

Turkish Constitutional Court: Rejecting an Appeal for Being Late Violates the Right of Access to Court, in case the Court is Responsible for Delay

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Turkish Constitutional Court evaluated a case where the applicant has appealed a court judgment on the National Judicial Network Information System ("UYAP") within the legal period of time; however, the Court of Cassation rejected the appeal request by taking into account the date when the court has processed such request. The Constitutional Court decided that the right of access to court secured under article 36 of the Constitution has been violated.

In the case at hand, the applicant submitted his appeal request on 3 October 2014 through UYAP. However, due to a holiday in Turkey, the court processed the petition and sent it to the Turkish Court of Cassation on 8 October 2014. The Court of Cassation rejected the applicant's appeal request based on the claim that the appeal was not filed within the legal period of time. The applicant applied to the Constitutional Court following the rejection, and consequently the Constitutional Court ruled on the violation of the right of access to court within the scope of right to a fair trial due to the following reasons:

- The detailed reasonable decision of the court has been received by the applicant on 22 September 2014. The applicant filed for appeal of the decision on 3 October 2014 through UYAP. However, due to a holiday in Turkey, the court has processed the appeal petition only on 8 October 2014 and the Court of Cassation rejected the applicant's appeal request based on the claim that the appeal was not filed within the legal period of time. The Turkish Constitutional Court ruled that the rejection of the applicant's appeal petition in terms of the legal period is not within the limit of predictability.
- Since the practice of the court is based on a wrong fact and an error; the applicant's right to appeal is violated.
- The intervention is disproportionate.

Please see this [link](#) for the full text of the Constitutional Court's decision dated 29 May 2019 numbered 2016/14222 (only available in Turkish).

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