



NEWS REPORT

Date:	15 November 2010
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Title:	Implementation of property law discriminates against Turkish Cypriots
Country:	Cyprus
<u>Context</u>	
Issue at stake:	The equality body finds discrimination against Turkish Cypriots in the manner in which a property law provision is being implemented.
Ground of discrimination:	Ethnic origin
Source:	Equality Body decision Reference No. AKP 6/2009, AKP 23/2010
Field:	Access to housing, right to property
Legislative provisions:	Law on Equal Treatment (race or ethnic origin) N.59(I)/2004; Immovable Property (Temporary Provisions) Law N. 49/1970.

Content

Case: Two Turkish Cypriots brought before the equality body two complaints alleging that they were discriminated against by application of certain provisions of the national property law¹. The preamble to this law explains that, due to the “anomalous situation” resulting from the 1964 inter-communal strife between Greek Cypriots and Turkish Cypriots, this legislation became necessary. The law effectively vests the Director of the Land Registry with discretion to decide as to whether a person is to be allowed to acquire land: the Director is thus given power to “exercise his/her judgement on the basis of the facts whether the acquisition of land places at risk or by any means affects public security”. If the Director deems that this is the case, s/he can deny the transfer of the property, unless approval is given by the Interior Minister. In practice this provision, which appears neutral, has been activated only in the cases of Turkish-Cypriots attempting to acquire or sell land. The procedure applies to Turkish Cypriot properties which were not considered ‘abandoned’ by Turkish Cypriots; for the

¹ Immovable Property (Temporary Provisions) Law N. 49/1970.



'abandoned' properties a different regime comes into operation which places these properties under the custodianship of the Interior Minister.²

² Law on Turkish Cypriot Properties N. 139/1991.

The complaint submitted to the equality body alleged that the procedure of approval of property transactions by the Interior Minister poses a number of problems amounting to violations of national and European law, namely: Article 23 of the constitution (right to property), Article 1 of the Protocol 1 of the European Convention of Human Rights, the right to property as stipulated in the *acquis* and the doctrine of separation of powers, since it is left to the executive to decide on a fundamental human rights issue which has no relation to the any notion of ‘security’, ‘necessity’ etc. Both complainants argued that the procedure for approval by the Interior Minister of the act of transfer of the property results in discriminatory treatment against Turkish Cypriots on the ground of their ethnic origin.

Decision of the Equality Body:³ The equality body found that the procedure of approval by the Interior Minister of the property transfers to or from Turkish Cypriots amounts to a restriction of the right to property because the completion of the transaction depends on the approval of a third party (the Interior Minister) and is not exclusively dependent upon the will of the contracting parties. The report notes that the procedure applies only when Turkish Cypriots are involved, which is *prima facie* discriminatory, since individual cases are given different treatment by the law depending on the ethnic origin of the persons involved. The report states that the restriction would have been acceptable had it been objectively and reasonably justified and serving a legitimate aim, which was not the case here; it could not reasonably be claimed that every single property transaction with Turkish Cypriots involves security and public order issues. The report concluded that the implementation of Law 49/1970 has in practice resulted in discriminatory treatment that cannot be justified and therefore calls on the authorities to review the question of applying the provisions of Law 49/1970 to all transfers to and from Turkish Cypriots

³ Reference No. AKP 6/2009, AKP 23/2010, dated 25.08.2010 .