

## **16.11.2000, E.2000/26, K.2000/48**

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### Headnotes:

A law establishing that the levels of rent determined in leases may not exceed 25% for the year 2000 conforms to the Constitution insofar as it represents a justified restriction to the right to property introduced with the aim of improving social relations and public order, and to restore the soured economic relationship between landlord and tenant.

### Summary:

The Pazaryeri Peace Court brought an action before the Constitutional Court in order to annul Provisional Article 7 of the Law on Rents of Real Estate. The Peace Court claimed that the challenged provision as a restriction on increases on renting property is contrary to the Constitution.

The Constitutional Court observed that it is normal that the rental prices increase in countries with a shortage of living and office accommodation if the State does not take necessary measures. However, in Turkey rental prices are high on the retail prices index, which runs contrary to principles of social justice. Therefore, in accordance with the rule of law, the State must take measures in order to restore social harmony, to preserve public order, and thus create a just distribution of revenues.

Article 35 of the Constitution provides that "Everyone has the right to own and inherit property. This right may only be limited by law, if in the public interest. The exercise of the right to own property shall not be in contravention of the public interest". The right to own and inherit property ensures individuals benefit from their property provided that they do not infringe the rights of others, and comply with the limitations made by laws. Article 48 of the Constitution gives to a state the competence to regulate on this issue.

The Constitutional Court observed that in a democratic state, limitations may be made if there are conditions to prefer the interests of society over that of individuals in order to maintain the democratic social order.

The aim of the challenged provision was stated to be the balance of the situation of the landlord and tenant, and the limiting of the increase in rental prices since this is always higher than the general inflation rate.

Therefore, the Constitutional Court considered that the challenged article had been drafted in order to realise social harmony and public order, and to restore the soured economic relationship between landlord and tenant. Rental prices are related to public law. It is clear that if the necessary measures have not been taken, rental prices would abnormally increase. It was also emphasised that when the phenomenon of rental prices is regarded as a social problem, this restriction is not contrary to Articles 2, 13, 35 and 48 of the Constitution. Hence, the objection was dismissed by a majority vote.