

The transfer of the orphanage also showed the 'axis'

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The political will of the government was undoubtedly effective in the court decision to re-register the Orphanage building in Büyükdade, which has been a topic of public interest in recent days, in the name of its former owner, the Greek Patriarchate, by applying domestic legal remedies in Turkey, based on the decision of the European Court of Human Rights to return the property.

The General Directorate of Foundations, which opposed the case in September 2009 when it was filed and claimed that the Patriarchate did not have a legal personality – but for some reason never mentioned

this when it filed a lawsuit to seize the property – suddenly abandoned these claims in November 2010.

We believe that the court documents from the Ministry of Justice and the Ministry of Foreign Affairs, stating that the transfer of the property in question to the Patriarchate

would be appropriate in accordance with the ECHR ruling, were a significant factor in this renunciation.

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We believe that these documents were written entirely with the initiative and approval of the political authority and that, therefore, the General Directorate of Foundations accepted the case it initially opposed.

Thus, Turkey has undertaken the commitment to accept the compulsory authority of the ECHR, which it recognised in 1990; the Protocol No. 11, which it ratified in 1997 and established today's ECHR; the acceptance of the commitment of the party states to abide by the final court decisions, as stated in Article 46 of the European Convention on Human Rights; and finally, the commitment to comply with the final court decisions, as stated in Article 90 of our Constitution.

With the transfer of the Orphanage building on Büyükdade to the Patriarchate, Türkiye has shown that the axis on human rights is still Western democracy.

In line with the provision that judicial decisions on human rights shall prevail over domestic law, the Orphanage building has been returned to the Patriarchate, thus achieving a first in our domestic law and setting a precedent for member states of the Council of Europe, and fulfilling its international commitments by adhering to the principle of pacts sunt servanda.

— Except for two cases, one in the field of civil law and the other,

if we are not mistaken, in the field of administrative law, the implementation of ECHR decisions in our domestic law has not been observed before. According to the ECHR decision, the defendant, Turkey, returned the Orphanage's ownership to its previous owner, the Greek Patriarchate, within

three months of the court decision becoming final. Since

this could not be done through an administrative action, that is, a written letter from the government to the Princes' Islands Land Registry Directorate, it did so through a court order. This

decision's significant development in terms of human rights and the rule of law in our country

This decision sets a precedent for the practice of other property restitution cases handed down by the ECHR regarding violations of Protocol No. 1. Another consequence of this decision is the de facto recognition by official authorities of the legal personality of the Greek Patriarchate, which lacks legal personality. Consequently, while it would be inaccurate to say that the government, which has broken new ground on human rights in our domestic law and remains committed to its commitments to the West, has shifted its foreign policy axis from the West to the East, a region with little to do with human rights, it is nevertheless possible to say that it has sent a very clear message to the West and the international community that the axis remains in the West, at least in matters of the rule of law and human rights.

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