



MACROJOURNALS

# The Journal of **MacroTrends** in Social Science

## THE OBJECTION TO THE INTERIM INJUNCTION IN LAW OF CIVIL PROCEDURE

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### Abstract

*Our study is about the objection to the interim injunction. The interim injunction enables one side to reach the right of dispute on the one hand, while the other side can bring about a number of violations and losses on the legal and economic life of the other party. Here are some preventive measures in order to be able to prevent these mistakes and reach the full extent of what is required to be provided by the interim injunction. One of these is the legal remedy that anyone who decides on an injunction without listening to can apply. It may appeal against the injunctions given in the absence of the person to whom the injunction is issued. However, when an interim injunction is issued, the party who is listened does not have a such possibility. The party who is not listened can appeal to interim injunction about the conditions of injunction, the guarantee and the authority of the court. Also third person may appeal against the interim injunction. But for this, the implementation of the injunction must be clearly violated for the benefit of the third person. For third person, a limitation has been imposed on the objection reasons. The third person may only appeal to the conditions of injunction and the guarantee. There is no such an objection in respect of the authority of the court, because it is only a person who is affected by the interest and affects the interest of the enforcement of the measure. The objection is made to the decision court. The parties shall be called upon after the request is made and decision shall be taken after the necessary examination. Unless otherwise decided, the objection to the injunction will not stop the execution of the injunction. However, the court may decide to temporarily suspend the execution of the interim injunction upon objection. The injunction given in the absence of a party may appeal to the decision within one week from the notification of the memorandum on the implementation of the injunction. Upon objection, the court decides on the objection after calling and listening to the two parties. It may be gone to other ways of law against the decision of accepting or rejecting the objection.*

**Keywords:** *C The Interim Injunction, Objection, Legal Remedy, Objection Reasons, Other Party, Third Person, The Way of Judgement, The Effect and Time of Objection, Decision of Judgement, Ways of Law*

## § 1 THE OBJECTION TO THE INTERIM INJUNCTION

### A. GENERAL INFORMATION

To issue an interim injunction is regulated in the law that can be resisted in different ways. One of them stipulated for an injunction without the other party being heard, given the possibility of objection. The objection is directly related to the rights of the defence. Objection with regard to the legal nature of a law is the way; there is a legal remedy should be demonstrated. There are two basic features of law.

The first of these, the application of law to the Court of First Instance made a decision formally to be a parent and passed through to the front of the finalisation<sup>1</sup>. In this sense the right to objection is not a law<sup>2</sup>. An objection, it's not about a final decision, as an interim injunction, the decisions about the nature of the decision is a way that can be referenced<sup>3</sup>. This way is not a law, on the contrary there is a legal remedy. Legal remedy, court decisions, and especially against the decision of the Parties may apply to the court which is a legal way<sup>4</sup>. Law in the broadest sense, it includes legal remedies. However, legal remedies in the narrow sense of not taking the law into our system of law<sup>5</sup>. With number of 6100 Law of Civil Procedure Code of the decision of the injunction in the nature of the law in terms agreed could go the way of interim decision. Because of this, a little bit of understanding of the law in the narrow sense has been expanded. Thus, the request for injunctive relief against the decision of rejection of the law paved the way for, of a preliminary injunction, if deemed justified, for the possibility to objection against this decision which is in the nature of a legal remedy is recognized. The law is clear in terms of the decisions which are required by the regulation of law in respect of which legal remedy of objection is in the nature of decisions which can go the way that it is arranged.

### B. THE OBJECTION REASONS OF INTERIM INJUNCTION

#### 1. The Other Party Must Be Listened About Interim Injunction Decision

Someone who decides on an injunction without listening to can apply. It may appeal against the injunctions given in the absence of the person to whom the injunction is issued. However, when an interim injunction is issued, the party who is listened does not have a such possibility<sup>6</sup>. The party who is

<sup>1</sup> Akcan, Recep, Usul Kurallarına Aykırılığa Dayanan Temyiz Nedenleri, Ankara 1999, s.7; Üstündağ, Saim, Medeni Yargılama Hukuku, Cilt I – II, Gözden Geçirilmiş ve Yenilenmiş 7. Baskı, İstanbul 2000, s.816; Alangoya, Yavuz/ Yıldırım, Kamil/ Deren – Yıldırım, Nevhis, Medeni Usul Hukuku Esasları, 7. Baskı, İstanbul 2009, s.446; Kuru, Baki/ Arslan, Ramazan/ Yılmaz, Ejder, Medeni Usul Hukuku, Ders Kitabı, Değiştirilmiş 21. Baskı, Ankara 2010 (Kuru/ Arslan/ Yılmaz – HUMK), s.634; Pekcanitez, Hakan/ Atalay, Oğuz/ Özkes, Muhammet, Medeni Usul Hukuku, 8.Bası, Ankara 2009 (Pekcanitez/ Atalay/ Özkes – HUMK), s.541.

<sup>2</sup> Akcan, s.7, dn.2.

<sup>3</sup> Akcan, s.7; Pekcanitez/ Atalay/ Özkes – HUMK, s.542; Üstündağ, s.816.

<sup>4</sup> Akcan, s.7, dn.3; Pekcanitez/ Atalay/ Özkes – HUMK, s.542; Üstündağ, s.816.

<sup>5</sup> Pekcanitez/ Atalay/ Özkes – HUMK, s.542; Üstündağ, s.816; Kuru/ Arslan/ Yılmaz – HUMK, s.634; Alangoya/ Yıldırım/ Deren – Yıldırım, s.446; Akcan, s.11.

<sup>6</sup> Ercan, İbrahim, Medeni Usul Hukukunda İhtiyati Tedbir, Konya 1992 (Yayınlanmamış Yüksek Lisans Tezi), s.132; Pekcanitez, Hakan/ Atalay, Oğuz/ Özkes, Muhammet, Hukuk Muhakemeleri Kanunu Hükümlerine Göre Medeni Usul Hukuku, 12.Bası, Ankara 2011 (Pekcanitez/ Atalay/ Özkes – HMK), s.723; Kuru, Baki/ Arslan, Ramazan/ Yılmaz, Ejder, Medeni Usul Hukuku, Ders Kitabı, 6100 sayılı HMK'na Göre Yeniden Yazılmış 22. Baskı, Ankara 2011 (Kuru/ Arslan/ Yılmaz – HMK), s.586-587; Pekcanitez/ Atalay/ Özkes – HUMK, s.654; Kuru/ Arslan/ Yılmaz – HUMK , s.620; Umar, Bilge, Hukuk Muhakemeleri Kanunu Şerhi, Ankara 2011,

not listened can appeal to interim injunction about the conditions of injunction, the guarantee and the authority of the court. The party listened when issuing an injunction party must notify the court at the hearing of objections to the interim injunction and all the rest<sup>7</sup>. By means of such a possibility, subsequently there is no right of objection.

As a rule, the two parties the court decides on the request for interim injunction after listening to the call. However, in the event that immediately is required to protect the rights of the claimant, the judge can grant an injunction without listening to the other side. Granted interim injunction the other party without being heard the right to objection the decision of the granting of the rights of the defence is directly related to. In this case not essential to the right of defence, right to objection the decision of provisional legal protection are released after this connecting<sup>8</sup>.

## **2. The Objection Reasons About Other Party And Third Person**

### **a. The Objection Reasons About Other Party**

#### **aa. The Objection To The Reasons Of Interim Injunction**

The party who is not listened can appeal to interim injunction about the conditions of injunction, the guarantee and the authority of the court. When looking at the conditions of the injunction, the terms of the injunction of the Law of Civil Procedure, not being individual, but in general prepared. Accordingly, when the request for the injunction was made because of a change in the current situation that may occur, since it would be difficult to be in the hands of a significantly right, in the right hands for it to be completely impossible, since because of the delay in obtaining the right of mind, or concern that will rise to serious harm in case of dispute about the subject matter we are limited by the terms of the injunction.

s.1096; **Ercan**, İsmail, Medeni Usul Hukuku, İstanbul 2011, (**Ercan – Themis**), s.341; **Postacioğlu**, İlhan E., Medeni Usul Hukuku Dersleri, 6.Baskı, İstanbul 1975, s.494; **Abdurrahim**, Karslı, Medeni Muhakeme Hukuku Ders Kitabı, 6100 sayılı HMK Hükümlerine Göre Yargıtay Kararları İşlenmiş ve Gözden Geçirilmiş 2. Baskı, İstanbul 2011, s.647; **Kuru**, Baki, Hukuk Muhakemeleri Usulü El Kitabı, Ankara 1995 (**Kuru-El Kitabı**), s.729; **Bilge**, Necip, Medeni Yargılama Hukuku, 2.B, Ankara 1967, s.330; **Bilge**, Necip/ **Önen**, Ergun, Medeni Yargılama Hukuku Dersleri, Ankara 1978, s.375; **Yılmaz**, Ejder, Geçici Hukuki Himaye Tedbirleri, C.I, Ankara 2001, s.969; **Yılmaz**, Orhan, İhtiyati Tedbirler, Konya 1963, s.114; **Kılıç**, Halit, Açıklamalı ve İçtihatlı 6100 Sayılı Hukuk Muhakemeleri Kanunu, C.II, Ankara 2011, s.2943; **Kuru**, Baki, Hukuk Muhakemeleri Usulü, 6.B, C.IV, İstanbul 2001 (**Kuru-Usul**), s.4349; **Üstündağ**, s.587; Bkz. **Konecny**, Andreas, Der Anwendungsbereich der einstweiligen Verfügung, Wien 1992, s.94-96; Karş. **Kılıç**, s.2943.

<sup>7</sup> **Karslı**, s.647; **Kılıç**, s.2943; **Yılmaz**, s.969-970; **Ercan**, s.132; **Ercan – Themis**, s.341; **Postacioğlu**, s.494; **Üstündağ**, s.588; **Kuru-Usul**, s.4349; **Berkin**, Necmeddin M., Tatbikatçılara Medeni Usul Hukuku Rehberi, İstanbul 1982, s.527; **Bilge**, s.331; **Bilge/ Önen**, s.375; **Kuru - El Kitabı**, s.729; **Kuru/ Arslan/ Yılmaz – HUMK**, s.621; **Kuru/ Arslan/ Yılmaz – HMK**, s.587; **Alangoya/ Yıldırım/ Deren – Yıldırım**, s.446; **Pekcanitez/ Atalay/ Özekes – HMK**, s.723; **Pekcanitez/ Atalay/ Özekes – HUMK**, s.654; **Umar**, s.1110; **Alangoya**, Yavuz, Medeni Usul Hukuku Esasları I, İstanbul 2000, s.362; **Orhan**, s.115.

<sup>8</sup> **Yılmaz**, s.970; **Ercan**, s.132; **Ercan – Themis**, s.341; **Postacioğlu**, s.494; **Üstündağ**, s.588; **Kuru-Usul**, s.4349; **Berkin**, s.527; **Bilge**, s.331; **Bilge/ Önen**, s.375; **Kuru - El Kitabı**, s.729; **Kuru/ Arslan/ Yılmaz – HUMK**, s.621; **Karslı**, s.642, 648; **Kılıç**, s.2943; **Kuru/ Arslan/ Yılmaz – HMK**, s.587; **Alangoya/ Yıldırım/ Deren – Yıldırım**, s.446; **Pekcanitez/ Atalay/ Özekes – HUMK**, s.654; **Umar**, s.1110; **Orhan**, s.116; **Pekcanitez/ Atalay/ Özekes – HMK**, s.723.

With the principal of the interim injunction is which is the basis of the presence of the cause is the emergence of a right and reasons of injunction<sup>9</sup>. These form the basic requirements for interim injunction. Uncontested in the judicial work, too, falls within the range of nature, to the extent in question is arranged to apply the terms of the injunction

### **aaa. There Must Be A Right Which Is The Subject Of The Interim Injunction**

The interim injunction which is the subject of rights, is the subject of dispute. The thing is so contentious between the parties or judgment or thing forming the subject of rights at the same time, is the subject of the injunction. At this point, the temporary legal protection granted on other issues which fall under the scope of a interim injunction should be careful not.

### **bbb. There Must Be A Reason For The Interim Injunction**

Generally, the reasons for interim injunction;

- The difficulties of obtaining the right,
- It becomes impossible to obtain the right,
- The right is obtained due to the delay can be expressed in the form of the mind or of the occurrence of the damage.

With one of these reasons should give the judge an injunction decision. Here because the judge decided with a full opinion to be definitive evidence that the requested measures, it is not possible to create, on the other hand with putting the evidence to justify the minimum extent injunction decision, it is important to make an assessment of the extent of the proof about<sup>10</sup>. Necessarily of an interim injunction is not required to be given to the harm that still exists<sup>11</sup>. The decision which eliminates the damage is not an obstacle to granting interim injunctions. For example, measures to prevent the violation of the right of personality by way of press release the measures of this nature are prohibitive. The reasons of injunctions are not limited. The party which decides about the terms of the injunction be able to challenge without being heard.

### **bb. The Objection To The Guarantee**

<sup>9</sup> **Rosenberg**, § 168, s.1047; **Üstündağ**, Saim, İhtiyati Tedbirler, İstanbul 1981. (**Üstündağ-Tedbir**), s.17; **Ercan – Themis**, s.341; **Alangoya**, s.355; **Bilge/ Önen**, s.367; **Bilge**, s.324; **Karslı**, s.640; **Berkin**, s.527; **Kuru - El Kitabı**, s.714; **Postacıoğlu**, s.487; **Ercan**, s.7; **Ercan – Themis**, s.336; **Pekcanitez/ Atalay/ Özekes – HMK**, s.717; **Pekcanitez/ Atalay/ Özekes – HUMK**, s.653-654; **Üstündağ**, s.583 vd; **Umar**, s.1090-1091; **Alangoya/ Yıldırım/ Deren – Yıldırım**, s.409 vd.; **Kuru/ Arslan/ Yılmaz – HUMK**, s.613; **Kuru/ Arslan/ Yılmaz – HMK**, s.585; **Orhan**, s.25 vd.

<sup>10</sup> **Ercan – Themis**, s.341; **Karslı**, s.642; **Kuru - El Kitabı**, s.714; **Postacıoğlu**, s.487; **Pekcanitez/ Atalay/ Özekes – HMK**, s.717; **Umar**, s.1090-1091; **Alangoya/ Yıldırım/ Deren – Yıldırım**, s.409 vd.; **Kuru/ Arslan/ Yılmaz – HUMK**, s.613; **Kuru/ Arslan/ Yılmaz – HMK**, s.585; **Orhan**, s.25 vd.

<sup>11</sup> **Pekcanitez/ Atalay/ Özekes – HMK**, s.717; **Pekcanitez/ Atalay/ Özekes – HUMK**, s.653-654; **Ercan**, s.89 vd.; **Üstündağ**, s.583 vd; **Umar**, s.1090-1091; **Alangoya/ Yıldırım/ Deren – Yıldırım**, s.409 vd.; **Alangoya**, s.356; **Üstündağ-Tedbir**, s.17; **Özekes**, Muhammet, Fikir ve Sanat Eserleri Hukukunda İhtiyati Tedbir, DEÜHFD, C.4, S.2, Y.2002, İzmir (s.89-137), s.103.

The person who request interim injunctiom must give guratee that if he was wrong, the other party and third parties suffer due to possible losses that would correspond to this injunction. At this point about requesting an interim injunction to be heard without pointing to a person who received by way of objection against the guarantee.

The injunction request, if it is based on official document, or other evidence the court may decide not to explicitly specify the condition that guarantee by the reasoning of reason. Similarly, requesting interim injunction in case of a person who benefited from legal aid, because it is not needed to show guarantee for the measure of security will be subject to the right to an objection<sup>12</sup>. But the person who is not listened can object the reasons of injunction and the authority of the court.

### **cc. The Objection To The Authority Of The Court**

In terms of interim injunction will depend on whether the jurisdiction of the court the suit is brought or not. Accordingly, opening the case before the competent court is primarily about interim injunction is requested from<sup>13</sup>. After the case is opened, the injunction, however, the real case where the court is held can be requested from. Because it was sued after the court case is the only real injunction in terms of competent and responsible<sup>14</sup>. Therefore, another court injunction will be invalid<sup>15</sup>. The party who is not listened may object to the court about the authority of an injunction is issued.

### **b. The Objection Reasons About Third Person**

Third parties also may object to issue a interim injunction. For this, the interests of third parties must have been a clear violation of as a result of the implementation of the injunction<sup>16</sup>. This provision is a parallel arrangement of the provisions of the Enforcement and Bankruptcy Law and it is new in terms of our law<sup>17</sup>. It's not just the other side of injunction, the third person has been granted such an opportunity as possible for the affected and damage by third parties. Third parties, however, may object to the guarantees and the conditions of the injunction. About the authority of the court, an interest of the third person is out of the question.

## **C. THE OBJECTION PROCEDURE OF THE INTERIM INJUNCTION**

### **1. The Parties Of Objection**

<sup>12</sup> **Rosenberg**, Leo, Zivilprozessrecht, München 1993, § 168, s.1043.

<sup>13</sup> **Jauernig**, Othmar, Zivilprozessrecht, München 1993, s.210; **Kuru/ Arslan/ Yılmaz** – HMK, s.585.

<sup>14</sup> **Durman**, Okay, İhtiyati Tedbirde ve İhtiyati Tedbirden Sonra Açılan Davada Görevli Mahkeme, Legal Medeni Usul ve İcra İflas Hukuku Dergisi, C.1, Y.2010, (s.53-56), s.55; **Yılmaz**, s.877; **Yılmaz**, Ejder, Dosyadan El Çeken Mahkemenin Kanun Yolu Aşamasında Bulunan Davada İhtiyati Tedbir Kararı Verme Yetkisi, Legal Medeni Usul ve İcra İflas Hukuku Dergisi, C.2, Y.2009, (s.213-220), s.213; **Özekes**, s.105 vd.; **Umar**, s.192; **Ercan**, s.73; **Karlı**, s.644; **Kuru/ Arslan/ Yılmaz** – HMK, s.586; **Pekcanitez/ Atalay/ Özekes** – HMK, s.717; **Pekcanitez/ Atalay/ Özekes** – HUMK, s.654; **Ercan** – Themis, s.338-339; **Kuru/ Arslan/ Yılmaz** – HUMK, s.617-618; **Alangoya**, s.360; **Kuru** - El Kitabı, s.776; **Bilge/ Önen**, s.372; **Bilge**, s.331; **Postacıoğlu**, s.492-492; **Orhan**, s.44.

<sup>15</sup> **Kuru/ Arslan/ Yılmaz** – HMK, s.586.

<sup>16</sup> **Pekcanitez/ Atalay/ Özekes** – HMK, s.717; **Kuru/ Arslan/ Yılmaz** – HMK, s.585; **Ercan** – Themis, s.341-342; **Karlı**, s.647; **Umar**, s.1110; **Kılıç**, s.2943-2944.

<sup>17</sup> **Deynekli**, Adnan/ **Saldırım**, Mustafa, Öğreti ve Uygulamada İhtiyati Haciz, 3.B, Ankara 2011, s.538-539.

### a. The Other Party Of Objection

The request for interim injunction that may be included in one of the right is the one which is likely to be violated or endangered<sup>18</sup>. Against this danger of violation of the law affected the interests and the rights arising from the other party (defendant) has the opportunity to appeal such an action<sup>19</sup>. In accordance with the principles of the Civil Procedure Law based on the concept of sides of the shape, as against the requesting party which is showed up, when in demand, is regarded as a partner<sup>20</sup>. More than one person may object interim injunction. Here the other party a demand in terms of friendship and this friendship will be out of the question, together or separately based on whether they object to an injunction is mandatory or voluntary<sup>21</sup>.

### b. Third Person

As we have said above, the position of the third person and benefit from the injunction, the affected people will also have the opportunity to be able to object against the injunction.

## 2. Competent Court

The appeal is made to the court which made the decision. An interim injunction issued before the opening of the case and open the case before the appeal on the merits if the measure requested an injunction to object against the decision of the court, the case must be made to the court<sup>22</sup>.

Object against injunction before the case is opened is made to the court which has issued an interim injunction. However, this court by object, it is not possible to make a decision about calling fort he parties. Because of the demand for the implementation of the injunction is required to be filed from the date since the injunction not to open a case like this will result in the lifting of the measure before the court's injunction decision and opening the case will have the opportunity to review to presented<sup>23</sup>. Therefore, the court which has issued an injunction before the case is opened, the petition of object, the injunction along with the file, and send the case to the court any objections to the measures to be made either way, the case examination in court would be more appropriate<sup>24</sup>. If requested an interim injunction to the duties of the court, the object shall be made to this court<sup>25</sup>. However, in our opinion, the counterparty or a third party whose right has been violated in this case on the merits in the competent court of the case following the opening of the object in this court must review the object.

<sup>18</sup> **Özekes**, s.106; **Deren – Yıldırım**, Nevhis, Haksız Rekabet Hukuku ile Fikri ve Sınai Mülkiyet Hukukunda İhtiyati Tedbirler, İstanbul 1999, s.28.

<sup>19</sup> **Yılmaz**, s.869; **Özekes**, s.106; **Deren – Yıldırım**, s.28; **Ercan**, s.132; **Kılıç**, s.2943; **Kuru – Usul**, s.4349; **Kuru – El Kitabı**, s.729; **Karşı**, s.648; **Ercan – Themis**, s.341; **Bilge**, s.3311; **Bilge/ Önen**, s.375; **Berkin**, s.527; **Postacioğlu**, s.494-495; **Üstündağ**, s.582; **Orhan**, s.25; **Üstündağ – Tedbir**, s.16; **Pekcanitez/ Atalay/ Özekes – HUMK**, s.654; **Pekcanitez/ Atalay/ Özekes – HMK**, s.717; **Kuru/ Arslan/ Yılmaz – HMK**, s.586.

<sup>20</sup> **Yılmaz**, s.869; **Özekes**, s.110; **Ulukapı**, Ömer, Medeni Usul Hukukunda Dava Arkadaşlığı, Konya 1991, s.8.

<sup>21</sup> **Özekes**, s.110-111.

<sup>22</sup> **Ercan**, s.133; **Yılmaz**, s.970; **Kılıç**, s.2944; **Kuru – Usul**, s.4349; **Kuru – El Kitabı**, s.729; **Bilge**, s.311; **Bilge/ Önen**, s.375; **Postacioğlu**, s.494-495; **Üstündağ**, s.582; **Orhan**, s.25; **Üstündağ – Tedbir**, s.16; **Pekcanitez/ Atalay/ Özekes – HUMK**, s.654; **Kuru/ Arslan/ Yılmaz – HMK**, s.586.

<sup>23</sup> **Ercan**, s.134; **Yılmaz**, s.971; **Kılıç**, s.2944-2945; **Kuru – Usul**, s.4349; **Kuru – El Kitabı**, s.729; **Bilge**, s.331; **Bilge/ Önen**, s.375; **Postacioğlu**, s.494-495; **Üstündağ**, s.582; **Orhan**, s.25; **Üstündağ – Tedbir**, s.16; **Pekcanitez/ Atalay/ Özekes – HUMK**, s.654; **Kuru/ Arslan/ Yılmaz – HMK**, s.586.

<sup>24</sup> **Ercan**, s.134; **Yılmaz**, s.971; **Kuru – Usul**, s.4349; **Kuru – El Kitabı**, s.729; **Bilge**, s.311; **Bilge/ Önen**, s.375; **Postacioğlu**, s.494-495; **Üstündağ**, s.582; **Üstündağ – Tedbir**, s.16.

<sup>25</sup> **Kuru – Usul**, s.4350; **Kuru – El Kitabı**, s.730; **Ercan**, s.134-135.

### **3. The Procedure And Examination Of The Objection**

#### **a Request**

A person who received the request for an injunction before heard about has the possibility to object against the injunction. An object is made by petition. The way is determined which you'd be held in accordance with the general provisions of the object. To the extent that the petition falls within the range of the factors will be here. It is argued that objections in a serious manner is required.

#### **b The Invitation Of The Parties**

On object, the court decides on the object after hearing the two parties on the call. Was the rest of the parties when issuing an injunction, even though the rest of the relevant parties and third parties when making a decision about the object they should be invited to. If they didn't come on the file by performing inspection is decided. Because about provisional legal protection must be decided in a short time.

#### **c The Examination Procedure**

The objection about interim injunction is done with simple trial procedure. The court makes proof a similar assessment about the adoption of the interim injunction. The judge is requested to make an assessment of the extent of a concrete reason about showing proof<sup>26</sup>.

### **4. The Effect And Time Of Objection**

#### **a. The Effect Of Objection**

Unless otherwise decided, the injunction object, the measure does not stop the execution of the decision. The court, however, may decide the suspension of the enforcement of an interim injunction on object.

#### **b. The Time Of Objection**

In the Law of Civil Procedure, object an interim injunction is linked to a period. Accordingly, when issuing an injunction whose sides measure means, as a rule, will be informed during the implementation of the measures. Because parties who are not present during the measure or the situation will be sent to the third party according to the minutes of the injunction. Here's the injunction in the absence of a given person, may object within one week of the receipt of a report on the implementation of measures. With respect to the party who is present during the implementation of the measure, appeal from the start and the duration of the implementation of measures a week. Of third parties this time is a week from they learn the measures.

## **D. DECISION OF JUDGEMENT AND WAYS OF LAW ABOUT OBJECTION OF INTERIM INJUNCTION**

### **1. DECISION OF JUDGEMENT ABOUT OBJECTION OF INTERIM INJUNCTION**

#### **a. The Acception Of The Objection**

On appeal, the court shall deliver its decision after hearing the two parties on the call. If either or both of the parties, the court makes its decision on file review by making. Court on the objection if

<sup>26</sup> Rosenberg, § 168, s.1047; Özekes, s.113; Ercan, s.133-134; Yılmaz, s.974; Kılıç, s.2944; Kuru/ Arslan/ Yılmaz – HMK, s.586; Karslı, s.648; Ercan – Themis, s.342; Pekcanitez/ Atalay/ Özekes – HMK, s.718.

objection is so right in his review, measures, and according to the situation if the court accepts the objection regarding the competence of the collateral, the measure to completely remove or change. A judge may decide to measure or to be changed at the discretion of the preservation of<sup>27</sup>.

### b. Rejection Of The Objection

If the court finds that the objection is not justified, it decides to reject the objection. The dismissal of an interim dispute object requires that there is no contradiction in measure and that the same remedy as the court is required to continue.

## 2. WAYS OF LAW ABOUT OBJECTION OF INTERIM INJUNCTION

The court may go against the interim injunction against the decision on acceptance or rejection of the object. In the case of rejection of the interim injunction it is possible to go directly to the law, whereas in case of accepting the interim injunction, only the object can be made on the decisions on the object<sup>28</sup>. The application is made to the court or another court that has made a decision within two weeks of the decision on the object. The application is examined first and is strictly reserved. The application of the measure does not stop the application for object.

### CONCLUSION

Interim injunctions can be countered in different ways. One of these is the possibility of objection for the injunctions given without restraint. This possibility is directly related to the right to defense and to the opponent who has not been able to use his right to defend the right to defend with such a possibility. In other words, when the injunction is given, the right of defense of the unhealthy side is not violated but it is connected to the time as an objection. The objection is a legal tribunal that does not have an effect on the finalization of the decision, and is not a form of law because it has not been examined in its superior court. In addition, the objection was brought in terms of third parties affected by both parties and interests. Although the injunction has been awarded against the other party, it is possible that the third party is also affected.

The terms of the injunction the other party, guarantee, and the authority of the court can object to interest while to be a clear violation of the third person, however, may appeal to the guarantees and the conditions of the injunction. It is also possible that there are more than one objectioners, in this case a demanding friendship. And that this friendship is voluntary or compulsory.

The objection is made to the decision court. The objection is made by petition. Both parties should be decided after they have rested. If the parties fail, the court will make a decision on the file. The court makes the examination within the scope of the simple judicial procedure and the value of the proof. The objection against the interim order does not stop the execution of the injunction unless otherwise decided. The objection is binding for a period of time and as a result of the objection the court may decide to accept or reject the object. The law way against these decisions is clear.

<sup>27</sup> Rosenberg § 168, s.1044; Yılmaz, s.971; Kılıç, s.2944; Kuru – Usul, s.4349; Kuru – El Kitabı, s.729; Bilge, s.332; Bilge/ Önen, s.376; Postacıoğlu, s.494-495; Üstündağ, s.582; Orhan, s.116; Üstündağ – Tedbir, s.16; Pekcanitez/ Atalay/ Özekes – HUMK, s.655; Kuru/ Arslan/ Yılmaz – HMK, s.587; Karlı, s.648; Ercan – Themis, s.342; Pekcanitez/ Atalay/ Özekes – HMK, s.719; Kuru/ Arslan/ Yılmaz – HUMK, s.621; Ercan, s.135.

<sup>28</sup> Ercan – Themis, s.342; Kuru/ Arslan/ Yılmaz – HMK, s.587; Karlı, s.648; Pekcanitez/ Atalay/ Özekes – HMK, s.719.



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