

Precedent Constitutional Court Decision on the Union Rights of White-Collar Employees

A. Introduction

In its individual application decision dated 20 March 2025 and numbered 2022/18821 (“**Decision**”), the Constitutional Court of Türkiye (“**the Court**”) held that excluding white-collar employees from the benefits of a collective bargaining agreement constitutes a violation of the right to form and join trade unions.

The decision, published in the Official Gazette No. 33025 dated 22 September 2025, can be accessed [here](#).

B. Subject Matter of the Individual Application Decision

In the individual application giving rise to the Decision, the applicant — who was employed as a chief accountant — alleged that, despite being a member of a trade union, they were excluded from the scope of the Collective Bargaining Agreement (“**CBA**”) by the employer on the grounds that they were a “white-collar” employee, and were therefore considered “non-covered personnel.” The applicant also stated that, although salary increases negotiated under the CBA had initially been extended to non-covered personnel, this practice ceased as of 2007. The applicant filed a claim for receivables arising from the CBA, which was dismissed by the first-instance court. Although the decision was overturned at the appellate stage, upon retrial the claim was again dismissed on the grounds that other white-collar employees had also been excluded from the CBA, and the judgment subsequently became final.

The applicant filed an individual application before the Constitutional Court, alleging that they had been excluded from the scope of the CBA in violation of the Law No. 6356 on Trade Unions and Collective Bargaining Agreements (“**the Law**”).

They claimed that, as a result, their right to a fair trial, the principle of equality, and their right to form and join trade unions had been violated.

C. The Constitutional Court’s Assessment

In the individual application, the Constitutional Court relied on Articles 51 and 53 of the Constitution and Article 39 of the Law concerning trade union rights and entitlement under a collective bargaining agreement.

Article 39 of the Law provides that, except for employer representatives and those participating in collective bargaining on behalf of the employer, all members of the trade union party to a CBA shall benefit from it. Nevertheless, the first instance and appellate courts ruled that the applicant, a union member, was not entitled to CBA-related claims solely because they were a white-collar employee classified as non-covered, without examining whether they acted on behalf of the employer.

The Constitutional Court held that this reasoning was irrelevant and inconsistent with the facts. It further found that the lower courts’ insufficient reasoning violated the State’s positive obligations to ensure effective judicial review, and concluded that the applicant’s right to form and join trade unions under Article 51 of the Constitution had been violated.

D. Conclusion

The Constitutional Court’s decision in this individual application sets a precedent in safeguarding the trade union and collective bargaining rights of white-collar employees and is expected to serve as a guiding reference for the resolution of similar disputes.

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