

## SECRETARIAT / SEKRÉTARIAT

SECRETARIAT OF THE COMMITTEE OF MINISTERS  
SEKRÉTARIAT DU COMITÉ DES MINISTRES



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Meeting: 1514<sup>th</sup> meeting (December 2024) (DH)

Reply from the authorities (15/11/2024) to communications from NGOs (Bursa Barosu Başkanlığı) (17/04/2023) and (ClientEarth) (15/10/2024) in the Genc and Demirgan group of cases v. Turkey (Application No. 34327/06).

Information made available under Rule 9.6 of the Rules of the Committee of Ministers for the supervision of the execution of judgments and of the terms of friendly settlements.

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Réunion : 1514<sup>e</sup> réunion (décembre 2024) (DH)

Réponse des autorités (15/11/2024) à des communications d'ONG (Bursa Barosu Başkanlığı) (17/04/2023) et (ClientEarth) (15/10/2024) dans le groupe d'affaires Genc et Demirgan c. Turquie (requête n° 34327/06)  
**[anglais uniquement]**

Informations mises à disposition en vertu de la Règle 9.6 des Règles du Comité des Ministres pour la surveillance de l'exécution des arrêts et des termes des règlements amiables.

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**THE GOVERNMENT RESPONSE TO THE RULE 9.2 COMMUNICATIONS*****Genç and Demirgan (34327/06) Group of Cases******(Okuy and Others v. Türkiye, no. 36220/97)******(Bursa Barosu Başkanlığı and Others v. Türkiye, no. 25680/05)***

1. The Turkish authorities would like to make the following explanations in response to the communications of the Bursa Barosu Başkanlığı (NGO) dated 17 April 2023 and ClientEarth (NGO) dated 15 October 2024 with respect to the present group of cases.

2. Firstly, the Government would like to note that detailed information on both individual and general measures, within the context of the supervision of the present group of cases, has been submitted to the Committee of Ministers with an action plan dated 15 October 2024. The Government would like to reiterate the information provided therein. The authorities find it useful to provide the following information.

3. The Turkish authorities would like to recall that the violations examined under *Genç and Demirgan* group of cases concern the failure of the national authorities to comply with numerous administrative court decisions delivered in favour of the applicants between 1996 and 2014, annulling various permits required for the operation of a gold mine, three thermal power plants and a starch factory on grounds of risk to public health and environment (violations of Article 6 in all cases and also of Article 8 in the cases concerning the gold mine).

4. In the communication dated 17 April 2023, the NGO stated, in sum, with respect to the case of *Bursa Barosu Başkanlığı and Others* that the 1/25,000 scaled İznik Lake Master Zoning Plan had been annulled by the decision of the Bursa 2<sup>nd</sup> Administrative Court dated 8 March 2022 (E.2020/582, K.2022/202), that in another case, the 1/1,000 scaled implementation zoning plan had been annulled by the decision of the Bursa 2<sup>nd</sup> Administrative Court dated 8 March 2022 (E.2020/1196, K.2022/203) and also that the permits which had been issued to the relevant facility on the basis of the 1/1,000 scaled plan had been annulled by the Bursa 3<sup>rd</sup> Administrative Court's decision dated 25 January 2023 (E.2021/493, K.2023/81).

5. In the light of the information received from the relevant institutions, the authorities would like to point out the following: On 18 December 2019 three New Building Permits were issued in the name of the company "Cargill Tarım ve Gıda Sanayi Ticaret Anonim Şirketi".

- Building Permit no. 108 dated 18 December 2019 – Additional Starch Silo
- Building Permit no. 109 dated 18 December 2019 – Sea Dryer Building
- Building Permit no. 110 dated 18 December 2019 – New Electric Transformer Building

6. On 12 January 2021 name change permits were issued in respect of the above-mentioned permits on account of site manager change.

- Building Permit no. 2 dated 12 January 2021 – Sea Dryer Building (Name Change)
- Building Permit no. 3 dated 12 January 2021 – Additional Starch Silo (Name Change)
- Building Permit no. 4 dated 12 January 2021 – New Electric Transformer Building (Name Change)

7. Work completion reports indicating that the construction of the building had been finished were issued in respect of the permit no. 2021/2 and permit no. 2021/3 on 26 April 2021 and 27 April 2021, respectively. Subsequent to the work completion reports, the Occupancy Permits nos. 102-103-104 dated 8 June 2021 were issued for the buildings the construction of which had been finished. The 1/1,000 scaled implementation zoning plan, which had been put forward as the ground for annulment of the impugned building permits, was annulled by the decision dated 8 March 2022 (E.2020/1196, K.2022/203). According to the information received, the impugned buildings had been completed and occupancy permits had been issued in their respect prior to the annulment of the 1/1,000 scaled plan.

- Occupancy Permit no. 102 dated 8 June 2021 – Additional Starch Silo
- Occupancy Permit no. 103 dated 8 June 2021 – New Electric Transformer Building
- Occupancy Permit no. 104 dated 8 June 2021 – Sea Dryer Building

8. By its decision dated 25 January 2023 (E.2021/493, K.2023/81), the Bursa 3<sup>rd</sup> Administrative Court annulled the impugned building permits. Following the notification of the court decision to the Zoning and Urbanization Directorate of the Orhangazi Municipality, on 24 April 2023 the Orhangazi Municipality, taking into account also the statutory time-limits, sealed the buildings -whose permits had been annulled- pursuant to Article 32 of the Zoning Act (Law no. 3194) and a report was drawn up in that regard.

9. Furthermore, the aforementioned Building Permits nos. 2019/108, 2019/109, 2019/110, 2021/2, 2021/3 and 2021/4 as well as the Occupancy Permits nos. 2021/102, 2021/103 and 2021/104 were annulled by the Orhangazi Municipality in accordance with the court decision dated 25 January 2023 (E.2021/493, K.2023/81). Thus, the authorities have ensured the enforcement of the administrative courts' decisions.

10. As also mentioned in the action plan, the 1/25,000 scaled İznik Lake Master Zoning Plan which was approved by the decision no. 494 of the Bursa Metropolitan Municipal Council was annulled by the Bursa 2<sup>nd</sup> Administrative Court's decision dated 8 March 2022 on the ground that the authority to prepare the plans lay with the Ministry of Environment, Urbanization and Climate Change in line with the assent of the Board on Cultural Heritage Preservation.

11. Upon the annulment of the 1/25,000 scaled plan which was the upper scale plan, the 1/1,000 scaled Implementation Zoning Plan, which had been approved as an "Industrial Area (Corn Processing Facility Area)" by the decision no. 1586 of the Bursa Metropolitan Municipal Council, was also annulled by the Bursa 2<sup>nd</sup> Administrative Court's decision dated 8 March 2022 (E.2020/1196, K.2022/203).

12. However, at this juncture, the authorities would like to lay particular emphasis on the fact that the decision on the 1/25,000 scaled Master Zoning Plan, namely the upper scale plan which provided the basis for the annulled 1/1,000 scaled Implementation Zoning Plan, was deemed appropriate in principle by the Bursa Metropolitan Municipal Council's decision no. 905 dated 21 July 2022 and was re-approved by the Ministerial Approval of the Ministry of Environment, Urbanization and Climate Change dated 5 December 2022.

13. Therefore, the fact that "the authority to prepare the plans" lay with the Ministry of Environment, Urbanization and Climate Change, which was pointed out as the ground for annulment in the Administrative Court's decision, was upheld through the act re-performed by the administration.

14. On 26 May 2023 the 1/1,000 scaled Implementation Zoning Plan, which was re-prepared on this basis, was submitted to the Orhangazi Municipal Council. On 16 June 2023 the Municipality's Directorate for Legal Affairs was informed in this respect. The zoning plans were approved by the decision no. 50 of the Orhangazi Municipal Council dated 10 October 2023.

15. The reason for annulment of the building permits in question was the fact that the 1/1,000 scaled Implementation Zoning Plan had been annulled by the court while the reason for annulment of the 1/1,000 scaled Implementation Zoning Plan was the fact that the 1/25,000 scaled İznik Lake Master Zoning Plan had been annulled by the court.

16. Following the re-approval of the 1/25,000 scaled Master Zoning Plan by the Ministerial Approval no. 5189357 of the Ministry of Environment, Urbanization and Climate Change dated 5 December 2022, the 1/1,000 scaled Implementation Zoning Plan re-prepared for the relevant parcel was approved by the Orhangazi Municipal Council and submitted to the Bursa Metropolitan Municipality.

17. In conclusion, the authorities would like to state that the relevant administrative authorities perform the necessary acts in accordance with the administrative courts' decisions and that requirements of court decisions are fulfilled.

18. On the other hand, as regards the issues mentioned in the communication dated 15 October 2024 which was submitted by the other NGO, the authorities would like to confine themselves, at this stage, to reiterating the matters stated in the action plan. The relevant bodies will be notified of the allegations raised, and the information received on the matter will be submitted to the Committee.

19. Lastly, the Turkish authorities would like to reiterate that in the communications in question there are speculations on issues which are not subject to supervision process. The Turkish authorities find it unnecessary to comment on these speculative allegations.

## **CONCLUSION**

20. The Government of Türkiye kindly invites the Committee of Ministers to take into consideration the above-mentioned explanations within the scope of the execution of the present group of cases.

21. The Committee of Ministers will be duly informed of the execution of the judgments and the general measures to be taken for prevention of the similar violations.