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

AFFAIRE LARKOS c. CHYPRE

CASE OF LARKOS v. CYPRUS

(Requête n°/application no. 29515/95)

ARRÊT/JUDGMENT

STRASBOURG

18 février/February 1999

In the case of Larkos v. Cyprus,

The European Court of Human Rights, sitting, in accordance with Article 27 of the Convention for the Protection of Human Rights and Fundamental Freedoms ("the Convention"), as amended by Protocol No. 11[1], and the relevant provisions of the Rules of Court,[2] as a Grand Chamber composed of the following judges:

Mr L. WILDHABER, *President*,
Mrs E. PALM,
Mr A. PASTOR RIDRUEJO,
Mr L. FERRARI BRAVO,
Mr L. CAFLISCH,
Mr I. CABRAL BARRETO,
Mr J.-P. COSTA,
Mr K. JUNGWIERT,
Mr M. FISCHBACH,
Mr B. ZUPANČIČ,
Mrs N. VAJIĆ,
Mrs W. THOMASSEN,
Mrs M. TSATSA-NIKOLOVSKA,
Mr T. PANȚÎRU,
Mr E. LEVITS,
Mr K. TRAJA,
Mr A.N. LOIZOU, ad hoc *judge*,

and also of Mr M. DE SALVIA, *Registrar*,

Having deliberated in private on 7 January and 4 February 1999,

Delivers the following judgment, which was adopted on the last-mentioned date:

PROCEDURE

1. The case was referred to the Court, as established under former Article 19 of the Convention[3], by the Cypriot Government ("the Government") on 11 May 1998, within the three-month period laid down by former Articles 32 § 1 and 47 of the Convention. It originated in an application (no. 29515/95) against the Republic of Cyprus lodged with the

Notes by the Registry

1-2. Protocol No. 11 and the Rules of Court came into force on 1 November 1998.

3. Since the entry into force of Protocol No. 11, which amended Article 19, the Court has functioned on a permanent basis.

European Commission of Human Rights ("the Commission") under former Article 25 by a Cypriot national, Mr Xenis Larkos, on 21 November 1995.

The Government's application referred to former Articles 44 and 48 as amended by Protocol No. 9[1], which Cyprus had ratified. The object of the application was to obtain a decision as to whether the facts of the case disclosed a breach by the respondent State of its obligations under Article 14 of the Convention taken together with Article 8.

2. The applicant designated Mr A. Demetriades, a lawyer practising in Nicosia, to represent him (Rule 31 of former Rules of Court B[2]). The Attorney-General of the Republic of Cyprus, Mr A. Markides, acted as the Agent of the Government.

3. As President of the Chamber which had originally been constituted (former Article 43 of the Convention and former Rule 21) in order to deal, in particular, with procedural matters that might arise before the entry into force of Protocol No. 11, Mr R. Bernhardt, the President of the Court at the time, acting through the Registrar, consulted the Agent of the Government, the applicant's lawyer and the Delegate of the Commission on the organisation of the written procedure. Pursuant to the order made in consequence, the Registrar received the applicant's and the Government's memorials on 20 November 1998, both parties having been granted leave by the President to extend the time-limit for filing their memorials.

4. After the entry into force of Protocol No. 11 on 1 November 1998 and in accordance with the provisions of Article 5 § 5 thereof, the case was referred to the Grand Chamber of the Court. The Grand Chamber included *ex officio* Mr L. Loucaides, the judge elected in respect of Cyprus (Article 27 § 2 of the Convention and Rule 24 § 4 of the Rules of Court), Mr L. Wildhaber, the President of the Court, Mrs E. Palm, Vice-President of the Court, and Mr J.-P. Costa and Mr M. Fischbach, Vice-Presidents of Sections (Article 27 § 3 of the Convention and Rule 24 §§ 3 and 5 (a)). The other members appointed to complete the Grand Chamber were Mr L. Ferrari Bravo, Mr L. Caflisch, Mr I. Cabral Barreto, Mr K. Jungwiert, Mr B. Zupančič, Mrs N. Vajić, Mr J. Hedigan, Mrs W. Thomassen, Mrs M. Tsatsa-Nikolovska, Mr T. Panţîru, Mr E. Levits and Mr K. Traja (Rule 24 § 3 and Rule 100 § 4). Subsequently Mr Loucaides, who had taken part in the Commission's examination of the case, withdrew from sitting in the Grand Chamber (Rule 28). The Government accordingly appointed

Notes by the Registry

1. Protocol No. 9 came into force on 1 October 1994 and was repealed by Protocol No. 11.

2. Rules of Court B, which came into force on 2 October 1994, applied until 31 October 1998 to all cases concerning States bound by Protocol No. 9.

Mr A.N. Loizou, the judge previously elected in respect of Cyprus, to sit in his place (Article 27 § 2 of the Convention and Rule 29 § 1). Later, Mr A. Pastor Ridruejo, substitute judge, replaced Mr Hedigan, who was unable to take part in the further consideration of the case (Rule 24 §§ 3 and 5 (b)).

The Court decided that it was not necessary to invite the Commission to delegate one of its members to take part in the proceedings before the Grand Chamber (Rule 99).

5. On 4 November 1998, having consulted the Agent of the Government and the representative of the applicant, the Grand Chamber decided to dispense with a hearing in the case, being of the opinion that the discharging of its functions under Article 38 § 1 (a) of the Convention did not require one to be held (Rule 59 § 2). Having been granted leave to submit supplementary observations on their respective memorials in the light of this decision, the applicant and the Government filed such observations on 7 December 1998. On 17 December 1998 the Grand Chamber decided not to accede to the Goverment's subsequent request to hold a hearing in the case having regard to the decision which it had already taken on this matter and to the reasons supporting that decison.

THE FACTS

I. THE CIRCUMSTANCES OF THE CASE

A. The applicant

6. The applicant is a Cypriot citizen born in 1936. He is a retired civil servant. On 1 May 1967 he rented from the Cypriot State a house in which he has been living ever since with his wife and four children. The tenancy agreement had many of the features of a typical contract for the lease of property with provisions on the payment of rent by the applicant, the use and maintenance of the property, the giving of notice and a termination date. The agreement provided that the tenancy would come to an end in the event of the applicant being transferred to a district other than the one in which the property was situated.

B. The notice to vacate the premises

7. On 3 December 1986 the Ministry of Finance informed the applicant that the permission by virtue of which he occupied the premises was

revoked and that he had to surrender the property by 30 April 1987. He failed to do so and on 3 June 1987 the Attorney-General notified him that if he did not vacate the house before 31 July 1987 legal action would be taken against him.

8. On 3 July 1987 the applicant replied that he had been living together with his family in the house for twenty years. He had been obliged to spend significant sums of money on the maintenance and improvement of the house since the competent public authorities had shown no interest in its upkeep. He claimed that he was a "statutory tenant" within the meaning of the Rent Control Law 1983 (Law no. 23/1983 – see paragraphs 14 and 15 below) and stated that he would continue to occupy the premises as long as he was protected by law.

9. On 9 March 1989, replying to a second letter from the Attorney-General dated 5 January 1989, the applicant reiterated his earlier position.

C. The eviction proceedings

10. On 3 February 1990 the government of Cyprus instituted proceedings against the applicant before the District Court of Nicosia to have him evicted. The government submitted, *inter alia*, that the applicant did not occupy the house under a tenancy agreement within the meaning of the Rent Control Law 1983, but that the premises had been allocated to him by administrative order because of his position in the civil service.

11. On 5 February 1992 the District Court of Nicosia gave judgment against the applicant. The court did not pronounce on the issue of the title under which the applicant occupied the premises. The court's interpretation of the Rent Control Law 1983 led it to conclude that its protection did not extend to the applicant since it only bound private owners of property and not the Cypriot State. A person who rented premises owned by the State could not therefore be considered a "statutory tenant" protected by that Law.

The applicant was ordered to vacate the premises before 30 June 1992.

D. The applicant's contentions on appeal

12. The applicant appealed against the judgment to the Supreme Court relying on Article 14 of the Convention and Article 1 of Protocol No. 1. At the hearing before the Supreme Court the applicant relied essentially on the following argument: his rights as a tenant were "property rights" within the meaning of Article 1 of Protocol No. 1 and he was the victim of discrimination in the enjoyment of these rights because the Rent Control Law 1983, as interpreted by the District Court of Nicosia, gave no protection to tenants of the State whereas the same Law protected the

State as a "statutory tenant" when it rented premises owned by a private individual. The applicant also submitted that he was the victim of a further act of discrimination in that he enjoyed less protection under the relevant Law than tenants of private persons.

E. The dismissal of the applicant's appeal

13. On 22 May 1995 the Supreme Court dismissed the applicant's appeal, considering that he could not claim any property rights under Article 1 of Protocol No. 1 as a tenant. The court also found that, in any event, the notion of equality did not require that a person who enjoyed the protection of the Rent Control Law 1983 as a tenant should be automatically required to grant the same protection to his or her tenants if that person happened to own property. Finally, the court considered, in an *obiter dictum*, that even if the case concerned the different treatment reserved by the law to property rented out by private owners and to property rented out by the State, there would be no violation of the Constitution or the Convention because "it would be reasonable to consider that it is not necessary to grant protection [to tenants] *vis-à-vis* the [State] which [is] not in the same position as a private owner and [is] not expected to administer the property of the State according to criteria similar to those guiding a private owner".

Further to this decision, the applicant has been threatened with imminent eviction.

II. RELEVANT DOMESTIC LAW

A. The Rent Control Law 1983 (Law no. 23/1983)

14. According to section 3(1), the Rent Control Law 1983 applies only to dwellings and shops in areas designated "regulated areas", which are defined in section 2 as every area which was declared as such under the previous rent control legislation and includes every other area so declared by order of the Council of Ministers. Section 3(1), which has been unaffected by subsequent amendments to the 1983 Law, sets out the circumstances under which an order may be made.

Section 3(1) provides as follows:

> "Whenever it is considered by the Council of Ministers to be necessary or expedient for the purpose of securing the availability of dwellings and shops for reasonable rents and the security of possession thereof, or whenever the public interest otherwise so

requires, the Council of Ministers may by Order published in the Official Gazette of the Republic declare any area in Cyprus as a regulated area, and thereupon the provisions of this Law shall apply to all dwellings or shops within such area."

"Οσάκις το Υπουργικόν Συμβούλιον κρίνη ότι είναι αναγκαίον ή σκόπιμον προς τον σκοπόν της εξασφαλίσεως της διαθεσιμότητος των κατοικιών ή καταστημάτων αντί λογικών ενοικίων και της ασφαλείας της κατοχής τούτων, ή οσάκις το δημόσιον συμφέρον ούτως άλλως απαιτή, το Υπουργικόν Συμβούλιον δύναται δια διατάγματος δημοσιευομένου εις την επίσημον εφημερίδα της Δημοκρατίας να κηρύξη οιανδήποτε περιοχήν εν Κύπρω ως ελεγχομένην περιοχήν, τούτου δε γενομένου θα ισχύουν αι διατάξεις του παρόντος Νόμου δι' οιασδήποτε κατοικίας ή καταστήματα ενός της τοιαύτης περιοχής."

15. According to section 11 tenants of dwellings situated within a "regulated area" who, upon the expiry or termination of the first term of their tenancy agreement, remain in occupation of the dwelling ("statutory tenants") cannot be evicted save in certain specified circumstances set out in the Rent Control Law. These circumstances include the non-payment of rent, unauthorised use of the property and where the dwelling is reasonably required by the landlord for occupation by him or his wife, children or other dependants.

B. Constitutional provisions

16. Under Article 54(e) of the Constitution, it is for the Council of Ministers to supervise and dispose of property belonging to the Republic of Cyprus. This power of supervision and disposal must be exercised in accordance with the provisions of the Constitution and the law.

PROCEEDINGS BEFORE THE COMMISSION

17. Mr Larkos applied to the Commission on 21 November 1995. He relied on Article 8 of the Convention and Article 1 of Protocol No. 1 in conjunction with Article 14 of the Convention. He complained that because he was a tenant of the State, he did not enjoy the protection which the Rent Control Law 1983 gave to persons who rented property from private owners.

18. The Commission (First Chamber) declared the application (no. 29515/95) admissible on 21 May 1997. In its report of 14 January 1998 (former Article 31 of the Convention), it expressed the unanimous opinion that there had been a violation of Article 14 of the Convention in conjunction with Article 8 and that it was not necessary to examine whether there had been a violation of Article 14 in conjunction with Article 1 of

Protocol No. 1. The full text of the Commission's opinion is reproduced as an annex to this judgment[1].

FINAL SUBMISSIONS TO THE COURT

19. The applicant in his memorial requested the Court to find the respondent State in breach of its obligations under Article 14 of the Convention in conjunction with Article 8 as well as under Article 14 in conjunction with Article 1 of Protocol No. 1 to the Convention, and to award him just satisfaction under Article 41 of the Convention.

20. The Government for their part maintained that the facts of the case disclosed no breach of the Articles relied on by the applicant.

THE LAW

I. THE SCOPE OF THE CASE

21. When referring the case to the Court, the Government stated that their aim in so doing was to obtain a ruling on whether the facts disclosed a breach of Article 14 of the Convention in conjunction with Article 8 (see paragraph 1 above). However the Court has jurisdiction to take cognisance of the whole case as declared admissible by the Commission, including the applicant's grievance under Article 14 of the Convention in conjunction with Protocol No. 1 (see, *mutatis mutandis*, the Erdagöz v. Turkey judgment of 22 October 1997, *Reports of Judgments and Decisions* 1997-VI, pp. 2310-11, §§ 34-36). Indeed this has not been disputed by the Government, which addressed fully this other complaint in their supplementary observations.

II. ALLEGED VIOLATION OF ARTICLE 14 OF THE CONVENTION IN CONJUNCTION WITH ARTICLE 8

22. The applicant, with whom the Commission agreed, maintained that as a tenant of the State he had been unlawfully discriminated against in the enjoyment of his right to respect for his home on account of the fact that he,

1. *Note by the Registry*. For practical reasons this annex will appear only with the final printed version of the judgment (in the official reports of selected judgments and decisions of the Court), but a copy of the Commission's report is obtainable from the Registry.

unlike a private tenant renting from a private landlord, was not protected from eviction on expiry of his lease. He relied on Article 14 of the Convention in conjunction with Article 8.

23. Article 14 provides, as relevant:

> "The enjoyment of the rights and freedoms set forth in [the] Convention shall be secured without discrimination on any ground such as ... or other status."

24. Article 8 provides, as relevant:

> "1. Everyone has the right to respect for ... his home ..."

25. The applicant pleaded that he was in an analogous situation to that of a private tenant renting accommodation from a private landlord. The lease which he signed in 1967 had many of the features of an ordinary landlord and tenant agreement. He contended that the distinction made in the Rent Control Law 1983, as interpreted by the domestic courts (see paragraphs 11 and 13 above), between tenants such as himself and private tenants occupying privately owned dwellings could not be justified under Article 14. He maintained in particular that the respondent State had failed to make out a case for treating tenants of the State differently as regards protection from eviction, other than appealing generally to public-interest considerations. In addition, the distinction failed to strike a balance between whatever public interest was relied on by the respondent State and the protection of his right to respect for his home since it had a disproportionate impact on the enjoyment of that right by obliging him and his family to leave the home which they had occupied for thirty-one years.

26. The Government stressed that the applicant constituted a distinct category of tenant since he rented State-owned property. For that reason he was not in a relevantly similar situation to that of a private tenant who leased a privately owned dwelling. Unlike a private landlord, the government had to dispose of the State's property assets in a way which respected the requirements of the Constitution and the law. This meant in effect that rather than renting property primarily for profit-based considerations they had to take account of the public interest in their transactions. It was accordingly justified not to accord the applicant the protection from eviction accorded to other categories of private tenants at the end of their tenancies under the Rent Control Law 1983 in order to allow the authorities the opportunity to make other arrangements for the use of the property in question. They contended that to allow a tenant such as the applicant the right to remain indefinitely in a State-owned dwelling would fetter the authorities' duty to administer State-owned property in accordance with constitutional and legal requirements.

27. The Commission considered that the Government had failed to provide any reasonable and objective justification for the difference in treatment. For that reason, it found that there had been a violation under this head of complaint.

28. The Court observes that it is called on to consider only the impact of the Rent Control Law 1983 as interpreted by the domestic courts on the Convention rights of the applicant as a private tenant renting a State-owned dwelling situated in a regulated area and not its impact on the Convention rights of individuals or entities leasing State property for purposes other than accommodation.

On that understanding the Court notes that it has not been disputed that Mr Larkos can rely on the guarantee against unlawful discrimination contained in Article 14 of the Convention and it sees no reason to hold otherwise. It observes in this respect that the applicant's complaint relates to the manner in which the alleged difference in treatment adversely affects the enjoyment of his right to respect for his home guaranteed under Article 8 of the Convention. Mr Larkos has not contended that there has been a breach of Article 8 on account of the fact that, being a tenant of the State, he is faced with the threat of eviction from his home. However, it suffices for the purposes of the application of Article 14 that the facts relied on in the instant case fall within the ambit of Article 8 and the relevance of that Article cannot be denied in view of the judgment of the District Court of Nicosia ordering Mr Larkos to leave his home (see, *mutatis mutandis*, the Inze v. Austria judgment of 28 October 1987, Series A no. 126, p. 17, § 36). Furthermore, even if the applicant has not yet been evicted from his home it is nevertheless the case that the Rent Control Law 1983 has actually been applied to him to his detriment since he and his family have been living under the threat of eviction ever since the instigation of the eviction proceedings and that threat has become even more real following the judgment of the Supreme Court (see paragraph 13 above).

29. As to the scope of the guarantee provided under Article 14, the Court recalls that according to its established case-law a difference in treatment is discriminatory if "it has no objective and reasonable justification", that is if it does not pursue a "legitimate aim" or if there is not a "reasonable relationship of proportionality between the means employed and the aim sought to be realised". Moreover, the Contracting States enjoy a certain margin of appreciation in assessing whether and to what extent differences in otherwise similar situations justify a different treatment (see, for example, the Gaygusuz v. Austria judgment of 16 September 1996, *Reports* 1996-IV, p. 1142, § 42).

30. The Court must have close regard to the terms of the tenancy agreement which Mr Larkos concluded with the authorities when assessing his claim to be in a relevantly similar or analogous situation to that of

private tenants renting property from private landlords. It notes in this regard that the lease makes no reference to the fact that the property was let to him in his capacity of civil servant or that the subsistence of the lease was dependent on his continued employment in the civil service. Although the lease contained a provision on the applicant's transfer from the district in which the house was situated (see paragraph 6 above), this clause was introduced to protect his own rather that the State's interests in that eventuality. Moreover, the lease is silent on the consequences resulting from the applicant's retirement or resignation from the civil service. Nor would it appear that the rent to be paid by the applicant was fixed at a preferential rate on account of his status. Indeed the Government have not sought to argue in their pleadings that Mr Larkos's rent was less than the market rate or that the tenancy agreement was anything other than a typical landlord and tenant agreement. Having regard to these considerations and in particular to the fact that the terms of the lease indicate clearly that the State rented the property in a private-law capacity, the Court considers that Mr Larkos can claim with justification to be in a relevantly similar situation to that of other private tenants who rent accommodation from private landlords and whose property is situated in a regulated area within the meaning of the Rent Control Law 1983.

31. The Court observes that the respondent State has sought to justify the difference in treatment between tenants renting State-owned property such as the applicant and other private tenants renting from private landlords by pointing to the duties which the Constitution imposes on the authorities as regards the administration of the property of the State. While the Court accepts that a measure which has the effect of treating differently persons in a relevantly similar situation may be justified on public-interest grounds, it considers that in the instant case the Government have not provided any convincing explanation of how the general interest will be served by evicting the applicant. They have not pointed to any preponderant interest which would warrant the withdrawal from the applicant of the protection accorded to other tenants under the Rent Control Law 1983. As to the Government's argument that the lease of State-owned dwellings is not primarily motivated by profit-based considerations and for that reason they cannot be compared to private landlords (see paragraph 26 above), the Court would observe that there is nothing to prevent the authorities from requiring their tenants to pay a market rate and, as already noted, it has not been argued in the instant case that the applicant's rent was set at a preferential rate. Indeed, it must be recalled that the State assigned the property to the applicant acting not in a public-law capacity and with the interests of the community in mind but as a party to a private-law transaction (see paragraph 30 above).

The Court would also note that the legislation was intended as a measure of social protection for tenants living in particular areas of Cyprus. A decision not to extend that protection to tenants in State-owned dwellings living side by side with tenants in privately owned dwellings requires specific justification, more so since the State is itself protected by the legislation when renting property from private individuals (see paragraphs 12 and 13 above). However, the Government have not adduced any reasonable and objective justification for the distinction which meets the requirements of Article 14 of the Convention, even having regard to their margin of appreciation in the area of the control of property.

32. The Court concludes accordingly that there has been a violation of Article 14 of the Convention in conjunction with Article 8.

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

33. The applicant contended that by virtue of the terms of his tenancy agreement he enjoyed certain proprietary rights with respect to the house in question which, taken together with the protection against eviction guaranteed to tenants under the Rent Control Law 1983, amounted to "possessions" within the meaning of Article 1 of Protocol No. 1. In his submission, the withdrawal of protection from eviction on account of his status as a tenant of the State interfered with his right to the peaceful enjoyment of his possessions and constituted a breach of Article 14 of the Convention read in conjunction with Article 1 of Protocol No. 1.

34. Article 1 of Protocol No. 1 provides as relevant:

> "Every natural or legal person is entitled to the peaceful enjoyment of his possessions …"

35. The Government maintained in reply that the applicant did not possess any interest in the property rented to him which constituted "possessions" within the meaning of Article 1 of Protocol No. 1. For this reason he could not rely on Article 14 of the Convention. They added that should the Court reach a contrary conclusion the arguments which they had adduced to justify the difference of treatment in the context of the applicant's other complaint (see paragraph 26 above) were equally valid for supporting a finding that there had been no violation under this head either.

36. The Court finds, in line with the Commission's conclusion, that it is not necessary to give separate consideration to this complaint having regard to its decision on the applicant's complaint under Article 14 taken in conjunction with Article 8 (see paragraph 32 above).

IV. APPLICATION OF ARTICLE 41 OF THE CONVENTION

37. The applicant claimed compensation for pecuniary and non-pecuniary damage as well as costs and expenses under Article 41 of the Convention, which reads as follows:

> "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 damage

38. The applicant claimed 2,400 Cyprus pounds (CYP) to compensate him for the costs of various repairs which he had to carry out on the property between 1986 and 1998. According to the applicant it fell to the State under the tenancy agreement to ensure the maintenance of the property. However, since 1986 when the eviction proceedings were instituted, the State had not fulfilled this contractual obligation.

39. The Government disputed the State's liability under the agreement to ensure the upkeep of the property. In any event, the applicant was not entitled to be compensated for the amount quoted since there was no causal connection between the alleged breach and the expenses incurred.

40. The Court agrees with the Government's submission on the absence of a causal link between the matter found to constitute a violation (see paragraph 32 above) and the pecuniary damage which the applicant alleges to have suffered. His claim under this head must accordingly be dismissed.

B. Non-pecuniary damage

41. According to the applicant he and his family have lived under the threat of eviction from their home since 1986. This has been a source of stress and anxiety and the constant uncertainty about whether they would be forced to leave was disruptive of his family life. He further submitted that the litigation against the State, his employer, had damaged his career in the civil service and that negative reporting in the local press on his attempts to assert his rights against the State had affected his standing in the community. In the applicant's view he was entitled to an award of CYP 10,000 by way of compensation for the non-pecuniary damage which he had suffered.

42. The Government replied that the applicant had not been evicted from the property and that any alleged non-pecuniary damage must be viewed in this light. Furthermore, the applicant had not substantiated that the breach alleged had harmed his promotion prospects in the civil service. In the Government's submission, if the Court were to find a breach of the

Convention, that finding would in itself constitute sufficient just satisfaction under this head.

43. The Court notes that since 1986 the applicant has lived under the threat of eviction from the home he occupied with his family since 1967. The authorities' resolve to evict him and his unsuccessful attempts to resist their efforts through the courts can reasonably be considered to have caused the applicant stress and anxiety. While the authorities may not have pressed for the possession order to be executed after the decision of the Supreme Court (see paragraph 13 above), it is nonetheless the case that the applicant has over a prolonged period of time suffered from the uncertainty of losing his home with the consequences which that entailed for his and his family's future.

Deciding on an equitable basis the Court awards Mr Larkos the sum of CYP 3,000 under this head.

C. Costs and expenses

44. The applicant claimed the costs and expenses which his lawyers incurred in the domestic proceedings and in taking his case subsequently before the Strasbourg institutions. With reference to the specifications submitted in support of his claim, the applicant requested the Court to award him the sum of CYP 10,661.

45. The Government disputed the amount claimed, arguing that the applicant had not proved that the costs were actually and necessarily incurred and were reasonable as to quantum. They questioned in particular the involvement of three lawyers in the domestic proceedings which had accounted for costs of CYP 6,388 as well as the amount of the costs claimed in respect of the lawyer retained for the Strasbourg proceedings (CYP 4,283). In their submission the applicant should not be entitled to recover the litigation costs of more than one lawyer in the domestic proceedings.

46. Having regard to the details of costs and expenses supplied by the applicant, to the nature of the proceedings before the domestic courts and to equitable considerations, the Court awards the applicant the sum of CYP 5,000 together with any value-added tax that may be chargeable.

D. Default interest

47. According to the information available to the Court, the statutory rate of interest applicable in Cyprus at the date of adoption of the present judgment is 8% per annum.

FOR THESE REASONS, THE COURT UNANIMOUSLY

1. *Holds* that there has been a violation of Article 14 of the Convention in conjunction with Article 8 of the Convention;

2. *Holds* that it is not necessary to consider the applicant's complaint under Article 14 of the Convention in conjunction with Article 1 of Protocol No. 1;

3. *Holds*
   (a) that the respondent State is to pay the applicant, within three months, 3,000 (three thousand) Cyprus pounds in respect of non-pecuniary damage;
   (b) that the respondent State is to pay the applicant, within three months, 5,000 (five thousand) Cyprus pounds in respect of costs and expenses, together with any value-added tax that may be chargeable;
   (c) that simple interest at an annual rate of 8% shall be payable from the expiry of the above-mentioned three months until settlement;

4. *Dismisses* the remainder of the applicant's claims for just satisfaction.

Done in English and in French, and delivered at a public hearing in the Human Rights Building, Strasbourg, on 18 February 1999.

Luzius WILDHABER
President

Michele DE SALVIA
Registrar

In accordance with Article 45 § 2 of the Convention and Rule 74 § 2 of the Rules of Court, the separate opinion of Mr Cabral Barreto is annexed to this judgment.

L.W.
M. d. S.

SEPARATE OPINION OF JUDGE CABRAL BARRETO

(*Translation*)

I agree that this case concerns a problem of a violation of Article 14 of the Convention taken together with Article 8.

Where I differ with my colleagues is that they consider that the mere fact that the domestic courts have decided that the applicant must leave his home amounts to a violation whereas I am of the view that there would be a violation only if the threat of eviction was carried out.

Everything depends on the degree of importance one attaches to the present situation of the applicant and his family, who have been living under the threat of eviction since the possession proceedings were instituted.

I agree that the suffering caused by this situation must be treated by the Court as "non-pecuniary damage" (see, *mutatis mutandis*, the Beldjoudi v. France judgment of 26 March 1992, Series A no. 234-A, p. 30, § 86).

However, as regards the question of whether there has been a violation, I prefer to take a slightly different approach and to say that there will be a violation of Article 14 taken together with Article 8 if the decision to evict Mr Larkos and his family from their home is enforced.

While – for reasons which need not be set out here – it is unsatisfactory to apply the same reasoning in cases concerning the deportation of aliens (see the Beldjoudi judgment cited above and the Nasri v. France judgment of 13 July 1995, Series A no. 320-B, and my concurring opinion in the case of H.L.R. v. France, opinion of the Commission, *Reports of Judgments and Decisions* 1997-III, p. 770), applying that reasoning in the instant case would in my view enable the rights of the applicant and his family not to be evicted from their home to be better protected.

It should be remembered that the aim of the Convention is to guarantee not rights that are theoretical or illusory but rights that are practical and effective (see, for example, the Artico v. Italy judgment of 13 May 1980, Series A no. 37, pp. 15-16, § 33).