Judicial Review of the Board's Decisions and Legal Remedies

Under the Law, the Board has the authority to impose administrative sanctions. It is stipulated that the Board may impose administrative fines for failure to comply with the duty to provide information, obligations relating to data security, failure to comply with decisions issued by the Board, breaches of registration and notification obligations under the Register of Data Controllers, or breaches of the notification obligation regarding standard contracts. In addition to imposing administrative fines, the Board may also issue decisions of an administrative nature, such as ordering the data controller to remedy the breach or ordering the suspension of data processing and transfer.

Within the legal framework, the administrative fines to be imposed by the Board are regulated under the heading 'Misdemeanours'. Accordingly, within the framework of the revaluation rate set out in Repeated Article 298 of the Tax Procedure Law No. 213, the administrative fines specified in the relevant articles of the Law will be applied in 2026 as follows:

Administrative Fines Under the Personal Data Protection Act No. 6698 – Fine Amounts for 2026

Legal Basis	**Infringement**	**Current Administrative Fine**
Article 18/1/a of the Law	Failure to fulfil the duty to provide information	85,437 TL – 1,709,200 TL
Article 18/1/b of the Law	Failure to fulfil data security obligations	256,357 TRY – 17,092,242 TRY
18(1)(c) of the Law	Failure to comply with decisions issued by the Board	427,263 TL – 17,092,242 TL
Article 18/1/ç of the Law	Failure to comply with the obligation to register with and notify the Data Controllers' Register	341,809 TL – 17,092,242 TL
Article 18/1/d of the Law	Failure to notify the Authority of Standard Contracts within 5 working days	90,308 TL – 1,806,177 TL

On the other hand, prior to the amendment, the Law did not specify any avenues of appeal against administrative fines and administrative sanctions to be imposed by the Board, nor was this matter regulated under the Law. In practice, however, as infringements giving rise to administrative fines were classified as 'misdemeanours', recourse was sought through the judicial remedies provided for under the Misdemeanours Act No. 5326 against the sanctions imposed for such infringements, and it was accepted that magistrates' courts had jurisdiction over cases brought against these administrative fines. In response to this situation, practitioners had long raised valid criticisms that, given the technical and specialist nature of the field of personal data protection, the Magistrates' Courts—which, by their very nature, operate within the field of criminal law—were not the appropriate authority for the judicial review of decisions issued by the Board.

As the judicial review process conducted by the Criminal Court of Peace, which have the status of courts of first instance—under the simplified procedure concluded upon the decision becoming final, the only avenue available for appeal to a higher court was a direct application to the Constitutional Court. Indeed, in a recent ruling, the Constitutional Court found that the judicial proceedings brought against an

administrative fine imposed by the Board on a data controller—whom the Board found to have breached its obligations regarding data security—had resulted in a violation of the right to property. In its ruling, the Constitutional Court determined that administrative fines constitute an interference with the right to property; consequently, in cases of interference with property rights, the general principles governing the restriction of fundamental rights and freedoms set out in Article 13 of the Constitution must be taken into account, and the relevant interference must comply with the principle of proportionality. With regard to the principle of proportionality, it was stated that interventions must be proportionate and that the effective examination of claims of unlawfulness by a court is of great importance in assessing the proportionality of the intervention. Consequently, the Constitutional Court ruled that, as the judicial review carried out by the Criminal Court of Peace did not involve any assessment of the opposing party's claims, the safeguards intended to protect the right to property within the framework of a fair trial had not been fulfilled and that the right to property had been violated.

As set out in the Constitutional Court's relevant decision, the effective examination of allegations of unlawfulness by a court is of great importance in ensuring the proportionality of interventions into fundamental rights and freedoms.

The findings regarding the aforementioned shortcomings in the judicial remedy against the Board's administrative fines, the criticisms raised, and the fact that Criminal Court of Peace are not the appropriate authority for judicial review in the field of personal data protection have also been established by the Constitutional Court's decision in question.

As a solution to these issues, the amendment introduces an explicit provision allowing for legal action to be brought before administrative courts against the Board's administrative fines.

Consequently, given that the administrative fines imposed by the Board constitute an administrative act, it has been explicitly stipulated that this administrative act is also subject to administrative judicial review; this has resolved uncertainties in practice and established a procedure that will ensure more effective oversight of the Board's decisions. It is anticipated that this amendment will lead to a reduction in the issues regarding legal certainty that arose prior to the amendment and an increase in case law that will provide clarity on its application.

With the entry into force of the Amendment on 01 June 2024, a transitional provision has been introduced stipulating that applications already pending before Criminal Court of Peace at the time of entry into force shall continue to be heard by those courts.

Pursuant to the transitional provision, cases pending before the Criminal Court of Peace as of 01 June 2024 will be concluded by those courts; however, cases brought after 01 June 2024 will be heard by the administrative courts.

The year 2025 was a year in which the effects of the transitional period regarding the judicial review of the Board's decisions became more clearly apparent. According to the Institution's 2025 Annual Activity Report, the total number of cases being pursued by the Institution stands at 1,678. A significant proportion of these cases are being heard before administrative courts and magistrates' courts. The report states that 797 cases were being pursued before administrative courts, 804 before Criminal Courts of Peace and 29 before the Council of State. This distribution indicates that, despite the change in the judicial procedure that came into force on 01 June 2024, cases relating to the previous period are still being heard before magistrates' courts; conversely, in the new period, administrative courts have begun to assume a central role in the judicial review of administrative fines imposed under the Law.

To conclude; 2025 was a year in which the transitional period regarding the judicial review of the Board's decisions was reflected in practice. Administrative courts have become the new and primary judicial authority for the review of administrative fines imposed under the Law.

The Constitutional Court, through the individual applications it has heard, has once again emphasised that substantive claims raised against the Board's decisions must be addressed by the judicial authorities with concrete and sufficient reasoning, and has reaffirmed the principles of the legality of penalties. In the coming period, with an increase in decisions by administrative courts, regional administrative courts and the Council of State, it is expected that a clearer body of case law will emerge regarding the Board's imposition of administrative fines, particularly in terms of reasoning, proportionality, procedural safeguards and the principle of the law in favour of the individual.

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