With its decision dated 11.05.2023 and application numbered 2018/14133

03/10/2023

With its decision dated 11.05.2023 and application numbered 2018/14133

"With its decision dated 11.05.2023 and application numbered 2018/14133, the Constitutional Court has decided that the dismissal of the case due to final judgment violated the applicant's right to access to court and right to a fair trial.

The individual application is regarding the claim that the dismissal of the lawsuit filed by the individual applicant due to the lack of a cause of action based on a final judgment violates his right of access to court. In the case that constitutes a final judgment, it has been decided to dismiss the lawsuit in line with the report of the Supreme Council of Health without making an examination with regards to the disability rate. The report on which the lawsuit was based was subject to an objection before the Supreme Council of Health and as a result of the objection, the disability rate determined as 0% in the first report has been corrected as 24%. However, it was decided to dismiss the case which was filed in line with the first report, without waiting for the outcome of the objection before the administration, and the case which was filed in line with the corrected report was decided to be dismissed due to final judgment.

In the court decision which is establishing a final judgment, the Constitutional Court concluded that the case was concluded without waiting for the re-determination of the disability rate, which is directly effective on the outcome of the dispute, and the process of finalizing the disability rate is a situation dependent on the administration, the rejection of the second case filed based on a final judgment constituted a disproportionate interference with the right to apply to the court and a retrial should be made.

You can access the full text of the decision at https://www.lexpera.com.tr/resmi-gazete/metin/anayasa-mahkemesinin-11-5-2023-tarihli-ve-2018-14133-basvuru-numarali-karari-32322."