

Loizidou v. Turkey
(application no.15318/89)
Judgment 18.12.1996 [GC]

Article 1 of Protocol No. 1

Article 1 para. 1 of Protocol No. 1

Peaceful enjoyment of possessions

Denial of access to and interference with property rights in northern Cyprus: *violation*

I.GOVERNMENT'S PRELIMINARY OBJECTION (*RATIONE TEMPORIS*)

Turkish Government claimed *inter alia* that applicant's property had been irreversibly expropriated by virtue of Article 159 of "TRNC" ("Turkish Republic of Northern Cyprus") Constitution of 7 May 1985, prior to Turkey's declaration of 22 January 1990 accepting Court's jurisdiction.

Evident from international practice and resolutions of various international bodies that international community does not regard "TRNC" as State under international law and that Republic of Cyprus remains sole legitimate Government of Cyprus - Court cannot therefore attribute legal validity for purposes of Convention to provisions such as Article 159 of 1985 Constitution - accordingly, applicant cannot be deemed to have lost title to property - alleged violations are thus of continuing nature.

Conclusion: objection dismissed (eleven votes to six).

II.ARTICLE 1 OF PROTOCOL No. 1

A. Imputability issue

Obvious from large number of troops engaged in active duties in northern Cyprus that Turkish army exercises effective overall control there - in circumstances of case, this entails Turkey's responsibility for policies and actions of "TRNC" - thus, denial to applicant of access to property in northern Cyprus falls within Turkey's "jurisdiction" for purposes of Article 1 of

Convention and is imputable to Turkey - establishment of State responsibility does not require examination of lawfulness of Turkey's intervention in 1974.

B. Interference with property rights

Applicant remained legal owner of land, but since 1974 effectively lost all control, use and enjoyment of it - thus, continuous denial of access amounts to interference with rights under Article 1 of Protocol No. 1 - Turkish Government have not sought to justify interference and Court does not find such complete negation of property rights justified.

Conclusion: violation (eleven votes to six).

III. ARTICLE 8 OF THE CONVENTION

Since applicant did not have home on land in question, no interference for purposes of Article 8.

Conclusion: no violation (unanimously).

IV. ARTICLE 50 OF THE CONVENTION

Conclusion: question reserved (unanimously).