

Turkish Constitutional Court Strikes Out Legislative Ban on Table Football Based on Changed Social Conditions

16 Jul 2016

A recent decision by the Constitutional Court lifts a legislative ban on table football in Turkey. The court held that the provision does not serve the necessary public needs of a democratic society. It noted that the prohibition was introduced in the 1960s, to address social conditions which have now changed. Accordingly, the court held that the provision breached principles of fairness and equity and struck out the aspects relating to table football.

In its decision numbered 2015/58 dated 23 December 2015, the Constitutional Court cancelled the provision in the Roulette, Pinball, Table Football and Similar Games Tools and Machines Law numbered 1072 ("**Law**"), which prohibits having a table football station in public places, as well as operating, smuggling into Turkey, or producing such stations, even if the station is not used with the intent of making income.

In the case at hand, the first instance court considered a case against suspects who allegedly had a table football system in their workplace. The first instance court believed that Article 1.1 and 1.2 of the Law to breached fairness and equity principles, so requested the Constitutional Court to cancel the articles aspects relating to table football.

The Constitutional Court cancelled these aspects, on the basis that the provision does not serve the necessary public needs of a democratic society and therefore it breaches principles of fairness and equity. The court noted that:

- In a state of law, the Legislator has discretion over crimes and penalties, provided that it complies with fundamental constitutional principles.
- The Law's preamble states that the prohibition was made based on the social conditions which existed at the date of enactment, in the 1960s.
- Technological developments mean that mind-developing and talent-based games are now played for fun.
- Pursuant to Police Duties and Powers Law numbered 2557, businesses can obtain license for these games, provided there is intention to generate income or gamble.
- Gambling is no longer included in Turkey's Criminal Law, but rather is now considered to be a misdemeanour under the Misdemeanours Law numbered 5326.
- The businesses which have these table football systems are under government control and audit.
- If a legislative prohibition contradicts principle for the state of law, the related penalty will automatically also be un-constitutional.

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

Related Attorneys

- [BENAN ARSEVEN](#)