



## Expropriation took no account of loss of means of subsistence and so it violated applicants' property rights

In today's **Chamber** judgment<sup>1</sup> in the case of [Osmanyany and Amiraghyany v. Armenia](#) (application no. 71306/11) the European Court of Human Rights held, unanimously, that there had been:

**a violation of Article 1 of Protocol No. 1 (protection of property)** to the European Convention on Human Rights.

The case concerned the expropriation of the applicants' land for mining.

The Court noted that the applicants had complained that the expropriation price was too low and took no account of the income they gained from fruit trees on the land.

The domestic courts had ignored that argument and had approved a price based solely on the market value. The courts had neither looked at the applicants' actual loss from being deprived of their means of subsistence, nor considered whether they could afford to buy other land in the area.

The Court found that the applicants had suffered an excessive burden and that the expropriation had violated the Convention.

### Principal facts

The applicants Suren Osmanyany, Serob Osmanyany, Bakur Osmanyany, Mane Osmanyany and Donara Amiraghyany are Armenian nationals who were born in 1935, 1961, 1988, 1990 and 1966 respectively and live in the village of Teghout (Armenia).

The applicants jointly owned a plot of land of 0.383 hectares in Teghout. In 2007 the Government decreed that various plots of land could be bought via expropriation by a company which was to exploit a copper-molybdenum deposit in the area.

An initial appraisal valued the applicants' land at the equivalent of 409 euros (EUR) as the market value. The Teghout mining company subsequently offered EUR 470, including an additional 15% required by law, but the applicants considered the price to be too low.

The company went to court in May 2008 for an order to oblige the applicants to sign an expropriation sale agreement. Further proceedings, including more valuations, led in April 2011 to a court order with a sale price of EUR 575, which was upheld on appeal.

One of the applicants' main arguments was that the price they had been offered took no account of the value to them of fruit trees on the land.

1. Under Articles 43 and 44 of the Convention, this Chamber judgment is not final. During the three-month period following its delivery, any party may request that the case be referred to the Grand Chamber of the Court. If such a request is made, a panel of five judges considers whether the case deserves further examination. In that event, the Grand Chamber will hear the case and deliver a final judgment. If the referral request is refused, the Chamber judgment will become final on that day. Once a judgment becomes final, it is transmitted to the Committee of Ministers of the Council of Europe for supervision of its execution. Further information about the execution process can be found here: [www.coe.int/t/dghl/monitoring/execution](http://www.coe.int/t/dghl/monitoring/execution).

## Complaints, procedure and composition of the Court

The applicants complained that they had been deprived of their property in violation of the requirements of Article 1 of Protocol No. 1. The application was lodged with the European Court of Human Rights on 11 November 2011.

Judgment was given by a Chamber of seven judges, composed as follows:

Linos-Alexandre **Sicilianos** (Greece), *President*,  
 Kristina **Pardalos** (San Marino),  
 Krzysztof **Wojtyczek** (Poland),  
 Ksenija **Turković** (Croatia),  
 Armen **Harutyunyan** (Armenia),  
 Pauliine **Koskelo** (Finland),  
 Jovan **Ilievski** ("the former Yugoslav Republic of Macedonia"),

and also Abel **Campos**, *Section Registrar*.

## Decision of the Court

The Court found that the domestic law on expropriations in this case was in line with the Convention requirements as it had been possible for the applicants to foresee in general terms how the market value of their property would be assessed. They were then able to challenge that valuation and so were given protection against arbitrariness.

There was also no reason to doubt the authorities' argument that the expropriation decision was in the public interest as it had been for the development of the economy and infrastructure from the exploitation of the copper-molybdenum deposit.

The Court noted that the price had been set on the basis of the market value of the land in comparison with other plots in the expropriation area. However, the Court raised questions about that decision.

Firstly, it was possible that the applicants would have had difficulties in buying another piece of land given the amount they were awarded. In addition, even a market price might not be adequate compensation for expropriation if the property was the main or sole source of income and the sum offered in exchange did not reflect that loss.

In that connection, the applicants' argument that as a family unit they were financially dependent on the land in question had not been considered by the domestic courts. Nor had they looked at whether the compensation would cover the actual loss involved in the applicants being deprived of their means of subsistence, or whether it at least covered the cost of equivalent land in the area.

The courts' decision to only consider the market price of the land meant the applicants had had to bear an excessive burden and the expropriation had violated the Convention.

### Just satisfaction (Article 41)

The Court held that Armenia was to pay the applicants 10,000 euros (EUR) to cover all heads of damage as well as EUR 2,000 in respect of costs and expenses.

*The judgment is available only in English.*

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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.