

# Recent Amendments On Monetary Limitations To Appeal Decisions Of Turkish Civil Courts

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The law no. 6763 (the "**Amendment Law**"), which was published on the Official Gazette dated 24 November 2016 and entered into force as of such date, has brought amendments to a wide range of laws in Turkey including some of the criminal laws such as the Law on Criminal Procedure, the Military Criminal Law, the Law on the Execution of Sentences and Security Measures and the Criminal Law itself; as well as the Law on Labor Courts, the Enforcement and Bankruptcy Law and the Civil Procedure Law.

This article only aims to review the Amendment Law with regard to the amendments introduced thereby to the Civil Procedure Law, the Law on Labor Courts and the Enforcement and Bankruptcy Law which are briefly summarized as below:

1. The Amendment Law has amended some of the monetary limitations to appeal the decisions of the civil courts.

## Civil Procedure Law

- Unless provided otherwise by a specific law, decisions in connection with the property rights before the Civil Courts of First Instance that have a value less than TRY 3.000,- cannot be appealed to Regional Courts, but decisions regarding non-pecuniary damage can be appealed without considering the value of the lawsuit. It should be stated that if the dispute amount is filed partially, whole dispute amount is taken into consideration for the monetary limitation. However, in partial dismissal of action, the monetary limitation is applied for the dismissed part's value. If the dismissed part is less and whole debt is more than TRY 3.000,-, it is not allowed to be appealed to the Regional Court (*Court of Appeal*) (*Article 41 of the Amendment Law*).
- Unless provided otherwise by a specific law, Regional Courts' decisions in connection with the property rights before the Civil Courts of First Instance that have a value less than or equal to TRY 40.000,- and that have been previously appealed from Civil Courts of First Instance, cannot be appealed to Supreme Court. It should also be stated that if the dispute amount is filed partially, whole dispute amount is taken into consideration for the monetary limitation. In partial dismissal of action, the monetary limitation is applied to the dismissed part, not the whole dispute amount. If the dismissed part is less and whole debt is more than TRY 40.000,- it cannot be appealed. Only if the opposing party appeals the Regional Court's decision to Supreme Court of Appeal, plaintiff can also submit a petition of appeal (*Article 42 of the Amendment Law*).

## Enforcement and Bankruptcy Law

Unless provided otherwise by a specific law, Enforcement Courts' decisions are allowed to be appealed if the claim, right or property has a value over TRY 7.000,-, except in the cases stated in Article 363 of the Enforcement and Bankruptcy Law (*Article 3 of the Amendment Law*).

In addition to this, final decisions of the Regional Courts can be appealed to the Supreme Court only if the decision is rendered in a lawsuit with a value over TRY 40.000,- (*Article 4 of the Amendment Law*).

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### Law on Labor Courts

Unless provided otherwise by a specific law, it is allowed to appeal final decisions of the Labor Courts to the Regional Courts only if the decision is rendered in a lawsuit with a value over TRY 3.000,-. If the case or work is not monetarily valuable it is allowed to appeal the decision to the Regional Courts.

Regional Courts' decisions rendered in a lawsuit with a value over TRY 40.000,- or decisions regarding disputes that are not monetarily valuable can be appealed to the Supreme Court eight days after receiving the notice of the decision (*Article 5 of the Amendment Law*).

2. The Amendment Law has introduced an additional article to the Civil Procedure Law for the automatic increase of the monetary limitations stipulated in some articles thereof. Accordingly, the monetary limitations stipulated in the Articles 200 [*burden of proof with written documents*], 201 [*no witness against a written document*], 341 [*appeal of decisions of the Civil Court of First Instance*], 362 [*decision of the Regional Courts that cannot be appealed*] and 369 [*hearings before the Supreme Court*] of the Civil Procedure Law will be annually increased in accordance with the revaluation ratios which are determined and announced by the Ministry of Finance under the Tax Procedural Law.

In terms of the application of the monetary limitations stipulated in the articles of the Civil Procedure Law stated above, it has also been stated that the value at the date on which the transaction is conducted will be taken into consideration for the Articles of 200 and 201 thereof, whereas the value at the date on which the decision is rendered by the relevant court will be taken into consideration for the Articles of 341, 362 and 369 (*Article 44 of the Amendment Law*).

3. The Amendment Law has introduced some amendments to the Civil Procedure Law in terms of the appellate procedures. Prior to the amendment, decisions of persistence ("*direnme kararı*") of the Civil Courts of First Instance and the Regional Courts against Supreme Court were examined by the Supreme Court Assembly of Civil Chambers. However, upon the amendment, decisions of persistence will be examined by the relevant chamber of the Supreme Court whose decision of reversal is challenged by such decision of persistence. The relevant chamber of the Supreme Court may either directly correct its decision of reversal or send the relevant case file to the Supreme Court Assembly of Civil Chambers for a further review (*Article 43 of the Amendment Law*).
4. The Amendment Law has introduced a provisional article to the Civil Procedure Law to avoid any confusion in the appellate procedures. Accordingly,
  - The decision of persistence will be examined by the relevant chamber of the Supreme Court whose decision of reversal is challenged by such decision of persistence, if the decision of a Civil Court of First Instance rendered at any time before the date on which the Regional Courts take office.
  - All of the case files, which are before the Supreme Court Assembly of Civil Chambers as of the date of entry into force of the Amendment Law, will be sent to the relevant chamber of the Supreme Court whose decision of reversal is challenged by a decision of persistence of the Civil Court of First Instance.
  - As an exception to the civil cases in the Amendment Law; as of the date of entry into force of the Amendment Law, appealed case files of Labor Courts before the Supreme Court Assembly of Civil Chambers are not sent back to the relevant chamber of Supreme Court in accordance with the Provisional Article 2 of Law on Labor Courts (*Article 45 of the Amendment Law*).

***This article aims to endow the reader with a general outline about its subject matter. Each individual case should be evaluated according to its circumstances.***