

Precedents Unified Regarding the Accrual of Interest on the Increased Amount in Full Remedy Actions as of the Date of the Initial Lawsuit

I. Introduction

The Decision of the Council of Unification of Case Law of the Council of State, numbered 2021/5 E. and 2024/2 K. (the “**Decision**”), was published in the Official Gazette dated April 16, 2025, and numbered 32872. In this Decision, the High Administrative Court, in line with a tendency to protect individuals directly harmed by administrative acts or actions, ruled that interest should accrue on the amount subject to the request for an increase in the claim amount as of the same date as the original amount requested in the statement of claim.

You may access the full Turkish text of the Decision [here](#).

II. Development of the Provision for Increasing the Claim Amount in Full Remedy Actions

Article 125 of the Constitution of the Republic of Turkey stipulates that judicial review shall be available against all acts and actions of the administration, and that the administration shall be liable for damages arising from its own acts and actions. Based on this constitutional provision, Article 2 of the Administrative Procedure Law No. 2577 (“**APL**”) sets forth the types of administrative actions individuals may initiate. Within this framework, full remedy actions - namely, compensation claims filed by individuals whose personal rights were directly violated due to administrative acts and actions - are regulated alongside actions for annulment. The primary aim of these lawsuits is to compensate for the actual damage caused by the administration.

Prior to 2013, due to the outdated procedural structure of administrative litigation, claimants were often unable to determine or calculate the exact amount of damages at the time of filing. Consequently, they were compelled to indicate a lower amount in the statement of claim, and any attempt to increase this amount during proceedings, based on the evidence examined, was obstructed by the procedural prohibition on expanding

or altering claims and defenses. As there was no procedural mechanism equivalent to filing a supplemental action under administrative procedure law, claimants were unable to secure compensation for the full extent of their losses.

As increasing the claim amount was not procedurally recognized, affected claimants faced legal detriment and upon their applications The Constitutional Court and the European Court of Human Rights rendered decisions finding violations of the right of access to court. In response to these decisions, Article 4 of Law No. 6459, published in the Official Gazette on April 30, 2013, and numbered 28633, amended Article 16(4) of the APL by adding the following provision:

"however, in full remedy actions, regardless of the amount, period, or other procedural rules indicated in the statement of claim, the amount may be increased once only, prior to the final decision, upon payment of the applicable fee, and the petition for the increase in amount shall be served on the opposing party, who shall be given thirty days to respond."

Thus, the amendment made it possible to increase the claim amount in full remedy actions. This mechanism, introduced to safeguard the right to an effective remedy and fair trial, is functionally similar to the procedural concept of amendment in civil litigation, and must be applied within the procedural constraints set out in the APL.

III. Chamber Decisions and the Opinion of the Chief Public Prosecutor of the Council of State

Due to the absence of a specific regulation regarding the date from which interest should accrue on the increased amount under the new procedural rule, the Chambers of the Council of State rendered diverging judgments on this issue, leading to inconsistencies and undermining legal certainty for claimants. The Decision references examples of these inconsistent rulings:

- Interest from the date of notification to the administration of the petition for increase: 2nd Chamber (2016/15694 E., 2019/976 K., dated 05.03.2019), 8th Chamber (2016/14173 E., 2021/1384 K., dated 05.03.2021), 10th Chamber (2015/2427 E., 2020/3409 K., dated 30.09.2020), 12th Chamber (2018/9732 E., 2020/4072 K., dated 08.12.2020),

- Interest from the date of submission to the court of the petition for increase: 2nd Chamber (2016/7379 E., 2020/1219 K., dated 27.02.2020), 6th Chamber (2015/5594 E., 2020/2234 K., dated 20.02.2020),
- Interest from the date of filing the original lawsuit at an incompetent court: 10th Chamber (2021/598 E., 2022/2602 K., dated 17.05.2022),
- Interest from the date of initiating the lawsuit or of administrative application, based on the recognition of default as occurring at that point: Administrative Litigation Chambers Board (2019/53 E., 2020/853 K., dated 09.06.2020),
- Interest from the date of administrative application: 8th Chamber (2021/2492 E., 2021/3450 K., dated 29.06.2021).

As evident, these contradictory decisions issued by the various Chambers of the Council of State posed a serious threat to legal certainty and consistency in practice. Consequently, upon the opinion of the Chief Public Prosecutor of the Council of State, the Council of Unification of Case Law (“**Council**”) resolved to unify the jurisprudence to eliminate these divergences.

The Chief Public Prosecutor argued that administrative applications do not serve the function of placing the administration in default. Drawing on analogies from private law, particularly in cases of tort and unjust enrichment where default arises upon the occurrence of the wrongful act itself without the need for a warning or protest, the Prosecutor opined that the administration should be deemed to have been in default from the date of the damage-causing act. Accordingly, the Prosecutor has come to the conclusion that if the amount of claim were to be increased in full remedy actions, interest on the increased amount should accrue from the same date as the originally claimed amount, and held the unification of the case law for appropriate.

IV. The Council’s Examination and Decision

In some of the aforementioned decisions, it was asserted that the amount which reflects the claimant’s actual loss is the increased amount set forth in the petition for increase. This loss, however, should be considered to arise not at the time of the expert examination or the date of the increase petition, but on the date of the incident or the date of the application to the administration. Since the full extent of the loss could not be known or

calculated at the time of filing, it was not possible to claim it in full at that stage. Thus, interest should accrue on the increased amount as of the date of the original lawsuit or the date of administrative application.

The Council endorsed this view upon its review, holding that in full remedy lawsuits the claimant's intention from the outset was to recover the full extent of the actual loss, which also covers the portion that was indeterminable at the time of initial filing. Therefore, the interest that accrues to the initial claim should also accrue on the increased amount from the same date as the initially claimed amount.

In conclusion, the Council found that treating the increased amount the same as the originally claimed amount in terms of the accrual date of interest would serve the constitutionally protected right to access to justice, align with the right to a fair trial, and fulfill the objective of Law No. 6459. Thus, the Council ruled by majority vote on October 24, 2024, that interest shall accrue on the increased amount as of the same date as for the originally claimed amount.

V. Conclusion

With this Unification of Judgments Decision by the Council of State, the divergences in jurisprudence regarding the date from which interest should accrue on increased amounts in full remedy actions have been resolved, eliminating uncertainty in practice. The Council's conclusion that the increased amount merely specifies the previously indeterminate portion of the claimant's actual loss, and that interest should run from the same date as the initial amount, meaningfully reinforces the rights to access to justice and fair trial, and enhances legal foreseeability and ensures certainty through consistent administrative court practice.

Dr. iur. Onur Ergöner, Managing Partner
Can Kaleli, Attorney at Law
Işıl Gizem Demirtaş, Legal Intern