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Landmark Ruling by Turkish Constitutional Court on Women's Right to Use Pre-Marriage Last Name

With the decision of the Turkish Constitutional Court published in the Official Gazette on April 28, 2023, Article 187 of the Turkish Civil Code (Law No: 4721, "TCC"), which obliges women to take the last name of the husband, was ruled unconstitutional and has been annulled.

The first sentence of Article 187 of TCC, which is the subject of the objection, states that a woman shall take her husband's last name upon marriage, but she may also use her previous last name in front of her husband's last name upon her written application made to the marriage officer or later to the civil registry office. In this respect, according to this provision, it was not possible for a woman to use her previous last name as her sole last name after marriage.

Istanbul 8th Family Court objected to the Constitutional Court on the grounds that the last name constitutes a part of a woman's identity and personality, and accordingly it is incompatible with the principle of equality allowing a man to use his last name for the rest of his life, whereas the same right is not granted to a woman, and further the European Court of Human Rights has ruled a decision regarding violation due to the different treatment in question.

The Constitutional Court ruled that the article in question violates Article 10 of the Constitution which regulates "Everyone is equal before the law without discrimination based on language, race, color, sex, political opinion, philosophical belief, religion, sect or any other similar grounds. Women and men have equal rights. The government is obliged to ensure that this equality is realised".

On the ground that the first sentence of Article 187 of TCC is unconstitutional, the Constitutional Court ruled that this article shall be annulled, and this ruling shall enter into force nine months after its announcement in the Official Gazette which will allow the legislator to prepare a new regulation and thus to prevent the loophole that may arise with the annulment of the relevant provision in accordance with Article 154/3 of the Constitution.

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