



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

FIRST SECTION

CASE OF GEORGIOS PAPADOPOULOS v. CYPRUS

(Application no. 21454/21)

JUDGMENT

Art 3 P1 • Choice of the legislature • Electoral decisions annulling the applicant's declaration as an elected member of parliament on three occasions after his appointment as the first runner-up to a seat that was renounced before the start of the parliamentary term • Applicant's mandate annulled on account of the absence of a legal or permissible constitutional framework regulating the possibility of filing a seat that became vacant before the start of the parliamentary term • Failure to resolve the issue through legislative or judicial intervention resulting in a vacant parliamentary seat for significant periods • Interference "not lawful"

Prepared by the Registry. Does not bind the Court.

STRASBOURG

9 October 2025

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 Georgios Papadopoulos v. Cyprus,

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

Ivana Jelić, *President*,

Erik Wennerström,

Georgios A. Serghides,

Raffaele Sabato,

Alain Chablais,

Artūrs Kučs,

Anna Adamska-Gallant, *judges*,

and Liv Tigerstedt, *Deputy Section Registrar*,

Having regard to:

the application (no. 21454/21) against the Republic of Cyprus lodged with the Court under Article 34 of the Convention for the Protection of Human Rights and Fundamental Freedoms (“the Convention”) by a Cypriot national, Mr Georgios Papadopoulos (“the applicant”), on 21 April 2021;

the decision to give notice to the Cypriot Government (“the Government”) of the application;

the parties’ observations;

Having deliberated in private on 6 May and 16 September 2025,

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

INTRODUCTION

1. The case concerns the Electoral Court’s decisions to annul the applicant’s declaration as an elected member of parliament (MP) on several occasions.

THE FACTS

2. The applicant was born in 1965 and lives in Limassol. He was represented by Mr A. Kyprizoglou, a lawyer practising in Limassol.

3. The Government were represented by their Agent, Mr G. L. Savvides, Attorney General of the Republic of Cyprus.

4. The facts of the case may be summarised as follows.

I. BACKGROUND TO THE CASE

5. Parliamentary elections in Cyprus are held based on the open-list proportional representation system. Voters first choose a party list and may then express a fixed number of preferences (depending on the electoral district) for candidates within that list. Seats are distributed based on party vote totals using the Hare quota, with additional thresholds in place to ensure fair representation. The first allocation of seats is carried out at district level.

The second step of the allocation of seats is conducted at national level (see paragraphs 44-45 and 51-52 below).

6. On 22 May 2016 parliamentary elections took place.

7. The applicant and Ms E.T. were candidates in those elections for the Solidarity Movement (*Κίνημα Αλληλεγγύη* – “Solidarity”) in the Limassol constituency. At the time, Ms E.T. was the president of Solidarity and a Member of the European Parliament (MEP).

8. Following the conclusion of the elections, the Chief Returning Officer (“CRO”) proceeded to distribute the fifty-six parliamentary seats among political parties in each constituency, following a two-round distribution procedure (*πρώτη και δεύτερη κατανομή*) (see paragraphs 44 and 45 below), as follows:

Political party	Constituencies					
	Nicosia	Limassol	Famagusta	Paphos	Larnaca	Kyrenia
Democratic Rally (DISY)	6	3	4	1	2	2
Progressive Party of Working People (AKEL)	5	4	3	1	2	1
Democratic Party (DIKO)	3	2	1	1	2	-
Movement for Social Democracy (EDEK)	1	1	-	1	-	-
Citizen’s Alliance	1	1	1	-	-	-
Solidarity	1	1	1	-	-	-
Green Party -	2	-	-	-	-	-
Citizen’s Alliance						
National People’s Front (ELAM)	1	-	1	-	-	-

9. The determination of the elected candidates per party was then completed and, as a result, on 23 May 2016 the CRO declared Ms E.T. an elected member of the Cypriot House of Representatives (Parliament) with Solidarity, as the candidate who received the most votes for Solidarity in the Limassol constituency, in which Solidarity had been allocated one seat. The declaration, along with those of all other elected MPs, was published in the Official Gazette of the Republic of Cyprus the same day (see paragraph 46 below).

10. On 27 May 2016 Ms E.T. informed the CRO of her decision not to take the seat, as she wished instead to retain her seat as an MEP.

11. The issue that arose was that domestic law at the time only provided for the possibility of filling a seat that became vacant after the start of the parliamentary term. It did not address the situation where an elected MP chose not to take up his or her seat before the start of the parliamentary term.

II. THE APPLICANT'S FIRST DECLARATION AS AN ELECTED MP AND SUBSEQUENT ANNULMENT

12. On 31 May 2016 the CRO, following an advisory opinion from the Attorney General, applied section 35(1) of the Law on the Election of Members of the House of Representatives of 1972 ("the Elections Law"), as in force at the time (see paragraph 43 below), by analogy. He therefore declared the applicant, the runner-up for Solidarity, an elected MP in the Limassol constituency.

13. On 2 June 2016 the applicant made the relevant affirmation in Parliament in accordance with Article 69 of the Constitution (see paragraph 40 below).

14. On 21 July 2016 Mr A.M., an unsuccessful candidate for the Democratic Rally ("DISY") in the Limassol constituency in the 2016 parliamentary elections, and Mr D.D., a voter from the same constituency, challenged the CRO's decision before the Electoral Court (electoral petition no. 2/2016).

15. On 31 May 2017 the Electoral Court unanimously declared the applicant's election and declaration as an MP for the Limassol constituency void.

16. According to the court, the parties agreed that Ms E.T. had been declared an elected MP but had never held the status of one, since the formal condition of affirmation prior to assuming her duties – expressly required by Article 69 of the Constitution (see paragraph 40 below) – had not been met.

The parties also agreed that Ms E.T.'s parliamentary seat had not been vacated during the parliamentary term, as provided for in section 35(1) of the Elections Law.

The court then stated that Article 66 § 2 of the Constitution, which had been amended in 1996 (see paragraph 39 below), provided that a vacancy in a parliamentary seat was to be filled in the manner provided for by law (in the case at hand, the Elections Law) and not necessarily through a by-election, as had been the case prior to the 1996 amendment. In particular, the court considered that Article 66 of the Constitution did not contain a provision for filling a vacated parliamentary seat before the start of the new parliamentary term.

The court held that the issue of the disputed seat had undoubtedly arisen before the start of the parliamentary term. Section 35(1) of the Elections Law only regulated situations where a seat was vacated after the start of the parliamentary term. Therefore, in the absence of a clear legislative provision,

the CRO had impermissibly applied section 35(1) of the Elections Law by analogy.

III. THE APPLICANT'S SECOND DECLARATION AS AN ELECTED MP AND SUBSEQUENT ANNULMENT

17. On 30 June 2017 Parliament amended section 35(1) through the Elections (Amendment) Law 2017 (Law no. 82(I)/2017), introducing the term “not taken” parliamentary seat and providing that the new provision would apply to seats which were either not taken, not accepted or vacated before the beginning of the parliamentary term as of that date (see paragraph 48 below).

18. On 5 July 2017 the CRO and the Returning Officer of the Limassol constituency, applying the amended section 35(1), declared the applicant an elected MP for the Limassol constituency.

19. On 7 July 2017 the applicant made the relevant affirmation in Parliament and took up his duties.

20. On 1 September 2017 Mr A.M and Mr D.D. (see paragraph 14 above) filed a new electoral petition with the Electoral Court (no. 1/2017) challenging the applicant's election and declaration as an MP (see paragraph 18 above). They argued, *inter alia*, that Parliament had passed a law which breached the precedent created by the Electoral Court's decision, with the aim of appointing the applicant as an MP after the May 2016 elections. As such, Parliament had substituted the right of the people to choose their MPs through voting, contrary to Article 66 of the Constitution (see paragraph 39 below).

21. The respondents, including the applicant, contended that a seat could only be filled as prescribed by law. Given the relevant legal vacuum identified by the Electoral Court, the only way to fill a seat was through the creation of specific legislation on the matter. Section 35(2), which referred to by-elections, concerned the same conditions as section 35(1). Therefore, section 35(2), like section 35(1), could only be applied if there was a “vacated” seat during the parliamentary term and if section 35(1) could not be applied for some reason. In the absence of a “vacated” seat, the option of by-elections on the basis of section 35(2) could not apply either. Moreover, they argued that the Constitution did not provide for by-elections. On the contrary, the Third Amendment of the Constitution had amended Article 66 to replace the former Article 66 § 2, which had provided for the automatic holding of a by-election in the event of a “vacated” seat. The original provision for by-elections had been adapted to the needs of the majority election system, while the amendment had been intended to make the election system universal and in line with the proportional system, so that those elected occupied the parliamentary office in order, including the runners-up.

22. On 30 April 2018 the Electoral Court, by a majority of six to five, annulled the applicant's election and declaration as an MP in the Limassol constituency for the second time. In addition, it declared the Elections (Amendment) Law 2017 unconstitutional, specifically the provision for filling a "not taken" parliamentary seat.

23. The majority judges ruled that the Constitution (Article 66) only addressed the situation of a "vacated" parliamentary seat, not a "not taken seat", a concept not recognised therein. Nor did Article 71 of the Constitution which set out the possibilities of a vacated seat address such situation. Parliamentary status was acquired upon affirmation in Parliament, not upon declaration by the CRO. Since Ms E.T. had never affirmed her role in Parliament – as doing so would have been incompatible with her MEP status – and had renounced the seat before the parliamentary term had begun, the seat had never been vacated and had instead remained "not taken". Consequently, the exceptional procedure for filling vacated seats under the Elections Law, which aligned with proportional representation, could not be applied. As a result of the renouncing the seat and Ms E.T.'s failure to affirm her role in parliament, the seat was not taken either by Ms E.T. or by Solidarity and as a result there never was a vacated seat belonging to Solidarity. The Electoral Court's voiding of the applicant's declaration as an MP had not vacated the seat but had confirmed its "not taken" status. Thus, the court reasoned that the seat never lawfully belonged to Solidarity and as such could not be assigned to the runner-up for Solidarity in Limassol.

While the majority did not deny that Parliament had a general power to legislate on all matters (see paragraph 35 below), it stressed that such power had to be exercised in accordance with the provisions and spirit of the Constitution. The court observed that only in the event of a vacated seat already held by a party could the seat, by exception, be given to the runner-up for that party, without requiring an election. Where that exception did not apply, Articles 65 and 66 of the Constitution (see paragraphs 38 and 39 below) mandated the election of deputies and general elections by the people to fill all fifty-six parliamentary seats. The said articles safeguarded the democratic principle of popular sovereignty which required the election of parliamentarians by the people.

The court considered that, even though there had initially been no right to fill the seat by choosing the runner-up, as the seat had not been taken from the outset, Parliament had nonetheless retroactively conferred such a right on the applicant through the Elections (Amendment) Law 2017. This had been contrary to the principle of non-retroactivity, under which the retroactive determination of rights was unacceptable, even by amendment of a law.

24. The minority judges believed that Parliament had amended the law to address the legislative gap identified by the Electoral Court, harmonising it without breaching the precedent set by electoral petition no. 2/2016. The claimants (Mr A.M. and Mr D.D.) had objected to the legislature's choice to

apply section 35(1) directly instead of holding by-elections. Conversely, the CRO argued that by-elections contradicted the system of proportional representation outlined in Article 66 § 2 of the Constitution, which prioritised party over individual candidates. The Electoral Court could only intervene if the law breached the Constitution, which it did not. The legislature’s decision aligned with Cyprus’s electoral system and modern democratic trends, as reflected in the Third Amendment of the Constitution. The absence of a “not taken” seat provision in the Constitution had not limited Parliament’s general legislative powers under Article 61. Therefore, Parliament had had a duty to fill the legislative gap identified by the Electoral Court, which it had done.

IV. THE APPLICANT’S THIRD DECLARATION AS AN ELECTED MP AND SUBSEQUENT ANNULMENT

25. On 3 October 2019 Parliament amended Articles 66 and 71 of the Constitution through the Twelfth Amendment of the Constitution (Law no. 128(I)/2019 – see paragraphs 39 and 41 below) to, *inter alia*, include the terms “renounced” (“*αποποιηθείσα*”), “not taken” (“*μη καταληφθείσα*”) and “vacated” (“*κενωθείσα*”) seat.

26. On 15 October 2019 Parliament also amended section 35 of the Elections Law through the Elections (Amendment) Law 2019 (Law no. 131(I)/2019 – see paragraph 49 below) to address situations where an elected individual passed away or renounced a seat prior to the relevant affirmation in Parliament, or where a seat was not taken or was renounced during and after the entry into force of the amendments.

27. On 29 October 2019 the Returning Officer of the Limassol constituency declared the applicant an MP for the constituency.

28. On 1 November 2019 the applicant made the relevant affirmation in Parliament.

29. On 18 December 2019 Mr A.M. and Mr D.D. filed a new electoral petition (no. 1/2019) with the Electoral Court. They argued, *inter alia*, that the Elections (Amendment) Law 2019 violated the *res judicata* of the Electoral Court’s previous decisions. They further argued that the law had been applied retroactively to the 2016 elections and had substituted the opinion of the people in the choice of the legislature. They maintained that the fact that the Constitution had also been amended did not grant the legislature the power to act outside the logic of the Constitution and the principle of popular sovereignty. They reiterated that the only constitutionally and legally compatible solution to the issue was to hold by-elections.

30. The applicant, in turn, argued that following the Third Amendment of the Constitution, the constitutional rule was the choice of a party and not a candidate, while by-elections were no longer the preferred method. The Elections (Amendment) Law 2019 did not breach precedent, as it had been enacted following the Twelfth Amendment of the Constitution and was

therefore fully in line with constitutional provisions. The claimants had not suffered any harm, as the law had not changed the way in which seats were allocated to parties. As such, the Elections (Amendment) Law 2019 ensured the election results and the choice of the people as expressed on 22 May 2016.

31. On 29 October 2020 the Electoral Court, by a majority of ten to one, held that the applicant's election as an MP and his declaration as such by the Returning Officer was void because of an unconstitutional and unlawful regulation made under the provisions of the Twelfth Amendment of the Constitution and the Elections (Amendment) Law 2019.

32. The court found that the amendments violated the principle of non-retroactivity and the finality of the Electoral Court's decisions by retroactively addressing the disputed seat from the May 2016 elections. Introducing the basic structure doctrine for the first time, the court held that while Parliament could amend constitutional provisions, it could not undermine the Constitution's fundamental structure or principles. The court acknowledged criticisms of this doctrine but emphasised its role in protecting democracy, allowing courts to intervene against "unconstitutional constitutional amendments". In the absence of eternity clauses, some legal systems recognised indirect restrictions on the scope of constitutional amendments.

The court considered that Article 66 of the Constitution could have been amended, as it had not been included in the fundamental Articles of the Constitution. However, what could not have been amended was the principle of popular sovereignty, in the sense that elections should be decided based on the electoral result by holding general elections. The electoral dispute had been resolved through petitions nos. 2/2016 and 1/2017, in accordance with Article 145 of the Constitution (see paragraph 42 below). As a result, the Twelfth Amendment of the Constitution could not apply (*δεν μπορεί να έχει ισχύ*) to issues already decided by the Electoral Court.

The court further held that the Electoral Court's decisions had been clearly based on the principle of popular sovereignty and that legitimate elections were those which were conducted based on the principle of the expression of the people as regards the choice of the legislature.

The court emphasised that the issue had begun with Ms. E.T.'s letter to the CRO, as her decision had been made outside the parliamentary term. The Electoral Court had ruled that the seat had never been lawfully held by Solidarity, so the applicant, as runner-up, could not claim it. Constitutional amendments had attempted to override the Electoral Court's decisions but could not apply to a seat that had never been occupied. These amendments had resulted in the applicant's election through specific legislation rather than a free general election or by-election, thereby undermining popular sovereignty. The court explained that the constitutional and legal change, as enacted by Parliament, would have been acceptable had the changes concerned future cases only. Additionally, the court criticised Parliament for

bypassing judicial decisions and violating the separation of powers by impermissibly amending the Constitution.

Lastly, the court considered that if section 35(4) was applied in a way to also cover the applicant's case, that would clearly violate the principle of equality under Article 28 of the Constitution. That was because Parliament, through targeted legislation, had appointed a specific person as an MP, thereby depriving other candidates, such as Mr A.M., of the right to free by-elections and voters, such as Mr D.D., of the right to have their vote counted in the way they chose to vote.

Accordingly, the court held that the applicant's election and declaration as an MP was void because of an unconstitutional and unlawful regulation made under the provisions of the Twelfth Amendment of the Constitution and the Elections (Amendment) Law 2019. In addition, the court reasoned that had section 35(4) of the Law applied in a way to cover the facts of the present case, it would give retroactive effect to the law which entry into force started from the day of its publication, namely 15 October 2019.

33. A dissenting judge opposed the application of the basic structure doctrine, arguing that the constitutional and electoral law amendments had enhanced the electoral system without harming the Constitution's basic structure. He maintained that the principle of popular sovereignty had been upheld, as filling the seat with the first runner-up aligned with Article 66 of the Constitution and the Elections Law, which required by-elections only when other options were impossible. The judge contended that limiting Parliament's ability to amend the Constitution would restrict popular sovereignty. He emphasised that Cyprus's electoral system prioritised party choice, reflecting political realities, voting effectiveness and the alignment of voter preferences with the broader objectives of those seeking power.

RELEVANT LEGAL FRAMEWORK

I. THE CONSTITUTION

34. Article 31 safeguards the right to vote.

35. Article 61 provides that legislative powers are vested in Parliament.

36. Article 63 provides for the right to be registered as a voter.

37. Article 64 sets out the eligibility requirements to stand for election to Parliament.

38. Article 65 provides as follows:

“1. The term of office of the House of Representatives shall be for a period of five years.

The term of office of the first House of Representatives shall commence on the date of the entry into force of this Constitution.

2. The outgoing House shall continue in office until the newly elected House assumes office, in accordance with the first paragraph of this Article.”

39. Article 66 originally provided that a by-election would be held when a seat in Parliament became vacant, as follows:

“1. A general election for the House of Representatives shall be held on the second Sunday of the month immediately preceding the month in which the term of office of the outgoing House expires.

2. A vacant parliamentary seat shall be filled by a by-election to be held within a period not exceeding forty-five days of the occurrence of such vacancy on a date to be fixed by the House of Representatives.

3. ...”

In 1996 it was amended through the Third Amendment of the Constitution (Law no. 115(I)/1996). According to the preamble of Law no. 115(I)/1996 the amendment was based on the fact that Parliament had adopted the proportional representation system which was considered to be most in line with modern democracies and which resulted in a fairer representation of the will of the people. Specifically, paragraph 2 of Article 66 was amended as follows:

“(2) A vacant parliamentary seat shall be filled within a maximum period of forty-five days from the vacancy, in the manner prescribed by law.”

The relevant law for the purposes of Article 66 of the Constitution was the Elections Law.

In 2019 Article 66 was further amended (see paragraph 25 above). It currently provides as follows:

“1. A general election for the House of Representatives shall be held on the second Sunday of the month immediately preceding the month in which the term of office of the outgoing House expires.

2. (1) A renounced (*αποποιηθείσα*), not taken (*μη καταληφθείσα*) or vacated (*κενωθείσα*) parliamentary seat shall be filled in the manner prescribed by law.

(2) Sub-paragraph (1) shall apply in relation to a renounced, not taken or vacated parliamentary seat on or after the date of entry into force of the Twelfth Amendment of the Constitution of 2019.

(3) ...”

40. Article 69 provides that, before assuming his or her duties, an MP must make an affirmation at a public session of Parliament.

41. In 2019 Article 71 was amended to include a second paragraph. It currently provides as follows:

“(1) The seat of a member of parliament shall become vacant:

(a) upon his or her death;

(b) upon his or her written resignation;

(c) upon the occurrence of any of the circumstances referred to in paragraphs (c) and (d) of Article 64, or if he or she ceases to be a citizen of the Republic; and

(d) upon his or her assuming the office referred to in Article 70.

(2) A seat of a member of parliament shall be considered to have been renounced, or not taken, in the event that an elected candidate, prior to his or her declaration, dies or decides not to exercise his or her right to be declared, or if, after his or her declaration and before making his or her affirmation prescribed by Article 69, dies or decides not to take up his or her duties.”

42. Under Article 145, the Electoral Court, which took over the powers of the Supreme Constitutional Court, has exclusive jurisdiction to adjudicate finally on any election petition, made under the provisions of the Elections Law, with regard to, *inter alia*, the elections of MPs.

II. LAW ON THE ELECTION OF MEMBERS OF THE HOUSE OF REPRESENTATIVES OF 1979 – LAW NO. 72/1979 (AS AMENDED – “THE ELECTIONS LAW”)

43. Section 2 of the Elections Law provides, in so far as relevant, as follows:

“‘by-election’ means an election to fill a vacant seat in the House of Representatives;

‘general election’ means an election to fill all seats in the House of Representatives;

‘election’ means any election for the purpose of electing a member of the House of Representatives, and includes by-elections and general elections.”

44. Section 32 provides as follows:

Section 32 – First distribution of seats

“(1) Upon the closing of the poll, the Returning Officer of each constituency shall commence the collection and classification, following the prescribed method, of the results of the election in his constituency.

(2) The Returning Officer shall, immediately after the collection and classification of the results of the election in his constituency, proceed with the first allocation of seats and the declaration of the successful candidates, in accordance with the provisions of this section.

A certified copy of the aforementioned document, containing the total unused remainders in his constituency, of the participating parties, coalitions (*συνασπισμός*) of parties, combinations/groups (*συνδυασμός*) of independents and individual independent candidates, shall be sent without delay to the Chief Returning Officer (*Γενικό Εφορο Εκλογής*) using the most secure method.

(3) For this purpose, the total number of valid votes in the constituency shall be divided by the number of seats allocated to it. The resulting quotient, disregarding any fraction, shall constitute the electoral quota by which the electoral strength of each group/combination shall be divided, that is, the total number of valid votes in its favour in the constituency, and each group/combination shall receive as many seats as the number of times the electoral quota is wholly contained within its electoral strength.

In a constituency which elects only one member of the House of Representatives, the seat shall be given to the party or coalition of parties with the relative majority or to the independent candidate or combination of independents with the relative majority.

An independent candidate who receives votes equal to or greater than the electoral quota shall take one seat.

(4) The seats granted to each group/combination in accordance with the above provisions shall be taken by the candidates who, in descending order, have received the greatest number of preference votes, and if there are no such candidates, in the order in which the candidates are listed on the ballot paper.

In the event of a tie between two or more candidates of a group/combination, and if the number of seats granted to the group/combination is fewer than the number of tied candidates (*ισοψηφισάντων*), the matter is decided by drawing lots (*κλήρωση*), carried out by the Returning Officer in the presence of the candidates, and the candidate whose name is drawn shall be declared a member of the House of Representatives.

A group/combination that includes fewer candidates than the number of seats in the constituency allocated to it under this section shall take only as many seats as it has candidates.

(5) The Chief Returning Officer shall, on the basis of the statements drawn up by the Returning Officers, draw up a results table (*συντάσσει πίνακα*) for each constituency including:

- (a) the number of voters in the constituency;
- (b) the total number of voters who voted in that constituency;
- (c) the number of valid ballot papers;
- (c1) the number of blank ballot papers declared invalid;

For the purposes of this subsection, the term “blank ballot paper” shall have the meaning assigned to it in section 31(5).

- (d) the number of invalid ballot papers;
- (e) the electoral strength of each group/combination and each independent candidate, that is, the total number of valid votes cast for each candidate in the constituency;
- (f) the number of seats allocated during the first distribution/allocation to each group/combination and independent candidate, indicating the number of candidates included in each group/combination;
- (g) the total number of unallocated seats remaining in the constituency after the first distribution/allocation; and
- (h) the total unused remainders from the first distribution, across the entire Republic, for the participating parties, coalitions of parties, groups/combinations of independents and individual independent candidates participating in the election.

During the drawing up of the lists, one representative from each group/combination and the independent candidates may be present.”

45. Section 33 provides for the second distribution of parliamentary seats as follows:

Section 33 – Second distribution of seats

“(1) If, after the distribution/allocation of seats in each constituency made in accordance with the provisions of section 32, there remain unallocated seats (including

those not allocated under section 32(4)), the Chief Returning Officer shall distribute the unallocated seats across the entire Republic, treating it as a single constituency.

(2) (a) Subject to the provisions of subsection (2)(c), the distribution of unallocated seats under subsection (1) shall be made among the independent parties or coalition of parties that have received:

(i) independent parties: at least 3.6% of the total valid votes across the entire territory of the Republic;

(ii) coalitions of two parties: at least 10%; and

(iii) coalitions of more than two parties: at least 20%.

(b) If only one party or one coalition has obtained the respective percentages specified above, it shall participate in the second distribution/allocation, along with the next independent party in order of electoral strength, provided that its percentage is greater than the percentage of each separate party within the coalition. Otherwise, the coalition of parties that has obtained the greatest average percentage of electoral strength (calculated by dividing the total percentage of the coalition by the number of participating parties) shall participate.

If no party or no coalition of parties has obtained the respective percentages specified above, then only two parties, or the party and a coalition of parties, or two coalitions of parties shall participate in the second distribution/allocation. [Participation shall be granted to those] whose electoral strength falls short of the respective minimum threshold for the second distribution by the smallest margin.

(c) Irrespective of the provisions of subsections (a) and (b) above, independent parties which participate in the second distribution/allocation shall be entitled to a second seat from this distribution/allocation only if they have obtained at least 3.6% of the total valid votes across the entire territory of the Republic.

(3) For the purposes of the second distribution, the total unused remainders from the first distribution of all parties and coalitions of parties participating in the second distribution throughout the entire Republic shall be aggregated. This aggregate shall be divided by the number of seats remaining unallocated. The resulting quotient, disregarding any fraction, shall constitute the electoral quota for the second distribution.

Furthermore, using this electoral quota, the total unused remainders from the first distribution/allocation of all parties and coalitions of parties participating in the second distribution throughout the entire Republic shall be divided separately, and the quotient of each division, again disregarding any fraction, shall show the number of seats each party or coalition of parties shall take in the second distribution/allocation.

(4) The seats allocated to each party under subsection (3) shall be distributed as follows:

(a) If only one seat is to be distributed from the second distribution, it shall be given to the group/combination of the party or coalition of parties entitled to it in the constituency to which the seat belongs;

(b) If more than one seat is to be distributed/allocated from the second distribution/allocation, and all such seats are given to a single party or coalition of parties, they shall be given to the groups/combinations of that party or coalition of parties, depending on the case, in the constituencies to which the seats belong. If these seats are given to more than one party or coalition of parties, they shall be distributed/allocated among them as follows:

The parties or coalitions of parties entitled to the seats shall be ranked according to the number of unused remainders from the first distribution/allocation across the entire Republic, with those having the highest unused remainder ranked first.

Then, in each of the constituencies in which unallocated seats remain, the unused remainders from the first distribution/allocation for each group/combination of the parties or coalitions of parties participating in the second distribution/allocation shall be identified. The seats from the second distribution/allocation shall be given, one by one, to the groups/combinations of the parties or coalitions of parties entitled to them, as follows:

Beginning with the party or coalition of parties that has the highest unused remainder from the first distribution/allocation across the entire Republic, the first of the available seats shall be granted to the group/combination of that party or coalition of parties in the constituency in which it has the highest unused remainder, provided that an unallocated seat exists in that constituency. Otherwise, this seat shall be given to the constituency in which the party or coalition of parties has the next highest unused remainder.

This process shall be repeated successively for the party or coalition of parties with the second highest unused remainder from the first distribution/allocation, and then for the remaining parties or coalitions of parties, as the case may be, until completion of the ranking of all parties and coalitions of parties participating in the second distribution/allocation. Thereafter, the same process shall be repeated, beginning with the constituency in which a party or group of parties has the next highest unused remainder and so on, continuing in the same sequence until the total number of seats to which each party or coalition of parties is entitled from the second distribution/allocation has been exhausted.

(c) Any seats remaining unallocated after the second distribution/allocation (including those not allocated under subsection (d)) shall be given, one by one, to the party or coalition of parties that has the highest unused remainder resulting from the second distribution/allocation, provided that such party has received at least 7.2% of the total valid votes across the entire territory of the Republic, and the coalition of parties has received the percentages specified in subsection (2). [These seats] shall be given to the groups of parties or coalitions of parties that are entitled to them in accordance with the provisions of subsection (b), and proportionally.

(d) the seats allocated to each party under this section shall be taken by its candidates in accordance with section 32(4).”

46. Section 34 of the Elections Law provides for the declaration of MPs by the CRO as follows:

Section 34 – Declaration of parliamentarian

“(1) The Chief Returning Officer, upon completion of the allocation/distribution of seats and the determination of the elected candidates, shall declare them individually and publish their names in the Official Gazette of the Republic.

(2) The Chief Returning Officer shall subsequently certify, on each election writ transferred to him by each Returning Officer for forwarding to the Minister [of the Interior], the result of each election and the names of the elected members of the House of Representatives, and shall send this to the Minister [of the Interior].”

47. Section 35 of the Elections Law, as amended by the Elections (Amendment) Law 1996 (Law no. 118(I)/1996), provided as follows:

Section 35 – Filling of a vacant parliamentary seat

“(1) Subject to the provisions of subsection (2), if a parliamentary seat is vacated for any reason during a parliamentary term, the vacated seat shall be filled, within forty-five days, by declaration of the Returning Officer ... as a member of parliament, a candidate who is still alive at the time of the declaration, of the combination of the same electoral district of the party or coalition of parties or combination of independents, who, in the case of a party or coalition of parties ... continues to belong to the same party or coalition of parties at the time of the vacating of the seat and who would have been elected in the general parliamentary elections, if the person who held the vacated seat and any other candidates of that combination either renounce their right under this subsection or do not qualify under this subsection because of death or because at the time of the vacating of the seat they did not belong to the same party or coalition of parties, did not receive more preferential votes [than him] or were not or could not have been considered under the second paragraph of section 32(4) to have been ahead of him:

In the event of a tie between two or more candidates of the same combination, the provisions of the second paragraph of section 32(4) shall apply by analogy.

(2) Where it is impossible to fill the vacated seat under subsection (1), a by-election shall be held in accordance with the provisions of section 35A of this [Law].”

48. Section 35, as amended by the Elections (Amendment) Law 2017, provided as follows:

Section 35 – Filling of a not taken or vacant parliamentary seat

“(1) Subject to the provisions of subsection (2), if for any reason:

(a) a candidate, before the beginning of the parliamentary term, dies or does not take the parliamentary seat for which he has been declared elected; or

(b) a parliamentary seat becomes vacant during a parliamentary term,

the seat shall be filled, within forty-five days, by declaration of the Returning Officer ... as a member of parliament, a candidate who is still alive at the time of the declaration, of the combination of the same electoral district/constituency of the party or coalition of parties or combination of independents, who, in the case of a party or coalition of parties ... continues to belong to the same party or coalition of parties at the time of death or the non-taking or vacating of the seat and who would have been elected in the general parliamentary elections, if the person who passed away, did not accept the seat, or held the seat when it became vacant, and any other candidates of that combination either renounce their right under this subsection or do not qualify under this subsection because of death or because, at the time of death, non-acceptance or vacating of the seat they did not belong to the same party or coalition of parties, did not receive more preferential votes than him, or were not or could not have been considered under the second paragraph of section 32(4) to have been ahead of him:

In the event of a tie between two or more candidates of the same combination, the provisions of the second paragraph of section 32(4) shall apply by analogy.

(1A) the provisions of subsection (1) shall apply in relation to a parliamentary seat which is not taken or vacant on or after the date of entry into force of the [Elections (Amendment) Law] 2017.

(2) Where it is impossible to fill the vacated seat under subsection (1), a by-election shall be held in accordance with the provisions of section 35A of this [Law].”

49. Section 35, as amended by the Elections (Amendment) Law 2019, currently provides as follows:

Section 35 – Filling of a vacant parliamentary seat

“(1) Subject to the provisions of subsection (2), if a parliamentary seat is vacated for any reason during a parliamentary term, the vacated seat shall be filled, within forty-five days, by declaration of the Returning Officer ... as a member of parliament, a candidate who is still alive at the time of the declaration, of the combination of the same constituency of the party or coalition of parties or combination of independents, who, in the case of a party or coalition of parties ... continues to belong to the same party or coalition of parties at the time of the vacating of the seat and who would have been elected in the general parliamentary elections, if the person who held the vacated seat and any other candidates of that combination either renounce their right under this subsection or do not qualify under this subsection because of death or because at the time of the vacating of the seat they did not belong to the same party or coalition of parties, did not receive more preferential votes than him or were not or could not have been considered under section 32(4) to have been ahead of him:

In the event of a tie between two or more candidates of the same combination, the provisions of the second paragraph of section 32(4) shall apply by analogy.

(2) Where it is impossible to fill the vacated seat under subsection (1), a by-election shall be held in accordance with the provisions of section 35A of this [Law].

(3) The provisions of subsections (1) and (2) shall apply, *mutatis mutandis*, in the event that:

(a) an elected candidate before his declaration, in accordance with the provisions of section 34, dies or renounces his right to be declared,

(b) an elected candidate dies or renounces his parliamentary seat as from his declaration and before the assurance given pursuant to Article 69 of the Constitution.

(4) the provisions of subsections (1) and (3) shall also apply in relation to a parliamentary seat which is not taken or renounced on or after the date of entry into force of the [Elections (Amendment) Law] 2019.

The filling of a not taken or renounced seat on the above-mentioned date shall be carried out within fifteen (15) days from the date of entry into force of the above [Law].”

III. RELEVANT INTERNATIONAL INSTRUMENTS

A. Report on Proportional Electoral Systems: The allocation of seats inside the lists (open/closed lists) by the European Commission for Democracy through Law (Venice Commission)

50. At its 102nd plenary session on 20 and 21 March 2015 the Venice Commission adopted a report on proportional electoral systems

(CDL-AD(2015)001). The comparative report consists of an overview of the party-list systems (and particularly the issue of seat allocation inside party lists) used among the Venice Commission's member States in parliamentary elections.

51. For the comparative report, the Venice Commission Secretariat prepared a table of the existing legal provisions on electoral systems and methods of seat allocation for 61 countries, including Cyprus. As regards Cyprus, the table (CDL(2014)058) notes, in so far as relevant, as follows:

“System of representation:

Proportional system

... For the purposes of conducting elections, the Republic [of Cyprus] is divided into six constituencies that correspond to the six administrative districts. The fifty-six parliamentary seats are distributed to each constituency based on the number of the registered voters in each electoral district, as follows. Nicosia 20 [seats], Limassol 12 [seats], Famagusta 11 [seats], Larnaca 6 [seats], Paphos 4 [seats], Kyrenia 3 [seats]. A proportional representation system was adopted in the 1995 parliamentary election. Any political party managing to collect 1/56th share of the total votes validly cast in Cyprus as a whole is virtually guaranteed to have at least one representative.

...

Proportional systems, methods of allocation of seats:

Largest remainder, Hare formula

Seats are distributed among lists within each constituency by dividing the total number of votes cast for each list by the electoral quota (the largest remainder method using Hare quota). The remaining seats are distributed among the parties or coalitions of parties that won at least one seat in any constituency pursuant to the first distribution or, for single parties, at least 1.8 per cent of all valid votes cast throughout the island (for coalitions of 2 or more parties, the applicable figures are 10 and 20 per cent, respectively). Notwithstanding the above, 3.6 per cent of the total number of votes cast are required for lists of single parties participating in the second distribution to be entitled to a second seat.

Proportional systems: closed or open party list system?

Open Party List system, Several preferences

Proportional systems, methods of allocation of seats inside the lists:

Several preferences

Voters first select the list of a single party (or coalition of parties or a single independent candidate) and then, within the list, can mark one preference for every four seats to be filled in their constituency. In the case of constituencies having fewer than three seats, only one preference can be marked. Party leaders or other candidates heading coalitions do not require a preference mark to be elected.

[In accordance with the Elections Law] a political formation can participate in the second distribution of seats only if the following criteria are met :

- Single parties with a vote share equal to or greater than the one 56th of the total number of votes nationally,

- Coalitions of two parties with a total vote share equal to or greater than ten percent (10%)

- Coalitions of more than two parties with a total vote share equal to or greater than 20 percent (20%) ...

The allocation of seats to candidates at the first and second tier is done according to the total number of votes of the candidates of each party [section 32(4) of the Elections Law] ...

Party leaders and the leaders of coalition[s] of parties are excluded from preference voting. They are placed at the top of the party list and are credited with as many votes as the total number of valid votes cast for the party at the national level.”

B. Report of the Organization for Security and Co-operation in Europe (OSCE) entitled “Cyprus, Parliamentary Elections, 22 May 2016: Needs Assessment Mission Report”

52. In its report dated 30 March 2016 the OSCE noted the following:

“LEGAL FRAMEWORK AND ELECTORAL SYSTEM

... Parliament is elected under the proportional representation system from six multi-member electoral districts. The electoral districts correspond to the six administrative districts, including those not under the government control. The number of seats elected from each one is based on the number of registered voters [Nicosia - 20 seats, Limassol - 12 seats, Famagusta - 11 seats, Larnaca - 6 seats, Paphos - 4 seats, Kyrenia - 3 seats]. Voters may indicate preference for candidates on a party list that they vote for. The number of preferential votes should not exceed one for every four seats of the given constituency.

The first allocation of seats is done at the district level. The electoral quotient for a district is obtained by dividing the number of valid votes by the number of seats of the district. The second step of the allocation of seats is made at the national level. In December 2015, just five months ahead of the planned elections, Parliament adopted amendments to the election law, including raising the threshold for political parties to participate in the second stage of mandate allocation from 1.8 to 3.6 per cent of valid votes obtained nationwide. ...

ELECTION ADMINISTRATION

The election administration at all levels is comprised predominantly of the civil servants. The Ministry of the Interior (MoI) is the main election management body for the parliamentary elections. When election date is announced, the Minister of [the] Interior appoints the Permanent Secretary of the Ministry as the [Chief] Returning Officer responsible for the administration of elections and supported by the Central Electoral Office of the MoI that functions on a permanent basis.

The District Officers of six administrative divisions of the country are appointed as District Returning Officers and are responsible for the organization of the elections at the district level. ...

... COMPLAINTS AND APPEALS

Complaints related to the administration of elections, including candidate and voter registration, are filed with District Returning Officers. On election day, complaints can

be filed with and considered by the presiding officers at polling stations. Their decisions can be appealed to the [Chief] Returning Officer and then to the Supreme Court.

Complaints on election results can be filed by the Attorney General, a voter, a candidate, as well as any person claiming violation of his/her voting rights, with the Supreme Court, which serves as an Electoral Court during the electoral period. [The] Electoral Court is the first and final instance for the complaints on election results. The 2015 amendments to the election law increased the period when complaints could be filed from one to two months from the date of the publication of the election results.

CONCLUSION AND RECOMMENDATION

The OSCE/ODIHR NAM noted full confidence of all of its interlocutors in the integrity of the electoral process and in the professionalism and impartiality of the election administration. No significant concerns were expressed relating to the respect for fundamental freedoms, transparency of the electoral process, voter and candidate registration, as well as election day proceedings. A number of OSCE/ODIHR NAM interlocutors expressed concerns about some recent amendments, as well as the timing and the process of adopting the amendments. Several previous OSCE/ODIHR recommendations pertaining to political party and campaign finance were addressed.

In consideration of this and the fact that most of OSCE/ODIHR NAM interlocutors opined that an OSCE/ODIHR election-related activity would bring limited added value, the OSCE/ODIHR NAM does not recommend an election-related activity for the 2016 parliamentary elections ...”

THE LAW

I. ALLEGED VIOLATION OF ARTICLE 3 OF PROTOCOL NO. 1 TO THE CONVENTION

53. The applicant complained of a breach of his right to stand for election and of the electorate’s right to choose the legislature, as provided in Article 3 of Protocol No. 1 to the Convention, which reads as follows:

“The High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot, under conditions which will ensure the free expression of the opinion of the people in the choice of the legislature.”

A. Admissibility

1. *Compliance with the six-month rule*

54. The Government did not raise an objection as to non-compliance with the six-month¹ rule. However, the Court has previously held that the six-month rule is a public policy rule and that, consequently, it has

¹ Protocol No. 15 to the Convention has shortened to four months from the final domestic decision the time-limit provided for by Article 35 § 1 of the Convention. However, in the present case the six-month period still applies, given that the final domestic decision was taken prior to 1 February 2022, date of entry into force of the new rule (pursuant to Article 8 § 3 of Protocol No. 15 to the Convention).

jurisdiction to apply it of its own motion (see *Radomilja and Others v. Croatia* [GC], nos. 37685/10 and 22768/12, § 138, 20 March 2018; *Sabri Güneş v. Turkey* [GC], no. 27396/06, § 29, 29 June 2012; and *Blečić v. Croatia* [GC], no. 59532/00, § 68, ECHR 2006-III). The Court will therefore examine the issue of compliance with the six-month rule in relation to the applicant's complaints.

55. Given that the applicant's declaration as an MP was quashed on three separate occasions, the Court considers it important to clarify this matter. In the first set of proceedings, the Electoral Court found, in brief, that there was a legislative gap. In the second set of proceedings, it reaffirmed this finding, holding that there had been no change in circumstances – despite the change in the law – as the Constitution still did not provide for a “not taken” seat. In the third set of proceedings, the court again considered the compatibility of the “closing” of the aforementioned legislative gap with the provisions of the Constitution. All three decisions, which were closely linked and created a chain of declarations by the CRO, were ultimately concerned with the electoral result of the May 2016 elections. Despite the annulment of the applicant's election on each occasion – which left the parliamentary seat repeatedly vacant – no new elections were held, and the court each time had to (re)consider the will of the people as expressed in the May 2016 elections. For this reason, the Court considers that, in the circumstances of the present case, the period throughout which the applicant's seat in Parliament was contested must be taken as a whole for the purposes of the six-month rule.

56. It follows that the applicant's complaints about the domestic courts' decisions, which amounted to a continuing situation, were lodged within the six-month time-limit.

2. *Non-exhaustion*

57. The Government argued that the applicant had failed to exhaust domestic remedies because he had never asserted his rights under Article 3 of Protocol No. 1 to the Convention in any of the three electoral petitions.

58. The applicant disagreed.

59. The Court reiterates that the rule of exhaustion of domestic remedies must be applied “with some degree of flexibility and without excessive formalism”; it is sufficient that the complaints intended to be made subsequently in Strasbourg should have been raised “at least in substance and in compliance with the formal requirements and time-limits laid down in domestic law” before the national authorities (see *Fressoz and Roire v. France* [GC], no. 29183/95, § 38, ECHR 1999-I).

60. The applicant stood for elections, was declared elected as an MP on three occasions and had those elections annulled by the Electoral Court. In all electoral petitions before the domestic court, he defended his right to stand for election, relying on constitutional provisions and domestic law. In examining the electoral petitions, the Electoral Court indirectly ruled on his

right to be elected and the electorate's right to choose the legislature. As such, the legal arguments made by the applicant in that court included a complaint relating to Article 3 of Protocol No. 1, which was raised, at least in substance, domestically.

61. The Government's objection regarding the failure to exhaust domestic remedies must therefore be dismissed.

3. Conclusion on admissibility

62. The Court notes that the application is neither manifestly ill-founded nor inadmissible on any other grounds listed in Article 35 of the Convention. It must therefore be declared admissible.

B. Merits

1. The parties' submissions

63. The applicant made no submissions on the merits of the case.

64. The Government submitted that it was undisputed that Ms E.T. had renounced her parliamentary seat outside the parliamentary term. Accordingly, in the absence of a clear legislative provision, the Electoral Court's first decision – that section 35(1) of the Elections Law could not apply by analogy – had been based on a foreseeable interpretation of the law and the Constitution. The decision had pursued the legitimate aim of preserving legality and protecting the rights of others, such as Mr A.M. (as a candidate) and Mr D.D. (as a voter) and had been proportionate to those aims.

The same could be said of the Electoral Court's second decision. There, the court had held that even though Parliament had the right to legislate, as it had done by introducing the idea of a "not taken" parliamentary seat, such legislation could not be contrary to the Constitution. Article 66 § 2 of the Constitution only covered the situation of a vacated parliamentary seat and not that of a "not taken" seat. As such, the court had reasonably and foreseeably held that the amendment which had introduced the term "not taken" seat was unconstitutional. The court had clarified that since the seat had not been taken to begin with, the seat had never legally been given to Solidarity. As such, the proportional system of representation – by selecting Solidarity's first runner-up in Limassol – could not be applied. Only exceptionally and where the seat was "vacated" did the Constitution provide for giving the seat to the runner-up; otherwise, it mandated the election of MPs by the people. This preserved democracy and popular sovereignty and neutralised the possibility of assigning a seat to a party that had never occupied that seat to begin with.

As regards the Electoral Court's third decision, the Government submitted that it had been in accordance with the principle of non-retroactivity, the *res judicata* of the previous decisions and the principle of popular sovereignty

under the fundamental structure of the Constitution. The court had wished to ensure that persons would not be elected as MPs through targeted legislation. It had therefore safeguarded the right of candidates, such as Mr A.M., to free by-elections and the right of voters, such as Mr D.D., to have their vote counted in the way they chose to vote. The decision had pursued the legitimate aim of preserving respect for the rule of law including legality and legal certainty through respect for the *res judicata* and *ratio decidendi* of court decisions. The Government further argued that the decision had been proportionate to the legitimate aims pursued, as there had been no way to respect the above principles other than by declaring the election of the applicant and his declaration as an MP void.

2. The Court's assessment

(a) General principles

65. The Court reiterates that the rights guaranteed under Article 3 of Protocol No. 1 of the Convention are crucial to establishing and maintaining the foundations of an effective and meaningful democracy governed by the rule of law (see *Ždanoka v. Latvia* [GC], no. 58278/00, § 103, ECHR 2006-IV). Moreover, implicit in Article 3 of Protocol No. 1 are the subjective rights to vote and to stand for election. Although those rights are important, they are not absolute and there is room for implied limitations. In their internal legal orders, the Contracting States make the rights to vote and to stand for election subject to conditions which are not in principle precluded under Article 3 of Protocol No. 1. They have a wide margin of appreciation in this sphere – particularly as regards the passive aspect of the rights, namely the right to stand for election (see *Ždanoka*, cited above, § 115 and *Davydov and Others v. Russia*, no. 75947/11, § 286, 30 May 2017) – but it is for the Court to determine in the last resort whether the requirements of this provision have been complied with. In particular, it has to satisfy itself that the conditions do not curtail the rights in question to such an extent as to impair their very essence and deprive them of their effectiveness; that they are imposed in pursuit of a legitimate aim; that the means employed are not disproportionate or arbitrary; and that they do not interfere with the free expression of the opinion of the people in the choice of legislature (see, among many authorities, *Kokëdhima v. Albania*, no. 55159/16, § 49, 11 June 2024, and *Labita v. Italy* [GC], no. 26772/95, § 201, ECHR 2000-IV). The Court also has regard to whether the measure was “lawful” meaning that it has some basis in domestic law, is compatible with the rule of law and satisfies minimum standards of accessibility and foreseeability (see *Kokëdhima*, cited above, §§ 50-56).

66. In particular, none of the conditions imposed, if any, must impede the free expression of the people in the choice of the legislature – in other words, they must reflect, not thwart, the concern to maintain the integrity and

effectiveness of an electoral procedure aimed at determining the will of the people through universal suffrage (see *Hirst v. the United Kingdom (no. 2)* [GC], no. 74025/01, § 62, ECHR 2005-IX). Similarly, once the people's choice has been freely and democratically expressed, no subsequent change in the organisation of the electoral system can call that choice into question except where there are compelling reasons for the democratic order (see *Lykourazos v. Greece*, no. 33554/03, § 54, ECHR 2006-VIII). Moreover, the Court has already held that this provision guarantees the right of every individual to stand as a candidate in elections and, once elected, to exercise his or her mandate (see *Sadak and Others v. Turkey (no. 2)*, nos. 25144/94 and 8 others, § 33, ECHR 2002-IV). Article 3 of Protocol No. 1 enshrines a characteristic principle of an effective political democracy, and is accordingly of prime importance in the Convention system (see *Mathieu-Mohin and Clerfayt v. Belgium*, 2 March 1987, § 47, Series A no. 113).

(b) Application to the present case

67. At the outset, the Court observes that the way the elections were conducted, the CRO's subsequent distribution of parliamentary seats – including one seat for Solidarity in Limassol – and the determination of the elected candidates were never challenged or invalidated. This allocation was based on the accumulation of votes per party and the application of the proportional representation system, as required by domestic law (see paragraphs 44 and 45 above). The Court notes, in this connection, the OSCE's Needs Assessment Mission Report on the May 2016 elections, which expressed full confidence from all its interlocutors in the integrity of the electoral process and in the professionalism and impartiality of the election administration. No concerns were raised relating to the transparency of the electoral process, voter and candidate registration, as well as election day proceedings (see paragraph 52 above). The CRO's declaration concerning the distribution of parliamentary seats and the determination of the elected candidates, as published in the Official Gazette on 23 May 2016, remained unquestioned (see paragraphs 8 and 9 above).

68. The issue arose later, when Ms E.T., the candidate who was declared elected for the seat Solidarity had won in the Limassol constituency, renounced the seat prior to taking office. The Cypriot legal system did not initially expressly regulate this contingency. In this connection, the Court reiterates that the law governing electoral rights must be accessible, foreseeable and compatible with the rule of law (see *Kokēdhima*, cited above, § 56). The scenario of a seat not being taken before Parliament convened, while novel for Cyprus, was not unforeseeable, as it could have taken place not only in the event that a declared MP declined to take up the seat, but also for other reasons, such as the death of the declared MP.

69. Regardless, once the issue became apparent, it was incumbent upon the authorities to find a timely and effective solution. Despite being declared

elected three times by the CRO, the applicant's mandate was each time annulled by the Electoral Court owing to the absence – in that court's view – of a legal or permissible constitutional framework clearly allowing such substitution. Legislative efforts to specifically address the issue were either deemed unconstitutional or retroactive.

70. The absence of a sufficiently precise and foreseeable statutory provision was not remedied by the practice of the domestic courts either (see *mutatis mutandis*, *Vijatović v. Croatia*, no. 50200/13, §§ 54-55, 16 February 2016, in the context of Article 1 of Protocol No. 1). While the Electoral Court hinted that either a general election or a by-election on the basis of Articles 65 or 66 of the Constitution might be the proper response (see paragraphs 23 and 32 above), it offered no explanation as to how this could lawfully occur. It appears that neither Article 65 nor Article 66 of the Constitution (see paragraphs 38 and 39 above) addressed the situation of a “not taken” seat. Article 66 § 2 of the Constitution only provided for the possibility of filling a “vacant parliamentary seat ... in the manner prescribed by law”, namely the Elections Law. Section 35 § 2 of the Elections Law, as in force at the time, equally only permitted by-elections for seats “vacated for any reason during a parliamentary term” (see paragraph 43 above). As the issue in the present case was, to begin with, that the seat had been renounced *before* the start of the parliamentary term – hence a “not taken” seat – it appears that by-elections were legally impossible, just as much as the appointment of the runner-up was considered impermissible.

71. The Court stresses that it is not its role to decide what the appropriate method was for filling the disputed parliamentary seat – whether through the appointment of the first runner-up or by-elections. Nevertheless, the facts of the case reveal the inability of the domestic authorities to effectively resolve the issue. While the Court does not doubt that this inability was unintentional and also acknowledges the constitutional issues raised by this new situation, the result was that a parliamentary seat was left unfilled for a significant period between the repeated annulment and reinstatement of the applicant, and the issue remained unresolved for almost an entire parliamentary term.

72. Both the applicant and the voters were trapped in a legal deadlock. There was no mechanism – whether the appointment of a runner-up or a by-election – which could be applied to fill the seat that the CRO had duly allocated to Solidarity on 23 May 2016, pursuant to sections 32 and 33 of the Elections Law. The domestic authorities' failure to resolve this legislative gap or provide a lawful alternative ultimately frustrated the choice of the people (as expressed on 22 May 2016).

73. In view of the absence of a legislative provision regulating the otherwise foreseeable possibility of a parliamentary seat not being taken prior to the start of the parliamentary term, and the failure of the domestic authorities to resolve the issue through legislative or judicial intervention – resulting in a vacant parliamentary seat for significant periods – the Court

finds that the interference in the present case was not “lawful” within the meaning of the Convention.

74. There has accordingly been a violation of Article 3 of Protocol No. 1 to the Convention.

II. APPLICATION OF ARTICLE 41 OF THE CONVENTION

75. 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. Damage

1. *The parties’ submissions*

76. The applicant claimed 20,000 euros (EUR) in respect of non-pecuniary damage. In addition, he requested the following amounts in respect of pecuniary damage:

- EUR 237,561.74, plus an amount equivalent to his 13th salary (end-of-year bonus), with legal interest on the total amount, representing the income he would have earned had his rights not been violated;
- loss of the additional pension – unspecified in amount – that MPs receive, amounting to 75% of their last monthly salary; and
- a lump sum compensation – also unspecified – for serving one term in Parliament, in accordance with the Law on Pensions of Public Servants (General Principles) of 2011 (Law 88(I)/2011).

77. The Government objected to the above claims. They argued that the applicant’s claims for pecuniary damage were unsubstantiated and unfounded. They further argued that, should the Court disagree with their position, any award for pecuniary damage should be limited to EUR 132,122.93, corresponding to the net salary the applicant would have received had he remained in office for an additional 26 months until the end of the parliamentary term, given that he had already served 26 months in total in Parliament.

2. *The Court’s assessment*

78. The Court has found that it is not its role to decide what the appropriate method was for filling the disputed parliamentary seat (see paragraph 71 above). It follows that it is impossible to speculate whether the seat would have necessarily been attributed to the applicant and, consequently, no causal link has been established between the alleged pecuniary loss and the violation found (see, *mutatis mutandis*,

Mugemangango v. Belgium [GC], no. 310/15, § 143, 10 July 2020). The Court therefore rejects this claim.

79. However, the Court awards the applicant, on an equitable basis, EUR 8,000 in respect of non-pecuniary damage, plus any tax that may be chargeable.

B. Costs and expenses

80. The applicant also claimed EUR 10,000 for the costs and expenses incurred before the Court.

81. The Government opposed this claim.

82. According to the Court's case-law, an applicant is entitled to the reimbursement of costs and expenses only in so far as it has been shown that these were actually and necessarily incurred and are reasonable as to quantum. Rule 60 of the Rules of Court further requires that an applicant submit itemised particulars of all claims, together with any relevant supporting documents. The Court notes that the applicant failed to provide itemised bills or invoices to substantiate his claim (Rule 60 §§ 1 and 2). Regard being had to the documents in its possession and the above-mentioned criteria, the Court rejects the applicant's claim for costs and expenses.

FOR THESE REASONS, THE COURT, UNANIMOUSLY,

1. *Dismisses* the Government's preliminary objection as to the non-exhaustion of domestic remedies;
2. *Declares* the application admissible;
3. *Holds* that there has been a violation of Article 3 of Protocol No. 1 to the Convention;
4. *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, EUR 8,000 (eight thousand euros), plus any tax that may be chargeable, in respect of non-pecuniary damage;
 - (b) that from the expiry of the above-mentioned three months until settlement simple interest shall be payable on the above amount at a rate equal to the marginal lending rate of the European Central Bank during the default period plus three percentage points;
5. *Dismisses* the remainder of the applicant's claim for just satisfaction.

GEORGIOS PAPADOPOULOS v. CYPRUS JUDGMENT

Done in English, and notified in writing on 9 October 2025, pursuant to Rule 77 §§ 2 and 3 of the Rules of Court.

Liv Tigerstedt
Deputy Registrar

Ivana Jelić
President