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Voluntary repurchase of land by the applicants had put an end to the dispute concerning the loss of their property

In its decision in the cases of **Yeşil and Others v. Turkey** (application no. 26608/07) and **Danyanikli v. Turkey** (no. 328/08), the European Court of Human Rights has unanimously declared the applications inadmissible. The decision is final.

The applicants owned land in a region known for its major tourist attractions and which is listed as a mountain pasture area. The case concerned proceedings to have their title deeds annulled.

The Court observed, firstly, that some of the applications had been lodged out of time and were accordingly inadmissible. It noted, secondly, that the other applicants had, however, reached a settlement with the authorities which had had the practical effect of satisfying their claims lodged under Article 1 of Protocol No. 1.

Principal facts

The applicants are Turkish nationals, who were born between 1936 and 1964 and live in Adana (Turkey). They owned land in the Pozantı region, in the *Tekir Yaylası* locality, which is one of the largest plateaux in Turkey. It is known for its major tourist attractions and is listed as a Mediterranean mountain pasture area.

In January 1999, after the establishment of the cadastre, all the applicants' title deeds, apart from those belonging to Mr Dayanikli, who had purchased his land on the basis of the land register, were registered in the cadastre on the basis of adverse possession. The applicants had built holiday homes with municipal authorisation and had paid the relevant property taxes.

On various dates the Treasury initiated proceedings to annul the applicants' title deeds under the Law on pasture areas. At the end of those proceedings the Regional Court ordered the registration of the plots of land in the special land register for pasture areas, in the name of the Treasury. The judgments were upheld by the Court of Cassation. The applicants lodged requests for rectification of the Court of Cassation's judgment, some of which were dismissed without examination of the merits on the grounds that the land in question was worth less than the legal threshold value for an action to rectify a judgment, and others were dismissed upon consideration of the merits.

In order to be eligible under Law No. 5685, the applicants submitted applications to buy back the pastureland whose title deeds had been annulled, at a price set by the authorities. Between October 2010 and October 2011 they obtained their title deeds for amounts ranging from 2,649 euros (EUR) to EUR 16,186, depending on the plot.

Complaints, procedure and composition of the Court

The applications were lodged with the European Court of Human Rights on 21 June and 18 December 2007 respectively.

Relying in particular on Article 1 of Protocol No. 1 (protection of property), the applicants submitted that the loss of their ownership rights without compensation had infringed their right to respect for their property. They argued that Law No. 5685 requiring them to buy back their own plots of land demonstrated the unlawfulness and injustice of the proceedings designed to annul their title deeds. In fact, they had had to buy back their own property.

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

Robert Spano (Iceland), *President*,

Julia Laffranque (Estonia),
Ledi Bianku (Albania),
Işıl Karakaş (Turkey),
Valeriu Griţco (the Republic of Moldova),
Jon Fridrik Kjølbro (Denmark),
Stéphanie Mourou-Vikström (Monaco),

and also Stanley Naismith, *Section Registrar*.

Decision of the Court

Article 1 of Protocol No. 1

The Court reiterated that an application for rectification of a judgment constituted, under Turkish civil law, a proper remedy which suspended the six-month time-limit under Article 35 of the Convention. However, by lodging an application for rectification of a judgment in order to dispute an amount below the statutory minimum threshold, Mustafa Yeşil, Eşe Teke, Sultan Teke, Ahmet Teke and Veli Dayanıklı had exercised a legal remedy that was inappropriate and bound to fail at the material time and which could not be regarded as a remedy for the purposes of Article 35 § 1 of the Convention. The Court therefore considered that the cassation judgments delivered in July and October 2006 respectively had been “final” domestic decisions in the present cases. Having regard to the dates on which the applications had been lodged with the Court, they had been lodged outside the six-month time-limit. Their complaints were therefore lodged out of time and had to be rejected.

With regard to Mr Ömer Elmas and Mr Hüseyin Teke, the Court observed that they had considered unfair amendment no. 5685, which had been introduced to remedy the annulment of title deeds relating to land situated in pasture areas. They had, however, despite their complaint, voluntarily repurchased their land. The Court considered that they had accordingly reached an agreement at domestic level putting an end to the dispute regarding the loss of their property. Mr Ömer Elmas and Mr Hüseyin Teke had therefore been able to reacquire their title deeds after paying the price offered by the authorities. The Court observed further that the amounts paid were not in any way excessive, having regard to the surface area of the land in question. The applications therefore had to be dismissed as ill-founded.

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.