

INFORMATION NOTE ON CONSTITUTIONAL COURT DECISION REGARDING LAWSUITS WITH UNQUANTIFIED CLAIMS

In the application No. 2019/17969 of Faysal Çiftçi and others (the “**Applicants**”), the Constitutional Court, with its decision dated 08.06.2023 and published in Official Gazette dated 06.10.2023 and No. 32331 (the “**Decision**”), ruled that decisions of the court of first instance and 22nd Civil Chamber of Court of Appeals on dismissal of the lawsuit for labour receivables filed as unquantified receivable lawsuit based on procedural grounds due to the lack of legal interest, constituted a disproportionate intervention with the Applicants' right to access to court guaranteed by Article 36 of the Constitution and that their right was violated.

I. BACKGROUND

The Applicants filed lawsuits with unquantified claim for their labour receivables before the court of first instance. The court of first instance accepted the cases. Upon the appeal of the defendant employer, 22nd Civil Chamber of Court of Appeals reversed all decisions on the same grounds. In its decision, 22nd Chamber indicated that Article 107 of Code of Civil Procedure No. 6100 stipulates that lawsuit for unquantified claims can be filed for receivables of which the amount and value cannot be fully determined and that the Applicants had the possibility to determine the amount of labour receivables subject to lawsuits. Accordingly, 22nd Chamber ruled that the lawsuit must be dismissed on procedural grounds due to the lack of legal interest without granting any additional time to the Applicants due to the fact that lawsuits were filed with unquantified claims. The first instance court abided by the reversal decision and dismissed the Applicants' cases on procedural grounds due to the lack of legal interest. Subsequent appeal requests of the Applicants have been rejected by 22nd Civil Chamber Applicants then filed individuals application before Constitutional Court.

II. SUMMARY OF CONSTITUTIONAL COURT DECISION

The Constitutional Court evaluated whether the decision of the court of first instance dismissing cases on procedural grounds, in accordance with the reversal decision of 22nd Civil Chamber of Court of Appeals, due to the fact that the Applicants had filed lawsuits with unquantified claims even though amount of labour receivables was determinable, violated the right to access to the court. The Constitutional Court indicated that Law No. 6100 grants judge the power to bring improperly drafted lawsuit petitions into compliance with the procedural rules, the purpose of which is to prevent plaintiff's essential right to be sacrificed to the procedural rule due to formal deficiencies, and that granting time to plaintiff to clarify the claim by treating the lawsuit as a general action of debt in case it is considered to have been erroneously filed as an unquantified claim is a tool to avoid a severe intervention in the form of procedural dismissal of lawsuit. The Constitutional Court decided that, instead of direct dismissal of lawsuits, a milder intervention must be preferred to ensure that lawsuits are brought before courts and disputes are resolved, and that the direct procedural dismissal of lawsuit with unquantified claim constitutes a disproportionate intervention to the right to access to court.

III. CONCLUSION

Although the Constitutional Court made an assessment on labour receivables, interpretations of Constitutional Court are applicable for all civil lawsuits, and in cases where there is no legal interest in filing lawsuit with unquantified claim due to the fact that receivable is certain or determinable, courts must grant time to plaintiff to clarify the claim by treating the lawsuit as an action of debt, instead of directly dismissing the lawsuit on procedural grounds.

Should you have any queries on the above, please do not hesitate to contact us.

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