

Turkish Constitutional Court Annulled the Provisions Regarding Transfer of Time-barred Dividends to Government

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Upon application of Yozgat 2nd Civil Court of First Instance, the Turkish Constitutional Court has annulled articles 1, 2, 3 and 4 of the Law on Transfer of Companies' Time-Barred Coupon Bond and Share Amounts to the Treasury numbered 2308 ("**Law**").

The provisions subject to the application stipulate the transfer of the following to the government:

- Benefits of share certificates of joint-stock companies, limited companies and silent partners of partnerships limited by shares, such as interest, dividends, and bonus which are time-barred for five years without a legal excuse, and
- The fees transformed by these companies' share certificates and stocks, which are time-barred for ten years.

Yozgat 2nd Civil Court of First of Instance stated in its application that provisions subject to the objection:

- Interfere with the relationship between the companies and their shareholders; consequently, violate the right of property,
- May have irrecoverable results for companies and their shareholders.

Turkish Constitutional Court reviewed these provisions and stated that they result in:

- The termination of property right on benefits and amounts qualified as companies' debts which are statute-barred,
- Elimination of companies' probability to pay their debts to their shareholders,
- burdening companies with extraordinary and excessive loads when compared to the public interest.

In the light of these assessments, the Constitutional Court annulled the articles 1, 2, 3 and 4 of the Law as these provisions excessively limit the companies' right of property.

Please see this [link](#) for the full text of the decision of the Turkish Constitutional Court dated 10 April 2019, numbered 2018/136 E. 2019/21 K, published in the Official Gazette dated 20 June 2019 and numbered 30807 (only available in Turkish).

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