

Tsimpedes, "TRNC", Air France, H.R. 2597

In October 2009 a lawsuit was filed in United States District Court For The District of Columbia by attorney Athan Tsimpedes against Turkey and the so called "TRNC" (Turkish Republic of Northern Cyprus), Case 1:09-cv-01967, MICHALI TOUMAZOU et al v. REPUBLIC OF TURKEY and TRNC. Cause of action is Denial of property rights arising from commercial activity in the U.S. as per 28 USC §§ 1350, 1605A.

Atty. Tsimpedes visited Cyprus and campaigned for this purpose naming "Turkey" as its first defendant. In a report published in newspaper SIMERINI of Cyprus dated 7 November 2009, it was said that a "class action lawsuit" was filed in the District Court of Columbia against Turkey and the "TRNC" by Atty. Tsimpedes, with plaintiffs Michalis Toumazou, Nikolas Katzilaris and Maroula Tompazou and whoever else would be interested. In that report it was said that "Although it has not as yet been decided to sue HSBC Bank it was his intention to ask for a sworn statement from HSBC..."

On 16 February 2010, Atty. Tsimpedes on his own accord withdrew Turkey from the lawsuit and amended it by adding HSBC Bank along with "TRNC" as co-defendants.

This change in Atty. Tsimpedes' tactic suits Turkey perfectly, as it relieves Turkey of its responsibilities for its crimes and continued illegal invasion and occupation of Cyprus, shifting these responsibilities on the illegal regime under the so called name of "TRNC". This is to Turkey's full advantage and in absolute line with its promotion of recognition of its illegal regime of occupation in Cyprus, which no other country recognizes, apart from Turkey itself which established it in 1983. The United Nations Security Council's resolution 541/1983 condemned it and resolution 550/1984 called on all countries not to recognize, not to facilitate or assist in any way this puppet regime of Turkey.

On 20 July 2010 (36th anniversary of Turkey's illegal invasion of Cyprus), Atty. Tsimpedes filed another "class action lawsuit" in the same United States District Court For The District of Columbia, namely Case 1:10-cv-01225, TELEMACHOS FLOURIS et al v. THE TURKISH CYPRIOT COMMUNITY dba "TURKISH REPUBLIC OF NORTHERN CYPRUS" aka "TRNC", HSBC HOLDINGS, PLC and HSBC BANK USA , N.A. Cause of action is Fraud committed through banking and wire transactions regarding Property belonging to Plaintiffs as per 28 USC § 1331.

This second lawsuit, which is related to the first one, alleges that the Defendants are giving false title to property illegally confiscated from Plaintiffs during the illegal Turkish invasion and subsequent illegal occupation. In the 48-page document, the acronym "TRNC" appears one way or the other 178 times. Note 1: The "TRNC" being sued in both cases above is the same "TRNC" with a

dual identity, namely "TRNC" as a Washington, DC-based business entity acting on behalf of the pseudo-state and "TRNC" the pseudo-state in the occupied territory, both being treated by Atty. Tsimpedes as one and the same.

Note 2: Latest information on Toumazou case and Fiouris case: A status conference was scheduled for both cases for 27 September 2011 and was cancelled and will be reset by separate order: signed by Judge Paul L. Friedman on 20 September 2011.

Many people and distinguished lawyers in Cyprus disagree with Atty. Tsimpedes' way of filing this class action lawsuit. ELEFThERIA newspaper in London wrote on 17 March 2011:

"... What we notice from Tsimpides' lawsuit is that everything the illegal regime failed to gain in the case of *The Church of Cyprus v Goldberg vis-à-vis the theft of the Kanakaria frescoes* (i.e. to be afforded the right to appear as "a 3rd party" in court) will DIRECTLY succeed in gaining through Tsimpides' class lawsuit. At the same time appearing as co-responsible with Turkey for violations of the properties and the rights of the Greek Cypriot refugees when the illegal regime is simply a "subordinate administration" of Turkey as per the decisions of the European Court of Human Rights" (Editor's note).

In the past month Atty. Tsimpedes has appeared numerous times on a Florida television program hosted by station owner Angelos Angelatos where he promoted his "class action lawsuit" as well as himself, including his alleged accomplishments in the legal arena, his alleged unique experience in cases involving foreign countries and how he is supposedly better qualified than most to represent this class in this particular lawsuit.

In addition to the aforementioned self-accolades, Atty. Tsimpedes continued an on-air smear campaign he had started a few months earlier with a non-legally binding online petition against H.R. 2597, the American-Owned Property in Occupied Cyprus Claims Act, aided in his efforts by program host Angelatos, who himself admitted on-air that he hadn't even read the proposed bill.

On Angelatos' TV program aired on Thursday 15 September 2011 Atty. Tsimpedes, in an on-air dialogue with Fanoulla Argyrou from London, made some representations which raise eyebrows. The following is an uninterrupted excerpted transcript of some of Atty. Tsimpedes' on-air representations: "Let me tell you why, why I feel so confident, why I might know more than some, and that is because in 2005 I was fortunate enough to make history in the US court system. I had filed a case, the *Kirkham v. Air France* case, I filed the case on behalf of my client, and I sued the French government in the United States for things that happened in France . Very similar to what happened in Cyprus just to give an analogy. They said then it's impossible to do. You can't sue the French government in the United States for acts, my client got injured in France , you can't sue them. Why don't you sue them in France ? I sued them in the United States , and I think we spoke about this with Angelo before. Not only did I make

law, not only did I win, but I created law in the country regarding the exceptions to immunity on suing a foreign nation. That is pretty significant to some people, maybe not others depends on who you ask, but to be able to not only win but to create law at the same time that basically holds that you can, I created, me (inaudible) acts that happened outside the borders of the United States. That's what the Kirkham case is about. Now, I believe that gives me some credibility as to what is going on in the United States and how to sue and who to sue."

http://www.youtube.com/watch?v=AJF7RdEXC3U&feature=player_embedded

Let's take Atty Tsimpedes' above representations one at a time.

"I had filed a case, the Kirkham v. Air France case, I filed the case on behalf of my client, and I sued the French government in the United States for things that happened in France".

Atty Tsimpedes sued Air France, France's national airline (Case 03cv01083, ELISABETH KIRKHAM v. SOCIÉTÉ AIR FRANCE, T/A AIR FRANCE). It was a case where the Plaintiff, Elisabeth Kirkham, got hurt in a French airport while in between connecting flights serviced by Air France.

Air France tried to get the case dismissed early on claiming sovereign immunity, based on the fact that the Republic of France owned a majority of Air France's shares at the time of Kirkham's injury and, as per the Foreign Sovereign Immunities Act (FSIA), the district court lacked jurisdiction. The district court struck down Air France's motion since the Plaintiff's claim fell under a commercial activity exception statute within the ruling that "the Plaintiff had bought her airline ticket in the US, thus establishing Air France's commercial activity within the United States". The Defendant (Air France) appealed the district court's decision, and the Appeals court upheld the district court's decision (429 F3d. 288 (DC Cir. 2005)).

With this decision, the court simply rejected Air France's immunity plea. At no point in time did the district court refer to the French government and/or the Republic of France as being a party to the action.

Conclusion No. 1: Atty. Tsimpedes' argument of "suing the French Government" is hyperbole. His case against Air France in no way presents as something "similar to what happened in Cyprus," as he sloppily claimed on-air.

In the ELISABETH KIRKHAM v. SOCIÉTÉ AIR FRANCE, T/A AIR FRANCE Case, the Plaintiff got hurt in a French airport while in between connecting flights serviced by Air France. To be more specific, while walking through the French airport, either a person or luggage cart struck the Plaintiff's foot. Kirkham fell to the ground, security was called and she was taken to the airport's medical center. Kirkham then spent nine days in the hospital before returning to the United States in a wheelchair. She has had several foot surgeries and at the time of the case continued to suffer complications from her injury.

Conclusion No. 2: Under no circumstances can the KIRKHAM case possibly be

compared to the unspeakable atrocities committed by the State of Turkey in Cyprus in 1974.

Nevertheless, Atty. Tsimpedes kept on stating on-air:

“Not only did I make law, not only did I win, but I created law in the country regarding the exceptions to immunity on suing a foreign nation. That is pretty significant to some people, maybe not others depends on who you ask, but to be able to not only win but to create law at the same time that basically holds that you can... Now, I believe that gives me some credibility as to what is going on in the United States and how to sue and who to sue...”

Let's detail some facts:

The Foreign Sovereign Immunities Act (FSIA) was signed into law in 1976. The commercial activity exception which Atty. Tsimpedes cited in his case *Kirkham v. Air France* is a statute within the 1976 law, the one which Atty. Tsimpedes claims he created!

Conclusion No. 3: There is no indication on record that Atty. Tsimpedes did win the *KIRKHAM* case. To the contrary, the Court documents show that, on 6 April 2007 (i.e. four years after Atty Tsimpedes filed suit on behalf of his client Elisabeth Kirkham and seven years after her injury in a French airport) the case *Kirkham v. Air France* was ultimately **DISMISSED WITH PREJUDICE**.

http://www.cyprusactionnetwork.org/yahoo_site_admin/assets/docs/NOTICEOFDISMISSALWITHPREJUDICE.26283453.pdf

Note: **DISMISSED WITH PREJUDICE** means that a case is dismissed on merits after adjudication and the plaintiff is barred from bringing an action on the same claim. Dismissal with prejudice is a final judgment and the case becomes *res judicata* on the claims that were or could have been brought in it. A court has inherent power to dismiss an action with prejudice if it is vexatious, brought in bad faith, or when there has been a failure to prosecute it within a reasonable time. When a plaintiff who has commenced an action fails to comply with discovery devices, a court, which has issued the order of compliance, may *sua sponte* dismiss the case with prejudice.

<http://definitions.uslegal.com/d/dismisssed-with-prejudice/>

Furthermore, in this particular case, the Plaintiff Elisabeth Kirkham was ordered to bear her own fees and costs on top of her pain and suffering. A crucial point to note is that, prior to trial, defendants presented a key witness for deposition. Attorney Tsimpedes failed to depose this witness, but instead sought to preclude his testimony from trial. Rather than postpone the trial date to allow for the pre-trial deposition to take place, the Court dismissed the case with prejudice.

Conclusion No. 4: Atty. Tsimpedes has misrepresented the KIRKHAM case as “an effective model” in his effort to attract and accrete clientele in the new project against the so called “TRNC.” More importantly, his action makes strides towards GIVING LEGAL ENTITY to the illegal Turkish regime in occupied Cyprus and VIOLATES forcefully the sovereignty of the legitimate Republic of Cyprus.

U.S Bill 2597

In the same Angelatos TV programs, Atty. Tsimpedes conducted a smear campaign against a bill introduced in the U.S. House of Representatives by philhellenic Congresspersons Frank Pallone, Carolyn Maloney and Gus Bilirakis, namely “the American-Owned Property in Occupied Cyprus Claims Act. H.R. 2597,” which is a proposed amendment to the International Claims Settlement Act of 1949, allowing for certain claims of nationals of the United States against Turkey for its illegal invasion and occupation of Cyprus.

The International Claims Settlement Act of 1949 originally allowed the adjudication of claims by U.S. nationals against communist governments regarding property confiscated by communist regimes. Hence, H.R. 2597 in essence puts Turkey in the same boat with the Soviet regimes of Stalin and Castro’s Cuba.

Since 2004, identical bills have been supported by other Washington philhellenes such as Olympia Snowe, Robert Menendez, John Sarbanes, Ileana Ros-Lehtinen, Zachary Space and many others:

2004: <http://www.govtrack.us/congress/bill.xpd?bill=h108-5071> House
2005: <http://www.govtrack.us/congress/bill.xpd?bill=h109-857> House
2006: <http://www.govtrack.us/congress/bill.xpd?bill=s109-3520> Senate
2007: <http://www.govtrack.us/congress/bill.xpd?bill=h110-1456> House
<http://www.govtrack.us/congress/bill.xpd?bill=s110-695> Senate
2011: <http://www.govtrack.us/congress/bill.xpd?bill=h112-2597> House

Note: The effort to get this Bill through is supported by Greek Cypriot leaders in Washington.

The obvious question one needs to consider is WHY is Atty. Tsimpedes so adamantly against H.R. 2597 and why NOW?

We present that the reasoning behind Atty Tsimpedes ardent objection to H.R. 2597 is articulated most succinctly by Attorney Loukis Loucaides (former Deputy Attorney General of the Republic of Cyprus and former Judge of European Court for Human Rights), as published in the 13 September 2011 CANA press release:

“It bothers him (Tsimpedes) because it may somehow hinder his proceedings against the TRNC, the Bill recognises Turkey as responsible in the occupied and not TRNC.”

The text below from H.R. 2597 is what Atty. Loucaides is referring to. It is how

H.R. 2597 treats the pseudo-state:

SEC. 802. DEFINITIONS.

7) TURKEY- The term ' Turkey ' means--

A) the Republic of Turkey ;

B) any political subdivision, agency, or instrumentality of the Republic of Turkey , including the Turkish Armed Forces;

C) any agent of the Government of Turkey, or any unincorporated association that purports to discharge any function of a nation-state under the auspices of the Republic of Turkey, including the unincorporated association known as the 'Turkish Republic of Northern Cyprus';

According to H.R. 2597 "TRNC" is a non-entity. It's an illegal extension of Turkey. Turkey itself is responsible for all the crimes.

Furthermore (from the previously referenced CANA press release):

Asked to comment on Greek-American lawyer A. Tsimpides and his firm's recent involvements with Cyprus in the form of lawsuits against the illegal regime in the occupied by Turkey part of Cyprus, Mr. Loucaides said he does not agree with such actions. He believes they can harm the cause of Cyprus and give the Turks the opportunity to promote the illegal regime.

Mr. Loucaides was approached to act as an agent of Tsimpides in Cyprus but he withdrew his involvement upon determining that Mr. Tsimpides' knowledge and expertise of the Cyprus issue and of International Law on Human Rights to be seriously lacking.

Mr. Loucaides notes that the so called TRNC (Turkish republic of northern Cyprus) is an illegal regime and two United Nations Security Council Resolutions (541 of 1983 and 550 of 1984) ask all states not to recognise, assist or facilitate this regime...

Regarding Mr. Tsimpides suing the "TRNC" Mr. Loucaides says in his interview that "... It is of course a negative step to even accept their existence de facto, in this way you are giving standing to something that is illegal and that may open the way to gradual acceptance by governments or associations for legal recognition...".

He agrees that Mr. Tsimpides never participated in any activism regarding Cyprus before or after 2009 when he appeared with his proposal to sue originally Turkey and the "TRNC". It is to be noted that soon afterwards Tsimpides withdrew Turkey completely and proceeded filing lawsuits against the Turkish Cypriot Community aka "TRNC" and HSBC bank.

"But now it is clear in my mind that by pursuing this case against the TRNC -inverted commas or not- damages our Ethnos (nation)", concludes Mr. L. Loucaides.

Even more damning for Atty. Tsimpides' opposition to Bill 2597, is the content of the personal email note to him from one of his 20 July 2010 class-action lawsuit plaintiffs, namely Mr. Ioannis Shekersavvas (for identification purposes Mr. Shekersavvas is the Secretary of the Kyrenian Refugee Association in Cyprus "Adouloti Kyrenia").

This email response to Atty Tsimpedes from Mr. Ioannis Shekersavvas copied to PSEKA president Mr. Philip Christopher in Washington DC , who agrees with Mr. Shekersavvas position, sent to us also for the purpose of this p.r. reads:

"I have obtained and studied the proposed Bill 2597 (21 pages) and my personal final position based on what I have studied, is that: it does not create any problem for Cyprus or to us individually. Its target is Turkey , and states that it regards as " Turkey " all the subordinates of the Turkish State , through which Turkey tries to promote its interests and objectives. It refers to American citizens (i.e. the Bill) owners of properties in the occupied. It is a wish to have such a precedent of condemning Turkey and of compensation for the loss of use of properties owned by American citizens, because it will be of help to us to use it in our favour. I believe any opposition from our side is not justified".

The pseudo-state calling itself the "Turkish Republic of Northern Cyprus" or "TRNC" is an illegal extension of the Turkish deep state. Atty. Tsimpedes is attempting to create a link between the "TRNC" and some unincorporated 1200 square-foot office on K Street NW in Washington, DC. Atty. Tsimpedes, who also calls that 1200 square-foot office "Turkish Republic of Northern Cyprus" or "TRNC" just like it's Turkish occupants do, alleges that it's a legitimate business entity, an extension of the pseudo-state and should be treated as such in the United States courts of law.

Conclusion No. 5: Atty. Tsimpedes is advocating recognition of the "Turkish Republic of Northern Cyprus" as a legitimate business entity in the United States, in order to advance his case in US Federal Court. This is confirmed beyond any doubt through his own statement on air on 15 September 2011 (see Youtube link above) when he replied to Fanoulla Argyrou saying: "..the 'TRNC' is in the United States, it's in Washington, DC. But, because right now the 'TRNC' is not part of Turkey, which the Pallone bill advocates, which you advocate, we can sue them just like any other company."

Only Ankara and Atty. Tsimpedes support this position.

Conclusion No. 6 and Final: Atty. Tsimpedes is willing to advance his case at any cost to the Republic of Cyprus and the plaintiffs he purports to represent, as well as wasting the time of Greek Cypriot refugees which could have been spent more constructively.

Our position is ENOUGH IS ENOUGH with Atty. Tsimpedes and his "team of experts."

The Republic of Cyprus and its legitimate citizens face far more important and immediate items to address.

You Tube Video: Loucaides Interview: The former Deputy Attorney General of The Republic of Cyprus and former judge of the ECHR European Court of Human Rights, Loukis Loucaides Debunks Turkey, Tsimpedes, "TRNC":
<http://www.youtube.com/watch?v=In8preoraSI>

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