

Fair Trial Rights of Taxpayers

When considering the penalties that are imposed in the form of monetary fines or imprisonment to those who violate the Turkish tax laws, the national law treats these violations as criminal offenses and they are arranged to be deterrent. As such the legal system must ensure legal protections and individuals are entitled to right to a fair trial during these legal proceedings and any legal action undertaken in relation to tax law implementation.

The protection of individual rights in legal proceedings and actions within the Turkish legal system is also applicable to cases involving tax disputes. In order to ensure individuals' legal protections, the Turkish Constitution requires the tax administrations' legal procedures and actions to be subject to judiciary review. However in order to fully ensure this protection judicial control must be more effective. Legal arrangements through the right to a fair trial principle for increasing the effectiveness of judicial control and authority are included in the international human rights conventions and treaties as well as the European Convention of Human Rights (ECHR).

Right to Fair Trial

The right to a fair trial is regulated in the 6th article of ECHR as following:

1. In the determination of his civil rights and obligations or of any criminal charge against him, everyone is entitled to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law. Judgment shall be pronounced publicly but the press and public may be excluded from all or part of the trial in the interest of morals, public order or national security in a democratic society, where the interests of juveniles or the protection of the private life of the parties so require,

or the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice.

2. Everyone charged with a criminal offence shall be presumed innocent until proved guilty according to law.
3. Everyone charged with a criminal offence has the following minimum rights:

(a) to be informed promptly, in a language which he understands and in detail, of the nature and cause of the accusation against him;

(b) to have adequate time and the facilities for the preparation of his defence;

(c) to defend himself in person or through legal assistance of his own choosing or, if he has not sufficient means to pay for legal assistance, to be given it free when the interests of justice so require;

(d) to examine or have examined witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him;

(e) to have the free assistance of an interpreter if he cannot understand or speak the language used in court.

Article Six of the convention includes protections such as a right to trial, unbiased place of tribunal, fair and public hearings, equality of arms, right to remain silent, presumption of innocence and reasonable time periods for trial. However, it can be understood from the article, that these rights are regulated in relation to criminal charges and civil rights and disputes. In this case, the applicability of this principle to trials involving tax penalties and tax returns should be examined.

Implementations of Rights to Fair Trial Principle in Tax Disputes

The implementation of this right in tax disputes

In order for disputes to be subject to the right to a fair trial principle, they need to be in relation to civil rights or obligations. The European Convention on Human Rights (ECHR), on the other hand, does not characterize this concept to obligations and rights in the area of public law. However, when the court reviews cases they do so disregarding domestic law and instead base

“Although taxation affairs are monetary or tangible affairs, they are a matter of public affairs”

TAXES