

Turkish Constitutional Court: Disproportionate Administrative Fine Imposed on Persons Bringing Foreign Currency into Turkey Without Notification, Violates the Right to Property

22 Oct 2019

The Turkish Constitutional Court ruled that the amount of the administrative fine imposed on the applicants ("**Applicants**") bringing foreign currency into Turkey without fulfilling the notification and approval obligations is disproportionate and therefore violates the applicants' rights to property.

In the case at hand,

- The Applicants are found carrying USD 630,000 in their car, obtained from the share purchase transaction of the company in which they were shareholders.
- It turned out that the Applicants neither made the notifications nor obtained the approvals necessary for bringing foreign currency to the Republic of Turkey in cash.
- Thereupon, the Mersin Prosecutor's Office imposed an administrative fine amounting to TRY 715,167 on each Applicant on the grounds that they committed misdemeanor pursuant to article 3 of Law numbered 1567.

The Applicants objected to the decision; however, Mersin 1st Criminal Court overruled the objection. The Applicants also objected to this decision; however, Mersin 2nd Criminal Court overruled the objection. This time, the Applicants applied to the Turkish Constitutional Court claiming that their rights to property have been violated due to these administrative fines.

The Turkish Constitutional Court concluded that the administrative fine amounting to TRY 715,167 which is equivalent to half of the currency brought into Turkey and imposed on each Applicant separately, did not meet the condition of proportionality. The court consequently decided on the violation of the Applicants' rights to the property.

The court emphasized that although the Applicants cause the intervention by their own negligence, the resource of the currency is clear and they do not have any purpose to commit money laundering, drug trafficking, financing terrorism or organized crimes or other serious financial crimes. The legal interest protected by the intervention should be limited to ensuring the fulfillment of notification and application obligation. When the legal interest protected by the administrative fine and material interest are evaluated together, the amount of the administrative fine imposed lay a heavy burden on the Applicants and violates the right to property secured under article 35 of the Turkish Constitution.

Please see this [link](#) for the full text of the Constitutional Court's decision dated 20 June 2019 and numbered 2015/17659, which was published in Official Gazette numbered 30843 on 26 July 2019 (only available in Turkish).

Related Practices

- [Corporate and Commercial Litigation](#)
 - [Business Crimes](#)
 - [Tax and Customs Litigation](#)
-

Related Attorneys

- BENAN ARSEVEN
- MET?N ABUT

Moroglu Arseven | www.morogluarseven.com