

Turkish Constitutional Court: Fixed Administrative Fines For Unlicensed LPG Transport, Sale, and Auto Filling Not Unconstitutional

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The Turkish Constitutional Court recently considered the constitutionality of administrative fines applied for certain breaches of LPG legislation. It considered and rejected a claim that issuing such fines at the same rate for all breaches, regardless of a breach's status and degree, violates constitutional principles of equity and justice.

Pursuant to Article 16 of Law No. 5307 on Liquid Petroleum Gas Market and Law on the Amendment of Electricity Market Law, administrative fines apply for:

- Unlicensed LPG transportation (TRY 500,000).
- Selling and filling LPG at auto gas stations, as well as having equipment, machine and tools for LPG tube filling at auto gas stations (TRY 250,000).
- Requirements for managing directors and training (TRY 50,000).

The Constitutional Court was asked to consider the constitutionality of these provisions, which involve the same administrative fine for all breaches, regardless of a breach's status and degree. The lower court claimed the provisions were contrary to constitutional principles of equity and justice.

The Constitutional Court held the administrative fines were not unconstitutional because:

- Safe transportation of LPG, technical requirements, and sale of auto gas and tubes are closely linked to safety of the public and property.
- The fixed fines serve a deterrent function.
- The legislator has discretion to specify prohibited actions and determine the type and degree of sanction.
- The legislator aims to support public interests by prohibiting certain actions and imposing administrative fine for breaches.
- Fixed administrative fines are not contrary to principles of equity and justice, even though they have different impacts on infringers depending on their economic status,
- The legislator took adverse effect and possible results into account when determining fixed administrative fines.

Please see this [link](#) for full text of the Constitutional Court's decision 2015/73 and 2016/161, dated 12 October 2016 (only available in Turkish).

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