LITIGATION - TURKEY

Justification of court decisions – an overview

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The justification of court decisions is regarded as a fundamental right and a key element of the right to a fair trial (ie, the right to a reasoned decision). This right is protected by Article 6 of the European Convention on Human Rights, the Turkish Constitution, the Code of Civil Procedure and Supreme Court precedents.

Legislation

The Constitution and the Code of Civil Procedure set out general rules regarding the justification of decisions.

Article 141 of the Constitution states that "all decisions of all courts are written with justification", while Article 27 of the Code of Civil Procedure regulates the right to be heard and specifies that "the court should make its assessment by taking into account the explanations and giving concrete and clear justification of its decisions".

Further, Article 297/1-c of the Code of Civil Procedure states that:

> the summary of the claims and defences of the parties, the issues they agreed and disagreed, the evidence gathered about the adversarial facts, the evaluation and discussion of the evidence, the established facts and results of them and legal reasons should be included in the decision.

Precedents

In order to guarantee a fair trial, Constitutional Court precedents set out that the courts must:

- evaluate claims on the merits of a case and evidence in this regard; and
- show the reasonable grounds of a decision.

The courts must also justify their:

- evaluation of the evidence;
- interpretation and application of legal rules; and
- conclusions in a case reached by using their discretion.

A reasonable justification must include:

- how the facts and actions of the case were characterised by the court; and
- the reasons and legal regulations that were used as the basis of the judgment.

Further, the Supreme Court has highlighted that while the courts are independent and free to make their decisions, it must be accepted that they are obliged to state adequately the grounds on which their decisions are based. This is the only way to understand whether parties' claims and defences have been evaluated in accordance with the law. The justification of court decisions must be sufficient, clear and understandable to ensure that a cause-and-effect relationship has been established. Justifications should include details of why and how evidence was evaluated and the legal grounds used to make a decision.

According to the Supreme Court's General Civil Assembly, in order to ensure compliance with the law, the justification of a court decision must explain in detail why a decision was made.

The European Court of Human Rights has also expressed that the courts should justify their actions by explaining the reasoning behind their decisions in order to address claims in a clear and concrete

way, otherwise the right to a fair trial will be deemed to have been violated.

Comment

The justification of court decisions is one of the key elements of a fair trial and the only way to understand which of the events presented as the basis of a claim or defence formed the basis of a judgment. However, in practice, judgments are sometimes made without providing any justification as to why the parties' claims and evidence were not taken into account. In the light of legislation and court precedents, it is clear that a few unsatisfactory lines of justification cannot be accepted as justifications in the legal sense.

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