

## The Provision Regulating the Monetary Limit of Application for Appeal in Administrative Jurisdiction has been Annulled

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The provision of the Administrative Judicial Procedure Act numbered 2577, which regulates the monetary limit of application for appeal in administrative jurisdiction, has been annulled pursuant to the Turkish Constitutional Court decision.

Pursuant to the Turkish Constitutional Court's decision dated 26 October 2023 and numbered 2023/81, 2023/184 ("**Decision**") which was published in the Official Gazette dated 21 December 2023 and numbered 32406, the Constitutional Court has decided to repeal the second sentence of the first paragraph of Article 45 titled "*Appeal*" of the Administrative Judicial Procedure Act numbered 2577 ("**Act No. 2577**") which regulates the monetary limit of application for appeal and Additional Article 1.

According to the application decisions, it was stated that the rule is incompatible with the right to access to the court, the right to request the review of the judgement and the principle of the legal judge, and that there is no determination in the rule as to which of the dates of filing of the lawsuit or the judgement will be taken as the basis for determining the monetary limit for appeal. It is also asserted that the rule contradicts the principles of certainty and predictability and that there may be consequences such as not being able to apply for appeal for the lawsuit that was filed on the same date but the trial process took a long time, and that this situation may violate the principle of equality. The relevant provisions requested to be annulled are as follows:

· **Article 45 (1) of the Act No. 2577** - "*Against the decisions of the administrative and tax courts, even if a different remedy is stipulated in other laws, an appeal may be filed to the regional administrative court in the judicial locality where the court is located, within thirty days from the notification of the decision. However, the decisions of the administrative and tax courts on tax cases, full remedy actions and actions for annulment against administrative acts not exceeding five thousand Turkish Liras, are final and cannot be appealed.*"

· **Additional Article 1 of the Act No. 2577** - "*The monetary limits stipulated in this Law shall be applied by increasing the monetary limits applied in the previous year by the revaluation rate determined and announced annually by the Ministry of Finance in accordance with the provisions of the repeated Article 298 of the Tax Procedure Law No. 213 for that year, effective from the beginning of each calendar year. The parts of the limits determined in this way that do not exceed one thousand Turkish Liras shall not be taken into consideration.*"

In the justification of the Decision, the Constitutional Court stated that the monetary limit for the determination of the decisions subject to appeal is updated every year, and the date on which the monetary limit will be taken as the basis for the application to the legal remedy of appeal should be regulated in a certain clarity and predictable manner in the law. Since the relevant rules are not regulated in a clear, definite, and predictable manner, it has been concluded that the condition of legality has not been met and the provisions have been annulled unanimously.

Since the legal gap that will arise with the annulment of the relevant provisions is considered to violate the public interest, the Constitutional Court decided that the relevant provisions will enter into force nine months after the publication of the Decision in the Official Gazette. Therefore, the amendment to the Act No. 2577 will be effective as of **21 September 2024**.

You can access the full text of the [Act No. 2577](#) and the [Decision](#) via the links. (Only available in Turkish)

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