

## Turkey's Constitutional Court: Property Owner's Constitutional Rights Violated by Street Closure Causing Decrease in Rental Rate

*18 May 2017*

Turkey's Constitutional Court recently ruled that a property owner's constitutional rights were violated by a failure to ensure a balance between public interests and the individual's property ownership rights. The applicant owned an office on a street which the Ankara Transportation Coordination Centre ("**Transport Centre**") closed in 2001 to pedestrian and vehicle traffic, in order to ensure the Israeli Embassy's safety.

Street residents objected to the closure and the Transport Centre sought the Ankara Governorship's opinion on the topic. The Governorship decided that removing the street barrier may cause a serious security gap. Accordingly, the Transport Centre ruled in 2006 that the street would remain closed.

One resident filed a lawsuit before the Administrative Court, seeking to cancel the Transport Centre's street closure decision. The Administrative Court accepted the residents' case, but this decision was later reversed by the Council of State.

The resident subsequently filed an individual application to the Constitutional Court, claiming the Transport Centre violated its constitutional ownership right (Article 35) due to reduction in rental rates which resulted from the street closure.

The Constitutional Court upheld the resident's claim, sending the matter back to the Administrative Court for reconsideration. The court noted:

- Revenue loss occurred in this case due to the decreased rental rates, causing a financial burden on the applicant. The Constitution requires compensation, as per the principle of proportionality.
- Constitutional ownership rights must be protected during legal interventions by providing certain opportunities to balance ownership benefits. Such protection comes as compensation to the owner, depending on case's circumstances.
- Linking compensation to fault would undermine the principle of proportionality.
- The impact of the administration's obligation to act lawfully and to the public's benefit must not be carried by only one person, or a small group. Rather, an individual's damages should be compensated, even if the administration was not negligent.
- To ensure proportionality of an intervention to ownership rights, a reasonable balance must be struck between:
  - Public interests.
  - The applicant's ownership right.

The full text of the Constitutional Court's reasoned decision (numbered 2014/1546 and dated 2 February 2017) can be found at this [link](#) (only available in Turkish).

## Related Practices

- [Real Estate and Construction](#)
- [Sale and Lease Agreements](#)

---

## Related Attorneys

- [BURAK BAYDAR](#)