

# Constitutional Court issues decision on reasonable time requirement in criminal proceedings

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## Introduction

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Since 2012, individuals in Turkey have been able to make individual complaint applications to the Constitutional Court claiming that the state has violated their fundamental constitutional rights (or rights under the European Human Rights Convention) through its acts or omissions.

One of the most common claims is that the state has violated an individual's right to a fair trial by failing to meet the reasonable time requirement and concluding criminal cases over long periods, in some cases more than 10 years.

## General overview

Several applications are made each year by accused parties claiming that the criminal courts have violated their right to a fair trial under Article 36/1 of the Constitution, by leaving them in an accused position for too long, leading to requests for non-pecuniary damages.<sup>(1)</sup>

The Constitutional Court does not require proceedings to be concluded in order to examine an application. The length of proceedings is calculated from the date on which an applicant was first affected by the state's actions. This date does not have to be the day on which criminal proceedings began. The Constitutional Court uses the following criteria to assess a complaint:

- the difficulty in solving the legal issue (eg, the complexity of a case in terms of the facts, the number of parties involved and obstacles faced when collecting evidence);
- the applicant's fault (ie, whether the applicant prolonged the proceedings by using his or her procedural rights carelessly); and
- any unusual reasons to decide contrary to the general precedent.

The Constitutional Court does not accept the courts' workload as a valid reason not to conclude legal proceedings in a reasonable time.

Although each application is evaluated on its merits, Constitutional Court precedent suggests that for proceedings exceeding six years, the Constitutional Court is likely to rule that the applicant's right to a fair trial has been violated if no special reason exists to decide contrary to the general precedent.

## Comment

The Constitutional Court's approach highlights the importance of having a reasonable time requirement for criminal proceedings without ignoring the need to arrive at the material truth.

The abovementioned criteria are in line with European Court of Human Rights precedent regarding the right to a fair trial, as regulated by Article 6 of the European Human Rights Convention. However,

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when the Constitutional Court rules in favour of applicants, it generally grants a symbolic amount of compensation, usually no more than TL10,000 (approximately €2,000).

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## **Endnotes**

(1) Article 36/1 states that "everyone has the right of litigation either as plaintiff or defendant and the right to a 'fair trial' before the courts through legitimate means and procedures".

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