

AIDE-MEMOIRE

on the legal implications of illegally purchasing properties owned by Greek Cypriots in the part of the Republic of Cyprus which is under Turkish occupation since 1974

- Foreign citizens are cautioned against purchasing property owned by Greek Cypriots in the part of the Republic of Cyprus under Turkish belligerent occupation since 1974. It is important to note that this area is considered an unlawful secessionist entity, according to general international law as reflected in the United Nations Security Council Resolutions 541 (1983) and 550 (1984), which call upon all states to respect the sovereignty, independence, and territorial integrity of the Republic of Cyprus and not to recognize any other state in Cyprus.
- To this day, the Turkish armed forces continue to prevent displaced persons from returning to their homes and to peacefully enjoy their properties. However, it is indisputable that the displaced persons maintain ownership rights over their properties in accordance with international law and the legislation of the Republic of Cyprus.
- Under the laws of the Republic of Cyprus, the use of property registered in the name of another individual, constitutes a criminal offence. The commission of this offence could lead to the issuance of a European arrest warrant, enforceable in any of the 26 EU countries, as well as an international arrest warrant.
- Article 303A of the Criminal Code of the Republic of Cyprus, as amended by the Law 130(I)/2006, deals with fraudulent transactions involving another person's immovable property. Subsection (1) states that anyone who intentionally engages in such transactions with the aim of committing fraud is committing a felony, punishable by up to seven years in prison. An attempt to commit this offence is also a felony and carries a potential prison sentence of five years.
- This provision applies when a person: (a) sells, rents, conveys, or allows the use of the property to someone else, (b) advertises or promotes the property's sale, rental, mortgage, or use by another person, (c) enters into an agreement related to the property's sale, rental, mortgage, or use by another person, or (d) accepts the sale, rental, mortgage, or use of the mentioned real property.
- Moreover, the scope of application of the Criminal Code was expanded in 2006 to encompass offenses committed abroad by any person, as long as the offence is connected to immovable property located within the Republic. This includes actions like conspiracy, attempted crimes, incitement, or any actions that encourage others to commit offences linked to immovable property within the Republic.
- As stated by the European Court of Human Rights in its judgment regarding the *Fourth Interstate Application of Cyprus v Turkey* (10 May 2001), "§61... it is evident from international practice and the condemnatory tone of the resolutions adopted by the United Nations Security Council and the Council of Europe's Committee of Ministers that

the international community does not recognise the "TRNC" as a State under international law. The Court reiterates the conclusion reached in its *Loizidou* judgment (merits) that the Republic of Cyprus has remained the sole legitimate government of Cyprus." As such, the illegal secessionist entity in the occupied area of Cyprus does not have jurisdiction to perform valid transfers of property ownership.

- The right of displaced property owners to their properties was reaffirmed in the European Court of Human Rights' decision (Dec. 2005) regarding the application of *Myra Xenides-Arestis v. Turkey*. This right has ever since been consistently reaffirmed in numerous cases brought by Greek Cypriot property owners in the occupied part of Cyprus against Turkey.
- Greek Cypriot property owners may also bring civil action against usurpers of their property before the competent civil Courts of the Republic of Cyprus. Following the judgment of the Court of Justice of the European Communities in the case of *Meletios Apostolides v David and Linda Orams*, the Court of Appeal (England and Wales), issued its final judgment on the case on 19 January 2010. In this judgment, the Court emphasized the obligation to uphold the sovereignty, independence and territorial integrity of the Republic of Cyprus. It also reaffirmed ~~and~~ the exclusive jurisdiction of Cypriot courts, even in cases concerning property rights over land situated in the occupied areas of the Republic of Cyprus. At the same time, the Court emphasized that, despite international efforts to find a solution to the Cyprus problem, there is no basis for refusing to recognize and implement a legally rendered judgment from a court in a duly constituted State, which is a Member of the European Union. In that respect, the Court argued that a refusal to recognize such a judgment by the Cypriot court could exacerbate the situation. At the same time, the Court stressed that UN Security Council resolutions, while urging negotiations and a settlement of the Cyprus problem, consistently demand respect for the territorial integrity of the Republic of Cyprus under a single sovereignty. This clearly includes respect for the courts as the judicial branch of a sovereign state.