

## The Constitutional Court Decided to Annul the Provision Limiting the Maximum Application Period to 10 Years as of the Finalization of the Judgment for the Retrial

28 Oct 2022

The objection subject to the Constitutional Court's ("**Constitutional Court**") decision published in Official Gazette dated 1 July 2022 and numbered 31883, related to the request for annulment of the section "*..in any case, ten years from the finalization of the judgment subject to the retrial request*" in the article 377 paragraph 1 of the Civil Procedure Law numbered 6100 ("**CPL**"), on the grounds that it is in violation of article 36 of the Constitution titled right to legal remedies.

While examining the request, the Constitutional Court took into account that one of the grounds for retrial against the finalized decision, stated in article 375 of the CPL was the decision to dismiss as a result of a violation, amicable settlement or a unilateral declaration as a result of an application to the European Court of Human Rights ("**ECHR**").

In this respect, the Constitutional Court has ruled that exceeding the 10-year period of prescription of rights due to reasons not caused by the relevant persons, such as the requirement for individual application to the Constitutional Court before the ECHR where applicable, and the increased workload of the ECHR, may render the retrial procedure nonfunctional.

Therefore, it has been decided to annul the relevant provision stipulating 10-year period of prescription, as it violates the right to an effective remedy, which is protected by article 40 of the Constitution.

You can access the full text of the Constitutional Court's decision numbered 2022/7 M. and 2022/79 D. published in Official Gazette dated 1 July 2022 and numbered 31883, via [this link](#). (Only available in Turkish)

### Related Practices

- [Corporate and Commercial Litigation](#)

### Related Attorneys

- [BURAK BAYDAR](#)
- [FULYA KURAR, LL.M.](#)