



EU Turkey statement

Findings of the Court of Justice of the European Union

In reference to the **applicability of the Charter** – the answer would be no, as the Court declared lacked of its jurisdiction.

Three asylum seekers brought actions before the General Court of the European challenging the legality of the ‘EU-Turkey Deal’ under Article 263 TFEU. They claimed that statement is an international agreement which the European Council, as an institution acting in the name of the EU, concluded with the Republic of Turkey. The General Court declared that it lacks jurisdiction to hear and determine the actions pursuant to Article 263 TFEU, and, accordingly, dismisses them.

The Court notes that it was not the EU but its Member States, as actors under international law, that conducted negotiations with Turkey, including on 18 March 2016 (as attested by several official documents produced by the European Council on 17 and 18 March 2016).

In the absence of any act of an institution of the EU, the legality of which it could review under Article 263 TFEU, the Court declares that it lacks jurisdiction to hear and determine the actions brought by the three asylum seekers. For the sake of completeness, with regard to the reference in the ‘EU-Turkey statement’ to the fact that ‘the EU and [the Republic of] Turkey agreed on ... additional action points’, the Court considers that, even supposing that an international agreement could have been informally concluded during the meeting of 18 March 2016, something which has been denied by the European Council, the Council of the European Union and the European Commission in the present cases, that agreement would have been an agreement concluded by the Heads of State or Government of the Member States of the EU and the Turkish Prime Minister. In an action brought under Article 263 TFEU, however, the Court does not have jurisdiction to rule on the lawfulness of an international agreement concluded by the Member States.

See: *NF v. European Council*; *NG v. European Council*; *NM v. European Council*, T-192/16, T-193/16 i T-257/16, Order of the General Court, 28.02.2017.



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