



CYPRUS PROPERTY DISPUTE THROUGH THE GLANCE OF IMMOVABLE PROPERTY COMMISSION*

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ABSTRACT

The 'property dispute' of the Cyprus issue is just one of many layers of the problem. Not only, is it related to the fundamental rights of around 210,000 internally displaced people of the island, but it will also be a focal parameter to economic and social ends in the event of reunification. After presenting a brief historical overview of the problem and the two official positions of both Turkish and Greek sides - the achievement of 'bizonality' and the restoration of 'human rights-', this article seeks to elaborate these two specific positions with a special focus of the cases of *Loizidou v. Turkey* and *Xenides-Arestis v. Turkey* in European Court of Human Rights which put the Immovable Property Commission in the focus for the restoration of property claims of displaced people throughout the island. The article argues that the exhaustion of domestic remedies through the Immovable Property Commission could give a new impetus on the negotiation table to the property issue against all odds. Besides this new institutional structure given by the Immovable Property Commission could set a new venue for solving the dispute which has been always in a deadlock for so many years with both parties and with their unarguable positions.

Key Words: Cyprus, Property Rights, European Court of Human Rights, Immovable Property Commission, Internally Displaced People, Loizidou Case, Xenides-Arestis Case

KIBRIS MÜLKİYET TARTIŞMASINA TAŞINMAZ MAL KOMİSYONU AÇISINDAN BİR BAKIŞ

ÖZET

Mülkiyet tartışması, Kıbrıs sorununun, çok katmanlı ve yıllardır çözüm bekleyen konularından sadece biri olarak görünse de; ada içinde yerlerinden olmuş 210.000'e yakın kişiyi ilgilendiren ve tüm adanın sosyo-ekonomik ve kültürel yapısını temelinden değiştiren bir olgu olarak karşımıza çıkmaktadır..Mülkiyet tartışmasının çok önemli bir uzlaşmazlık konusu olması ayrıca, adanın tekrar birleşmesi ihtimalinde de bu konunun yine barış masasına yatırılacak ve görüşmeleri kökünden değiştirecek yapıda bir sorun olmasından da

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kaynaklanmaktadır. Bu çalışma da, mülkiyet tartışmasının adanın geleceği içindeki önemini, öncelikle tarihsel arka plan çerçevesinde tanımlamak amaçlanmaktadır. Ardından Kıbrıs'ta Türk ve Yunan tarafların mülkiyet tartışmasına bakış açılarını da ele alınacaktır. İki tarafında müzakere masasında çok esneme payı bırakmadıkları bu bakış açıları birbirinden çok farklı bir yapı da olması, uzlaşının oluşabilmesini olanaksızlaştırdığından bu argümanlar daha da önem kazanmaktadır. Anlaşmazlığın taraflardan biri olan Türk tarafı *iki-bölgelilik*, Yunan tarafı ise *insan hakları* argümanları üzerinden konuya yaklaşmaktadır. Taraflar tezlerini bu yönde savunurken, bu çalışma Avrupa İnsan Hakları Mahkemesi'nin iki önemli kararı ile (*Loizidou Türkiye'ye Karşı ve Xenides-Arestis Türkiye'ye Karşı*) kurulmasına sebebiyet verdiği ve kararları ile bir iç hukuk yöntemi olarak tüketilmesini ön-kosul olarak gösterdiği *Tasinmaz Mal Komisyonu*'nu incelemeye çalışacak ve artık görüşme masasında kemikleşmiş bir konu haline gelmiş, adanın mülkiyet sorununa yeni bir umut ışığı olabileceğini tartışmayı amaçlamaktadır.

Anahtar Kelimeler: Kıbrıs, Mülkiyet Hakları, Avrupa İnsan Hakları Mahkemesi, Taşınmaz Mal Komisyonu, Yerlerinden Olmuş Kişiler, Loizidou Davası, Xenides-Arestis Davası

1- Introduction:

The Cyprus dispute has always been one of the main issues in Turkey's political agenda. This multi-facet problem includes not only many actors but also many layers of issues for more than fifty years.

This study aims to explore just one of the existing problems of the complicated Cyprus issue; property rights dispute through the immovable property commission. Indeed Cyprus dispute can not be demoted to only propertyⁱ. Yet, it is still a very complicated and a multi-layered issue to solve in which so many actors and people have been involved for a very long time of period. Both Greek and Turkish parts have their own arguments with their own righteous reasons and justifications. Therefore, the Cyprus issue consists of several combined problems and the property dispute has been one of the focal elements in this very question with the problematic of the freedoms of settlement and movement which can not be separated from each other in the island, especially after Turkey's intervention in 1974ⁱⁱ, since both Turkish and Greek Cypriots had to leave their belongings and properties in both parts of the island. Hence, the importance of this issue and the complexity of solving this problem have left the two parties almost impossible to reach a solution on common grounds so far.

In this study, it is intended firstly to give a brief overview of the historical background of the issue and then to look over to both Greek and Turkish approaches on the property dispute and to the cases of *Loizidou v. Turkey* and *Arestis-Xenides v. Turkey* given that these two cases paved the way to the establishment of immovable property commission. Subsequently, Immoveable Property Commission (IMC hereinafter) will be analysed as it intends to be a just, fast and effective remedy for property claims and finally, the conclusions will be presented.

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2- Historical Overview

Geo-strategic importance made Cyprus vulnerable to the outer threats throughout its history, especially to the some of the most influential colonial powers. In 1878, Britain was the last power to occupy Cyprus, taking over the island from the Ottoman Empire. The Cypriots, Greeks and Turks alike, had for centuries co-existed peacefully in mixed villages, towns and places of work. When Britain decided to decolonise the Island, in the House of Commons on December 19th, 1956, the Colonial Secretary, Alan Lennox-Boyd, pledged that (Kramer, 2000) "it will be the purpose of Her Majesty's Government to ensure that any exercise of self-determination should be effected in such a manner that the Turkish Cypriot community, no less than the Greek Cypriot community, shall in the special circumstances of Cyprus be given freedom to decide for themselves their future status."

The Zurich and London Agreements of 1959ⁱⁱⁱ created a new Cyprus Republic, which was a bi-national partnership State, based on the political equality of the two peoples as co-founder partners of the new Republic. The sovereignty of Cyprus was limited by the guarantor rights given to three countries, namely Turkey, Greece and the United Kingdom (Ertekün, 1999).

The constitution categorized citizens as Greeks or Turks. Elected positions were filled by separate elections. Separate municipalities were established in each town and separate elections were to be held for all elected public posts. Posts filled by appointment and promotion, such as the civil service and police, were to be shared between Greeks and Turks at a ratio of 70 to 30. In the army this ratio rose to 60 to 40. The President was designated Greek and the Vice-President Turkish, each elected by their respective community. The Turkish Cypriot community had veto power in both the executive and legislative branches of the government. The Turkish-Vice President could block the decisions of the President whereas, in the House of Representatives fiscal, municipal and electoral legislation required separate majorities (Ertekün, 1999).

However, things have not proceeded as it had been foreseen. Especially after in November 1963 the Greek Cypriots had demanded the abolition of no less than eight of the basic articles which had been included in the 1960 Treaties^{iv}. The Constitution was paralysed. A UN peace-keeping force was stationed in the Island in March 1964. By July 15th, 1974 the Coup d'état in Greece, overthrew Makarios and installed Nicos Sampson as president in the island. Turkish Cypriots appealed to the Guarantor powers for help, but only Turkey was willing to give any effective response. On July 20th, 1974, claiming to act under article 4 of the Treaty of Guarantee^v, the Turkish armed forces staged on the island (Joseph, 1997). The Turkish government stated that "Turkey as one of the guarantor powers had the decided to carry out its obligations under article IV(2) of the Treaty with a view to safeguarding the security of life and property of the Turkish community and even that of many Greek Cypriots"^{vi}.

On August 2nd, 1975, under the observation of UN, Treaty on Exchange of Population^{vii} has been signed and 142 thousand Greek Cypriots have been transformed from north to south and 45 thousand Turkish Cypriots from south to north. Under this treaty, a buffer zone has been established between the north and south part of the island and as a result of the exchange of populations, both communities left their belongings and properties and the property dispute paved its way as one of the fundamental issues of Cyprus case with its displaced people from that day onwards (Ertekün, 1999).

3- Two Different Approaches to Property Dispute

Greek and Turkish arguments on property dispute have been varying. These differences were mostly related to how the displaced persons' rights to homes and properties are to be solved and these differences are seen by both parties as attached essentially for an overall Cyprus settlement.

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The first displacements at Cyprus, occurred as a result of violent incidents between two communities in 1958. Then in 1963, the second dislocation consisting of 25.000 Turkish Cypriots and 700 Greek Cypriots took place and finally in 1974, which also led to the *de facto* division of Cyprus, resulted 142.000 Greek Cypriots (est. 30 per cent of the very community) and 45.000 Turkish Cypriots (est. 40 per cent of the community) were displaced from north to south and the other way around (An, 2002:319). Considering the population of the island back then was around 636,000, the ratio of displaced people ends up 30 per cent of the total population and also divided the island territory 36 percent to 62 percent respectively the north to the Turkish Cypriot and the south to the Greek Cypriot parts (UN, 2003:para.107).

The Greek Cypriot side has been supporting the idea that displaced Greek Cypriots who were forced to leave their properties after 1974 should be provided the right to return to their former properties and homes and those people also should have full legal ownership of their properties. In other words, Greek argument maintains that the property issue has to be concluded according to *the fundamental principle of respect for human rights* (Gurel, Ozersay, 2006:350) regarding the three freedoms; freedom of movement, freedom of settlement and the right to property throughout the whole island which there, no reservation should be held to bargain for that matter. Since it is stated as the only way to ensure the reversal of the *de facto* situation created by 1974, the reinstatement of the right of the majority Greek Cypriot community to ancestral land in the northern part and the reunification of the island could only be provided under this circumstance as it is argued Greek side (Gurel, Ozersay, 2006:350). In this context, it is seen that from the mid 1990s onwards Greek Cypriots applied to European Court of Human Rights (ECHR hereafter) and carried the property issue to European level financially and legally (Bozlu, 2007) to enforce their solution rather than Turkish claims at the international political arena

The Turkish side however, rejected the idea of returning the properties to the owners until last years. Instead, they intend to solve the problem by the *method of exchange and compensation* on the basis of their arguments which is positioned by the *bi-communal and bi-zonel* solution of the conflict. For the Turkish Cypriots, the bizonality principle is the essential part, given that their population is smaller in scale than the Greek Cypriot community, it is the only way to preserve their security and freedom against Enosis^{viii} claims and the domination of the island by the latter (Ertökün,1977). Especially, after ECHR became a part of the issue and after the effects of Greek Cypriot cases in front of the Court, the approaches of Turkey and Turkish Cypriot part differentiated particularly and after Mehmet Ali Talat^{ix} came into office, returning of homes and properties of Greek Cypriot refugees began to be considered as a solution in some cases (Bozlu, 2007).

It is clearly seen that both sides hold political and moral stands for their part within the property dispute that can not be neglected, while reaching a comprehensive settlement in the island. Moreover, one should always consider that the arguments of bizonality and of respect for human rights are both universally agreed settling points for such a dispute in the political sphere.

4- Turning Points: Cases of Loizidou and Xenides-Arestis

Indeed, property dispute holds a huge human rights parameter in the island since approx. 210.000, internally displaced people from both parties had to leave their properties beginning with the first inter-communal strife in 1958. Besides, it also adds European Court of Human Rights to the equation as a venue for different sorts of property complaints since all parties belong to the court's system.

While the chance of a political solution and ending the enduring conflict appears in vain in the near future, key decisions regarding to the property dispute has been ruled by ECHR since the

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mid 1990s. These rulings, which are the main concerns of the study, are related to the cases of *Loizidou v. Turkey* and *Xenides-Arestis v. Turkey* which also concern the last developments at the island regarding the settlement of the dispute through the establishment of immovable property commission.

Loizidou v. Turkey

Loizidou v. Turkey^x is considered as a landmark legal case regarding the rights displaced people wishing to return to their former homes and properties.

On 22 July 1989, a Cypriot national, Mrs. Titina Loizidou, a Cypriot national filed an appeal against Turkey to the European Court of Human Rights. In her petition it was stated that she had been forced out of her home during Turkey's intervention to Cyprus in 1974 along with around 140,000 other Greek-Cypriots. During more than 20 years, she made a number of attempts to return to her home in Kyrenia but was denied entry into the Turkish occupied part of Cyprus by the Turkish army. In her application to the ECHR, Loizidou alleged violations of various provisions of the Convention by Turkey, including Article 1 of Protocol 1 and Articles 8 for the continuing denial of access to her property.

At first, Court had to clarify some vital issues due to the nature of the case since Turkey raised preliminary objections on jurisdictional grounds. Therefore, the discussion topic between the parts was whether the application was acceptable and Turkey could be held accountable^{xi}. ECHR held Turkey responsible for human rights violations in the northern part of Cyprus, for that it is under overall control of the Turkish armed forces. In the circumstances of the case, this entailed Turkey's responsibility for the policies and actions of the Turkish Republic of Northern Cyprus (hereinafter TRNC) (Fazlıoğlu, 2005).

In 1996, ECHR ruled that she, and consequently all other refugees, have the right to return to their former properties. The ECHR ruled that Turkey had violated Mrs. Loizidou's fundamental human rights, that she should be allowed to return to her home and that Turkey should pay damages to her (Fazlıoğlu, 2005). The ECHR ruled that Turkey committed a continuing violation of the rights of Ms. Loizidou by preventing her from going to her property located in Northern Cyprus. The Court ordered Turkey to pay Ms. Loizidou approximately \$915,000 in damages and costs. Initially Turkey declined to pay the damages awarded. The Council of Europe called on the Turkish Government to comply with the Court's decision.

The Court also stated expressly that the damages awarded were not compensation for the property per se, but only for the denial of the ownership and use of the property, and that Ms Loizidou retains full legal ownership of her property (Fazlıoğlu, 2005).

However, in 2003 Turkey paid Ms Loizidou the compensation amounts ruled by the ECHR with the annotation that this case won't become a precedent for the upcoming cases in front of the court. Turkey has also evacuated her house to return it to her. Ms Loizidou has chosen not to return as long as there are Turkish armed forces making her return unsafe^{xii}.

A Shift in ECHR's Ruling: Cyprus v. Turkey

In 2001, during the processing of *Cyprus v. Turkey*^{xiii} case however, the attitude of ECHR changed. ECHR decided for this very case that Greek Cypriots should apply firstly to TRNC's municipal laws and the courts of the effective authority before applying to ECHR (Bozlu, 2007). The reasons for that attitude change were the serious increase in the number of the cases *v. Turkey* due to the impetus that was given by the resolution of the Loizidou case and the concern of Council of Europe that the high amount of compensation costs will put Turkey in a difficult position and so will the council^{xiv}.

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The Court's consideration of the remedies available in the TRNC marks a significant departure from *Loizidou*, which refused to recognize the TRNC as a legitimate state. Thus, the Court held that remedies available in the courts of the TRNC may be regarded as "domestic remedies" of Turkey for purposes of the exhaustion of domestic remedies requirement.

The Court in *Cyprus v. Turkey* made clear that remedies provided by the TRNC that were deemed "effective" would be regarded as domestic remedies which applicants would be required to exhaust. However, no effective remedies for Greek-Cypriots seeking property compensation were found in the TRNC at the time of the *Cyprus v. Turkey* decision, the Court left open the possibility that Turkey might later introduce such remedies and thereby preclude future Greek-Cypriot litigants from bypassing the institutions of the TRNC. Since this envisaged institutional remedy which was called by ECHR has not been established until 2006 under the name of "Immovable Property Commission", the issue was again explored in 2005 in the case of *Xenides-Arestis v. Turkey*.^{xv}

Arestis v. Turkey

After the *Loizidou* case had ended positively for Greek side, this opened the way for other cases and the *Xenides-Arestis* case became another essential case for property rights in the island. *Arestis* involved the deprivation of property rights as a result of the continuing division of Cyprus and the Turkish occupation of northern Cyprus. *Arestis* is a Greek-Cypriot who lives in Nicosia, the capital of Cyprus. She owns land, houses and a shop in northern Cyprus but has been prevented from living in her home or using her property since August 1974 as a result of the continuing division of Cyprus. But by far the most significant aspect of the decision is the Court's opinion requiring Turkey to address this issue in a systematic way in relation to all similarly-situated applicants (Bozlu, 2007). The Court abiding by the decision taken in 2001 for *Cyprus vs. Turkey* case, considers that the respondent State must introduce a remedy which secures genuinely effective redress for the Convention violations.

Regarding the remedies, the Court ordered Turkey to introduce a remedy securing the effective protection of the rights provided in Article 1 of Protocol 1^{xvi} and Article 8^{xvii} of the Convention, not only for Ms. *Xenides-Arestis* but for all similarly situated Greek-Cypriot plaintiffs with pending property compensation claims concerning northern Cyprus in the ECHR, numbering around 1,400.^{xviii} In the meantime, the Court awarded Ms. *Xenides-Arestis* 65,000 euros for costs and expenses.^{xix} Her damages would be determined in a later proceeding.

Turkey responded to the Court's order by introducing its newest remedy for Greek-Cypriot owners of property in northern Cyprus, the "Immovable Property Commission^{xx}," *Spyridakis: Loizidou vs. Turkey* created by the provisions of the new compensation law titled the "Law for the Compensation, Exchange and Restitution of Immovable Properties" (Law no. 67/2005).

5- The Evolution Of Immovable Property Commission

After Mehmet Ali Talat being elected to the presidency of TRNC, the law re-arranging the property regime was ractified in TRNC Parliament in December 2005. The Commission was set up under the Immovable Property Law (number 67/2005) in accordance with the rulings of the European Court of Human Rights in the case of *Xenides-Arestis v. Turkey*. The Commission officially began its activities on March 17th, 2006. It consisted of in total seven people including two non-turkish members: Mr. Hans-Christian Krüger, former Secretary to the European Commission of Human Rights and former Deputy Secretary General of the Council of Europe; and Mr. Daniel Tarschys, former Secretary General of the Council of Europe. Decisions of the commision are executive and boundary and open to appeal (Bozlu, 2007). All natural or legal persons claiming rights to movable and immovable properties may bring a claim by way of an

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application in person or through a legal representative, to the Immovable Property Commission (IMC hereinafter) requesting restitution, exchange or compensation for such property. The Commission, after having heard the arguments of the parties and having examined the documents submitted shall decide as to (Bozlu, 2007):

- 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, or
- 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.

However, this commission foresees returning of the properties as well as compensation and exchange of properties with certain exceptions. These exceptions are stated as below (Bozlu, 2007);

Some Greek owned properties before 1974 shall be returned without delay under the conditions of;

- demand and if the property is under nobody's usage or under the state control which returning can not exceed 4% of the TRNC's territory,
- the properties inside the military facilities, camp and similar training fields shall not returned,
- the properties which had been given to Turkish Cypriots who left properties on the Greek side shall not be returned,
- returning of public properties shall be exercised after the solution in island
- those who ask for compensation shall be paid in current market value of their belongings in 1974 with value increase through the years

As of November 21st, 2012, 4089 applications have been lodged with the Commission and 279 of them have been concluded through friendly settlements and 9 through formal hearing. The Commission has paid GBP 89,662,825 to the applicants as compensation. Moreover, it has ruled for exchange and compensation in two cases, for restitution in one case and for restitution and compensation in five cases. In one case it has delivered a decision for restitution after the settlement of Cyprus Issue, and in one case it has ruled for partial restitution^{xxi}.

Within the processing of the IMC some concerns revealed in both communities. Indeed there are reasons for these worries that the applicants believe that Cyprus problem will be remained unsolved for a long time. However, there is also a silver lining for those who are not satisfied with IMC's decision; there is still a chance to apply to ECHR. While for the Turkish side concerns are mainly about the current Turkish users of the old Greek properties, for the Greek side it is, valuation and fair compensation of the properties and IMC's incapability of restoring access to the properties until the Cyprus issue is resolved which indicates no certain date for near future

The Resolution of Immovable Property Commission in regard to Xenider Arestis Case

At first, ECHR's decision of the exhaustion of domestic remedies through IMCs was opposed by Xenides-Arestis since the IMC provided no instruments for displaced Greek-Cypriots of their exclusion from their properties in the north. Then, she questioned the effectiveness of the

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IMC as a remedy to end violations of Article 1 of Protocol 1 and restore access to her property. Lastly, she drew attention to the exceptions on restitution of IMC law, excluding for instance the area of Famagusta, where Ms. Xenides-Arestis had her home, and which remains under the exclusive control of the Turkish military.

Turkey countered the arguments that Ms. Xenides-Arestis had rejected the IMC's compensation, and that the IMC had nevertheless compensated 466,289 Cypriot pounds, due to her loss of use and the actual value of the property. Regarding restoration of access to the property, the commission announced that the restoration of the property to Ms. Xenides-Arestis is intact, however that would take effect only after the political settlement of the Cyprus problem.

On the other hand, ECHR upheld the IMC as an effective remedy, of "the new compensation and restitution mechanism, as of the requirements of the decision of the Court" in *Xenides-Arestis v. Turkey*. However, the judgment for Ms. Xenides-Arestis having already been rendered on the merits, she would not be required to apply to the commission. Therefore, Court awarded her 800,000 euros for pecuniary damages, 50,000 euros for non-pecuniary damages, and 35,000 euros for costs and expenses.

Greek Cypriots took ECHR recognition of IMC as a domestic remedy which must be exhausted as a huge undermining of Loizidou resolution, since the property compensation claims might be left to the discretion of a commission which refuses to acknowledge the illegality of interference with Greek-Cypriot properties in northern Cyprus and claims to be incapable of restoring access to property until the Cyprus problem is resolved in spite of the compensation that Xenides-Arestis granted by the ECHR.

As the result of the landmark ruling of the ECHR, Greek Cypriot refugees seeking compensation or restitution for their properties in the occupied^{xxii} areas now have to exhaust all domestic remedies in the occupied areas before applying to the ECHR. The Court upheld that the Immovable Property Commission in North Cyprus was an accessible and effective local remedy for all persons seeking redress and therefore an appropriate forum for deciding on complex matters of property ownership and valuation and assessing financial compensation.

6- Conclusion

Against all odds, Court's decisions of exhaustion of domestic remedies as first resort and then the recognition of property compensation commission as a venue for a domestic remedy resort for property claims are groundbreaking decisions. Nevertheless, one should not be mistaken that the change of heart the court showed from *Loizidou v. Turkey* to *Arestis v. Turkey* was not the recognition of TRNC. The ECHR reiterated its position that the 'TRNC' has no legal standing and that Turkey in terms of human rights is responsible for violations in the northern part of the island. The practical reasons of these decisions are also clearly set the reality as well which are firstly, the IMC keeps the pressure from Turkey, of paying compensations to the Greek Cypriots for the properties for a while and also it provides the decline in numbers of *v. Turkey* cases in front of the Court

During these trial processes, one should consider that Annan Plan^{xxiii} was also covering the property problem on the island. Although Annan Plan is out of the context of this paper, since its rejection by Greek Cypriots has never given a possibility for the implication of the Plan, it should be taken into account that a comprehensive solution package was presented within. Hence, Greek Cypriots' rejection of the Plan was a huge drawback for the resolving of the conflict on the island, within the impetus given by ECHR, recognizing as a resort for solving property issue to the IMC could bring back the issue to the negotiation table for a more coherent and just solution for the island.

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To be concluded, it is obvious that property problem is a very complicated issue in Cyprus problem and it is seen that it will take lots of efforts and time to resolve this issue, especially while both parties have totally different approaches to the issue and it is so hard to compromise these two different separate perspectives while Greek side is supporting the returning of the properties to their former owners without any restrictions; Turkish side is supporting the method of exchange and compensation. During the exchange of populations both Greek and Turkish communities suffered a lot and before as well. They are forced to leave their homes, belongings and the places they love. However, mostly this property issue has been seen as a Greek Cypriot problem, Turkish Cypriots have also left their houses and properties in southern side of the island. Therefore, while analyzing this problem, one should not forget that this is a problem for both sides and both sides' claims should be taken into consideration. However, IMC has been recognized as a part of Turkey's legal order by ECHR, it could pave a way to bring peaceful settlement to both parties of the island at least about the property issues.

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Notes

ⁱ A solution would also be expected to address the following issues: Constitutional framework, territorial adjustments, return of property to pre-1974 owners and/or compensation payments, return of displaced persons, demilitarisation of Cyprus, residency rights/repatriation of Turkish settlers, future peacekeeping arrangements.

ⁱⁱ After the violent incidents occurred in the island and coup d'état in Greece, Turkey enforced the Article IV, of Treaty of Guarantee of 1960 and Turkish armed forces intervened the island. Article 4 of the treaty which constitutes the strongest basis of the Turkish argument provides the following: “*In the event of a breach of the provisions of the present Treaty, Greece, Turkey and United Kingdom undertake to consult together with respect to the representations or measures necessary to ensure observance of those provisions. In so far as common or concerted action may not prove possible, each of the three guaranteeing Powers reserves the right to take action with the sole aim of re-establishing the state of affairs created by the present Treaty*”. (Art.4)

ⁱⁱⁱ **At the conclusion of the conference in Zurich on 11 February 1959, agreement was reached between Greece and Turkey on a plan for a settlement. On 19 February, followed by the London Conference, attended by the representatives of Greece, Turkey, Britain and the two Cypriot communities, an agreement was signed for the**

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final settlement of the Cyprus dispute. On the basis of the Zurich and London Agreements, which were in fact imposed on the people of Cyprus, a constitution was drafted and Cyprus was proclaimed an independent state on 16 August 1960.

^{iv} Note that the 1960 Treaty is comprised of three parts: Treaty of Guarantee, Treaty of Alliance and Treaty of Establishment of the Republic of Cyprus. These treaties are also the bodies of the Constitution of the Republic of Cyprus. See for the treaties; <http://www.cypnet.co.uk/ncyprus/history/republic/try-guarantee.html>

^v See, Treaty of Guarantee [http://www.mfa.gov.cy/mfa/mfa2006.nsf/All/484B73E4F0736CFDC22571BF00394F11/\\$file/Treaty%20of%20Guarantee.pdf](http://www.mfa.gov.cy/mfa/mfa2006.nsf/All/484B73E4F0736CFDC22571BF00394F11/$file/Treaty%20of%20Guarantee.pdf)

^{vi} The Turkish Yearbook of International Relations, *Ante*, P.130

^{vii} See, United Nations Document S/11789

^{viii} 'Union' refers to the idea of the union of Greece and Cyprus in Greek language.

^{ix} Rauf Denktas held Office as the first president of Turkish Cypriot Community between 1974-2005. His successor, Mehmet Ali Talat, replaced him after 2005 elections. Compared to Denktas, he was considered a rather moderate politician, since he was the leader of the opposing party which is/was also the party that is for the Annan Plan while Denktas' party was opposing the Plan.

^x *Loizidou v. Turkey*, (1997) 23 E.H.R.R. 513

^{xi} After the 1974 intervention of Turkey to Cyprus, Turkish Cypriots established an entity called "Autonomous Cyprus Turkish Administration" which was succeeded in February 1975 by the "Turkish Federated State of Cyprus" and the in 1983 "Turkish Republic of Northern Cyprus" (TRNC) and it is still and only recognized as a legitimate government by Turkey. Republic of Cyprus (Cyprus) is the only legitimate government which is recognized by all the people of Cyprus however only Greek Cypriots are being represented-

^{xii} *Turkey Compensates Cyprus Refugee*, *BBC News Europe* (2 December 2003) available at: <http://news.bbc.co.uk/2/hi/europe/3257880.stm>.

^{xiii} *Cyprus v. Turkey*, (2002) 35 E.H.R.R.

^{xiv} In the case of *Cyprus v. Turkey*, Greek Cypriot administration alleged that Turkey had continuously violated the entire set of human rights guaranteed by the Convention, with the exception of the right to marry, since 1974 of northern Cyprus. Citing *Loizidou*, the Court confirmed the valid ownership rights of the expelled Greek-Cypriots over their property in northern Cyprus. The Court also confirmed that the total and continuing denial to Greek-Cypriots of access to their property constitutes a violation of Article 1 of Protocol 1 of the Convention and warrants proper compensation. The Court ruled, however, that the issue of compensation, or "just satisfaction," was not ready for decision, given the apparent multiplicity of interests involved. The decision would be reserved for a later time, which to date has not occurred.

^{xv} *Xenides-Arestis v. Turkey*, no. 46347/99, see Sections 9-13, 22 December 2005.

^{xvi} Article 1 of Protocol 1 of the *European Convention for the Protection of Human Rights* provides: "Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by law and the general principles of international law."

^{xvii} Article 8 states: "1) Everyone has the right to respect for his private and family life, his home and his correspondence."

^{xviii} *Op. cit.*, see Section 40.

^{xix} *Op. cit.*, see Section 58.

^{xx} *Xenides-Arestis v. Turkey* (just satisfaction), no. 46347/99, See Sections 10-11, 7 December 2006.

^{xxi} See The official website of the Immovable Property Commission <http://www.tamk.gov.ct.tr/english/index.html>

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^{xxii} Note that the use of 'abandoned' or 'occupied' is not the choice of the author. It is the rhetorical use by Turkish Cypriot side and Greek Cypriot side respectively due to their perception of 1974 incidents as of intervention and of invasion.

^{xxiii} The Annan Plan was a **United Nations** proposal to resolve the **Cyprus dispute**. The proposal suggested restructuring the **Republic of Cyprus** as a "United Republic of Cyprus", which would be a federation of two states. It was revised before being put to the people of Cyprus in a **referendum** in 2004. Greek Cypriots rejected the proposal by 76%, while 65% of the Turkish Cypriots accepted it.

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