



Original Article

## A legal and clinical analysis of Constitutional Court decisions on heel prick testing in Türkiye

 Huseyin Cagri Sahin<sup>1</sup>,  Muhammet Ali Oruc<sup>1,2</sup>

<sup>1</sup>Council of Forensic Medicine, İstanbul, Türkiye

<sup>2</sup>Samsun University, Faculty of Medicine, Department of Family Medicine, Samsun, Türkiye

Received June 1, 2025; Accepted July 11, 2025; Available online August 15, 2025

Content of this journal is licensed under a Creative Commons Attribution-NonCommercial 4.0 International License.



### Abstract

**Aim:** Newborn screening programs are a critical public health intervention in preventing permanent morbidity and mortality through the early diagnosis of metabolic and genetic diseases. Although heel prick testing is a mandatory screening practice supported by legal regulations in Türkiye, some parents' refusal to consent to this procedure has led to legal and ethical debates. The aim of this study is to systematically examine the Constitutional Court (TCC) individual application decisions regarding heel prick blood collection and to assess how the Court balances parental autonomy with the best interests of the child.

**Materials and Methods:** In this study, four decisions retrieved by searching for the keyword "heel prick" in the TCC Decisions Database were examined using qualitative document analysis.

**Results:** The study revealed that the TCC generally found heel prick testing to be proportionate, citing its clear legal basis, legitimate public health purpose, and minimally invasive nature as justification. However, in cases where the medical necessity for repeated heel prick testing was not sufficiently justified, the Court ruled that there had been a violation of rights. The Constitutional Court's assessments are consistent with the principles of legality, necessity, and proportionality accepted in international human rights law and point to the importance of the processes of information, recording, and medical justification for healthcare professionals.

**Conclusion:** This study presents important findings that strengthen the legal framework of newborn screening programs in Türkiye, concretize the balance between parental consent and the best interests of the child, and guide clinical practice.

**Keywords:** Heel prick, newborn screening, parental refusal, best interests of the child, medical-legal analysis

### INTRODUCTION

Newborn screening programs play a critical role in preventing permanent morbidity and mortality by enabling the early detection of many metabolic and genetic diseases. In Türkiye, newborn screening using heel blood covers serious diseases such as Phenylketonuria, Congenital Hypothyroidism, Biotinidase Deficiency, Cystic Fibrosis, and Spinal Muscular Atrophy (SMA) and is considered a mandatory public health intervention for the sake of public health [1]. Similarly, newborn screening is

a fundamental component of public health policies worldwide and is implemented through "mandatory" or "presumptive consent" practices in the United States, the United Kingdom, and European countries [2,3].

However, some parents' refusal to consent to heel prick blood sampling due to religious beliefs, alternative medicine tendencies, or concerns about medical intervention raises the tension between the best interests of the child and the personal autonomy of the parent. In the international literature, the balance between the

### CITATION

Sahin HC, Oruc MA. A legal and clinical analysis of Constitutional Court decisions on heel prick testing in Türkiye. NOFOR. 2025;4(2):37-41. DOI: 10.5455/NOFOR.2025.12.012



**Corresponding Author:** Muhammet Ali Oruc, Samsun University, Faculty of Medicine, Department of Family Medicine, Samsun, Türkiye /Council of Forensic Medicine, İstanbul, Türkiye  
Email: muhammetalioruc@gmail.com

parent's refusal of medical intervention and the state's duty to protect the child is a controversial issue in health law [4].

Article 3 of the United Nations Convention on the Rights of the Child emphasizes that "the best interests of the child shall be a primary consideration" in all proceedings; however, it also states that the religious and moral preferences of the parents must be respected [5].

The Constitution of the Republic of Türkiye strikes a balance between respect for the individual's physical integrity and family life (Articles 17 and 20) and the state's duty to protect children from all dangers (Article 41) [6]. Within this constitutional framework, disputes arising from parental refusal of medical interventions have increasingly been brought before the Constitutional Court through individual applications.

In cases involving refusal of heel prick blood sampling, the Constitutional Court (TCC) examines whether the intervention satisfies the principles of legality, necessity, and proportionality. Decisions concerning heel prick testing have contributed to the development of constitutional jurisprudence at the intersection of health law and children's rights.

## MATERIAL AND METHOD

This study was designed as a qualitative document analysis examining individual application decisions of the TCC concerning newborn heel prick blood sampling.

### Data Source and Search Strategy

The data for the study were obtained from the TCC's publicly accessible Decisions Information Bank (<https://kararlarbilgibankasi.anayasa.gov.tr/>). The search covered the period from January 1, 2012, to December 31, 2024. The following keyword was used during the search: "heel blood" Secondary keywords such as "newborn screening," "blood sample," and "health measure" were also tried to the extent permitted by the system's search engine; however, the only keyword that yielded results specifically for heel blood was "heel blood."

**Inclusion Criteria** All decisions meeting the following criteria were included in the study: 1. The decision directly relates to the collection of newborn heel blood. 2. The applicants are parents and claim to have refused consent for the intervention. 3. The decision was issued within the scope of an individual application. 4. The full text of the decision is accessible.

**Exclusion Criteria** The following decisions are excluded from the study:

1. Decisions that only involve vaccine refusal and are not related to heel prick testing.
2. Decisions related to health measures that are not related to newborn screening.

**Data Analysis and Coding Process** The analysis was conducted manually without the use of any qualitative data analysis software.

Document analysis and thematic content analysis methods were used together in the study.

1. The decisions were first read independently by two researchers.
2. Each decision was coded according to the following variables:
  - o Type of intervention (first heel prick / repeat heel prick / vaccination + heel prick)
  - o Reasoning behind the first-instance court decision
  - o The Constitutional Court's assessments of "legality," "necessity," and "proportionality"
  - o Analysis regarding the best interests of the child and parental consent
  - o Outcome (violation / no violation / dismissal of the application)
3. The codes were compared; points of disagreement were discussed and consensus was reached.
4. Four main themes were identified from the data in the final stage:
  - o The best interests of the child
  - o Medical necessity criterion
  - o Principle of legality
  - o Proportionality and necessity analysis

**Ethical Evaluation:** This study does not require ethical committee approval as it is based solely on the analysis of publicly available court decisions and does not contain any personal data. TCC decisions are anonymized, publicly accessible official documents. No personal information was processed or interfered with during the study.

### Limitations of the Study

- The limited number of TCC decisions on the subject (n=4) narrows the scope of the analysis.
- The decisions only reflect the Turkish context and do not include examples from international courts.
- Although there are similar cases among the decisions, the content of each is different; therefore, the possibility of generalization is limited.

## RESULTS

Within the scope of this study, four individual application decisions of the TCC were examined as a result of a search using the keyword "heel prick blood." The decisions were evaluated in terms of content, legal reasoning, and outcome; the criteria used to establish the balance between parental consent and the best interests of the child were analyzed thematically.

In all four decisions, the applicants were parents who did not consent to heel prick blood sampling from their newborn children, and all applications were based on allegations of violation of family privacy, parental rights, and bodily integrity.

In three of the decisions, health measures were applied by the courts in accordance with Article 5 of the Child Protection Law No. 5395; one decision was dismissed on the grounds that the intervention did not take place and therefore the victim status ceased to exist.

**Decision 1: Application in Which Vaccination and Heel Prick Testing Were Assessed Together** In this decision, the parents objected to both vaccination and heel prick blood sampling. The court of first instance ruled in favor of the health measure, citing the best interests of the child. The TCC stated that the condition of "legality" was not met with regard to vaccination, on the grounds that there was no clear, predictable legal regulation concerning general mandatory vaccinations, and ruled that there had been a violation of rights. In contrast, regarding the heel prick test, it was determined that the Ministry of Health had clear regulations, that the intervention aimed to protect the child's right to life and health, and that it was proportionate; therefore, it was concluded that Article 17 of the Constitution had not been violated.

**Decision 2: Withdrawal of the Application Following the Removal of the Health Measure** In this application, the parents did not consent to the heel prick test; the court of first instance ordered the health measure. However, before the decision was enforced, the court subsequently lifted the health measure based on case law requiring consent for medical intervention. The TCC ruled that the application was dismissed, stating that the applicants had lost their status as "victims" because the intervention had never taken place and the measure had been lifted. In this decision, the Court did not deem it necessary to assess the medical necessity or proportionality of the intervention.

**Decision 3: Violation of Rights in Repeated Heel Prick Blood Sampling** The applicants refused the intervention, stating that heel blood samples had been taken from their babies in the hospital after birth and that therefore a second sample at the family health center was not medically necessary. The court ruled that the health measure was necessary on the grounds that the parents' refusal was contrary to the best interests of the child. The TCC ruled that the first-instance court failed to demonstrate the medical necessity of repeated sampling and therefore the intervention did not meet the criteria of proportionality and necessity, thus constituting a violation of rights. This decision

is significant in that, although the TCC generally considers heel prick testing to be legitimate, it emphasizes that the state's authority to intervene must be limited when there is no medical necessity.

**Decision 4: Heel Prick Blood Sampling Considered a Proportionate Intervention in the Best Interests of the Child** In this decision, the parents again did not consent to heel prick blood sampling; the court issued a health measure decision to protect the child's right to health. The TCC ruled that there was no violation of rights, stating that heel prick blood sampling has a legal basis, a legitimate purpose, does not pose any unnecessary risk to the child, and is necessary for public health.

**Thematic Assessment** When the decisions are examined thematically, the following four main themes emerge:

**Theme 1: The Best Interests of the Child as a Continuous Priority Principle** In all its decisions, the TCC has centered the obligation to protect the health of the child and emphasized that the state has a certain degree of authority to intervene in this regard.

**Theme 2: The Medical Necessity Criterion is Particularly Decisive in Repeated Cases** The Court has deemed it mandatory to provide concrete justification for medical necessity in cases where heel blood must be taken a second time.

**Theme 3: The Principle of Legality is Problematic in Vaccination Applications but Strong for Heel Prick Blood While Decision 1** cited the inadequacy of regulations on mandatory vaccination, it noted that heel prick testing is clearly regulated by relevant legislation.

**Theme 4: Proportionality and Necessity Analysis is Conducted Separately for Each Case** Instead of a general principle, the TCC assessed each application based on the specific characteristics of the case.

The table below summarizes the main features of the four decisions (Table 1).

**Table 1.** Key features of the decisions

Decision no.	Type of intervention court	Rationale constitutional court	Constitutional court assessment	Result
1	Vaccination + Heel prick blood test	Health measure in the best interests of the child	No legality regarding vaccination; legitimate purpose and proportionality ensured regarding heel prick	Partial violation / no violation
2	Heel prick	Health measure, but subsequently withdrawn	No intervention took place, no victimization	Application dismissed
3	Repeated heel prick	Claim that a new sample is necessary	Medical necessity argument insufficient – proportionality not ensured	Violation of rights
4	Heel prick blood	Best interests of the child	Heel prick blood test is necessary, proportionate, and legitimate	No violation

## DISCUSSION

This study examined individual application decisions regarding heel prick blood sampling in newborns in Türkiye and assessed how the TCC balanced parental consent with the best interests of the child within the framework of constitutional rights and public health obligations. The findings indicate that the TCC generally considers heel prick blood sampling to be a legitimate medical intervention when it has a clear legal basis, pursues a legitimate aim related to the protection of the child's health, and complies with the principles of medical necessity and proportionality [7].

An analysis of the Court's decisions reveals that parental autonomy is not treated as an absolute right. Instead, the best interests of the child are evaluated alongside public health considerations. First-time heel prick sampling is consistently regarded as a minimally invasive and preventive intervention that does not violate bodily integrity. However, the Court adopts a more restrictive approach in cases of repeated sampling, requiring concrete medical justification to satisfy proportionality requirements.

Newborn screening programs are integral components of public health systems worldwide and are essential for preventing irreversible harm [2,3]. The Court's recognition of heel prick testing as a legitimate intervention aligns with international practices and guidelines. This approach is also supported by comprehensive policy analyses from the United States, which emphasize the public health value and sustainability of mandatory newborn screening programs [8].

The TCC's approach is consistent with the jurisprudence of the European Court of Human Rights (ECHR), which permits interference with bodily integrity only when it is lawful, necessary, and proportionate [7]. In this context, the Court's emphasis on medical justification in repeated interventions reflects both ethical standards and clinical best practices [2,9].

Within this international legal and public health framework, the Turkish newborn screening system demonstrates similar preventive characteristics and regulatory foundations.

Similarly in Türkiye, the Ministry of Health's National Newborn Screening Program has clear and binding regulations [1]. Therefore, heel prick blood sampling is seen to serve the purpose of protecting the child's right to life and health and is necessary for public health.

Parental consent is one of the fundamental legal elements of medical interventions; however, it may be limited in certain circumstances based on the best interests of the child and public health. In the international literature, the boundary between parental refusal of medical intervention and state intervention is generally addressed through the "harm principle" [4].

Therefore, the TCC emphasis on medical necessity is also appropriate in terms of clinical practice. This approach is consistent with screening guidelines in the UK and the US, as interventions are only recommended to be repeated when necessary [2,3].

As seen in Decision 1, the lack of a clear legal basis for vaccination led to a violation on the grounds that the principle of legality was not met. However, the same decision deemed the relevant regulation and national screening program sufficient for heel prick testing. This demonstrates that the Constitutional Court considers transparent, accessible, and predictable legal regulations to be essential for medical interventions to be legitimate.

From a practical standpoint, these decisions underscore the responsibilities of healthcare professionals to ensure transparent communication, accurate documentation, and evidence-based justification when performing or repeating heel prick sampling. Effective communication has been shown to reduce parental refusal rates [10].

Future studies may be expanded to include heel prick refusal data from Family Health Centers and hospitals, parental opinions, and physician practices.

In conclusion, the decisions of the TCC clearly demonstrate that the best interests of the child are central to newborn screening practices, but that every medical intervention must be consistent with the principles of concrete medical necessity, legal basis, and proportionality.

The heel prick test has been confirmed as a mandatory and legitimate health service; however, a sensitive approach has been adopted towards protecting individual rights in cases of repeated interventions where the medical justification is insufficiently specified. This situation imposes significant responsibilities on health authorities and clinicians, both legally and ethically.

### Strengths and Limitations

This study is the first Turkish study to systematically examine all TCC decisions related to heel prick blood refusal. However, the limited number of decisions and the fact that it only covers national case law limit the generalizability of the findings.

## CONCLUSION

The TCC jurisprudence confirms that heel prick blood sampling is a legitimate and mandatory public health intervention in Türkiye, grounded in the best interests of the child. However, the Court also emphasizes that medical interventions must comply with the principles of legality, necessity, and proportionality. In particular, repeated sampling requires clear medical justification. These findings provide important guidance for healthcare professionals and contribute to the ongoing legal and ethical discourse on newborn screening practices.

**Conflict of Interests**

*The authors declare that there is no conflict of interest in the study.*

**Financial Disclosure**

*The authors declare that they have received no financial support for the study.*

**Ethical Approval**

*This study does not require ethical committee approval as it is based solely on the analysis of publicly available court decisions and does not contain any personal data.*

**REFERENCES**

1. Ministry of Health of the Republic of Türkiye. National Newborn Screening Program Guide. Ankara: Ministry of Health; 2023.
2. Centers for Disease Control and Prevention. Newborn Screening Portal. Atlanta: CDC; 2023.
3. UK National Screening Committee. Newborn Blood Spot Screening Programme Standards. London: UK NSC; 2023.
4. Diekema DS. Parental refusals of medical treatment: The harm principle as threshold for state intervention. *Theor Med Bioeth.* 2004;25:243-64.
5. United Nations. Convention on the Rights of the Child. New York: United Nations; 1989.
6. Constitution of the Republic of Türkiye. Official Gazette No. 2709; 1982.
7. European Court of Human Rights. Solomakhin v. Ukraine, no. 24429/03. Strasbourg: ECHR; 2012.
8. Therrell BL, Padilla CD, Loeber JG, et al. Current status of newborn screening worldwide: 2015. *Semin Perinatol.* 2015;39:171-87.
9. Herczegfalvy v. Austria. European Court of Human Rights; 1992 Sep 24. Application No: 10533/83.
10. Wilaiwongsathien K, Wattanasirichaigoon D, Rattanasiri S, et al. Parental awareness, knowledge, and attitudes regarding current and future newborn bloodspot screening. *Int J Neonatal Screen.* 2023;9:25.