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The New Appeal System Introduced Under the Administrative Procedures Law

The Law regarding the Amendments on Turkish Criminal Code and Certain Other Codes (the “**Law No. 6545**”) (published in the Official Gazette in June 28, 2014 and No. 29044), makes several amendments to “the Law regarding the Establishment and Duties of District Administrative Courts, Administrative Courts and Tax Courts” (the “**Law No. 2576**”) (published in the Official Gazette in January 20, 1982 and No. 17580), and the Administrative Procedures Law (the “**Law No. 2577**”) (published in the Official Gazette in January 20, 1982 and No. 17580) and enters into force on the date of its publication.

Within the scope of the current administrative procedures system, a two-stage judgment system is applied. This system includes tax/administrative courts of first instance as the preliminary stage of a judgement, and both District Administrative Courts and the Council of State as the secondary stage. With Law No. 6545, a three-stage judgment system has been introduced to the practice of the administrative procedures system.

Before the amendments made by Law No.6545, one of the duties of District Administrative Courts was to decide on the judgments rendered by a single judge of administrative and tax court in its judicial district upon the objection of one of the parties. With Law No.6545, the two-stage judgment system has been changed and the objection process to District Administrative Courts is abolished. Instead of the objection right, the appeal right to District Administrative Courts as a preliminary appeal before moving to the Council of State is enabled for the parties to a lawsuit. Therefore, according to new regulation, District Administrative Courts will have the jurisdiction, to a certain extent, to decide on the judgments of the first instance courts which are appealed by the parties. Under the new regulation, it will not be possible to directly appeal the judgments of courts of first instance to the Council of State. It is noteworthy that, appealing to District Administrative Court becomes a mandatory step before appealing to the Council of State in accordance with the new regulation.

According to amended Article 45 of Law No.2577, even if there is a contrary provision in other laws, the final judgments of administrative and tax courts may be appealed before District Administrative Courts within thirty days from the notification date. However, judgments as to lawsuits in which the subject matter does not exceed TL 5.000 (five thousand Turkish Liras) are considered definitive, and they may not be appealed under any circumstances.

The procedure of an appeal before District Administrative Courts is subject to the same procedures of an appeal to the Council of State. The appeal petition shall be sent directly to the applicable District Administrative Court.

The District Administrative Court will reject the appeal if it finds the judgment of the court of first instance to be in accordance with the law. It can also decide an appeal in the same way by correcting an error of fact in the judgment. On the other hand, if District of Administrative Court finds the judgment unlawful, it enters a new judgment after revoking the judgment of the court of first instance. Moreover, in cases where i) the District Administrative Court finds the appeal request admissible or ii) the lawsuit has been examined by an unauthorized court or a court without jurisdiction, or iii) the judgment has been rendered by a rejected or forbidden judge; the District Administrative Court revokes the judgment of the court of first instance and sends the file back to the relevant court.

With Law no. 6545, the appeals process at the level of the Council of State is also modified in accordance with the amendments made on the provisions of District Administrative Courts. Under the new dual-stage appeal system, only the lawsuits in which the amount in controversy exceeds TL 100.000 (one hundred thousand Turkish Liras) may be appealed to the Council of State after they have been appealed to a District Administrative Court.

The monetary limitations for appeals regarding administrative and tax disputes are briefly shown in the below chart:

	Less than TL 5.000	Between TL 5.000 and TL 100.000	More than TL 100.000
The District Administrative Court	X		
The Council of State	X	X	

As shown in the chart above;

- the judgments of courts of first instance will be definitive and shall not be appealed if the subject matter of the lawsuit does not exceed TL 5.000,
- the judgments of courts of first instance may only be appealed before the District Administrative Court if the subject matter of the lawsuit is between TL 5.000 and TL 100.000. In these cases, the judgment of the District Administrative Court is definitive and shall not be appealed to the Council of State,
- the judgements of courts of first instance may be appealed to the District Administrative Court and the judgments of the District Administrative Court shall be appealed before the Council of State if the subject matter of the lawsuit exceed TL 100.000.

Furthermore, with Law No. 6545, a new type of proceeding called an “urgent proceeding” has been introduced with the aim of solving tax and administrative disputes rapidly. However, it will not be possible to appeal such judgments to the District Administrative Courts in lawsuits where the urgent proceeding is applied. On the other hand, the right to appeal before the Council of State exists for judgments from courts of first instance that are sentenced through the urgent proceeding, if made within 15 (fifteen) days from the notification date.

Law No. 6545 also abolishes a legal remedy; “correction of judgment”. Before the new regulation, under certain circumstances it was possible to apply for the correction of the judgments rendered by the Council of State and District Administrative Courts upon appeal and objection.

According to the new Provisional Article 20 of Law No. 2576, the Ministry of Justice will establish District Administrative Courts within three (3) months from the enforcement date of Law No. 6545. The establishment of the courts, their jurisdiction area and the date that they will start their functions all over the country shall be published in the Official Gazette. Existing District Administrative Courts will continue with their functions until the new courts are established.

The provisions that are introduced under Law No. 6545 will be applied for the judgments ruled after the new District Administrative Courts start to function in the entire country. However, the fees that shall be paid during the objection

request with regard to the judgment rendered by a single judge of an administrative and tax court will be charged in accordance with Law No. 6545.

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