

Advisory

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Client Alert

## Constitutional Court Annuls Liability Exemption for E-Commerce Intermediary Service Providers in Consumer Contracts



### Introduction

The Constitutional Court's (“**Court**”) decision (“**Decision**”) dated 12 February 2026 E. 2024/187, K. 2026/42 was published in the Official Gazette on 2 June 2026. With this Decision, The Court annulled the rule set out in Article 9 (1) of the Law No. 6563 on the Regulation of Electronic Commerce (“**Law**”), insofar as it applies to consumer contracts.

The annulled provision had stipulated, unless otherwise provided by other laws, that intermediary service providers would not be liable for unlawful aspects relating to content, goods or services provided by service providers. The Court found that, insofar as the rule applies to consumer contracts, it failed to provide adequate safeguards for consumers and was incompatible with the State’s positive obligations concerning the protection of property rights and consumer interests.

## **Scope of the Annulment**

The Court limited its review of the relevant provision of the Law to consumer contracts. Accordingly, the annulment does not concern all forms of electronic commerce, but specifically the application of the liability exemption in consumer transactions.

The Court did not establish direct liability of intermediary service providers. Rather, it concluded that a complete statutory exclusion of liability in consumer transactions was unconstitutional.

## **Key Reasoning of the Court**

The Court emphasized that the current framework may leave consumers inadequately protected, particularly in circumstances where intermediary service providers play a significant role in facilitating consumer transactions or where consumers cannot effectively reach the seller or service provider. The Decision underlines that a blanket exclusion of liability for intermediary service providers in consumer contracts may upset the fair balance between platform operators and consumers. In the Court's view, the existing rules did not contain sufficient safeguards to prevent consumers from bearing an excessive burden in cases involving unlawful content or defective goods offered through e-commerce platforms.

## **Effective Date and Practical Impact**

The annulment will enter into force nine months after the publication of the Decision in the Official Gazette. Therefore, the relevant annulment rulings will become effective on 2 March 2027.

Until then, the current rules remain in force. However, the Decision signals that the Turkish legislator will likely need to introduce a revised liability framework before the annulment takes effect.

E-commerce marketplace operators, platform providers and other intermediary service providers should closely monitor upcoming legislative developments and reassess their consumer facing compliance, complaint-handling and product listing control mechanisms considering the Court's reasoning.

## **Conclusion**

Decision marks a significant development for the liability regime applicable to e-commerce platforms in Türkiye. By annulling the liability exemption set out in Law for consumer contracts, the Court has set aside, with effect from 2 March 2027, a key statutory protection currently available to intermediary service providers in consumer transactions, subject to the entry into force of the annulment decision.

The full text of the Decision is available at this [link](#).