

## Turkish Constitutional Court: Dismissal of the Appeal Request Submitted Through UYAP on the grounds of Time Expiry Violates the Right of Access to the Courts

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Turkish Constitutional Court recently considered a claim where the applicant made an appeal through National Judiciary Informatics System within the legal time period, yet due to the court's clerk failure to process, the appeal request got dismissed on the grounds of expired time. Consequently, in its' decision dated 24 October 2019 and numbered 2016/1235, the court has ruled that the dismissal violates the right of access to the court while accepting applicant's retrial request.

At the case in the hand,

- Applicant's case was accepted by the first instance court, then appealed by the defendant's attorney.
- After the appeal request, 21<sup>th</sup> Civil Chamber of the Supreme Court evaluated the decision and reversed it on 30 April 2015.
- The reversal decision of the Supreme Court has been delivered to the applicant on 3 June 2015. Applicant's attorney appealed this decision on 11 June 2015 by submitting the appeal petition through UYAP.
- The Supreme Court stated that applicant's appeal petition was submitted on 12 June 2015 and dismissed the appeal decision on the grounds of expired time.

Considering principles of legality, legitimate aim and proportionality, the Constitutional Court noted that:

- The applicant has the right to submit his appeal petition within the legal period of eight days, starting as of the receipt of the notice, pursuant to the 5221 numbered Law of Labor Courts.
- Applications through electronic systems can be made until 00:00 on the last day of the legal period.
- In the present case, the applicant received the court's rejection decision on 3 June 2015 and made the appeal request on 11 June 2015 at 17:44 through UYAP.
- Court's clerk put the appeal request to process on 12 June 2015, the delay in proceedings is in court's responsibility; the court's own internal functioning. Therefore, its' consequences should not be incurred on the applicant.
- It is reasonable for the applicant to submit his petition at 17:44 after the end of the working day on the last day of the legal period.
- The burden that the applicant had to bear is disproportionate to the legitimate aims and therefore, the interference was disproportionate.

Accordingly, the Court unanimously ruled that the applicant's right of access to the courts within the scope of the right to a fair trial has been violated and accepted the applicant's retrial request.

The full text of the Constitutional Court's decision dated 24 October 2019 and numbered 2016/1235 is available at this [link](#) (only available in Turkish).

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## Related Attorneys

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