

## Turkish Constitutional Court: Legislation Allowing Cases to be Ceased and Renewed Does Not Breach Right to Fair Trial

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The Turkish Constitutional Court recently examined and rejected a cancellation request regarding Article 150(1) and 150(4) of the Civil Procedural Law (decision dated 5 May 2016, numbered 2016/36). These provisions allow cases to be ceased when parties do not attend hearings, as well as to be renewed within three months. The applicant claimed the provisions prolong law suits and are often used in bad faith, breaching the right to a fair trial.

A first instance court requested the Constitutional Court to consider Article 150(1) and Article 150(4) of the Civil Procedural Law numbered 6100. Article 150(1) provides that a file can be ceased if the parties fail to attend hearings. Article 150(4) allows a case to be renewed within three months after ceasing the file.

The lower court claimed these provisions prolong proceedings, especially in complicated cases, causing a long waiting period to obtain a judgment and preventing courts from fulfilling their obligation to complete proceedings within the minimum time and expense practically possible. It claimed parties could use the procedural rules in bad faith to cease cases. Accordingly, the lower court argued that these provisions contradicted the constitutional right to a fair trial and should be cancelled.

The Constitutional Court rejected the lower court's application. It held that the provisions met the "commission principle", which indicates that the parties are competent to decide whether or not to file a case and/or attend the case. The Constitutional Court also held that the provisions met the "right to be heard" principle, which indicates that the parties must submit related facts and evidence to the court. The Constitutional Court held the provisions do not cause prolongation of the case, but rather accelerate proceedings and serve "procedural economy".

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

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