

Turkish Constitutional Court: Legislative Amendment Which Aims to Ensure Consistent Judicial Practice Has Justifiable Basis for Impacting Ongoing Lawsuits

7 Jan 2019

Turkey's Constitutional Court recently rejected an application which claimed the applicant's constitutional property rights had been violated by legislative changes which occurred during the trial process. The amended legislation meant the lawsuits could no longer be ruled in the applicant's favor, despite the First Instance Court's earlier decision and outcomes of similar lawsuits. The Constitutional Court ruled that the new legislation aimed to ensure consistent practice, so had a just and reasonable basis for impacting ongoing lawsuits.

The applicant claimed he had suffered damages and his rights to legal security and property were violated because even though the Court of First Instance accepted his lawsuit, a legislative amendment was introduced during the trial's appellate stages and this meant that the higher court ruled the applicant's claim was devoid of essence (due to the changed legislation).

The applicant argued to the Constitutional Court that whilst prior lawsuits filed against illegal collection of loss and leakage costs had consistently resulted in electricity subscribers' favor, the legislative amendment now prevents courts from rendering such decisions.

The Constitutional Court decided that the applicant's property rights had not been violated. The court ruled that it is not possible to state a justified expectation for the lawsuits which had resulted in electricity subscribers' favor because ambiguity existed regarding collection of loss and leakage electricity costs since there was no clear and consistent practice between different judicial branches.

The Constitutional Court ruled that the newly adopted legislation aimed to ensure consistent practice. Accordingly, the legislation had a just and reasonable basis for impacting ongoing lawsuits when it entered into effect.

Please see this [link](#) for full text of the Constitutional Court's decision dated 19 September 2018 and numbered 2017/36736 (only available in Turkish).

Related Attorneys

- [DR. E. SEYFİ MOROĞLU, LL.M.](#)
- [BURAK BAYDAR](#)