

**CHANGES IN APPELLATE REVIEW SYSTEM**

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**I. Introduction**

The current Law on Civil Procedures (the “LCP”) numbered 6100 had entered into force on October 1, 2011 but the new appellate procedures introduced by the Law numbered 5235 on September 26, 2004 and repeated in the LCP had not entered into force due to the fact that regional courts of justice hadn’t been established and non-operational. Now finally, on July 20, 2016, regional courts of justice have become operational and therefore the new appellate procedures have entered into force, which changed the one-tier appellate review system constituted by merely the appellate review of Court of Appeals, into a two-tier appellate review system where another appellate review will be conducted by regional courts of justice before the review of Court of Appeals.

**II. The Main Difference in Post-Judgment Proceedings**

As mentioned above, the new system has brought a two-tier appellate review system. The main difference in this new system is that a new tier, namely appellate review to be conducted by regional courts of justice (the “RCJ”), has been added to the appellate review system as a whole new tier, before the final appellate review of Court of Appeals. In this respect, the rule is now that (save for certain exceptions) courts of first instance’s decision is to be reviewed by the RCJ (instead of Court of Appeals) and the RCJ’s ruling on courts of first instance’s decision is to be reviewed by Court of Appeals, save for certain exceptions. Before these changes, courts of first instance’s decisions were reviewed by Court of Appeals.

**(i) Courts of First Instance’s Decisions Subject to Appellate Review of the RCJ**

According to Article 341 of the LCP, courts of first instance’s decisions that can be appealed by parties are as follows: (i) indefinite and ultimate decisions and (ii) interim decisions given further to preliminary injunction requests together with provisional seizures. These decisions are subject to objection before the RCJ within 2 (two) weeks of service of the decision. Apart from those decisions indicated in this paragraph, no decision of courts of first instance can be appealed before the RCJ.

That said decisions having a monetary value below TL 2,190 cannot be subject to appellate review by the RCJ, regardless of whether or not they fall under the aforementioned scope. On the other hand, there is no limitation for courts of first instance’s decisions that are not concerning to a monetary value.

**(ii) RCJ Decisions Subject to Appellate Review of Court of Appeals**

The LCP regulates decisions that cannot be subject to appellate review per the *numerus clausus* principle under Article 362 and therefore any decision that does not fall under the scope of Article 362 can be subject to appellate review.

Decisions set forth under Article 362 which cannot be appealed are as follows:

- a) Decisions relating to a monetary value of TL 25,000 or less,
- b) Decisions rendered by courts of settlement as stated in Article 4 of the LCP,
- c) Decisions relating to jurisdiction,
- d) Decisions rendered with respect to *ex parte proceeding*,
- e) Decisions relating to correction of civil registry (save for paternity lawsuits),
- f) Decisions to transfer a lawsuit file due to legal or factual restraint,
- g) Decisions relating to temporary legal protections.

**III. Upcoming Legal and Need-to-Know Proceedings**

The right to appeal courts of first instance's decision before the RCJ (through the new appellate system) is granted to all parties of a lawsuit. The lapse of time to request for appellate review before the RCJ is 2 (two) weeks after service of the respective decision of court of first instance, provided that the legal requirements mentioned above are met.

Furthermore petition requesting appellate review must be submitted to the respective court of first instance since the court has the authority to either accept or reject such petition. However, in case such petition is rejected, the petitioner has also the right to request appellate review on such rejection decision within 1 (one) week after service thereof.

Additionally, if one party of a lawsuit is entitled to resort to the RCJ while the counterpart is not, the latter's ability to do so depend on whether or not the other party is resorting to the RCJ. In other words, if one party duly requests an appellate review from the RCJ, the other party may make an appellate request afterwards, even though the abovementioned 2 weeks' legal period is over. As per Article 366 of the LCP, the same goes for appellate review of Court of Appeals.

On a last note, jurisdiction of the RCJs cannot be changed or amended through contracts, meaning that agreements on jurisdictional power of the RCJs are null and void.

**IV. Structure of the RCJs**

Per Article 26 of Law on Establishment, Duties and Powers of First Instance Courts and Regional Courts of Justice numbered 5235, the RCJ consists of the following divisions: (i)

presidency, (ii) board of presidents (*constituted by the presidents of chambers and the RCJ itself*), (iii) chambers, (iv) public prosecutor office of the RCJ, (v) commission of justice of the RCJ and (vi) directorates.

So far only 7 (seven) RCJs are established and have been operational since July 20, 2016, which are as follows:

- a) Ankara RCJ (Responsible for 19 cities, with 27 civil and 17 criminal chambers)
- b) İstanbul RCJ (Responsible for 9 cities, with 37 civil and 23 criminal chambers)
- c) İzmir RCJ (Responsible for 8 cities, with 17 civil and 15 criminal chambers)
- d) Antalya RCJ (Responsible for 6 cities, with 12 civil and 11 criminal chambers)
- e) Samsun RCJ (Responsible for 9 cities, with 7 civil and 6 criminal chambers)
- f) Gaziantep RCJ (Responsible for 15 cities, with 17 civil and 17 criminal chambers)
- g) Erzurum RCJ (Responsible for 15 cities, with 6 civil and 5 criminal chambers)

## **VI. Conclusion**

The new system brings two-tier appellate review procedures into Turkish legislation. That being said, decisions of courts of first instance can no longer be appealed directly before Court of Appeals, as the RCJ is now the first stop for appellate review, followed by Court of Appeals' review, to the extent that it is admissible by the LCP.

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