

The Constitutional Court Decided that an Executable and Finalized Receivable Constitutes a Property, and Non-Payment or Late Payment of Such Receivable Violates the Right of Property

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Application subject to the Constitutional Court's decision published in Official Gazette dated 2 April 2022 and numbered 31797, is related to the allegation of violation of the right of equality, fair trial and property due to the non-payment of a finalized and unchallenged receivable for a long period by a public institution in the execution proceedings as well as removal of the liens placed on the receivables of the public institution because of the practice that public properties cannot be seized.

- The applicant ("**Applicant**") is a legal entity engaged in the sale of medical sanitary equipment and supplies and has made sales to a state university ("**University**") on different dates.
- Since the price of the goods purchased by the University was not paid, execution proceedings were initiated by the Applicant in 2014 and the process became final when no objection was raised by the University.
- Thereupon, a request by the Applicant was made to send a lien notice in order to place a lien on the receivables of the University from third parties, and this request was accepted by the execution office. Nevertheless, the University filed a complaint against the respective lien on the grounds that state properties could not be seized pursuant to Article 82 of the Execution and Bankruptcy Law numbered 2004, and the lien was annulled by the court. The Applicant appealed the annulment decision, and the decision was upheld at the end of the appeal examination and became final. Thereupon, the Applicant filed an application before the Constitutional Court.
- As a result of the examination carried out by the Constitutional Court, it was stated that the Applicant's receivable constituted a property since the receivable was executable, finalized and unchallenged by the University and concluded that the non-payment or late payment of an executable receivable by public institutions constitutes an interference with the right to peaceful enjoyment of property, and the uncertainty caused by this intervention results in a violation of the right of property.

In this direction, the Constitutional Court has decided that non-payment of the Applicant's receivable for more than seven years despite the fact that the University has acknowledged its existence is a violation of the right of property, and that the decision to be sent to the presidency of the University in order to remedy the consequences of the violation to the right of property.

You can access the full text of the Constitutional Court's decision with application number 2018/33348 published in Official Gazette dated 2 April 2022 and numbered 31797, via [this link](#).

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