19 September 2017). They require a "fair balance" between the parties: each party must be afforded a reasonable opportunity to present his or her case under conditions that do not place him or her at a substantial disadvantage *vis-à-vis* his or her opponent or opponents (see *Andrejeva v. Latvia* [GC], no. 55707/00, § 96, ECHR 2009).

80. Furthermore, it is primarily for the competent authorities, notably the courts, to resolve problems of interpretation of procedural rules. The rules governing the formal steps to be taken are aimed at ensuring the proper administration of justice. Litigants must be entitled to expect those rules to be applied (see *Cañete de Goñi v. Spain*, no. 55782/00, § 36, ECHR 2002-VIII). The Court has also held that the proper administration of justice includes the interests of third parties (see, *mutatis mutandis*, *Protsenko v. Russia*, no. 13151/04, § 29, 31 July 2008, and *Kooperativ Neptun Servis v. Russia*, no. 40444/17, § 62, 23 November 2021).

81. In the present case, the Court has to assess whether a fair balance between the interests of the applicant and the need to ensure the proper administration of justice, which includes the interest of the third party, has been achieved. The mere fact of participation of a third party in the proceedings does not violate Article 6, provided that the applicant can present his or her arguments and respond to the third party.

82. Section 7 of the Law provides that the IPC must issue an invitation to participate in the proceedings before it to persons who, under the legislation of the "TRNC", have ownership of or the right to use the property in respect of which a claim has been made (see paragraph 26 above).

83. It follows from the above-mentioned principles that where proceedings are pending which may affect third parties, a system needs to be in place enabling those parties to join the proceedings. This is necessary for the proper and fair adjudication of the case on the basis of principles of fairness and equality of arms (see, *mutatis mutandis*, *Stichting Landgoed Steenbergen and Others v. the Netherlands*, no. 19732/17, § 47, 16 February 2021, concerning adequate notification solely by electronic means of (draft) administrative decisions with a potentially direct effect on third parties; *Zavodnik v. Slovenia*, no. 53723/13, §§ 57-82, 21 May 2015, regarding the lack of proper notification of insolvency proceedings in respect of the company for which the applicant worked; and *Protsenko*, cited above, §§ 25-34, relating to the quashing of a judicial decision in a property dispute by a higher court on account of the lower court's failure to invite an interested party, the land owner, to participate in the proceedings). In this respect, the provisions of section 7 of the Law have established such a system for the IPC. Thus, it cannot be said that this system upsets the balance between the interests of the plaintiffs who apply to the IPC and the need to ensure the proper administration of justice. Moreover, these provisions cannot be regarded as a procedural bar.

84. The applicant company failed to convincingly demonstrate how the Evkaf Administration's involvement had rendered the proceedings unfair. The IPC retained authority to examine property claims and did not automatically assign ownership to the religious foundation and the applicant company had the opportunity to contest the foundation's ownership claims in the IPC proceedings.

85. The participation of the Evkaf Administration in the IPC proceedings as an interested party was necessary to comply with the principle of a fair trial. The issue of the third-party intervention was also examined in depth not only by the IPC but also by the courts. Accordingly, the Court does not see any indication of arbitrariness in the present case. There is no evidence that such involvement led to the unfairness in the proceedings as a whole (see, *mutatis mutandis*, *Petrenco v. Moldova*, no. 20928/05, § 41, 30 March 2010).

86. In these circumstances, the Court cannot but find that that the applicant company's allegations under Article 6 are unsubstantiated and its complaint is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

(b) Effective remedy

87. As regards the applicant company's allegation under Article 13 relating to the lack of effective remedy to challenge the participation of a third party to the proceedings, in the absence of an arguable claim under Article 6 in that respect, this complaint is incompatible *ratione materiae* with the provisions of the Convention and must be rejected pursuant to Article 35 §§ 3 and 4 (see, for example, *Mošať v. Slovakia*, no. 27452/05, § 29, 21 September 2010, and *Yankov and Others v. Bulgaria*, no. 4570/05, § 37, 23 September 2010).

2. Impartiality of the judges at the High Administrative Court

88. The Court reiterates that impartiality normally denotes the absence of prejudice or bias and its existence or otherwise can be tested in various ways. According to the Court's settled case-law, the existence of impartiality for the purposes of Article 6 § 1 must be determined according to a subjective test where regard must be had to the personal conviction and behaviour of a particular judge, that is, whether the judge held any personal prejudice or bias in a given case; and also according to an objective test, that is to say by ascertaining whether the tribunal itself and, among other aspects, its composition, offered sufficient guarantees to exclude any legitimate doubt in respect of its impartiality (see, for example, *Kyprianou v. Cyprus* [GC], no. 73797/01, § 118, ECHR 2005-XIII; *Micallef v. Malta* [GC], no. 17056/06, § 93, ECHR 2009; *Morice v. France* [GC], no. 29369/10, § 73, ECHR 2015; and *Ilnseher v. Germany* [GC], nos. 10211/12 and 27505/14, § 287, 4 December 2018).

89. As to the subjective test, the principle that a tribunal must be presumed to be free of personal prejudice or partiality is long-established in the case-law of the Court (see *Kyprianou*, § 119; *Micallef*, § 94; and *Morice*, § 74, all cited above). The personal impartiality of a judge must be presumed until there is proof to the contrary (see *Hauschildt v. Denmark*, 24 May 1989, § 47, Series A no. 154). As regards the type of proof required, the Court has, for example, sought to ascertain whether a judge has displayed hostility or ill will for personal reasons (see *De Cubber v. Belgium*, 26 October 1984, § 25, Series A no. 86, and *Morice*, cited above, § 74).

90. As to the objective test, it must be determined whether, quite apart from the judge's conduct, there are ascertainable facts which may raise doubts as to his or her impartiality. This implies that, in deciding whether in a given case there is a legitimate reason to fear that a particular judge or a body sitting as a bench lacks impartiality, the standpoint of the person concerned is important but not decisive. What is decisive is whether this fear can be held to be objectively justified (see *Micallef*, cited above, § 96).

91. Given the importance of appearances, when a situation which can give rise to a suggestion or appearance of bias arises, that situation should be disclosed at the outset of the proceedings and an assessment should be made, taking into account the various factors involved in order to determine whether disqualification is actually necessitated in the case. This is an important procedural safeguard which is necessary in order to provide adequate guarantees in respect of both objective and subjective impartiality (see *Nicholas v. Cyprus*, no. 63246/10, § 64, 9 January 2018). Motions for bias should not be capable of paralysing the defendant State's legal system. In small jurisdictions, excessively strict standards in respect of motions for bias could unduly hamper the administration of justice (see *A.K. v. Liechtenstein*, no. 38191/12, § 82, 9 July 2015).

92. The Court considers it normal that judges, in the performance of their judicial duties and in various contexts, should have to examine a variety of cases in the knowledge that they may themselves, at some point in their careers, be in a similar position to one of the parties, including the defendant. However, a purely abstract risk of this kind cannot be regarded as apt to cast doubt on the impartiality of a judge in the absence of specific circumstances pertaining to his or her individual situation (see *Ramos Nunes de Carvalho e Sá*, cited above, § 163).

93. Turning to the circumstances of the present case, as regards subjective impartiality, the Court considers that there is no evidence to suggest that any of the judges on the appeal panel had a personal bias or hostility towards the applicant company.

94. Regarding objective impartiality, the Court observes that the applicant company's doubts about the judges' impartiality stemmed from the fact that they had some connection to the property of unidentified Greek Cypriots. It has been established that the judges of the appeal panel at the High

Administrative Court or their relatives possessed Greek Cypriots' property on various grounds. However, in the Court's view, in order for a judge's impartiality to be called into question in this context, the pecuniary interests of the judge concerned must be directly related to the subject matter of the dispute at the domestic level (see *Sigríður Elín Sigfúsdóttir v. Iceland*, no. 41382/17, § 53, 25 February 2020).

95. The Court notes, without taking a position on the applicability of Article 6 § 1 to interim proceedings, that since the present proceedings concerned only procedural issues, the judges had no direct interest in the outcome. Moreover, the question of whether there is a legitimate reason to fear that a particular judge lacks impartiality must be assessed not only in the particular circumstances of each case, but also in the light of the sufficiency of the safeguards offered by the national legal system for ensuring impartiality (see *Micallef*, cited above, § 99, and *Upīte v. Latvia*, no. 7636/08, § 34, 1 September 2016). It was not disputed that under the applicable procedural law, it was possible to bring a challenge against a judge with an alleged interest in the outcome of the case. The applicant company provided a plausible explanation as to its failure to seek the recusal of the judges concerned; in particular, it was unaware of their interest in the property of Greek Cypriots. At the same time, as to the possibility of the judges recusing themselves, it is doubtful that in the present case they were obliged to declare an interest of that kind as they did not have any title to the applicant company's property, as was confirmed by both parties in their submissions (see, by contrast, *Nicholas*, cited above, §§ 64-65).

96. In these circumstances, the Court cannot but find that this complaint is manifestly ill-founded and must be rejected pursuant to Article 35 §§ 3 and 4 of the Convention.

III. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION TAKEN IN CONJUNCTION WITH ARTICLE 1 OF PROTOCOL No. 1

97. The applicant company complained of a violation of Article 14 of the Convention on account of discriminatory treatment in the enjoyment of its right under Article 1 of Protocol No. 1 and alleged that such discrimination had been based on the national and ethnic origin, language and religious beliefs of its shareholders and director.

98. The Government disputed that claim.

99. The Court points out that in previous cases relating to Greek Cypriot property claims in the northern part of Cyprus it has found that it was not necessary to carry out a separate examination of the admissibility and merits of complaints under Article 14 of the Convention. The Court does not see any reason to depart from that approach in the present case (see *Joannou*, cited above, § 109).

IV. APPLICATION OF ARTICLE 46 OF THE CONVENTION

100. The Court finds it appropriate to consider the present case under Article 46 of the Convention, which provides, in so far as relevant, as follows:

> "1. The High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties.
>
> 2. The final judgment of the Court shall be transmitted to the Committee of Ministers, which shall supervise its execution.
>
> ..."

101. The Court reiterates that by virtue of Article 46 of the Convention the High Contracting Parties have undertaken to abide by the final judgments of the Court in any case to which they are parties, execution being supervised by the Committee of Ministers of the Council of Europe. It follows, *inter alia*, that a judgment in which the Court finds a breach imposes on the respondent State a legal obligation not just to pay those concerned the sums awarded by way of just satisfaction under Article 41, but also to select, subject to supervision by the Committee of Ministers, the general and/or, if appropriate, individual measures to be adopted in their domestic legal order to put an end to the violation found by the Court and to redress so far as possible the effects. Subject to monitoring by the Committee of Ministers, the respondent State remains free to choose the means by which it will discharge its legal obligation under Article 46 of the Convention, provided that such means are compatible with the conclusions set out in the Court's judgment (see *Scozzari and Giunta v. Italy* [GC], nos. 39221/98 and 41963/98, § 249, ECHR 2000-VIII, and *Broniowski v. Poland* [GC], no. 31443/96, § 192, ECHR 2004-V).

102. The Convention issue in the present case is the excessive length of proceedings before the IPC, an issue which is not new and has been the subject of well-established case-law. In previous similar cases, the Court has criticised the protracted nature of the proceedings, and in particular it has referred to the "TRNC" authorities' failure to respond to the applicants' claims before the IPC in a timely manner (see paragraph 66 above, and *Joannou*, cited above, § 105). It has also made clear that it remains attentive to the developments in the functioning of the IPC remedy and its ability to effectively address Greek Cypriot property claims (see *Joannou*, cited above, § 86).

103. The Court takes note of the recent statistical data relating to the functioning of the IPC, according to which 7,800 applications have been lodged with the IPC and 1,869 of them have been finalised. The IPC has awarded GBP 482,971,921 to applicants as compensation, and has ruled in favour of exchange and compensation in three cases, restitution in five cases and restitution and compensation in eight cases (see paragraph 31 above). Although the number of finalised cases is still much lower than the number

of applications pending before the IPC, the Court cannot but note the progress achieved in settling the property claims.

104. In this connection, the Court notes also the efforts made by the Turkish authorities aimed at bringing the IPC proceedings into compliance with the Convention requirements, and also the statistics demonstrating progress in dealing with Greek Cypriots' property claims. Nevertheless, the current case clearly shows that consistent and long-term efforts must continue in order to achieve compliance with the Convention requirements, in particular, as regards acceleration of proceedings (especially the provision of a reply to property claims before the IPC by the relevant "TRNC" authorities) and the creation of a remedy which secures genuinely effective redress in respect of delays in the proceedings before the IPC.

V. APPLICATION OF ARTICLE 41 OF THE CONVENTION

105. Article 41 of the Convention provides:

> "If the Court finds that there has been a violation of the Convention or the Protocols thereto, and if the internal law of the High Contracting Party concerned allows only partial reparation to be made, the Court shall, if necessary, afford just satisfaction to the injured party."

A. Pecuniary and non-pecuniary damage

106. In respect of pecuniary damage, the applicant company claimed restitution of its property, together with a sum of 51,851,767 euros (EUR) for the loss of its use, and EUR 1,156,714 per year from the date of the Court's judgment until restitution of the property. The applicant company also claimed EUR 171,550 in respect of non-pecuniary damage.

107. The Government argued that the applicant company's claims were excessive and unfounded.

108. As to the pecuniary damage, the Court notes that the violation found under Article 1 of Protocol No. 1, relates to the IPC's lack of diligence and appropriate expedition in examining the applicant company's property claim (see paragraph 71 above), and that the case is still pending before the IPC. In principle, the further course of the proceedings before the IPC, conducted in compliance with the requirements of Article 1 of Protocol No. 1, would allow the applicant company to obtain compensation on the basis of its property claim (see *Joannou*, cited above, § 116). In the present case, however, the Court considers that the delays in dealing with the applicant company's case are so substantial that the award of pecuniary damage under Article 41 may be necessary to prevent a denial of justice. However, in light of the large number of imponderables involved in the calculation of the pecuniary damage, the Court considers that question of the application of Article 41 in respect of pecuniary damage is not ready for decision. That question must accordingly be reserved and the subsequent procedure fixed, having regard to

any agreement which might be reached between the Government and the applicant company (Rule 75 §§ 1 and 4 of the Rules of Court).

109. However, the Court considers that the applicant company must have sustained non-pecuniary damage – such as distress resulting from the excessive length of the proceedings before the IPC – which is not sufficiently compensated by the finding of a violation. Accordingly, ruling on an equitable basis, the Court awards the applicant company EUR 7,000 in respect of non-pecuniary damage, plus any tax that may be chargeable on that amount (see *Joannou*, cited above, § 117).

B. Costs and expenses

110. The applicant company also claimed EUR 31,164.50 in respect of costs and expenses incurred for legal representation and evaluation reports.

111. The Government submitted that those claims were unfounded.

112. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and are reasonable as to quantum (see, among many other authorities, *L.B. v. Hungary* [GC], no. 36345/16, § 149, 9 March 2023). Regard being had to the documents in its possession and the above criteria, the Court considers it reasonable to award the sum of EUR 11,000, plus any tax that may be chargeable to the applicant company, in respect of its claim for costs and expenses incurred until the date of the present judgment.

FOR THESE REASONS, THE COURT

1. *Joins*, unanimously, to the merits the Government's preliminary objection concerning the non-exhaustion of domestic remedies and dismisses it;

2. *Declares*, unanimously, the applicant company's complaint under Article 1 of Protocol No. 1 as to the protracted and ineffective nature of the proceedings by which it had sought compensation for its property located in the "TRNC" admissible and the remainder of the application inadmissible;

3. *Holds*, unanimously, that there has been a violation of Article 1 of Protocol No. 1;

4. *Holds*, unanimously, that there is no need to examine separately the admissibility and merits of the complaint under Article 14 of the Convention taken in conjunction with Article 1 of Protocol No. 1;

5. *Holds*, by five votes to two, that the question of the application of Article 41 of the Convention in respect of pecuniary damage is not ready for decision and accordingly,
   (a) reserves the said question;
   (b) invites the Government and the applicant company to submit, within three months from the date on which the judgment becomes final, in accordance with Article 44 § 2 of the Convention, their written observations on the amount to be awarded to the applicant company in respect of damage and, in particular, to notify the Court of any agreement that they may reach;
   (c) reserves the further procedure and delegates to the President of the Chamber the power to fix the same if need be;

6. *Holds*, unanimously,
   (a) that the respondent State is to pay the applicant company, within three months from the date on which the judgment becomes final in accordance with Article 44 § 2 of the Convention, the following amounts:
      (i) EUR 7,000 (seven thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
      (ii) EUR 11,000 (eleven thousand euros), plus any tax that may be chargeable to the applicant company, in respect of costs and expenses;
   (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amounts at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;

7. *Dismisses*, unanimously, the remainder of the applicant company's claim for just satisfaction.

Done in English, and notified in writing on 10 June 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Hasan Bakırcı	Arnfinn Bårdsen
Registrar	President

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the partly dissenting opinion of Judges Yüksel and Paczolay is annexed to this judgment.

PARTLY DISSENTING OPINION OF JUDGES YÜKSEL AND PACZOLAY

1. While we agree with the majority that there has been a procedural violation of Article 1 of Protocol No. 1 to the Convention, specifically in relation to the excessive length of the proceedings before the Immovable Property Commission ("the IPC"), we are unable to concur with the Chamber's conclusion regarding the award of just satisfaction under Article 41 of the Convention.

2. The judgment does not call into question the effectiveness of the IPC as a remedy *per se*. It also acknowledges that the present case follows the principles laid down in *Joannou v. Turkey* (no. 53240/14, § 116, 12 December 2017), where the Court refrained from making an award in respect of pecuniary damage on the basis that the applicant's property claim remained pending before the IPC and the proceedings would still allow her to obtain compensation in relation to her property claim. We consider that this rationale applies with equal, if not greater, force here.

3. Furthermore, we observe that the violation of Article 1 of Protocol No. 1 to the Convention in the present case is of a procedural nature. It relates to the lack of coherence, diligence and appropriate expedition in examining the applicant company's claim (see paragraph 70 of the judgment). As the applicant company's claim is still pending, we see no reason to depart from the approach taken in *Joannou*, where the Court deferred to the possibility of redress being achieved through the further course of the proceedings before the IPC.

4. For those reasons, we are of the view that the Chamber should have followed the reasoning in *Joannou* and declined to make an award in respect of pecuniary damage, instead of reserving the question.

5. Judge Yüksel also dissents from the Chamber's approach under Article 46 of the Convention. She wishes to emphasise that under Article 46 of the Convention, the Court may exceptionally indicate the type of measures that might be taken in order to put an end to systemic or structural problems (see *Broniowski v. Poland* [GC], no. 31443/96, § 194, ECHR 2004-V; *Varga and Others v. Hungary*, nos. 14097/12 and others, §§ 101-02, 10 March 2015; and *Sukachov v. Ukraine*, no. 14057/17, § 144, 30 January 2020). She is also of the view that this case concerns a procedural shortcoming arising from specific factual circumstances, not a structural failure requiring exceptional measures under Article 46 of the Convention. In this regard, the Chamber itself acknowledges "the progress made by the IPC in processing property claims" (see paragraphs 69 and 103 of the judgment) and also notes "the efforts made by the Turkish authorities aimed at bringing the IPC proceedings into compliance with the Convention requirements, and also the statistics demonstrating progress in dealing with Greek Cypriots' property claims" (see paragraph 104 of the judgment). Considering those developments and the fact

that the judgment does not call into question the effectiveness of the IPC as a remedy *per se*, Judge Yüksel finds no basis for the application of Article 46 of the Convention as indicated by the majority.