



No violation of the applicants' right of property in a case in which the authorities annulled the sale of a plot of land on public-interest grounds

In today's **Chamber judgment**¹ in the case of [Aktürk and Others v. Türkiye](#) (application no. 16757/21) the European Court of Human Rights held, unanimously, that there had been:

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

The case concerned the applicants' complaint about a decision by the administrative authorities to annul the sale of a plot of agricultural land – which their deceased relative had occupied continuously since 1966 and had purchased from the Polatlı District Governor's office in 2017, a few weeks before his death – since it was being claimed on public-interest grounds by the authorities. The Ankara Directorate General of Civil Security and Crisis Management had requested the land in question – located in an area that had been declared a flood zone as a result of heavy rains – with a view to building homes for victims of natural disasters on it.

The Court found that the task of deciding on the type of measures to be implemented in order to prevent natural hazards and the type of relief to be provided to those affected by them was primarily one for the national authorities, such measures belonging, *par excellence*, to spheres in which the State intervened. Those were measures which undeniably concerned the general interest, which indeed required the State to pursue aims that were binding on the community as a whole, over and above their individual interests.

In the present case, the Court observed that the administrative authorities had acted immediately to annul the sale, on compelling grounds of public interest, before the land had even been entered in the land register in the applicants' names. The applicants had not therefore been left in a state of uncertainty as to the fate of the asset in question. Furthermore, it was still open to them to request that the administrative authorities reimburse the sum paid by their deceased relative, plus default interest at the statutory rate. In consequence, the applicants had not borne an individual and excessive burden as a result of the administrative authorities' refusal to finalise the sale by entering the contested plot of land in the land register in their names.

Principal facts

The applicants are six Turkish nationals who were born between 1956 and 1968. They live in Ankara and Kayseri (Türkiye).

In February 2017 Ali Aktürk, the applicants' deceased relative, submitted to the Polatlı (Ankara) District Governor's office a purchase application in respect of 9,000 sq. m of land (on a plot with a total surface area of 22,870 sq. m) which he had occupied continuously since 1966. The land in question was in an area which had been declared a flood zone as a result of heavy rainfall, particularly in 2014. Ali Aktürk's application having been granted, he paid the sum of 4,050 euros to

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.

the Treasury and was issued with a direct sale certificate by the administrative authorities. He died around three weeks later.

In April 2017 the Directorate General of Civil Security and Crisis Management requested the Polatlı District Governor's office to transfer the land in question to it, with a view to building homes for victims of natural disasters. It specified that 21 families needed to be housed urgently and that it required the entire plot of land, including the plot that had been sold to Ali Aktürk, which had not yet been entered in the land register in his name.

In October 2017 the Polatlı District Governor's office, which was not aware that Ali Aktürk had died, sent him a letter asking for his bank details, so that the sum he had paid for the land could be reimbursed. One of Mr Aktürk's neighbours took receipt of this letter.

The applicants subsequently applied to the courts, seeking to have the decision of the District Governor's office set aside. Their application was dismissed by the administrative courts, which considered that the administrative authorities had claimed the land in question in the public interest – namely, for the construction of homes for families who had been victims of flooding – and that, in those circumstances, the public interest outweighed that of individuals. The applicants lodged an appeal with the Turkish Constitutional Court, which dismissed it as manifestly ill-founded.

In April 2022 the planned construction of homes for the families concerned was included by the Turkish public body responsible for managing natural disasters (AFAD) in its 2022 investment programme.

Before the European Court, the applicants alleged that the Turkish authorities' refusal to allow them to purchase the agricultural land which their deceased relative had occupied continuously since 1966 had breached their right to the peaceful enjoyment of their possessions.

Complaints, procedure and composition of the Court

The applicants relied on Article 1 of Protocol No. 1 (protection of property) to the Convention.

The application was lodged with the European Court of Human Rights on 18 March 2021.

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

Arnfinn **Bårdsen** (Norway), *President*,
Egidijus **Kūris** (Lithuania),
Pauliine **Koskelo** (Finland),
Saadet **Yüksel** (Türkiye),
Lorraine **Schembri Orland** (Malta),
Frédéric **Krenc** (Belgium),
Diana **Sârcu** (the Republic of Moldova),

and also Hasan **Bakırcı**, *Section Registrar*.

Decision of the Court

The Court found that the decision by the administrative authorities not to finalise the sale of the plot of land by entering it in the applicants' names in the land register, as a result of the given land's designation for public-interest use, had constituted an interference with their right to the peaceful enjoyment of their possessions within the meaning of Article 1 of Protocol No. 1.

It observed that the decision had had its legal basis in Law no. 6292, and that it had also been based on Law no. 7269 on preventive and relief measures in the event of natural disasters affecting public life. Furthermore, the aim of the interference had been to build homes for victims of natural

disasters. In this connection, the Court noted that natural disasters were events outside the States' control and that their prevention could only be ensured by putting in place measures to keep their catastrophic impact to a minimum. Thus, the scope of the prevention obligation consisted mainly in adopting measures to strengthen the State's capacity to deal with the unexpected and violent nature of such natural phenomena. In that context, prevention included appropriate spatial planning and controlled urban development.

In the present case the land in issue was situated in an area that had been declared a flood zone by the administrative authorities, which had subsequently decided to transfer the land to the Ankara Directorate General of Civil Security and Crisis Management so that it could build homes for flood victims. Bearing in mind the particularly wide discretion ("margin of appreciation") enjoyed by the domestic authorities in this area, the Court saw no reason to doubt that the contested measure had been in the public interest.

As to whether the interference in question had struck a fair balance between the interests at stake, the Court observed that the applicants' deceased relative had acquired the plot of land in accordance with Law no. 6292. However, the sale had never been finalised by the administrative authorities and the land had not been entered in the land register in the applicants' names, since the land had been claimed by the Ankara Directorate General of Civil Security and Crisis Management with a view to the construction of homes for victims of natural disasters. In this connection, the Court noted that it was primarily for the national authorities to decide on the type of measures to be implemented to prevent natural hazards and the relief to be provided to those affected by them, such measures belonging, *par excellence*, to spheres in which the State intervened. Those measures undeniably concerned the general interest, which was the cornerstone of public policy, determined its purpose and on which its legitimacy was based. This general interest was precisely what required the State to pursue aims that were binding on the community as a whole, over and above their individual interests.

In the present case, the Court noted that the administrative authorities had acted immediately to annul the sale on compelling grounds of public interest, before the land had even been entered in the land register in the applicants' names. The applicants had not therefore been left in a state of uncertainty as to the fate of the asset in question. Furthermore, it was still open to the applicants to ask the authorities to reimburse the sum paid by their deceased relative, plus default interest at the statutory rate. In consequence, the applicants had not borne an individual and excessive burden as a result of the administrative authorities' refusal to finalise the sale by entering the plot in question in the land register in their names. It followed that the balance between the applicants' rights and the general interest of the community had not been upset.

In consequence, the Court found no violation of Article 1 of Protocol No. 1 to the Convention.

The judgment is available only in French.

This press release is a document produced by the Registry. It does not bind the Court. Decisions, judgments and further information about the Court can be found on www.echr.coe.int. To receive the Court's press releases, please subscribe here: www.echr.coe.int/RSS/en or follow us on Twitter [@ECHR_CEDH](https://twitter.com/ECHR_CEDH).

Press contacts

echrpress@echr.coe.int | tel.: +33 3 90 21 42 08

We would encourage journalists to send their enquiries via email.

Inci Ertekin (tel.: + 33 3 90 21 55 30)

Tracey Turner-Tretz (tel.: + 33 3 88 41 35 30)

Denis Lambert (tel.: + 33 3 90 21 41 09)

Neil Connolly (tel.: + 33 3 90 21 48 05)

Jane Swift (tel.: + 33 3 88 41 29 04)

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.