The European Court of Human Rights Framework of the Property Issue in Cyprus: An Evaluation of the Immovable Property Commission

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Abstract

Despite being physically divided in 1974, no peace agreement has been made in Cyprus since then. Amongst the issues awaiting solution, perhaps the most difficult one is the property issue. Problems related to property rights have been brought to the European Court of Human Rights (ECtHR) on several occasions. This study focuses on the Immovable Property Commission (IPC), which was established in accordance with the jurisprudence of the ECtHR. In a frozen conflict environment, the ECtHR, although not a transitional justice mechanism for resolving human rights violations in armed conflicts, occasionally plays an effective role in pressuring national authorities to repair the destructive effects of conflict periods. This study assesses the effectiveness of the IPC's role in addressing property issues in general and within this specific context.

Keywords: Cyprus Conflict, Transitional Justice, Displaced Ownership, Peace Process, Compensation Schemes

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Introduction

Armed conflicts lead to severe human rights violations and long-term societal impacts, and post-conflict reconstruction relies on transitional justice (TJ) mechanisms – which address large-scale violations and are often embedded in peace agreements – to foster reconciliation and peace (Yakinthou 2017: 1, 3).

Cyprus is a "frozen conflict" that was halted by a ceasefire but remains unresolved and lacking a final settlement (Hadjigeorgiou 2016: 153-154; Quinn 2021: 122). Decades of failed peace processes have left the island divided between the Turkish Cypriot-administered Turkish

Republic of Northern Cyprus (TRNC is recognized only by Türkiye) and the Greek Cypriot-administered Republic of Cyprus. The United Nations (UN) patrols the dividing line, but the political deadlock persists (Erdem and Greer 2018: 722-723). Since 1974, Cypriots have lived in a state of "everyday peace",[1] making TJ challenging as the conflict is unresolved and the status quo remains (Galtung 1969: 183; Hansen 2011: 22-38; Erdem 2022a: 1437-1462).

One of the key issues of the inter-communal negotiations backed by the UN is the "property issue", which is considered the most complex aspect of the Cyprus conflict (Gürel and Özersay 2006a: vii). The European Court of Human Rights (ECtHR) has ruled on property claims from displaced persons in frozen conflicts, including Cyprus (Aoláin 2017: 33-37). Though not a formal TJ mechanism, ECtHR jurisprudence can act as a "transitional instrument" in such contexts (Aoláin 2017: 5).

The Cyprus conflict and TJ mechanisms have been widely studied (Necatigil 1990; Kızılyürek 2002; Gürel and Özersay 2006a; Fischer 2011: 407-421; Gürel, Ayla, and Yakinthou 2012; Kızılyürek 2016; Mihr 2021: 7-14; Reiter 2021: 11-13). This article examines reparations as a TJ mechanism, focusing on property restitution and compensation through the Immovable Property Commission (IPC) in the TRNC (Taşınmaz Mal Komisyonu 2024a), established under ECtHR guidance in 2005 to address Greek Cypriot displacement since 1974, and serves as an effective interim remedy for the property issue until a permanent peace agreement is reached. This article selectively argues that the ECtHR, though not a TJ mechanism, functions as a "transitional instrument" dealing "innovatively and flexibly" (Aoláin 2017: 5) in relation to Greek Cypriot property rights in a frozen conflict like Cyprus.

Transitional Justice: Reparations

Societies emerging from armed conflict or oppressive regimes often struggle to recover, rebuild, and avoid relapse into violence. They face a dilemma: victims demand justice, perpetrators seek mercy, and the nation requires peace and stability. TJ addresses these tensions, engaging with core questions of responsibility, redress, and reconstruction (American Friends Service Committee 2011: 1). Rooted in principles of justice, TJ insists that individuals be held accountable for the most serious human rights violations (Mieszkalski and Zyla 2021: 65). TJ pursues multiple goals beyond criminal accountability and encompasses judicial and non-judicial mechanisms that help societies address large-scale past abuses, ensuring accountability, justice, and reconciliation through mechanisms like prosecutions, reparations, truth-seeking, institutional reform, vetting and dismissals, or a combination thereof (UN Secretary Council 2004: 4) — to address legacies of massive human rights abuses and promote political and civic transformation (Erhan 2022: 73-86). These measures must align with international human rights standards to make a positive contribution to democratic institution-building (Teitel 2000; United Nations 2010: 2; Lawther, Moffett, and Jacobs 2017; Simić 2021).

1 Everyday peace is the set of practices and norms that people in deeply divided societies use to manage daily life, reducing conflict and tension both within and between groups (Ginty 2017: 548, 553).

TJ seeks to promote justice, reparation, and reconciliation after conflict by acknowledging past crimes, holding perpetrators accountable, providing compensation, and fostering social healing (United States Institute of Peace 2008: 1). It seeks to uncover the truth, recognize victims' suffering, hold perpetrators accountable, provide compensation, prevent future abuses, and promote social healing (United States Institute of Peace 2008: 1-2). By addressing harm through lasting rule-of-law mechanisms, TJ aims to prevent renewed violence, reconcile divided societies, and strengthen democratic legal frameworks (Teitel 2000: 11-26; McAuliffe 2017: 74-94; Mihr 2021: 1, 2). Transition is the period between political regimes, often involving the replacement of authoritarianism with democracy (O'Donnell and Schmitter 1986: 6). In contexts without political change, TJ still addresses human rights violations and the shift from large-scale violence to relative peace, a scenario described as non-transition (Hansen 2011: 22).

Reparations play a key role in TJ by directly addressing victims' harm and acknowledging responsibility for human rights violations (Shelton 2015: 18; Dusek 2017: 132). They provide compensation and form part of restorative justice, focusing on victims' needs and restoring harm caused by past regimes or armed conflicts (Hamber 2006: 564; García-Godos 2021: 194). Reparations should be adequate, effective, proportional to the harm suffered, and provided by the State for gross human rights violations under domestic and international law (United Nations 2005: 7). Reparations in TJ can include restitution, compensation, rehabilitation, acknowledgement of suffering, and measures to prevent future abuses, such as memorials or institutional reforms (United Nations 2005: 7-8; De Greiff 2006: 451-477; Werle and Vormbaum 2022: 93-95). They aim to restore victims' rights and provide support, reflecting the focus of restorative justice (The Working Group on Transitional Justice, 2023; Robins, 2017: 41-58).

TJ measures, particularly reparations, address property issues for internally displaced persons (IDPs), with restitution or compensation for confiscated property being key to restoring their rights and promoting peace (Van Houtte 1999: 625; Waardt, Georgiou, and Celal 2021: 169). The Cyprus conflict is one of Europe's longest-standing conflicts, characterized by enduring hostility, mistrust, and fear, despite the absence of active violence. The island remains geographically divided, and one of its most challenging issues is the question of property rights (Waardt, Georgiou, and Celal 2021: 170). Cyprus has no formal TJ mechanism. Although TJ typically applies to post-conflict societies and Cyprus remains in a non-transition state (Galtung 1969: 183; Hansen 2011: 22-38; Hadjigeorgiou 2016: 153-154; Bell and Pospisil 2017: 577; Quinn 2021: 122-123), the ECtHR's jurisprudence is significant for the IPC concerning property restitution and compensation.[2] In a frozen conflict, the ECtHR, although not a direct TJ mechanism, can influence national authorities to address some of the destructive effects of conflict (Brems 2011: 282-303; Aoláin 2017: 33-37).

2 Restitution seeks to restore a victim's status quo ante, enabling return to one's residence and property. However, it is frequently impossible due to damaged or missing land registers, contested titles, or changes in power after conflict. In such cases, compensation—measures that quantify and make up for harms through money or goods—may be more feasible. (De Greiff 2006: 452; Dusek 2017: 139).

The ECtHR Jurisprudence on the Cyprus Property Issue

While the Court avoids taking a position on the conflict itself, it monitors parties' compliance with the European Convention on Human Rights (ECHR) (Myjer 2011: 32). Although it does not directly reference TJ, its judgments on amnesty, property restitution or compensation, lustration, and prosecution of past violations align closely with TJ mechanisms (Brems 2011: 291-303).

Since 1974, Cyprus has maintained a bi-zonal structure, unlike many post-conflict societies, following a Greek junta coup and Türkiye's military intervention, whose forces remain on the island. While the conflict persists, it is no longer armed, making traditional TJ frameworks inadequate for Cyprus (Gülener 2014: 11). Despite the absence of a TJ mechanism, peace efforts in Cyprus include the bi-communal Committee on Missing Persons (CMP) established in 1981 with UN support. Following the establishment of an agreed list of missing persons, the CMP's objective is to recover, identify, and return to their families, the remains of 2002 persons (492 Turkish Cypriots and 1,510 Greek Cypriots) who went missing during the inter-communal fighting of 1963 to 1964 and the events of 1974. Likewise, the International Center for Transitional Justice (ICTJ) established in 2001, runs a program addressing displacement, disappearances, and division to foster a rights-respecting future.

In Cyprus, the ECtHR's handling of property rights violations offers a valuable, though informal, contribution to reconciliation. Following the 1974 events, approximately 210,000 Greek and Turkish Cypriots were displaced, making Europe's longest-lasting internal displacement (Sert 2010: 238-239). Unlike most protracted displacement situations worldwide, the internally displaced persons (IDPs) in Cyprus no longer face urgent humanitarian needs, with Greek Cypriots in the south supported by housing programs and Turkish Cypriots in the north resettled in former Greek Cypriot properties (Gürel and Özersay 2006a: 20-27), whereas the Turkish Cypriot administration in the north allocated properties left behind by Greek Cypriots to displaced Turkish Cypriots (Gürel and Özersay 2006a: 12-20). Nevertheless, Greek Cypriots continue to seek the return of properties in the north, while Turkish Cypriot authorities view the northern resettlement as irreversible (Norwegian Refugee Council 2005: 5-6). Without a peace agreement, formal TJ policies and compensation schemes, restoring IDPs' property rights remains essential for lasting peace in Cyprus (Erdem 2022b: 1438-1439; Waardt, Georgiou, and Celal 2021: 172). This study focuses on the IPC, which accepts applications from Greek Cypriots seeking restitution or compensation for property abandoned in the north in 1974. No equivalent commission exists for properties left in the south by Turkish Cypriot owners. After 1974, under Law No. 139/1991, the Greek Cypriot Minister of the Interior was designated as the "custodian" of all Turkish Cypriot property in areas controlled by the Republic of Cyprus, "for the duration of the abnormal situation."

The 1996 judgment of Loizidou v. Türkiye became a landmark judgment of the ECtHR following the 1974 partition of Cyprus in addressing property claims. Greek Cypriot Titina Loizidou filed her application on 22 July 1989. Ms. Loizidou applied directly to the ECtHR with the allegation that domestic remedies were ineffective and her application was accepted by

the Court. Indeed, Articles 36 and 159 of the TRNC Constitution prevent Greek Cypriots from seeking rights under TRNC law regarding their properties in the north. Moreover, considering that Greek Cypriots did not have the opportunity to cross to the TRNC at that time, it seems that these people did not have the physical opportunity to apply to the TRNC Courts. For this reason, Ms. Loizidou was able to apply directly to the ECtHR without making any attempt to seek rights in the TRNC or Türkiye, and her application was accepted (Loizidou v. Türkiye (Preliminary Objections), 23 March 1995, App. No. 15318/89). This case is particularly significant as it raised questions on jurisdiction over pre-1974 Greek Cypriot property under TRNC control and Türkiye's responsibility for human rights violations in the TRNC.

In its decision on preliminary objections, the ECtHR ruled that Türkiye could be held responsible for human rights violations in the TRNC due to its effective control of the territory (Loizidou v. Türkiye (Preliminary Objections), parag. 62). The Court held that provisions like Article 159 of the TRNC Constitution, allowing mass property seizures without compensation, are legally invalid, citing UN Security Council resolutions that rejected the northern state's declaration. Consequently, the Court ruled that Ms. Loizidou's immovable property could not lawfully be taken under Article 159 of the TRNC Constitution, and that she remained the rightful owner. The ECtHR treated the pre-1990 property violation as an "ongoing violation." Although it occurred before 1990—the year Türkiye recognized the ECtHR's jurisdiction[3]—the ECtHR treated the violation as an "ongoing violation," holding Türkiye responsible and ordering compensation to Ms. Loizidou, which was ultimately paid in December 2003 (Gürel and Özersay 2006b: 363).

The ECtHR in Loizidou ruled that the TRNC's actions were invalid, as it lacks international recognition, and held Türkiye responsible for ongoing property rights violations due to its effective control over Northern Cyprus. By treating the breach as "continuous," the Court extended Türkiye's responsibility beyond the date it recognized the Court's jurisdiction (Loizidou v. Türkiye (Judgment), parag. 52-57), demonstrating an innovative approach to procedural challenges (Renda 2013: 390; Gündüzler 2016: 36; Dereboylular and Arman 2018: 311; Aoláin 2017: 33). The Loizidou judgment fundamentally altered the context in which the Cyprus negotiations were conducted. For the first time, an authoritative body declared that leaving IDPs without any remedy was unacceptable (Hadjigeorgiou 2016: 157). Following this ruling, there was a rapid increase in similar cases, with over 1,000 applications filed against Türkiye (Özersay 2006: 324; Hakkı 2010: 36; Renda 2013: 391; Hadjigeorgiou 2016: 156; Gündüzler 2016: 34). Nevertheless, subsequent cases, notably Xenides-Arestis v. Türkiye and Demopoulos v. Türkiye, introduced new dynamics to the property issue.

The Xenides Arestis application was selected as a pilot judgment to assess whether the Commission established in the TRNC could be considered a domestic remedy for pending Cypriot property applications. In its admissibility decision, the ECtHR examined the provisions

3 Türkiye recognized the right to individual application before the European Commission of Human Rights on 28 January 1987, and the jurisdiction of the European Court of Human Rights on 26 December 1989, and declared that it would be responsible for violations that occurred after these dates (Cengiz 2008: 389).

of the compensation law in force in the TRNC,[4] incorporating them into the judgment's text, and evaluated whether they constituted effective domestic law. After examining the law regulating the establishment, duties, and powers of the Property Compensation Commission under Law No. 49/2003, the Court held that the Commission did not constitute an "effective and adequate domestic" remedy as required by the ECtHR. However, the Court provided guidance for improvement. It noted that the compensation under Law No. 49/2003 was limited to pecuniary damages for immovable property, with no provisions for movable property or non-pecuniary losses. Furthermore, the law did not allow for restitution of the property itself. The Court also raised concerns regarding the composition of the Commission, since a majority of its members resided in houses built on or owned by Greek Cypriots. The Court suggested that an internationally composed Commission would enhance its legitimacy and credibility (Myra Xenides-Arestis v. Türkiye (Admissibility), p. 44-45).

In its decision on Xenides Arestis' application, the ECtHR held that the applicant's property rights were violated under Article 1 of Protocol No. 1. The Court reaffirmed the reasoning of the Loizidou judgment, emphasizing that international legal responsibility for Convention violations does not rest with the TRNC, but with Türkiye, which exercises effective control over Northern Cyprus due to its military presence. The Court observed that no change had occurred to affect its finding that Türkiye exercised overall military control over Northern Cyprus. It stressed that the equal treatment of the two communities in negotiations neither implied recognition of the TRNC nor conferred statehood. The Greek Cypriot rejection of the Annan Plan in 2004 did not end the continuing violation of IDPs' property rights (Myra Xenides-Arestis v. Türkiye (Judgment), 22 December 2005, App. No. 46347/99, parag. 23-32).

The Court also addressed the rights violations experienced by Xenides Arestis and other similar applicants. It emphasized that while Ms. Arestis's violated rights reflected a broader problem affecting many people, the Court could not disregard the approximately 1,400 cases pending before it by Greek Cypriots against Türkiye. According to the Court, a finding of violation imposes on the responsible state not only the obligation to pay compensation under Article 41, but also the duty to adopt general and/or individual measures within its domestic legal system to eliminate the violation and remedy its effects as fully as possible. Consequently, the Court required that a mechanism be established within three months to guarantee the rights of all complainants in similar pending applications and to ensure that a resolution is achieved within this timeframe (Myra Xenides-Arestis v. Türkiye (Judgment), parag. 40). In summary, the ECtHR concluded that Türkiye had violated Ms. Xenides-Arestis' property rights but did not directly award compensation, instead leaving it to Türkiye to determine appropriate measures through the creation of domestic law and the elimination of the violations (Özersay 2006: 328).

In Xenides-Arestis' judgment, the ECtHR signaled that if the mechanism to be established is deemed an effective domestic remedy, the Court will direct similar applications pending before it to this mechanism (Dereboylular and Arman 2018: 314). Notably, the judgment does not include an order for the "return of immovable property", nor does it specify

4 "Law as to Compensation for Immovable Properties Located within the Boundaries of the Turkish Republic of Northern Cyprus, which are within the Scope of Article 159, paragraph (4) of the Constitution" (Law No. 49/2003). See Myra Xenides-Arestis v. Türkiye (Admissibility), 14 March 2005, App. No. 46347/99, p. 4-10.

which "remedy" – whether compensation, alternative immovable property, or partial or complete return of the property - must be provided within the specified period. Consequently, the ECtHR indicated that such a remedy could be considered sufficient if a person seeking the return of their property through the TRNC's Immovable Property Compensation Commission is offered compensation or an exchange for another property instead (Özersay 2006: 330). The Court not only welcomed the establishment of an accessible and impartial commission, but also encouraged Türkiye to systematically address the deprivation of property rights of all applicants in similar situations through this institution (Athanassiou 2010: 30).

The ECtHR's warnings in the case of Xenides-Arestis v. Türkiye were considered, and a new law was enacted to replace Compensation Law No. 49/2003. Under this framework, the IPC was established under the Immovable Property Code (No. 67/2005) in accordance with the rulings of the ECtHR (Taşınmaz Mal Komisyonu 2024a). The purpose of this law is "to regulate the necessary procedure and conditions to be complied with by persons in order to prove their rights regarding claims in respect to movable and immovable properties within the scope of this Law, as well as, the principles relating to restitution, exchange of properties and compensation payable in respect thereof, having regard to the principle of and the provisions regarding protection of bizonality…without prejudice to any property rights or the right to use property under the TRNC legislation or to any right of the Turkish Cypriot People which shall be provided by the comprehensive settlement of the Cyprus Conflict" (Taşınmaz Mal Komisyonu 2024b).

The ECtHR's judgment in Demopoulos v. Türkiye marked a turning point in the Cyprus property issue. The Court found eight Greek Cypriot applications inadmissible due to non-exhaustion of domestic remedies, as Türkiye had established the renewed IPC as an effective mechanism for similar complaints. The ruling was significant for two reasons: around 1,400 applications were pending at the time, and it was also due to the Court's reasoning (Paraskeva and Meleagrou 2022: 243). The Court examined the applicants' objections concerning the IPC, focusing on whether domestic remedies must be exhausted for Greek Cypriot properties under TRNC control and whether the IPC could provide effective redress. The Court noted that since Türkiye is responsible for the TRNC authorities' actions, any remedy provided by TRNC institutions can be considered a "domestic" remedy for Türkiye under Article 35(1). The Court stated that the situation in Cyprus had changed, as new legislation now provides a redress mechanism consistent with international law, and the political environment improved with the reopening of northern borders (Demopoulos v. Türkiye (Admissibility), parag. 89-90).

Regarding the argument that requiring exhaustion legitimizes an illegal occupation, the Court invoked the "Namibia principle", [5] noting that even if the administration of a territory is

5 The "Namibia principle" was first expressed by the ICJ in Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa). The Court held that South Africa's responsibility for rights violations arose from its physical control of the territory, not sovereignty. Consequently, non-recognition of an illegal administration should not deprive the territory's people of benefits from international cooperation or render acts of the de facto authority invalid (Legal Consequences for States of the Continued Presence of South Africa in Namibia (South West Africa) (Advisory Opinion) [1971] ICJ Reports 16, parag. 118). The Namibia principle is now well established under international law, and the ECtHR has been referring to the principle in its case law. Loizidou v. Türkiye (Judgment), parag. 45; Demopoulos v. Türkiye (Admissibility), parag. 93.

not internationally recognized, certain legal arrangements remain valid under international law to protect the inhabitants. Thus, the existence of an unlawful occupation does not render irrelevant administrative or judicial acts under the Convention (Demopoulos v. Türkiye (Admissibility), parag. 93-95, Özkan 2017: 87-92). The Court held that if an effective remedy exists under the respondent Government, the exhaustion rule of Article 35(1) applies. This does not challenge the international view that the TRNC is not legitimate and that the Republic of Cyprus remains the sole legitimate government. Allowing Türkiye to remedy violations does not legitimize the TRNC. Thus, for Article 35(1) purposes, the IPC procedures can be considered Türkiye's "domestic remedies" (Demopoulos v. Türkiye (Admissibility), parag. 103).

The Court then assessed the effectiveness of Law No. 67/2005 and in particular, and particularly the IPC, which has been operating since March 2006, noting that the said law allows Contracting States discretion in fulfilling their obligations under Article 1 of the Convention. The Court rejected the claim that freedom of choice will enable Türkiye to benefit from illegality. The Court was of the view that no unfairness arises if compensation aligns with its case law, as property can be valued and compensated in monetary terms (Demopoulos v. Türkiye (Admissibility), parag. 114-115). More importantly, the Court found it unreasonable to require Türkiye to provide restitution in all cases, given that the applicants or their predecessors in title had left their property some thirty-five years ago, and there was a material impossibility. For this reason, Türkiye is in a better position to consider all legal and practical difficulties. Therefore, Türkiye may consider alternatives, and the Court's role is not to impose unconditional obligations on Türkiye, which could cause mass evictions and rehousing. The Court stressed that redress for old property rights violations must avoid creating new injustices. Therefore, the Court took the view that Contracting States should decide how to remedy property breaches, as they are best placed to assess practical, priority, and interest considerations on a domestic level, even in situations such as those about the northern part of Cyprus (Demopoulos v. Türkiye (Admissibility), parag. 116, 118).

The Court also noted the IPC's seven-member composition, including two independent internationals, and the exclusion of Greek Cypriot property occupants. The Court found no loss of impartiality from the TRNC's status, Turkish military presence, or member appointments, and deemed compensation reasonable (Demopoulos v. Türkiye (Admissibility), parag. 123). In summary, the ECtHR found Law No. 67/2005 to provide an accessible and effective remedy for Greek Cypriot property claims, rejecting the applicants' claims under Article 1 of Protocol No. 1 for non-exhaustion of domestic remedies, as the applicants had not resorted to the IPC mechanism. The Court found that Law No. 67/2005 provides a realistic compensation framework for Cyprus' current situation, a matter beyond its jurisdiction to resolve (Demopoulos v. Türkiye (Admissibility), parag. 127). Even after this judgment, the Greek Cypriot government did not recognize the IPC as an effective domestic remedy. To this day, it has discouraged Greek Cypriots from applying to the IPC (Cyprus Mail, 2024).

The Demopoulos judgment marked a shift in the handling of Cyprus's property issue. The Court confirmed the IPC met Xenides-Arestis standards, affirming its legality and effectiveness as a domestic remedy, and noted that time and political changes can weaken

legal property title.[6] The IPC's establishment has undoubtedly eased the ECtHR's workload, as future cases must go through the IPC (International Crisis Group 2010: 12). Previously, property disputes – a key aspect of the Cyprus Conflict- led to long delays before judgments (Dereboylular and Arman 2018: 315). Since Demopoulos, cases before the ECtHR concerning the IPC have seen the Court approve IPC-ordered remedies and confirm its effectiveness. The Court declared all applications inadmissible for non-exhaustion of domestic remedies where the applicants had not applied to the IPC in accordance with Law No. 67/2005.

However, in Joannou v. Türkiye, the applicant argued the IPC proceedings were unfair, ineffective, and delayed. Ms. Joannou applied to the IPC in May 2008, and the ECtHR ruled 9 years later, while the IPC application was still pending (Joannou v. Türkiye (Judgment), 12 December 2018, App. No. 53240/14, parag. 3, 60). Türkiye contended the application was inadmissible for non-exhaustion of domestic remedies. The Court reaffirmed that delays or difficulties in specific IPC cases do not affect its overall effectiveness as established in Demopoulos. It therefore examined only the applicant's specific complaints about the conduct of IPC proceedings, without questioning the IPC's general effectiveness (Joannou v. Türkiye (Judgment), parag. 63, 85-87). The Court found that the applicant's identity and legal claim were proven and attributed delays to the TRNC authorities, citing inefficient evidence collection and failure to identify key issues earlier. The Court held that the IPC lacked coherence, diligence, and the appropriate expedition required under Article 1 of Protocol No. 1 (Joannou v. Türkiye (Judgment), parag. 103-104, 116).

During the assessment phase of this study, the ECtHR gave another judgment regarding the length of proceedings before the IPC. In K.V. Mediterranean Tours Ltd. v. Türkiye, the applicant claimed the lengthy and ineffective IPC process for recovering property compensation violated Articles 6 and 13 of the Convention and Article 1 of Protocol No. 1 (K.V. Mediterranean Tours Ltd. v. Türkiye (Judgment), 10 June 2025, App. No. 41120/17, parag. 1, 40). The applicant company, owned by Greek Cypriots, submitted an IPC claim in July 2010 for compensation, restitution, non-pecuniary damages, statutory interest, and legal costs for its Famagusta property. The ECtHR ruled 15 years later, while the IPC application remained pending. Türkiye argued the application was inadmissible, due to non-exhaustion of domestic remedies (K.V. Mediterranean Tours Ltd. v. Türkiye (Judgment), parag. 7, 9, 43, 44).

Building on Demopoulos and Joannou and without questioning IPC's general effectiveness, the Court examined the applicant company's specific allegations about how its IPC proceedings were handled, focusing on two main issues. The first issue concerned the applicant company's inability to reclaim its Famagusta property due to third-party claims. The Court noted restitution is not always required and that IPC remedies, including land exchange and compensation, are effective. Since the applicant company sought both compensation and restitution and expressed a willingness to consider offers, the Court found the proceedings effective in this regard (K.V. Mediterranean Tours Ltd. v. Türkiye (Judgment), parag. 22, 63, 65). The Court held that delays

6 Demopoulos v. Türkiye (Admissibility), parag. 116, 118. See also Asproftas v. Türkiye (Judgment), 27 May 2010, App. No. 16079/90, parag. 44; Petradikou v. Türkiye (Judgment), 27 May 2010, App. No. 16081/90, parag. 43.

or difficulties in individual IPC cases do not undermine the Demopoulos case, which confirmed the IPC as accessible and effective. A generally effective remedy may fail in specific cases, but this does not challenge its overall or applicants' obligation to use it. The Court, therefore, examined the applicant's particular allegations without questioning IPC's general effectiveness (Joannou v. Türkiye (Judgment), parag. 85-87).

Regarding the second issue, concerning the prolonged IPC proceedings since 2010, the Court acknowledged the progress made by the IPC, including the settlement of 1,869 applications and £482,971,921 in compensation, as well as the variety of remedies offered. However, it rejected Türkiye's claim that the High Administrative Court effectively addresses delays, noting the lack of evidence of successful cases. The Court emphasized that, to be considered effective, a remedy must work not just in theory but also in real-life situations (K.V. Mediterranean Tours Ltd. v. Türkiye (Judgment), parag. 31, 63, 69.). The ECtHR concluded that, in this case, the IPC lacked coherence, diligence, and expedition, constituting a breach of Article 1 of Protocol No. 1. The Court emphasized that this finding is limited to the present case and does not undermine the IPC's general validity as a remedy for the applicants (K.V. Mediterranean Tours Ltd. v. Türkiye (Judgment), parag. 70-72). Furthermore, the Court reiterated that under Article 46, States are legally bound to comply with its final judgments. It noted that lengthy IPC proceedings are a recurring concern, citing the case of Joannou to criticize the TRNC authorities' delays. The Court emphasized its continuous monitoring of IPC's effectiveness in addressing Greek Cypriot property claims (Joannou v. Türkiye (Judgment), parag. 104, 86-87; K.V. Mediterranean Tours Ltd. v. Türkiye (Judgment), parag. 66, 101-102).

After finding a violation of Article 1 of Protocol No.1, the ECtHR addressed damages under Article 41.[7] For pecuniary damage, it noted that the delays were so substantial that compensation was necessary to prevent a denial of justice, but reserved the award for a later date. For non-pecuniary damage, the Court awarded 7,000 Euro for distress caused by the excessive length of the IPC proceedings K.V. Mediterranean Tours Ltd. v. Türkiye (Judgment), parag. 106-109, p. 25). Lastly, in their partly dissenting opinion, Judges Yüksel and Paczolay agreed that there was a procedural violation due to the excessive length of the IPC, but opposed awarding just satisfaction under Article 41, arguing that the claim was still pending and that the Court should follow its approach in Joannou v. Türkiye. Judge Yüksel also dissented under Article 46, viewing the case as a procedural issue rather than a structural problem and noting ongoing improvements in the IPC's functioning (K.V. Mediterranean Tours Ltd. v. Türkiye (Judgment), p. 27-28).

All in all, Loizidou v. Türkiye represents the pre-IPC era, where the ECtHR held Türkiye directly responsible for property violations in the TRNC due to the absence of effective domestic remedies. Applicants could bring claims directly to the ECtHR without exhausting domestic remedies, where the Court awarded just satisfaction under Article 41.

7 Article 41 provides that if the Court finds a violation of the ECHR, and if the internal law in question allows only partial reparation, then the Court can "afford just satisfaction" to the injured party.

However, in Demopoulos v. Türkiye, the Court recognized the IPC as an effective domestic remedy, thereby shifting away from its Loizidou judgment. This required applicants to exhaust the IPC before applying to the ECtHR and dismissed many claims as inadmissible. In Joannou v. Türkiye, the Court reaffirmed the IPC's general effectiveness, noting that its efficiency depends on the timeliness of proceedings, decisions, and scheduled payments. The recent K. V. Mediterranean Tours Ltd. v. Türkiye case examined the IPC's effectiveness and accessibility in the specific circumstances of the applicant company's claim. The Court found procedural shortcomings – such as lack of coherence, diligence, and appropriate expedition – leading to a breach of Article 1 of Protocol No. 1 and the award of just satisfaction under Article 41 for the first time since the Loizidou case, highlighting that even generally effective remedies can fail in cases.

Conclusion

Since its establishment, the IPC has faced persistent challenges. The ECtHR cases revealed excessive delays in the proceedings, but its most critical issue remains a lack of financial resources. In practice, this means difficulties in executing compensation awards (Cleaver 2024). Since the beginning of its operations in March 2006, the IPC has received 7,800 applications, finalized 1,869, and awarded £482.971.921 in compensation (Erdem and Greer, 2018: 721-738; Taşınmaz Mal Komisyonu, 2024c). Further challenges emerged from interviews with political parties on both sides of the island of Cyprus. Five Greek Cypriot parties stated they did not recognize the IPC as a remedy, questioned its legitimacy and/or legality, and in some cases actively discouraged IDPs from applying to the IPC. In contrast, six Turkish Cypriot parties had no concrete plans to address the IPC's shortcomings (Erdem 2022a: 1448-1453).

It is revealed that, although the ECtHR is not a transitional justice mechanism, it can influence national authorities in addressing human rights violations from armed conflicts. This is particularly evident in Loizidou v. Türkiye and similar applications, which relied on the de facto situation in Northern Cyprus. The Court affirmed that Türkiye, not the TRNC, exercises effective political authority in the North and is therefore responsible for property rights violations there, emphasizing Türkiye's obligation to protect human rights beyond its national borders but within its jurisdiction.

This article examined the IPC and how the ECtHR jurisprudence, which prompted its creation, has shaped the Cyprus immovable property issue. Since the 1974 partition, this problem has persisted within a frozen conflict and has not been addressed by any transitional justice mechanism due to the lack of a peace agreement. The IPC's establishment demonstrates that various actors' interests intertwine in shaping judicial responses to human rights violations outside a TJ paradigm, highlighting both the IPC's potential and the complexities involved in cases like Cyprus. Complete resolution of the Cyprus property issue requires a comprehensive peace agreement. Through the Xenides Arestis, Demopoulos, Joannou, and Mediterranean Tours Ltd. judgments, the ECtHR indicated that applicants can either use the IPC or await a political solution. By promoting the establishment of the IPC, the ECtHR acts as a "transitional

instrument", addressing political transitions and conflict resolution innovatively and flexibly in a frozen conflict. In doing so, the Court seeks to prevent gaps in the human rights protection in the TRNC, which lacks international recognition.

The establishment of the IPC and its recognition by the ECtHR as an effective domestic remedy represents an important step. The IPC has reduced the number of applications before the ECtHR, easing its workload, while providing Türkiye with a mechanism to address the immovable property claims of Greek Cypriot IDPs. Resolving immovable property disputes domestically is the most effective approach, as waiting for a peace agreement may further delay claims. In Demopoulos, the ECtHR emphasized the need to balance the rights of former owners and current residents. Being subsidiary to national systems, the Court is neither equipped nor appropriate for establishing facts or calculating compensation – tasks better handled domestically. As noted in the dissenting opinions of Judge Jambrek and Judge Pettiti in Loizidou, "[The ECtHR is] ill-equipped to deal with large-scale and complex issues" where "the whole problem of the two communities has more to do with politics and diplomacy than with European judicial scrutiny" (Demopoulos v. Türkiye (Judgment), p. 32, 37).

Finally, the IPC continues to face several challenges, some of which have been addressed by the ECtHR in recent judgments. In Joannou and K.V. Mediterranean Tours Ltd., the ECtHR confirmed that the IPC remains a domestic remedy, while Türkiye and the IPC face pressure to improve speed, coherence, and overall functioning. However, the Court may revisit the Loizidou approach, meaning the IPC might no longer automatically block ECtHR claims if it proves ineffective or inaccessible. Undoubtedly, repeated negative evaluations could prompt Greek Cypriots to bypass the IPC, resuming direct applications to the ECtHR (Dereboylular and Arman 2018: 315-316). Should the IPC process remain deficient, the ECtHR may determine IPC is no longer an effective domestic remedy in future cases (Eskimuhtaroğlu and Bozkurt 2020: 523). This article serves as a key to the ECtHR approach to Cyprus, highlighting its role in addressing past human rights violations arising from armed conflict. While not a TJ mechanism, the ECtHR has engaged in fact-finding after conflicts to safeguard the fundamental rights protected by the ECHR.

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