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# **RECENT LEGAL DEVELOPMENTS IN TURKEY ABOUT THE SURNAME OF MARRIED WOMAN**

### **Abstract:**

According to article 187 of Turkish Civil Code (TCC) upon marriage, the wife takes the surname of her husband. However, the wife may declare to the civil registrar that she wishes to place her previous surname in front of the surname of her husband. In addition to this, Article 321 of TCC titled "Surname" is as follows: "The child holds family surname if the mother and father are married. However, in TCC there is no article related to family surname. Taking into account articles 187 and 321 of TCC together, it can be said that the family surname is the husband's surname.

In recent years, there have been several significant legal improvements with regard to the surname of married woman. In some judgments of the Constitutional Court of the Republic of Turkey and the Court of Cassation it has been stated that article 187 of TCC prevents married women from using solely their surnames prior to marriage and this prevention is a violation of human rights therefore a married woman can use solely her surname prior to marriage without the surname of her husband. The Constitutional Court, progressing further, stated that the right to determine the child's surname is within the scope of the right of parental custody and granting father with the right to choose child's surname as a part of right of parental custody and depriving mother of such a right leads to gender-based discrimination with regards to exercise of right of parental custody (Date of Judgment: 25.6.2015, Application No. 2013/3434). Besides in this judgment of the Constitutional Court, it has been stated that the woman's request to change the surname of the child whose right of parental custody was given to her is rightful and valid. So article 187 and 321 of TCC have become ineffective after the recent judgments of the Constitutional Court of the Republic of Turkey and the Court of Cassation.

### **Keywords:**

family law, surname of married woman, discrimination, gender equality, family surname

**JEL Classification:** K36, J12, L10