

## General Assembly on the Unification of Judgments of Court of Cassation: Interest can be Charged even if it is not Requested in the Amendment of Pleading

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General Assembly on the Unification of Judgments of Court of Cassation ("**General Assembly**") has recently evaluated a partial lawsuit, where a collection of a pecuniary claim with its interest is requested. The Court of Cassation decided that if the amount subject to the case is increased through amendment of pleading without requesting interest, the ruling regarding charging interest for the increased amount depends on the interest claim on the lawsuit petition.

With regard to the amendments of pleading submitted without any claim for interest, the Court of Cassation has decided that:

- If interest is claimed in the lawsuit petition, this will also apply to the part increased through amendment.
- If the lawsuit petition does not include a claim for interest, the Court cannot decide on a collection of the money with charging interest.

Some chambers of Court of Cassation defend that the Court cannot rule on interest if the amendment petition does not involve a claim regarding that. Advocates of this opinion deem ruling on interest to the amount increased with amendment petition violates the principle of "being limited to request" and therefore unlawful.

Another opinion defends that the amendment of pleading does not change the lawsuit petition, it only expands it and therefore if interest is requested in the lawsuit petition, this should also reflect the amount increased through the amendment. According to this opinion, if the claimant has made a claim regarding interest in the lawsuit petition, there is no need of repeating that request on the petition for amendment of pleading. The amount raised by amendment is not a new lawsuit and hence all elements included in the primary lawsuit petition, including the claim for interest, should be applicable to the part increased with the amendment of pleading. Thus, for the claimant to be entitled to receive interest, stating this claim on the lawsuit petition is sufficient.

General Assembly has adopted the second opinion and decided that it is adequate for the interest claim to be stated on the lawsuit petition to charge interest for the amount increased with the amendment of pleading.

The full text of the General Assembly on the Unification of Judgments of Court of Cassation's decision dated 24 May 2019 and numbered 2017/8 E. and 2019/3 K. is available at this [link](#) (only available in Turkish).

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