

The Constitutional Court Ruled That The Determination of The Interest Rate to Be Applied to Claims in Cases of Incomplete Expropriation or De Facto Expropriation as Legal Interest is Unconstitutional

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The Constitutional Court's decision dated 27.06.2024 numbered 2024/4 E., 2024/129 K. has been published in the Official Gazette numbered 32747 dated 09.12.2024.

The Court found that the determination of the interest rate to be applied to the receivables in cases of incomplete expropriation or de facto expropriation as legal interest is contrary to the provision stipulated in Article 46 of the Constitution that the highest interest rate foreseen for public receivables shall be applied. This decision emphasizes that in restrictions on individuals' property rights, the intervention must be proportionate, fair and in compliance with Constitutional guarantees, and led to the annulment of Provisional Article 19 of the Expropriation Law.

In the application subject to the Constitutional Court's decision dated 27 June 2024 and numbered 2024/4 ("Decision"), which was announced in the Official Gazette dated 9 December 2024 and numbered 32747, it was claimed that the provisional Article 19 added to the Expropriation Law No. 2942 dated 4/11/1983 with Article 7 of the Law No. 7421 dated 16/11/2022 on the Amendment of the Tax Procedure Law and Certain Laws was contrary to Article 46 of the Constitution and requested its annulment.

Provisional Article 19 of the Expropriation Law No. 2942 states that instead of the highest interest rate foreseen for public receivables, the legal interest rate according to Law No. 3095 will be applied to the compensation. On the other hand, Article 46 of the Constitution stipulates that "the highest interest rate foreseen for public receivables" shall be applied for the compensation to be paid within the scope of expropriation procedures.

The Court found that the application of the statutory interest rate instead of the highest interest rate foreseen for public receivables to compensation in cases of de facto expropriation pursuant to Provisional Article 19 added to the Expropriation Law No. 2942 is contrary to the right to property under Article 46 of the Constitution and Article 13 of the Constitution, which stipulates that restrictions must comply with the principles of legality and proportionality. The Court unanimously annulled the fourth sentence of the first paragraph of the said article on the grounds that this regulation did not fully compensate the economic losses of the owners and violated the right to property.

You can access the full text of the Decision [here](#). (Only available in Turkish)

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