



THE STATUTORY PROVISION ESTABLISHING THE 24% LEGAL INTEREST RATE, WHICH HAD REMAINED SIGNIFICANTLY BELOW INFLATION, WAS ANNULLED BY THE CONSTITUTIONAL COURT.

The Constitutional Court (“**Court**”), pursuant to its decision dated 22.07.2025 and numbered 2024/24 E. – 2025/164 K., published in the Official Gazette dated 01.12.2025 and numbered 33094 (“**Decision**”), ruled that Article 1 of the Law on Legal Interest and Default Interest No. 3095 dated 04.12.1984 (“**Law**”), as amended by Article 14 of Law No. 5335 dated 21.04.2005, is unconstitutional for violating Articles 35 and 40 of the Constitution. Accordingly, the Court annulled the said provision and ordered that the annulment shall enter into force nine months after its publication in the Official Gazette. The annulment will take effect on 01.09.2026.

I. EXECUTIVE SUMMARY

Pursuant to Article 152 of the Constitution and Article 40 of Law No. 6216 on the Establishment and Rules of Procedure of the Constitutional Court, the Kahramanmaraş 3rd Administrative Court requested the annulment of Article 1 of the Law on the grounds of unconstitutionality within the scope of concrete norm review. The provision subject to annulment reads as follows:

“Where interest is payable under the Code of Obligations and the Turkish Commercial Code, if the amount has not been determined by agreement, such payment shall be made at an annual rate of twelve per cent.

The President is authorized to determine this rate on a monthly basis, to reduce it by up to ten per cent, or to increase it by up to onefold.”

Court held, by majority, that Article 1 of the Law fails to establish an effective mechanism to preserve the real value of receivables under high inflationary conditions and therefore violates the

right to property and the right to an effective remedy. In the dissenting opinion, however, it was argued that the annulment was unwarranted, as Article 122 of the Turkish Code of Obligations that entered into force on 01.07.2012 (“TCO”), already provides an effective legal mechanism enabling the compensation of damages exceeding default interest, thereby safeguarding the right to property even in periods of high inflation; thus, the dissenters did not concur with the majority.

Considering the pilot judgment rendered in the Caner Şafak application by the Plenary on 08.07.2025¹, through which the Court notified the Grand National Assembly of Türkiye, it remains to be closely monitored how compensation mechanisms for inflation-induced losses not covered by statutory interest will be structured following the Decision.

II. ASSESSMENT OF THE CONSTITUTIONAL COURT

The Court evaluated Article 1 of the Law within the framework of Articles 35 and 40 of the Constitution. In this context, it determined that although interest is an ancillary receivable dependent on the principal receivable, it nevertheless constitutes property within the meaning of Article 35; that Article 40 guarantees the right to an effective remedy for persons whose fundamental rights and freedoms have been violated; and that, due to the State’s positive obligations, mechanisms must be established to eliminate the consequences of interference with the right to property or, if this is not possible, to compensate the owner’s losses. In this regard, it was stated that the State must develop effective tools to compensate for the depreciation in the value of an amount of money that could not be collected despite being due, that such depreciation can be partially or completely compensated through interest in inflationary periods, that updating the receivable according to inflation serves to protect the right to property, and that in its previous case law the Court emphasized that applying an interest rate below inflation on overdue receivables is problematic in terms of public order and individual rights.

In connection with this, the Court determined that during high inflation periods, exchange rates, deposit interest, treasury bill yields and government bond returns occur at levels far above the statutory interest rate; that for this reason the debtor gains economic advantage from late payment; and that the creditor suffers a loss beyond what is reasonable due to the loss of purchasing power of the money during the period of non-payment. It concluded that this situation disrupts public order and undermines the security of individuals and society.

¹ Our newsletter dated 01.10.2025 on this matter is available [at this link](#).

Accordingly, although Article 1 of the Law sets the statutory interest rate at 12% annually and authorizes the President to increase this rate up to one-fold, it was stated that the current regulation is far from protecting the real value of receivables under high inflationary conditions. The Court determined that no mechanism was envisaged to compensate for the loss in the purchasing power of money, that there is no effective legal remedy in the legal system to prevent the depreciation of receivables against inflation, and unanimously ruled that Article 1 of the Law violates Articles 35 and 40 of the Constitution.

III. EFFECT OF THE JUDGMENT

The Court held that the annulment of Article 1 of Law No. 3095 with respect to non-contractual debt relationships would create a legal gap detrimental to the public interest and therefore found it inappropriate for the annulment to take immediate effect pursuant to Article 153(3) of the Constitution and Article 66(3) of Law No. 6216. Accordingly, it was decided that the annulment would enter into force nine months after the publication of the Decision in the Official Gazette. In this context, the Decision will enter into force on 01.09.2026.

IV. DISSENTING OPINION

In the dissenting opinion authored by Court members Muhterem İnce and Ömer Çınar², the majority's conclusion that Article 1 of Law No. 3095 is unconstitutional on the grounds that it fails to prevent the loss of value of receivables against inflation was rejected; instead, it was argued that the existing legal framework on default interest already contains sufficient mechanisms to safeguard the right to property. According to the dissenting members, Articles 118, 120, and in particular Article 122 of the TCO allow creditors to claim damages exceeding default interest, without imposing a burden on the creditor to prove fault, while permitting the debtor to escape liability only by proving absence of fault. Therefore, it is stated that the fact that the statutory interest rate remains low during periods of high inflation does not amount to a violation of the creditor's right to property, as an effective compensation mechanism is already available under TCO Article 122.

² A similar dissenting opinion was also authored by Selahaddin Menteş, Muhterem İnce, and Ömer Çınar in the Caner Şafak application, which was adjudicated by the Plenary on 08.07.2025 and published in the Official Gazette dated 29.09.2025, No. 33032.

The dissenting opinion further emphasized that following the Court's *Ano İnşaat*³ decision, certain chambers of the Court of Cassation have adopted case law accepting the presumption of excess damages in inflationary periods, thereby relieving creditors of a heavy burden of proof. Consequently, an effective and accessible legal avenue exists in the Turkish legal system to protect receivables from inflation-induced depreciation, fulfilling the State's positive obligations.

In conclusion, the dissenting members maintained that Article 1 of Law No. 3095 does not violate the Constitution and that the legal instruments necessary to protect the right to property are already provided under the existing legislation; thus, they did not concur with the majority's decision to annul the provision.

V. OUR ASSESSMENTS

As noted in the dissenting opinion, under Article 122 of the TCO, it is possible for a creditor to claim the difference between the statutory default interest rate and inflation in periods of high inflation where the statutory interest remains below the inflation rate. In its *Ano İnşaat* judgment rendered in 2017, the Court held that imposing an additional burden of proof on the creditor to establish excess damage despite the depreciation of the receivable due to inflation constituted a violation of the right to property. Following this decision, certain chambers of the Court of Cassation developed case law holding that excess damages need not be proven separately⁴. However, the General Assembly of the Court of Cassation and some chambers continued to require creditors to prove the existence of excess damages even in inflationary periods.

The Court's findings in the present Decision are not novel; they align with its Plenary decision in the *Caner Şafak* application dated 08.07.2025, as well as with its earlier jurisprudence⁵. In this regard, it remains crucial to monitor how the legal mechanism for compensating high inflation-induced losses suffered by creditors will be shaped following the Decision, and how courts will adjudicate such claims until 01.09.2026, the date on which the annulment enters into force.

³ Application No: 2014/2267, Decision Date: 21.12.2017,

⁴ In line with this position, the dissenting opinion referred to the decision of the 15th Civil Chamber of the Court of Cassation dated 06.12.2018 and numbered 2018/3765 E., 2018/4907 K., as well as the decision of the 6th Civil Chamber of the Court of Cassation dated 13.01.2025 and numbered 2024/3534 E., 2025/15 K.

⁵ See Application No. 2014/2267, Decision Date: 21.12.2017; Application No. 2024/41763, Decision Date: 08.07.2025.

For any further information, you may contact us.



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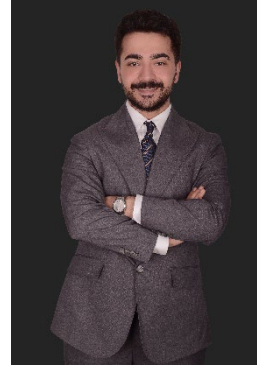
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This newsletter has been prepared as of 01.12.2025 for the purpose of providing a legal assessment of the Constitutional Court's decision annulling Article 1 of Law No. 3095.

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