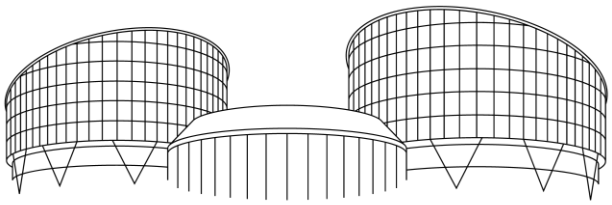

EUROPEAN COURT OF HUMAN RIGHTS
COUR EUROPÉENNE DES DROITS DE L'HOMME

FOURTH SECTION

CASE OF ORPHANIDES v. TURKEY

(Application no. 36705/97)

JUDGMENT
(*just satisfaction*)

STRASBOURG

22 June 2010

This judgment will become final in the circumstances set out in Article 44 § 2 of the Convention. It may be subject to editorial revision.

In the case of Orphanides v. Turkey,

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

Nicolas Bratza, *President,*
Giovanni Bonello,
Ljiljana Mijović,
David Thór Björgvinsson,
Ján Šikuta,
Päivi Hirvelä,
Işıl Karakaş, *judges,*
and Fatoş Aracı, *Deputy Section Registrar,*
Having deliberated in private on 1 June 2010,

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

PROCEDURE

1. The case originated in an application (no. 36705/97) against the Republic of Turkey lodged with the European Commission of Human Rights ("the Commission") under former Article 25 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention") by a Cypriot national, Mr Andreas Orphanides ("the applicant"), on 9 June 1997.

2. In a judgment delivered on 20 January 2009 ("the principal judgment"), the Court dismissed various preliminary objections raised by the Turkish Government and found continuing violations of Article 8 of the Convention by reason of the complete denial of the right of the applicant to respect for his home and of Article 1 of Protocol No. 1 to the Convention by virtue of the fact that the applicant was denied access to and control, use and enjoyment of his properties as well as any compensation for the interference with his property rights. Furthermore, it found that it was not necessary to examine the applicant's complaint under Article 14 of the Convention (*Orphanides v. Turkey*, no. 36705/97, §§ 25, 35, 44 and 49 and points 1-4 of the operative provisions, 20 January 2009).

3. Under Article 41 of the Convention the applicant sought just satisfaction of 695,625 Cypriot pounds (CYP – approximately 1,188,544 euros (EUR)) for the deprivation of his properties concerning the period between January 1987, when the respondent Government accepted the right of individual petition, and 1999. A valuation report, setting out the basis of the applicant's loss, was appended to his observations. Furthermore, the applicant claimed CYP 110,000 (approximately EUR 187,946) in respect of non-pecuniary damage and approximately EUR 11,143 for the costs and expenses incurred before the Court.

4. Since the question of the application of Article 41 of the Convention was not ready for decision, the Court reserved it in whole and invited the Government and the applicant to submit, within three months, their written observations on that issue and, in particular, to notify the Court of any agreement they might reach (ibid., §§ 65 and 68, and point 5 of the operative provisions).

5. On 13 July 2009 the Court invited the applicant and the Government to submit any materials which they considered relevant to assessing the 1974 market value of the properties concerned by the principal judgment.

6. The applicant and the Government each filed comments on this matter.

7. On 4 September 2009, the applicant was invited to submit written evidence that the properties at stake were still registered in his name or to indicate and substantiate any transfer of ownership which might have taken place.

8. On 6 October 2009 the applicant produced affirmations of ownership of Turkish-occupied immovable properties issued by the Department of Lands and Surveys of the Republic of Cyprus. According to these documents, on 21 September 2009 the properties described in paragraph 15 below were registered in the name of Andreas Orphanides.

THE LAW

I. PRELIMINARY ISSUE

9. In a letter of 22 April 2010 the Government requested the Court to decide that it was not necessary to continue the examination of the applicant's just satisfaction claims. They invoked the principles affirmed by the Grand Chamber in *Demopoulos and Others v. Turkey* ([GC] (Dec.), nos. 46113/99, 3843/02, 13751/02, 13466/03, 10200/04, 14163/04, 19993/04, 21819/04, 1 March 2010) and argued that the applicant should address his claims to the Immovable Property Commission (the "IPC") instituted by the "TRNC" Law 67/2005.

10. The Court first observes that the Government's submissions were unsolicited; they were received by the Registry long after the expiration of the time-limit for filing comments on just satisfaction and almost two months after the delivery of the Grand Chamber's decision in *Demopoulos*. It could therefore be held that the Government are estopped from raising the matter at this stage of the proceedings.

11. In any event, the Court cannot but reiterate its case-law according to which objections based on non-exhaustion of domestic remedies raised after

an application has been declared admissible cannot be taken into account at the merits stage (see *Demades v. Turkey* (merits), no. 16219/90, § 20, 31 July 2003, and *Alexandrou v. Turkey* (merits), no. 16162/90, § 21, 20 January 2009) or at a later stage. This approach has not been modified by the Grand Chamber, as the cases of *Demopoulos and Others* had not been declared admissible when Law 67/2005 entered into force and when Turkey objected that domestic remedies had not been exhausted.

12. Furthermore, the Court considers that its previous finding in the present case that the applicant was not required to exhaust the remedy introduced by Law 67/2005 constitutes *res judicata*. It recalls that after the compensation mechanism before the IPC was introduced, the Government raised an objection based on non-exhaustion of domestic remedies. This objection was rejected in the principal judgment (see paragraphs 24-25 of the principal judgment and point 1 of its operative provisions). The Government also unsuccessfully requested the referral of the case to the Grand Chamber.

13. It follows that the Government's request to stay the examination of the applicant's claims for just satisfaction should be rejected. The Court will therefore continue to examine the case under Article 41 of the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

14. 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

1. The parties' submissions

(a) The applicant

15. In his just satisfaction claims of 29 September 1999, the applicant requested CYP 695,625 (approximately EUR 1,188,544) for pecuniary damage. He relied on an expert's report assessing the value of his losses which included the loss of annual rent collected or expected to be collected from renting out his properties, plus interest from the date on which such rents were due until the day of payment. The rent claimed was for the period dating back to January 1987, when the respondent Government accepted the right of individual petition, until 1999. The applicant did not claim compensation for any purported expropriation since he was still the legal

owner of the properties. The valuation report contained a description of Lapithos village, where the applicant's properties were located. Since 20 April 1990 (date of a donation made by the applicant's parents) these properties were registered in the applicant's name as follows (see paragraph 10 of the principal judgment):

(a) plot no. 288/3, sheet/plan 11/14 E.1, plot of land – olive grove; area: 2,282 square metres (m²); share: ½;

(b) plots nos. 511 and 513, sheet/plan 11/14E.2, plots of land; area: 3,862 m² and 3,405 m² respectively; share: ¼;

(c) plots nos. 19, 20, 28 and 29, sheet/plan 11/15W.1, plots of land; area: 1,053 m², 1,024 m², 1,769 m² and 1,405 m² respectively; share: ½;

(d) plots nos. 98 and 128/1, sheet/plan 11/15W.2, lemon plantations; area: 5,219 m² and 1,469 m² respectively; share: ½;

(e) plot no. 296, sheet/plan 11/15W.2, lemon plantation with bore hole; area: 4,877 m²; share: ½;

(f) plots nos. 22, 22/1, 22/2, 22/3 and 22/4, sheet/plan 11/15W.2 and E.2, lemon plantation with two wells and one ground storey residence; area: 7,032 m²; share: ½;

(g) plot no. 42, sheet/plan 11/15W.2.E (no. 2), lemon plantation; area: 1,018 m²; share: ½;

(h) plot no. 104, sheet/plan 11/15W.2.E (no. 2), tank of an area of 37 m² with a freshwater spring; share: 8/49;

(i) plots nos. 60/1/2, 63/1 and 63/3, sheet/plan 11.23E.1,W (no. 1), lemon plantation (area: 2,358 m²) with a bore hole and one tank (area: 84 m²); on this property had been constructed: a ground storey residence of an area of 152.25 m²; two shops of an area of 56 m²; two semidetached ground storey residences (areas: 152.25 m² and 63 m² respectively); one residence of an area of 219.41 m²; share: ½;

(j) plots nos. 53, 773, 774, 775 and 776, sheet/plan 11/23W.2,E.1 and 11/23W1E (no. 2), right to use a freshwater spring; share: 23/2880.

16. The starting point of the valuation report was the annual rental value of the applicant's properties in 1974, calculated on the basis of a percentage (5 or 6%) of the market value of the properties or assessed by comparing the rental value of similar land at the relevant time. This sum was subsequently adjusted upwards according to an average annual rental increase of 12% or 5%. Compound interest for delayed payment was applied at a rate of 8% per annum, the total sum due for interest being CYP 226,344 (approximately EUR 386,731).

17. According to the expert, the 1974 market and rental values of the applicant's properties listed in paragraph 15 (a) – (j) above were the following:

- property listed under (a): market value CYP 2,510 (approximately EUR 4,288); rental value CYP 150.61 (approximately EUR 257);

- property listed under (b): market value CYP 4,059.13 (approximately EUR 6,935); rental value CYP 243.55 (approximately EUR 416);
- property listed under (c): market value CYP 14,600.3 (approximately EUR 24,946); rental value CYP 876.03 (approximately EUR 1,496);
- property listed under (d): market value CYP 11,133.75 (approximately EUR 19,023); rental value CYP 668.03 (approximately EUR 1,141);
- property listed under (e): market value CYP 14,631 (approximately EUR 24,998); rental value CYP 877.86 (approximately EUR 1,500);
- property listed under (f): market value CYP 15,554 (approximately EUR 26,575); rental value CYP 778 (approximately EUR 1,329);
- property listed under (g): market value CYP 1,781.5 (approximately EUR 3,043); rental value CYP 106.89 (approximately EUR 182);
- property listed under (h): market value CYP 5 (approximately EUR 8.5); rental value CYP 0.3 (approximately EUR 0.5);
- property listed under (i): market value CYP 28,294 (approximately EUR 48,343); rental value CYP 1,414.7 (approximately EUR 2,417);
- property listed under (j): market value CYP 5,250 (approximately EUR 8,970); rental value CYP 315 (approximately EUR 538).

18. In a letter of 28 January 2008 the applicant observed that a long lapse of time had passed since he had presented his claims for just satisfaction and that the claim for pecuniary losses needed to be updated according to the increase of the market value of land in Cyprus (between 10 and 15% per annum).

19. In his further claims of 6 October 2009 the applicant first requested to obtain full access, use and enjoyment of his properties. He moreover sought compensation for loss of use for the period between 20 April 1990 and 31 December 2009. He produced a new valuation report, according to which the whole sum to which he was entitled under the head of pecuniary damage was EUR 5,051,793.

20. The new valuation report adjusted the 1974 values of the properties described in paragraph 15 below as follows:

- property listed under (a): market value CYP 2,500 (CYP 2,510 in the expert's report of 29 September 1999);
- property listed under (b): market value CYP 4,000 (CYP 4,059.13 in the expert's report of 29 September 1999);
- property listed under (c): market value CYP 15,500 (CYP 14,600.3 in the expert's report of 29 September 1999);
- property listed under (d): market value CYP 12,500 (CYP 11,133.75 in the expert's report of 29 September 1999);
- property listed under (e): market value CYP 16,000 (CYP 14,631 in the expert's report of 29 September 1999);
- property listed under (f): market value CYP 18,500 (CYP 15,554 in the expert's report of 29 September 1999);

- property listed under (g): market value CYP 2,000 (CYP 1,781.5 in the expert's report of 29 September 1999);
- property listed under (i): market value CYP 26,000 (CYP 28,294 in the expert's report of 29 September 1999);
- property listed under (j): market value CYP 5,000 (CYP 5,250 in the expert's report of 29 September 1999).

No estimate was given for the property listed under (h), which according to the expert's report of 29 September 1999 had a 1974 market value of CYP 5.

21. Thus, the overall 1974 market value of all the applicant's properties was fixed at CYP 102,000 (approximately EUR 174,277). As the expert estimated the percentage in annual increase in property values at 12%, he assumed that on 20 April 1990 the properties at stake were worth CYP 602,000 (approximately EUR 1,028,577). It was furthermore assumed that ground rents would be an average of 4,5% of the open market value of the properties and interests for delayed payment were applied at a rate of 8% up to the end of 2000 and of 6% for the years 2001-2009.

22. The expert annexed to his report a judgment of the Kyrenia District Court, given on 6 July 1973, concerning compensation in respect of land acquisitions which had taken place in February 1970. It transpired from this judgments that the values of land located in Ayios Amvrosios at the relevant time were between CYP 560 (approximately EUR 956) and CYP 1,120 (approximately EUR 1,913) per decare and that the land values had had a 20% annual increase. He underlined that in 1974 the area of Lapithos was at a much higher level of demand than the properties in Ayios Amvrosios. The expert also annexed a synoptic table indicating the prices of fifteen "comparable sales for properties as at 1974 in Lapithos area". According to this table, in 1974 the value of one square metre of land was comprised between CYP 13.699 (approximately EUR 23.4) and CYP 2.039 (approximately EUR 3.4).

23. In his just satisfaction claims of 29 September 1999, the applicant claimed CYP 40,000 (approximately EUR 68,344) in respect of non-pecuniary damage. He stated that this sum had been calculated on the basis of the sum awarded by the Court in the *Loizidou* case ((just satisfaction), 28 July 1998, *Reports of Judgments and Decisions* 1998-IV), taking into account, however, that the period of time for which the damage was claimed in the instant case was longer and that there had also been a violation of Article 14 of the Convention. He further claimed CYP 70,000 (approximately EUR 119,602) in respect of the moral damage suffered for the loss of his home.

24. On 6 October 2009 the applicant applied a 25% increase over his claims; he thus sought EUR 85,430 for the non-pecuniary damage connected to the violation of Article 1 of Protocol No. 1 and EUR 149,502 for the non-pecuniary damage connected to the violation of Article 8 of the

Convention. He underlined the anguish and frustration he had been experiencing over the years by reason of his condition of an internally displaced person.

25. He further requested that "exemplary and punitive damages" be applied against the respondent Government, having regard to their "particularly blameworthy conduct", and that a "consequential order" be issued by the Court. The latter should invite Turkey to put an end to the ongoing violations found in his case. Finally, until restoration of the applicant into the peaceful enjoyment of his properties and home or until the expiry of a period of 12 years from the delivery of the Court's judgment, Turkey should be bound to pay the sum of EUR 252,589.65 per year; this sum should be increased every year by a rate equal to the marginal lending rate of the European Central Bank, to which should be added three percentage points.

(b) The Government

26. The Government filed comments on the applicant's claims for just satisfaction on 22 September 2008 and 6 October 2009. They observed that the applicant was only a co-owner of the properties which he had acquired in 1990. Before claiming an unfettered right to develop or lease such properties, he should satisfy the Court that at the domestic level the rights of the other co-owners had been respected. In particular, development or lease of co-owned properties depended on the other shareholders' consent. Without the latter, there could be no development and the property could not bring any profit.

27. The applicant's father was not a party to the proceedings and the applicant was not entitled to claim damages on his behalf for the period before the date on which he had acquired ownership. As an annual increase of the value of the properties had been applied, it would be unfair to add compound interest for delayed payment. The increase of rent and the interest rate were so assumptive and high that they reminded usury practices. In any event, the alleged 1974 market value of the properties was exorbitant, highly excessive and speculative; it was not based on any real data with which to make a comparison and made insufficient allowance for the volatility of the property market and its susceptibility to influences both domestic and international. The report submitted by the applicant had instead proceeded on the assumption that the property market would have continued to flourish with sustained growth during the whole period under consideration.

28. The Government further submitted that Turkey had recognised the jurisdiction of the Court on 21 January 1990, and not in January 1987. The applicant had been unable to establish a title of ownership over any source of water and in any event the freshwater spring referred to in the application had dried up. As water was very scarce in Cyprus, it could be assumed that

any freshwater spring which had existed many years ago would have been compulsorily acquired by the Government of Cyprus.

29. In their comments of 6 October 2009, the Government reiterated that according to the searches made by the authorities of the "TRNC", in 1974 the properties listed in paragraph 15 (d), (e), (i) and (j) above had not been owned by the applicant's father (Mr Gregoris Orphanides). It followed that Mr Gregoris Orphanides could not have transferred to the applicant properties over which he had had no title of ownership (see paragraph 56 of the principal judgment).

30. As indicated in a document annexed to the Government's observations of 6 October 2009, the Turkish-Cypriot authorities were ready to offer the applicant CYP 167,449.2 (approximately EUR 286,103) for compensating his loss of use. The applicant would have to prove his title to the properties in 1974 and his present entitlement to them and to show his relationship to "Greghoris Kyriacou" and "Greghoris Kyriacou Orphanides", in whose names some of the properties were still registered. Moreover, two of the plots referred to in the application had been registered in the name of a certain "Kyriau Christodolou Allamenou".

31. The Government further observed that in making its assessment as regarded compensation for the loss of use, the IPC had collected data from the Department of Lands and Surveys on the 1973-1974 purchase prices for comparable properties. It had also examined the development of interest rates of the Cyprus Central Bank. The loss of income was then calculated by assuming that the obtainable rent would have been 5% of the value of the properties; this last value had been modified every year on the basis of the land market value index. Cyprus Central Bank interest rates had been applied on the sums due since 1974.

32. It could therefore be said that the IPC had used the same criteria as the Greek-Cypriots applicants. However, being in possession of the land registers in which comparable sales had been recorded, it was better placed to assess the 1974 market values of the properties. Applicants had, in general, tended to exaggerate and inflate these values. Their calculations were highly presumptive; for instance, the percentage used for assessing the loss of income had frequently been the same for buildings, fields, orchards and plots of land, irrespective of their location, of the existence of electricity or water supplies and of an access to a minor or major road. On the contrary, the Turkish-Cypriot authorities had taken all these factors into consideration; they had applied a higher percentage for buildings in built-up areas than for vacant fields.

33. The Government also insisted that, as it could not be excluded that the properties at issue had been transferred within the legal system of southern Cyprus, applicants should be required to provide search certificates issued by the Greek-Cypriot Department of Lands and Surveys. Failure to substantiate title to the properties at the material time and at the time of the

Court's judgment should be considered as a failure to cooperate with the Court. No just satisfaction should be awarded in respect to unsubstantiated or dubious claims.

34. After the delivery of the Court's principal judgment, the Turkish-Cypriot authorities had invited the applicant to apply to the IPC in order to reach an agreement on the matter of compensation. The applicant had not replied to this invitation. This attitude was due mainly to political reasons and to the pressures exerted by the Greek-Cypriot authorities in order to discourage their citizens from applying to the IPC. Misleading information had been given about its powers and the Greek-Cypriots who had applied to it had been questioned by the Office of the Attorney General. In 2006 the Greek-Cypriot media had even revealed a "shame list" and published the names of applicants to the IPC.

35. The Government finally noted that the amount claimed for non-pecuniary damage was highly exaggerated and incompatible with the case-law and practice of the Court. At the time of the Turkish intervention, the applicant was not the owner of the house in Lapithos, which was belonging to his parents. As the applicant was born in 1955, he did not have a reasonable expectation to be living with his family in the same house up to the present time. In any event, it shouldn't be possible, for the applicant, to duplicate the heads of non-pecuniary damages.

2. The Court's assessment

36. The Court recalls that in its principal judgment it has concluded that there had been a continuing violation of the applicant's rights guaranteed by Article 8 of the Convention and Article 1 of Protocol No. 1 by virtue of the complete denial of the applicant's rights with respect to his home and the peaceful enjoyment of his properties in northern Cyprus (see paragraphs 44 and 35 of the principal judgment). Furthermore, its finding of a violation of Article 1 of Protocol No. 1 was based on the fact that, as a consequence of being continuously denied access to his land and real estate, the applicant had effectively lost all access and control as well as all possibilities to use and enjoy his properties (see paragraph 33 of the principal judgment). He is therefore entitled to a measure of compensation in respect of losses directly related to this violation of his rights as from the date on which he formally acquired ownership of the properties, namely 20 April 1990, until the present time (see, *mutatis mutandis*, *Cankoçak v. Turkey*, nos. 25182/94 and 26956/95, § 26, 20 February 2001, and *Demades v. Turkey*, (just satisfaction), no. 16219/90, § 21, 22 April 2008).

37. In connection with this, the Court recalls that in its principal judgment it has rejected an objection of incompatibility *ratione materiae* with the provisions of Article 1 of Protocol No. 1 raised by the Government in their comments on the just satisfaction claims and based on the allegation that the applicant's father was not the owner of the properties listed in

paragraph 15 (d), (e), (i) and (j) above (see paragraph 63 of the principal judgment). In any event, the affirmations of ownership of Turkish-occupied immovable properties produced by the applicant (see paragraph 8 above) show that on 21 September 2009 he was still the owner of the properties described in paragraph 15 above.

38. In the opinion of the Court, the valuations furnished by the applicant involve a significant degree of speculation and make insufficient allowance for the volatility of the property market and its susceptibility to influences both domestic and international (see *Loizidou v. Turkey* (just satisfaction), cited above, § 31). Accordingly, in assessing the pecuniary damage sustained by the applicant, the Court has, as far as appropriate, considered the estimates provided by him (see *Xenides-Arestis v. Turkey* (just satisfaction), no. 46347/99, § 41, 7 December 2006). In general it considers as reasonable the approach to assessing the loss suffered by the applicant with reference to the annual ground rent, calculated as a percentage of the market value of the properties, that could have been earned during the relevant period (*Loizidou* (just satisfaction), cited above, § 33, and *Demades* (just satisfaction), cited above, § 23). Furthermore, the Court has taken into account the uncertainties, inherent in any attempt to quantify the real losses incurred by the applicant (see *Loizidou v. Turkey*, (preliminary objections), 23 March 1995, § 102, Series A no. 310, and (merits), 18 December 1996, § 32, *Reports* 1996-VI).

39. The Court notes that notwithstanding its request to submit material relevant to assessing the 1974 market value of the applicant's properties, the parties have produced few elements in this respect. The Government have relied on the accuracy of the IPC's calculations (see paragraphs 31-32 above), while the applicant has referred to the sale, in 1970, of comparable land. According to his expert's assessment, this sale showed that at the relevant time the market price of land located in Ayios Amvrosios was comprised between EUR 956 and EUR 1,913 per decare, which is between EUR 0.956 and EUR 1.913 per square metre. Moreover, according to the synoptic table produced by the expert, in 1974 fields in Lapithos could be sold for a sum comprised between EUR 3.4 and 23.4 per square metre (see paragraph 22 above). The parties have failed to produce any data relevant to assessing the 1974 market price of buildings.

40. The Court further notes that the applicant submitted an additional claim in the form of annual compound interest in respect of the losses on account of the delay in the payment of the sums due. While the Court considers that a certain amount of compensation in the form of statutory interest should be awarded to the applicant, it finds that the rates applied by him are on the high side (see, *mutatis mutandis*, *Demades* (just satisfaction), cited above, § 24).

41. Finally, the Court considers that an award should be made in respect of the anguish and feelings of helplessness and frustration which the

applicant must have experienced over the years in not being able to use his properties as he saw fit and enjoy his home (see *Demades* (just satisfaction), cited above, § 29, and *Xenides-Arestis* (just satisfaction), cited above, § 47).

42. Having regard to the above considerations, the Court is of the opinion that the sums claimed by the applicant in respect of pecuniary and non-pecuniary damage (respectively EUR 5,051,793 and EUR 234,932 – see paragraphs 19 and 24 above) are excessive. At the same time, the amount which the "TRNC" authorities could have offered the applicant in respect of loss of use (approximately EUR 286,103 – see paragraph 30 above) does not seem to take due account of the number and nature of the properties owned by the applicant and listed in paragraph 15 above. Making its assessment on an equitable basis, the Court decides to award the applicant EUR 400,000.

B. Costs and expenses

43. In his just satisfaction claims of 29 September 1999, the applicant sought CYP 5,480 (approximately EUR 9,363) and 1,410.93 British pounds (£) (approximately EUR 1,780) for the costs and expenses incurred before the Court. These sums (totalling EUR 11,143) included the cost of the expert report assessing the value of his properties.

44. On 6 October 2009 the applicant increased his claim for costs and expenses up to EUR 22,555.11. He underlined that he had to bear the costs of a new valuation report (amounting to EUR 6,900) and of the filing of fresh observations on the issue of just satisfaction.

45. The Government did not comment on this point.

46. According to the Court's case-law, an applicant is entitled to reimbursement of his costs and expenses only in so far as it has been shown that these have been actually and necessarily incurred and were reasonable as to quantum (see, for example, *Iatridis v. Greece* (just satisfaction) [GC], no. 31107/96, § 54, ECHR 2000-XI).

47. The Court notes that the case involved perusing a certain amount of factual and documentary evidence and required a fair degree of research and preparation. In particular, the costs associated with producing a valuation report in view of the continuing nature of the violations at stake were essential to enable the Court to reach its decision regarding the issue of just satisfaction (see *Demades* (just satisfaction), cited above, § 34).

48. Although the Court does not doubt that the fees claimed were actually incurred, it considers the amount claimed for the costs and expenses relating to the proceedings before it excessive and decides to award a total sum of EUR 8,000.

C. Default interest

49. The Court considers it appropriate that the default interest should be based on the marginal lending rate of the European Central Bank, to which should be added three percentage points.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Dismisses* the Government's request to stay the examination of the applicant's claims for just satisfaction;

2. *Holds*
   (a) that the respondent State is to pay the applicant, 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 400,000 (four hundred thousand euros), plus any tax that may be chargeable, in respect of pecuniary and non-pecuniary damage;
      (ii) EUR 8,000 (eight thousand euros), plus any tax that may be chargeable to the applicant, 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;

3. *Dismisses* the remainder of the applicant's claim for just satisfaction.

Done in English, and notified in writing on 22 June 2010, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Fatoş Aracı	Nicolas Bratza
Deputy Registrar	President