

Turkish Constitutional Court: Including Interest and Court Expenses in Fine for Bounced Cheques Violates Constitutional Rights to Certainty and Predictability

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The Turkish Constitutional Court recently considered calculation of judicial fines for bounced cheques. It decided to remove interest and court expenses from the calculation on the basis that this violates the constitutional principle that no crime or punishment should occur without law (Article 38). An individual's right to certainty and predictability is contained within this constitutional right.

The matter was escalated from a First Instance Court, within a case based on Article 5 of the Law of Cheques. The provision regulates criminal responsibility for cheque drawers, as well as restrictions on drawing cheques and opening cheque accounts. The lower court claimed the provision contradicted a variety of constitutional rights.

The Constitutional Court rejected the majority of the lower court's arguments, but ultimately decided to revoke part of Article 5. The revoked aspect stated that judicial fines imposed on parties who cause bounced cheques cannot be less than the sum of:

- The cheque's amount.
- Interest (as per the default rate for commercial transactions).
- Court expenses.

The Constitutional Court held that considering court expenses and interest while determining a judicial fine causes unpredictability. The court decided that this violates the constitutional principle that no crime or punishment should occur without law (Article 38). An individual's right to certainty and predictability is contained within this constitutional right.

Please see this [link](#) for the full text of the Constitutional Court decision (only available in Turkish).

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