



26.10.2009

NOTICE TO MEMBERS

Subject: **Petition 0525/2009 by Warren Griffiths (British), bearing 210 signatures, on buying property i Cyprus**

1. Summary of petition

The petitioner complains about the Cypriot property law that allows building contractors to retain the deeds to property. The petitioner claims that the contractors use the deeds as security for mortgages, and if they go bankrupt the purchasers can lose their property. The petitioner therefore calls on the European Parliament to look into the matter and investigate whether Cypriot property law is in accordance with the provisions of the EU Charter of Fundamental Rights, and particularly Articles 17 (Right to property) and 38 (Consumer protection) thereof.

2. Admissibility

Declared admissible on 8 July 2009. Information requested from Commission under Rule 202(6).

3. Commission reply, received on 26 October 2009.

The Commission has received a considerable number of letters and parliamentary questions drawing its attention to what would seem to be a problematic situation with regard to the acquisition and transfer of immovable property in Cyprus, and to issues such as those raised in this petition which refers to "practices of developers withholding Title Deeds to properties in order to take out mortgages on the land on which these are constructed" and to situations where "the lender bank has the right to sell the properties of the buyers to recover any debts of the original borrower and the buyers can lose their homes" in case of default.

In order to assess whether those situations raise concerns with regard to the exercise of

fundamental EC Treaty freedoms, in particular with regard to the free movement of capital under Article 56 EC, the Commission addressed two administrative letters to the Cypriot authorities on 9 February 2009 and on 5 May 2009, requesting detailed information on the legal framework for the acquisition and transfer of immovable property in Cyprus and the actual practice of the Government and the Land Registry with regard to this issue.

It should be noted that according to Article 295 of the EC Treaty, the provisions of the EC Treaty, including Article 56 of the EC Treaty, shall in no way prejudice the rules in Member States governing the system of property ownership. The analysis of the information presented by the Cypriot authorities allowed the Commission to conclude that the situation in question falls outside the scope of Article 56 of the EC Treaty, as the establishment and application of the legal framework applicable to the acquisition and transfer of immovable property in Cyprus represents such a system of property ownership covered by Article 295 of the EC Treaty. In addition, the Cypriot authorities drew the Commission's attention to legal provisions that would seem to allow for a sufficient degree of legal protection for the buyer of a property in Cyprus. Acknowledging the problem of delays in the issuing and transfer of title deeds, the Cypriot authorities committed to amending the laws governing the procedures for issuing title deeds with a view to accelerating the procedures.

As regards the foreclosure of the mortgaged property through the lender, the lending bank as the beneficiary of the mortgage has the right to call on the mortgaged property even if ownership of the property has changed. In this respect, a prospective buyer should conduct the necessary investigations to ensure that he buys an unencumbered property. According to the information available to the Commission, in Cyprus, any person, including a prospective buyer, has access to the land register to obtain information relating to the property.

The Commission will continue to monitor the situation in Cyprus, in particular the measures taken to amend the laws governing the procedures for issuing title deeds with a view to accelerating the procedures, and will, if necessary, act to ensure the implementation of respective commitments.

The applicability of the provisions of the *Charter of Fundamental Rights* might be considered only when Member States implement European Union law. As the case raised by the petitioner does not fall within its scope, the question of the application of the Charter does not arise.

Conclusion

On the basis of the available information, the Commission considers that the issue does not impair the rights of buyers in relation to access to the property markets in a way that would infringe fundamental EC Treaty freedoms.

The applicability of the provisions of the Charter of Fundamental Rights does not arise in cases falling outside the EU competence.