

Turkish Constitutional Court: Confiscating LPG's Replacement Value Breaches Constitutional Property Rights

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The Turkish Constitutional Court recently considered the legal basis for confiscating LPG from a gas station. It held that since the act in question was not a crime, confiscation under the Turkish Penal Code is not possible. Therefore, the Constitutional Court held that confiscating the LPG's "replacement value" had violated the applicant's constitutional property rights (Article 35).

In the case at hand, the Energy Market Regulatory Authority discovered LPG at a gas station which breached technical regulations. A First Instance Court subsequently ruled to confiscate the "replacement value" of the incompatible LPG.

The Constitutional Court decided that this decision is unconstitutional on the basis that the relevant legislation only permits confiscation of the incompatible LPG itself, rather than replacement value (Article 17, Law on LPG Markets numbered 5307).

The Constitutional Court ruled that the lower court misjudged the case by basing its decision on a Turkish Penal Code provision that allows confiscation of crime-related property. The Constitutional Court held that since the matter in dispute was not a crime, neither the LPG nor its replacement value can be confiscated pursuant to Turkish Penal Code.

Please see this [link](#) for the full text of the Constitutional Court's decision dated 20 September 2017, numbered 2014/13677, published in Official Gazette number 30221 on 25 October 2017 (only available in Turkish).

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