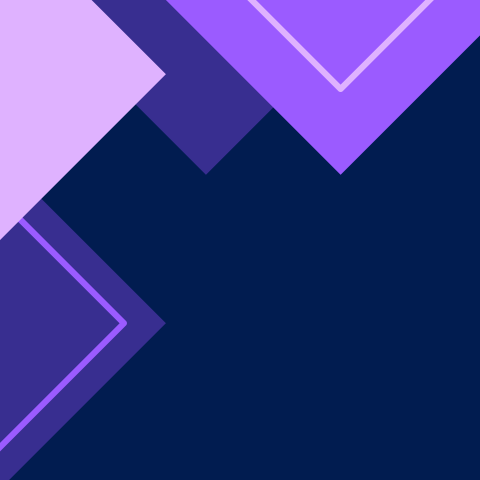
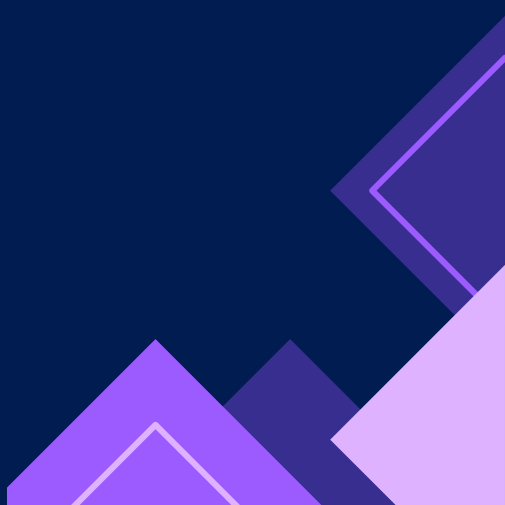




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JUNE 2025 LEGAL PRECEDENT REPORT



SUMMARY OF DECISIONS

Individual Application Without Filing a Civil Action Against an Identifiable Social Media User Is Inadmissible

The Constitutional Court ("CC") ruled that an individual application based solely on a criminal investigation concerning insulting remarks posted on social media is inadmissible where it is factually possible to file a civil lawsuit against the user who made the comments. The CC emphasized that in cases of reputational harm between private individuals, the State's positive obligation under Article 17 of the Constitution cannot be fulfilled exclusively through criminal proceedings. Where the applicant possesses accessible information such as the commenter's name, surname, and city of residence, **initiating a civil action is considered a necessary legal remedy.** In such circumstances, merely invoking deficiencies in the criminal investigation does not satisfy the requirement to exhaust available remedies (CC, *Mert Tirçek*, App. No: 2022/49332, 09.01.2025, OG: 03.06.2025, No. 32919).

Differential Treatment Based on Union Membership Must Be Justified by Objective and Proportionate Reasons Under the Principle of Equality

Where unequal treatment is alleged under the principle of equality, the key constitutional test is whether the differential treatment is based on an objective and reasonable justification and whether it is proportionate. In particular, when certain social benefits are made available only to union members for the purpose of promoting unionization, it is not sufficient to assess the differential solely based on the difference in union dues. Rather, it must be examined whether this privileged treatment serves a legitimate public interest and whether it imposes a disproportionate burden on non-union members (CC, *Union of Municipal and Local Administration Employees*, App. No: 2020/17953, 09.01.2025, OG: 12.06.2025, No. 32924).

Exercise of the Creditor's Option in Foreign Currency Claims Determines and Binds the Performance

Pursuant to Article 99 of the Turkish Code of Obligations ("TCO") numbered 6098, if a debt is denominated in a foreign currency and is not performed on the due date, the creditor may demand performance either in the agreed foreign currency or in Turkish Lira based on the exchange rate applicable on the payment date. In other words, in foreign currency claims, the creditor has an option to claim the debt either in the original currency or its equivalent in Turkish Lira. Once this option is exercised, the performance is determined and the right of choice is extinguished. The exercise of this right, being constitutive in nature, becomes binding and cannot be revoked thereafter (*Court of Appeal, 3rd CC, M. 2025/590, D. 2025/1899, 07.04.2025, OG: 10.06.2025, No. 32922*).

Units Such as Blocks, Parcels, or Complexes May Be Classified as Distinct Value Zones for Real Estate Tax Assessment

Given that each neighborhood may contain streets, avenues, or areas that differ in value, the minimum unit values of plots may be separately determined by the valuation commission based on such distinctions. Accordingly, areas such as a specific block, parcel, residential complex, or shopping center may be considered distinct value zones within a neighborhood and be subject to separate valuation. In line with the provisions of Tax Procedure Law numbered 213 regarding unit value determination and the Real Estate Tax Law numbered 1319, separate unit values may be assigned to such differentiated zones (*Council of State, Tax Law Chambers Joint Board, M.2024/6, D.2025/1, 26.02.2025, OG: 12.06.2025, No. 32924*).

Obtaining Explicit Consent via Verification Codes Must Comply with Proper Disclosure Obligations and Segregated Processing Purposes

In its principle decision dated 10 June 2025 and numbered 2025/1072, the Turkish Personal Data Protection Authority (“Authority”) evaluated data processing practices involving the transmission of verification codes via SMS during the provision of products and services under the Law on the Protection of Personal Data. The Authority emphasized that explicit consent must be based on free will, that distinct processing purposes (e.g., membership confirmation, commercial communication consent, personal data processing consent) must be clearly segregated, and that the obligation to inform must be fully satisfied. The decision stated that explicit consent must not be imposed as a precondition for service provision, and services must still be provided even if the verification code is not shared. Moreover, SMS content must specify the purpose of the code and the consequences of sharing it. Accordingly, the explicit consent process should preferably take place after the delivery of the product or service, users must be informed that their preferences can be changed at any time, and personnel involved in such processes must receive regular training (OG: 26.06.2025, No. 32938).

A Vacate Undertaking Bearing a Date One Day After Delivery of the Leased Property Remains Legally Valid

Pursuant to Article 352 of the TCO, if the tenant fails to vacate the leased premises on the date expressly undertaken in writing after delivery of the property, the lessor may terminate the lease agreement by initiating enforcement proceedings or filing a lawsuit within one month from such date. As a rule, a vacate undertaking provided after the lease relationship is established is presumed to reflect the tenant's free will. Accordingly, a vacate commitment signed by the tenant after delivery of the leased property is deemed valid, and a tenant who alleges the invalidity of such a document bears the burden of proving their claim with evidence of equivalent probative value (*Court of Appeal, 3rd CC, M. 2024/4052, D. 2025/1108, OG: 28.06.2025, No. 32940*).

The Right of a New Property Owner to Seek Eviction for Personal Need Is Conditional on Notification Within One Month of Acquisition

Pursuant to Article 351 of the TCO, a person who acquires residential or commercial premises may initiate an eviction action based on personal need, provided that they notify the tenant in writing within one month following the date of acquisition. The action may be filed either after the lapse of six months from the acquisition date or at the end of the lease term. However, written notification must be served within one month from the acquisition date; any notification made after this statutory period bears no legal effect. The time limit for filing the lawsuit is considered a matter of public order and must be examined ex officio by the court, even in the absence of an objection from the defendant (*Court of Appeal, 3rd CC, M. 2024/4100, D. 2025/1496, 11.03.2025, OG: 28.06.2025, No. 32940*).

Once a Court Complies with a Reversal Decision, It May Not Render a Judgment Contrary to the Procedural Vested Right

Where a first-instance court complies with a reversal decision rendered by the Court of Appeal, it becomes bound by the reasoning set out in that decision and must rule in accordance with the procedural and substantive legal principles indicated therein. This obligation constitutes a “procedural vested right,” which is a matter of public order and must be considered ex officio by the court. A change in the presiding judge does not relieve the court of this obligation (*Court of Appeal, 3rd CC, M. 2024/3903, D. 2025/3326, 16.06.2025*).

Moral Compensation Must Be Awarded for Unlawful Custody; Equity-Based Criteria Should Guide the Assessment of the Amount

Pursuant to Article 141 of the Code of Criminal Procedure numbered 5271, individuals subjected to unlawful custody are entitled to moral compensation. In determining the amount of compensation, courts must consider various factors including the applicant’s social and economic status, the nature of the alleged offence, the circumstances of the custody, the duration of deprivation of liberty, and financial losses incurred until the finalisation of the decision. A reasonable amount must be awarded in line with the principles of justice and equity (*Court of Appeal, 12th CC, M. 2022/833, D. 2025/5093, 10.06.2025*).

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