

Turkish Constitutional Court: Expropriation Does Not Violate Property Rights, Despite Stay of Execution Decision

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The Turkish Constitutional Court recently ruled that the right to property had not been violated by completion of expropriation proceedings, initiated by the Energy Market Regulatory Authority ("**Authority**"), despite a decision from the administrative court to suspend execution of the Council of Ministers' decision which authorized the urgent expropriation.

In the case at hand, the Council of Ministers decided that certain properties, including those owned by the applicants, must be urgently expropriated. However, the Council of State suspended execution of the decision.

In the meantime, within the scope of the expropriation procedure, the Authority filed a lawsuit for valuation and registration of the applicants' properties in its name before the Civil Court of First Instance. The applicants requested that the administrative judicial decision regarding stay of execution for the Council of Ministers' decision should be considered as a preliminary issue during the valuation and registration case. However, the court rejected the request and ultimately decided the property should be registered in the Authority's name.

The Council of Ministers' decision was subsequently appealed and then cancelled at a Plenary Session of the Administrative Law Chambers, on the basis that the public interest and public order conditions were not met, as is required for exceptional urgent expropriations.

The former owners of the properties applied to the Constitutional Court, alleging that the right to property had been violated. In its decision, the Constitutional Court analyzed the differences between normal and urgent expropriations. It noted that the sole difference between them is that urgent expropriations allow the administration to seize property, before completing the expropriation procedure.

Accordingly, the Constitutional Court ruled that cancelling the Council of Ministers' decision about urgency will not automatically make the entire expropriation process contrary to law. As the expropriation procedure was lawful, the right to property is not violated.

Please see this [link](#) for the full text of the Constitutional Court decision dated 18 October 2017 and numbered 2015/17510 published in the Official Gazette number 30250 on 24 November 2017 (only available in Turkish).

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