

Turkey's Constitutional Court Dismissed an Application Seeking Cancellation of Provisions Regulating Payment of Electricity Loss and Leakage Fees by Consumers

30 May 2018

Turkey's Constitutional Court recently dismissed an application seeking to cancel 13 articles of the Law Amending the Electricity Market Law and Certain Other Laws numbered 6719, dated 4 June 2016 ("**Amendment Law**").

130 deputies and several first instance courts applied to cancel the following key clauses in the Amendment Law, claiming they were unconstitutional for a range of reasons.

After consideration, the Constitutional Court ruled that the clauses were not unconstitutional. It noted that the administration is entitled to regulate issues which are not necessarily covered by laws, provided the regulation has legal grounds.

Provisions of the Amendment Law under dispute include:

- Provisions allowing collection of electricity loss and leakage fees from consumers, calculated as the difference between the amount of supplied energy and energy charged to consumers (technical and non-technical losses).
- The General Directorate of Mineral Research and Exploration being empowered to designate the fee and qualification of personnel working for outside mining and researching operations.
- Exclusions in the Turkish Coastal Law and Olive Law for nuclear power stations.
- Exclusions for nuclear power stations from scientific responsibility articles in the Constructions Inspection Law and Constructions Zoning Law, which mean these are inspected by institutions empowered by the Turkish Atomic Energy Authority.
- The Turkish Atomic Energy Authority being empowered to issue generation license to nuclear power plants prior to construction certificates and permissions regarding ownership.
- Coal mining licenses being prepared separately to electricity production without causing loss of resource reserve, with the Ministry of Energy and Natural Resource's prior consent.
- Exclusions from the Public Tender Law for electric energy brought by the Turkish Electricity Trade and Contracting Corporation.

The full text of the Constitutional Court's reasoned decision numbered 2016/150, dated 28 December 2017, was published in Official Gazette number 30333 on dated 15 February 2018 and can be found at this [link](#) (only available in Turkish).

Related Attorneys

- [BENAN ARSEVEN](#)
- [BURCU TUZCU ERS?N, LL.M.](#)
- [C. HAZAL BAYDAR, LL.M.](#)