

## Turkish Constitutional Court: Fixed Fines for Breaching the Electricity Market Legislation Not Unconstitutional

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Turkey's Constitutional Court recently considered the constitutionality of fixed administrative fines for breaches of electricity legislation or license terms. The court ruled by majority that a fixed administrative fine of TRY 500,000, regardless of the breach's quality or consequences, does not contradict constitutional principles regarding the rule of law and legality.

Article 16(1)(c) of the Electricity Market Law imposes a fixed fine for irreversible breaches of the Law, secondary legislation, or license terms (decisions 2017/103 E. and 2017/108 K. made on 31 May 2017, published in Official Gazette number 30127 on 18 July 2017).

An Administrative Court applied to the Constitutional Court, seeking to annul Article 16(1)(c). It argued the provision is unconstitutional because the provision:

- Fails to consider an act's fault or economic gravity.
- Breaches principles of certainty and predictability by imposing the same fine regardless of an act's nature.
- Fails to ensure a fair and reasonable balance, as required by principles of justice and equity.

The Constitutional Court considered the provision against the rule of law and legality principles (Article 2 and 38 of the Constitution, respectively). Ultimately, the court ruled by majority that Article 16(1)(c) does not breach these constitutional principles.

A separate dissenting opinion (from five of the 16 judges) outlined the minority group's view that the provision is contrary to equity and the acts subject to the administrative fine are uncertain.

Please see this [link](#) for the full text of the decision and dissenting opinions (only available in Turkish).

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