

The Turkish Constitutional Court Ruled that Differing Opinions Among Chambers of the Court of Cassation Do Not Violate the Right to a Fair Trial

5 Jan 2021

The Turkish Constitutional Court ruled that differing opinions among chambers of the Court of Cassation do not violate the right to a fair trial.

The Constitutional Court's decision dated 13 October 2020, and numbered 2017/33904 (the "**Decision**"), was published in the Official Gazette dated 1 December 2020 and numbered 31321. For the reasons set forth below, the Constitutional Court ruled that the right to a fair trial under article 36 of the Constitution of the Republic of Turkey is not violated:

- Although a decision on the unification of judgements related to the subject of the application was ruled by General Assembly on the Unification of Judgments of the Court of Cassation, on 8 March 2019, the facts subject to the application have occurred prior to this date. Therefore, the court has acknowledged the existence of contradictory decisions.
- After the finalization of the decision subject to application on 20 June 2017, the First Presidential Board of the Court of Cassation has initiated the process on the judgement, on 28 September 2017, aiming to resolve the contradictory interpretations on the legal issues that are the subject of the application, which decisions were, on 8 March 2019, unified by the Court of Cassation.
- The Constitutional Court ruled that the differing opinions did not result in the lapse of legal certainty and predictability. The Chamber of Court of Cassation which ruled on the applicant's case continued its approach therein. Moreover, there is a mechanism to resolve differing opinions among Chambers of Court of Cassation. In addition, the approach set forth in Unification of Judgments of the Court of Cassation is the same as that applied by the chambers conducting the cases under scrutiny.

Accordingly, as a jurisprudential matter, such differing opinions amongst the chambers do not violate the right to a fair trial.

You may access the full text of the Decision at this [link](#). (Only available in Turkish)

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