



The refusal to declassify land that had been designated as a protected site did not breach the Convention

In its decision in the case of [de Mortemart v. France](#) (application no. 67386/13) the European Court of Human Rights has unanimously declared the application inadmissible. The decision is final.

The case concerned a request to declassify part of a protected site, corresponding to the applicant's private property.

The Court considered that the applicant had had an opportunity to challenge before the domestic courts the decree designating as a protected site the part of the Juine Valley in which his property was located. Given that the applicant had had approximately two months from the launching of the publicity measures in which to appeal, the Court held that he had thus had a clear, practical and effective opportunity to challenge the designation decree before the administrative courts.

Principal facts

The applicant, Antoine de Mortemart, is a French national who was born in 1976 and lives in Paris.

He is the owner of the Parc de Saint-Vrain, which was run as a zoo and leisure park until 1998, situated in the Juine Valley. On 18 July 2003 a ministerial decree listed the valley as a protected site. Mr de Mortemart applied to the Minister for Ecology and Sustainable Development to declassify the part of the valley corresponding to his property, but his request was denied.

In May 2009 Mr de Mortemart appealed to the Versailles Administrative Court, seeking the annulment of the decision to deny his request and of the decree of 18 July 2003. He explained in particular that the decree had been adopted in breach of the principles of public participation and access to information and that he had not been able himself to submit observations. He subsequently sought the referral of the matter for a preliminary ruling on the constitutionality of a number of provisions in the Environment Code concerning listed sites. In November 2012 the Constitutional Council declared that most of the provisions included in the referral request were compliant with the Constitution but found in favour of Mr de Mortemart concerning the breach of the principle of public participation in the drawing up of public decisions having an impact on the environment.

The Constitutional Council found Articles L. 341-3 and L. 341-13 of the Environment Code to be contrary to the Constitution. It decided that those provisions were to be declared unconstitutional from 1 September 2013 but specified that decisions taken before that date could not be challenged on that basis. In consequence, the *Conseil d'État* (the Supreme Administrative Court) rejected Mr de Mortemart's appeal.

In July 2013 Mr de Mortemart applied to the Minister for the partial repeal of the decree of 18 July 2003 in so far as it included the Parc de Saint-Vrain among the listed sites in the Essonne département. The Minister denied the application on the ground that the listing of the Juine Valley had taken place before the date decided by the Constitutional Council for the repeal of the provisions that were declared unconstitutional. In December 2013 Mr de Mortemart appealed to the *Conseil d'État* seeking the annulment of that decision and the partial repeal of the decree of 18 July 2003. The *Conseil d'État* struck the case out of its list on 9 July 2015.

Complaints, procedure and composition of the Court

The application was lodged with the European Court of Human Rights on 22 October 2013.

Relying on Article 6 § 1 (right of access to a court), the applicant complained about his inability to challenge the inclusion of his property within the listed site of the Juine Valley. He referred to the case of [De Geouffre de la Pradelle v. France](#).

The decision was given by a Committee of three judges, composed as follows:

Síofra O’Leary (Ireland), *President*,
André Potocki (France),
Mārtiņš Mits (Latvia), *Judges*,

and also Anne-Marie Dougin, *acting Deputy Section Registrar*.

Decision of the Court

Article 6 § 1

The Court considered that, contrary to his assertions, Mr de Mortemart had had an opportunity to challenge before the domestic courts the decree of 18 July 2003 which designated the part of the Juine Valley in which his property was located as a protected site. The decree had been published in the Official Gazette on 25 July 2003 and had been notified by the Prefect to the mayors of the eleven administrative districts concerned on 12 December 2003. The Court noted that Mr de Mortemart did not dispute that the decree had been displayed at the town halls of these eleven districts in accordance with the Government’s indications.

The Court noted that an extract from the classification decision, noting that the full text could be consulted at the Prefecture and the town hall, was published on 18 September 2003 in two locally distributed newspapers. These arrangements existed in addition to the publicity which had surrounded the procedure prior to the decision to classify the site. They were comparable to those put in place in [Geffre v. France](#), a case of 23 January 2003 in which the Court had concluded that the machinery of general publication used by the authorities constituted a coherent system which struck a fair balance between the interests of the authorities and of the property owners. In particular, the Court had noted that this machinery afforded the latter a clear, practical and effective opportunity to challenge administrative acts.

Lastly, the Court considered that Mr de Mortemart was mistaken in his allegation that the time-limit for applying to the court had been very short. Mr de Mortemart had had approximately two months from the launch of the measures publicising the decree in which to lodge an appeal against the decree listing the site as protected. As in the above-mentioned [Geffre v. France](#) case and although, in accordance with domestic law, the decree of 18 July 2003 was not served on him personally, the applicant had been given a clear, practical and effective opportunity to submit an appeal to the administrative courts.

It followed that the application was ill-founded and had to be rejected.

The decision is available only in French.

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The European Court of Human Rights was set up in Strasbourg by the Council of Europe Member States in 1959 to deal with alleged violations of the 1950 European Convention on Human Rights.