

# TÜRKİYE

## Legal Provisions

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#### GENERAL REMARKS

The purpose of this document is to give an overview of trade-related legal provisions and regulations, particularly those relevant for small and medium sized Swiss companies operating from outside the target country. It outlines the current state of legislation and, to the extent possible, its practical application.

Türkiye is a secular, unitary, formerly parliamentary republic that adopted a presidential system with a referendum in 2017; the new system came into effect with the presidential election in 2018. It is largely located in Western Asia, with the smaller portion of Eastern Thrace in Southeast Europe. Türkiye is bordered by eight countries: Syria and Iraq to the south; Iran, Armenia, and the Azerbaijani exclave of Nakhichevan to the east; Georgia to the northeast; Bulgaria to the northwest; and Greece to the west. The Black Sea is to the north, the Mediterranean Sea to the south, and the Aegean Sea to the west. The Bosphorus, the Sea of Marmara, and the Dardanelles (which together form the Turkish Straits) demarcate the boundary between Thrace and Anatolia; they also separate Europe and Asia. Türkiye's location at the crossroads of Europe and Asia makes it a country of significant geostrategic importance.

Türkiye is a member of various international political, economic and military organisations including the Council of Europe, the Organisation for Economic Co-operation and Development (OECD), the International Bank for Reconstruction and Development (World Bank), International Monetary Fund (IMF), Black Sea Economic Cooperation Zone (BSEC), North Atlantic Treaty Organisation (NATO), The Organization for Security and Cooperation in Europe (OSCE), Organization of the Islamic Cooperation (OIC).

Türkiye was granted candidate status to the EU in December 1999. The Accession Partnership was approved by the EU Council in February 2001. On October 6, 2004, the EU Commission recommended to start negotiations with Türkiye for full membership. As a result, in December 17, 2004, the European Council decided to start accession talks with Türkiye on October 3, 2005. The official negotiations have been started and the process covers 35 chapters in different fields. Reacting also to the European Commission 2019 country report, the Council of the EU recalled in June 2019 that Türkiye continues to move further away from the EU; noting that Türkiye's accession negotiations have therefore effectively

come to a standstill and no further chapters can be considered for opening or closing and no further work towards the modernisation of the EU-Türkiye Customs Union is foreseen. Türkiye remains a candidate country for the EU membership and a key partner in many areas of joint interest such as migration, counterterrorism, economy and trade.

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## CUSTOMS LAW AND DUTIES

The Customs Union EU-Türkiye has been in force since 1995 and is based on the 1963 Ankara Agreement and its Additional Protocol (1970). It foresees;

- Free movement between the two parts of the customs union for the goods covered which are either wholly produced or put in free circulation after their importation from third countries in either Türkiye or the EC
- Alignment of Türkiye with Community common customs tariff, including preferential arrangements, and harmonisation of commercial policy measures
- Approximation of customs law, in particular through Decisions of the Customs Co-operation Committee (e.g. Decision No 1/2001) and mutual assistance in customs matters
- Approximation of other laws (intellectual property, competition, taxation, ...)
- Preferential agreement on agriculture (rules of origin)

The Customs Union covers exclusively;

- Industrial products
- Processed agricultural products

The Customs Union does not cover;

- Agricultural products, as defined in Annex I of the Amsterdam Treaty. These are subject to Decision of 1998 on the trade regime for agricultural products (yet Türkiye and Switzerland have a bilateral agreement on agricultural goods)
- Coal and steel products, as covered by the European Coal and Steel Treaty. These are subject to the European Coal and Steel Community - Türkiye Agreement on a free trade area for products covered by the ECSC.

Türkiye is the EU's 7th biggest trade partner, representing 3.3% of the EU's total trade in goods with the world (imports and exports combined) in 2022. The EU is by far Türkiye's largest merchandise import and export partner. In 2022, 26% of Türkiye's goods imports came from the EU and 41% of the country's goods exports went to the EU.

Total trade in goods between the EU and Türkiye in 2022 amounted to €198.1 billion (3.6% of the EU's total trade with the world). The EU's imports from Türkiye were worth €98.6 billion and were led by textiles (€17.5 billion, 17.7%), closely followed by transport equipment (€17.3 billion), base metals and articles (€16.8 billion), and machinery and appliances (€15.8 billion). The EU's exports to Türkiye totalled €99.6 billion. They were dominated by machinery and appliances (€25 billion, 25.1%), transport equipment (€17.5 billion), base metals and articles (€13.1 billion), and chemicals (€13.1 billion).

The EFTA States signed a Free Trade Agreement with Türkiye in Geneva, Switzerland, on 10 December 1991. The Agreement entered into force on 1 April 1992. The EFTA States signed a modernised and expanded Free Trade Agreement in Sauðárkrókur, Iceland, on 25 June 2018. An overview of all free trade agreements can be seen here: <https://www.trade.gov.tr/free-trade-agreements>

The legal framework of the economic relations between Switzerland and Türkiye are the following arrangements:

- Trade Agreement (entered into force on 13.10.1930)
- Agreement on the Organisation of Commercial Exchange and Payments (entered into force on 28.03.1942)
- Agreement on the Reciprocal Promotion and Protection of Investment (entered into force on 03.03.1988)
- Free Trade Agreement EFTA-TÜRKIYE (entered into force on 10.12.1991).
- Memorandum of Understanding (MoU) of Joint Economic Commission (KEK) (signed on 06.02.2001)
- Memorandum of Understanding (MoU) on High Level Commercial and Economical Consultation between the Government of Republic of Türkiye and the Government of Swiss Confederation (signed on 28.01.2002).
- Agreement on the Avoidance of Double Taxation with Respect to Taxes on Income and Property. The agreement has been signed on June 18, 2010 in Berne. Since February 8, 2012 the agreement is in force with minor revisions in 2012 and 2013.
- MoU in Energy Cooperation (2009)
- EFTA Protocol E (Mutual Recognition of Conformity Assessment of Products) (2011)
- Modernised and extended Free Trade Agreement EFTA-TÜRKIYE has been signed on 25 July 2018 and in force starting on October 1, 2021.
- Agricultural Agreement between Switzerland and Türkiye will be in force starting on October 1, 2021.

Please refer to

- Ministry of Foreign Affairs [www.mfa.gov.tr](http://www.mfa.gov.tr) for more information on the Turkish foreign policy
- EFTA [www.efta.int](http://www.efta.int) for more information on EFTA-Türkiye agreements and trade
- The Secretariat General for EU Affairs ([www.abgs.gov.tr](http://www.abgs.gov.tr)) and the Delegation of the European Commission to Türkiye ([www.avrupa.info.tr](http://www.avrupa.info.tr)) for the Türkiye-EU relations.
- [https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/turkiye\\_en](https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/turkiye_en)

## IMPORT REGULATIONS / NON-TARIFF RESTRICTIONS

Goods imported into Türkiye may be subject to various charges: customs taxes and levies (customs tariffs, and the mass housing fund levy); and internal taxes (excise duties also known as the Special Consumption Tax, the VAT, and the stamp duty). As a result of its participation in the customs union with the EC, Türkiye has, since

1996, based its tariff on all industrial products and the industrial components of processed agricultural products (imported from third countries), on the EC common external tariff. However, the free trade agreements (FTAs) signed by the EU do not extend to Türkiye, so the EU's FTA partners can export to Türkiye tariff-free while maintaining tariffs on Turkish goods unless they also conclude a separate FTA agreement with Türkiye.

Türkiye is a member of the GATT/WTO and regulates its customs in line with the GATT requirements. Consistent with WTO commitments, Türkiye maintains high border protection on many agricultural goods and food products.

With the Decision No. 7543 on the Amendment to the Import Regime Decree No. 7543 in the Official Gazette dated August 31, 2023, it was decided to apply the customs duty shown in the table numbered (1) attached to the Import Regime Decree No. 3350 and the Customs Tariff Statistics Positions (GTIPs) in the table numbered (I) and the imports of the goods originating from the United Arab Emirates.

3350 No. Import Regime Decree No. (II) attached to the list of goods in the list (II), except for the goods whose GTIPs are specified in the attached table (2), customs duty will be applied zero on the imports of those originating from the UAE.

The footnotes (except country-based ones) in the list annexed to the same decision (II) will be valid for imports originating from the United Arab Emirates to be realized within the scope of this decision. In addition, it was decided to compare the customs duty rate within the scope of the footnotes in the list annexed to the same decision (II) with the customs duty rate to be applied to imports originating from the United Arab Emirates within the scope of this decision and to apply the lower customs duty rate.

3350 No. Import Regime Decree No. (III) annexed to the list (3) in the table attached to the table (III) and the imports of the goods originating from the United Arab Emirates of the goods specified in the table (3) will be subject to the customs duty and additional financial obligation specified against them. In case there is a reference to the footnotes in the decision, it is stated that the provisions specified in the relevant footnotes will be applied.

3350 It was reported that the customs duty and additional financial obligations specified in the table numbered (4) attached to the list (IV) attached to the Import Regime Decree will be applied to the imports of the goods originating from the United Arab Emirates.

In the same Decision, it was decided that the customs duty rates applied to the goods imported under the final use legislation will be applied at the same rate if the goods are imported within the same scope pursuant to this Decision.

As of September 1, 2023, the Presidential Decree and the related tables are available at <https://www.resmigazete.gov.tr/eskiler/2023/08/20230831-1.pdf>.

### Import Communiqués (2024)

February 07, 2024

- Communiqué on International Fairs Organized in Turkey (Import: 2024/1)
- Communiqué on the Import of War Weapons and Their Parts and Components (Import: 2024/2)
- Communiqué on the Import of Radioactive Substances and Devices Using Them (Import: 2024/3)

- Communiqué on Import of High Intensity Sweeteners (Import: 2024/4)
- Communiqué on the Import of Goods Containing Maps and Map Information (Import: 2024/5)
- Communiqué on Generalized System of Preferences (Imports: 2024/6)
- Communiqué Amending the Communiqué on Import of Road Vehicles (Import: 2024/7)
- Communiqué on Import of Road Vehicles (Import: 2024/7)
- Communiqué on Import of Civil Air Vehicles (Import: 2024/8)
- Communiqué on Import of Used or Reconditioned Goods (Import: 2024/9)
- Communiqué on Import of Banknotes and Similar Negotiable Papers (Import: 2024/10)
- Communiqué on Import of Certain Explosive Substances, Firearms, Knives and Similar Instruments (Import: 2024/11)
- Communiqué on the Approval of Documents on Dual-Use Materials and Technologies (Import: 2024/12)
- Communiqué on Import of Certain Substances Affecting Occupational Health and Safety (Import: 2024/13)
- Communiqué on the Import of Ozone Depleting Substances and Fluorinated Greenhouse Gases (Import: 2024/14)
- Communiqué on the Permission to be Obtained in Imports to be Made by Public Institutions and Organizations (Import: 2024/15)
- Communiqué on Fertilizer Imports (Import: 2024/16)
- Communiqué on the Import of Chemical Substances in the Annex to the Chemical Weapons Convention (Import: 2024/17)
- Communiqué on Suspension System (Import: 2024/18)
- Communiqué on Import of Medical Diagnostic Kits (Import: 2024/19)
- Communiqué on the Import of Goods with Electronic Identity Information (Import: 2024/20)
- Communiqué on Authorization for Electronic Application in Import Transactions (Import: 2024/21)
- Communiqué on Import of Certain Electric Vehicles (Import: 2024/22)

## PRODUCT REGISTRATION AND TECHNICAL STANDARDS

An importer needs a tax number to import all but restricted items, including firearms, hazardous materials, and other products that can only be imported by authorized establishments or for which approval from the Directorate General of Security is required. In accordance with the import regime enacted in December 2011, Control Certificates are required only for animals, animal products, and certain plants such as seeds, seedlings, saplings and flower bulbs.

The import permission certificates for agricultural goods, animals and animal goods are issued by the Ministry of Agriculture and Forests (<https://www.tarimorman.gov.tr>). Besides the import permission certificate, the import of the before mentioned products also require a content certificate, analysis certificate, health certificate and label example in accordance with the Turkish codes. The import of tobacco and alcohol also requires a permission certificate.

The certificates for pharmaceuticals and chemicals used to produce medicines and medical products are given by the Pharmaceutical and Medical Devices Institution under the Ministry of Health ([www.titck.gov.tr](http://www.titck.gov.tr)). Competence certificate for products that require after sales service are obtained from the Ministry of Trade ([www.ticaret.gov.tr](http://www.ticaret.gov.tr)).

Precious metals (gold, silver, etc.) can only be imported by the members of the Istanbul Precious Metals Exchange ([www.borsaistanbul.com](http://www.borsaistanbul.com)).

The documentation procedures follow the EU system. All commercial shipments must be accompanied by a customs declaration form, a commercial invoice, a certificate of origin and a bill of lading or airway bill, depending on the shipment method. Two types of movement certificates are used; A.TR for the imports from the EU countries and EUR.1 for the imports from the EFTA countries.

All packages, cases and bales must bear shipping marks, numbers, dimensions and the gross weight of the merchandise. Packages and the bills of lading that are to be shipped through Türkiye should be marked "in transit".

**Inward Processing:** A material can be temporarily imported to Türkiye without duties and taxes if it is to be used in the production of a product that is to be exported. The aim of the inward processing application is to enable the exporters to supply materials for the production of their exports, without being subject to customs taxes (including VAT). The maximum time for inward processing is 12 months. The permission is given by the Customs Office and the authorization by the Directorate General Export of the Ministry of Trade.

**Temporary Importation Regime (TIR):** The main principle of this regime is to allow the goods for use in Türkiye for a certain time period (3 to 24 months depending on the product type) and then re-export them. The goods will not be subjected to any change except for the normal depreciation. The permission for TIR is assigned by the Ministry of Trade ([www.ticaret.gov.tr](http://www.ticaret.gov.tr)).

ATA carnet is also used for goods temporarily imported into Türkiye. With the carnet, goods like commercial samples, goods intended for use at trade shows and exhibitions, professional equipment, etc. may be imported without paying any duties and taxes. Carnets are valid for one year and may be used for multiple exits and entries to countries that accept the Carnet.

**Outward Processing:** The main principle of the system is to allow goods that are in free-circulation to be exported out of Türkiye for a processing operation. The goods when they come back to Türkiye are released for free circulation with total or partial relief from import duties. If the goods are processed when they are temporarily exported, then customs duties are charged for the processed portion.

According to the Turkish Customs Regulations; imports of certain goods such as; narcotics, some dyes, gambling machines and equipment, etc. are prohibited. Also, imports in the context of the Vienna Convention on Protection of Ozone Layer and its protocols are prohibited. A list of prohibited or restricted products can be viewed at [www.ticaret.gov.tr](http://www.ticaret.gov.tr).

Import of some other products is not prohibited but restricted if they do not meet the requirements set to protect humans, animals and the environment. For example, import of electronic devices is not prohibited; however, if these devices are not compliant with the technical standards established by the Turkish Standards Institute, they may not be imported. Similarly, food products that are not compliant with the requirements set by the Ministry of Agriculture and Forest cannot be imported into Türkiye.

Regarding the pharmaceuticals, in general, the Ministry of Health provides protection for confidential test data submitted in support of applications to market pharmaceutical products in Türkiye.

The Turkish Pharmaceutical and Medical Device Institution, within the Ministry of Health, is responsible for granting licenses to pharmaceutical products. These licenses are granted under the Licensing Regulation on Human Medicinal Products ("Licensing Regulation"), which outlines the documents and information required. Licenses from the Ministry include permission to import pharmaceutical products into Türkiye.

Overall Türkiye has aligned its legislation with the EU regulation to a large extent. Although the administrative capacity improved, it is still poor and effective enforcement of the legislation is overall insufficient. The legal system in Türkiye protects and facilitates the acquisition and disposal of property rights. However, the fight against infringement of laws is insufficient and the functioning of the judicial system is slow. Counterfeiting and piracy are still major concerns of trademark holders. The responsible body in Türkiye for the registration of patents, trademarks and copyrights is the Turkish Patent Institute (TPI). The TPI is member of the European Patent Convention (EPC).

Patents can be registered by applying to the TPI directly or the Patent Co-operation Treaty (PCT). A patent granted without full examination is valid for 10 years from the date of application. If a full examination is conducted the patent is protected for 20 years.

A registered trademark is protected for 10 years upon filling the application and is renewable every ten-year period. If a trademark or a well-known brand is not used in Türkiye for 5 consecutive years and the owners gives no good reason for the lack of use, it loses its protection.

## CURRENCY REGULATIONS AND OTHER TRANSFER RESTRICTIONS

The Turkish Lira (Currency sign: ₺ ;Turkish: Türk lirası) is the currency of Türkiye and the Turkish Republic of Northern Cyprus (recognised only by Türkiye).

Türkiye's monetary unit the Turkish Lira (TL) was replaced by the New Turkish Lira (YTL) as of 01.01.2005 and six zeros were dropped from TL (1 YTL = 1'000'000). At the same time, the Government introduced two new banknotes called TRY100 and TRY50 Old TL banknotes that were withdrawn from circulation as of 01.01.2006. The Central Bank converts them to new banknotes for a period of 10 years.

In the transition period between January 2005 and December 2008, the second Turkish lira was officially called Yeni Türk Lirası (New Turkish lira). It was officially abbreviated "YTL" and subdivided into 100 new kuruş (yeni kuruş). Starting in January 2009, the "new" marking was removed from the second Turkish lira, its official name becoming just "Turkish lira" again, abbreviated "TL".

All obverse sides of current banknotes and reverse sides of current coins have portraits of Mustafa Kemal Atatürk. Hence, behavior that can be considered as disrespectful are prohibited.

The exchange rates are freely determined in the market, while the Central Bank ([www.tcmb.gov.tr](http://www.tcmb.gov.tr)) might intervene in the market by buying and selling large amounts in case of high volatility in the market. Banks authorised to deal in foreign currencies may buy and sell at rates that are freely defined according to market conditions. Foreign investors are free to convert and repatriate their Turkish Lira profits.

## COMMERCIAL REGISTER AND OTHER SOURCES OF COMPANY INFORMATION

The business activities are subject to a number of laws and regulations managed by different authorities. Some of the laws and responsible bodies from their applications that are important for commercial and business life in Türkiye are as follows:

- In 2003, Türkiye passed legislation to ensure equal treatment between domestic and foreign investors and to protect the rights of foreign investors (Foreign Direct Investment Law, No.4875)
- The new Turkish Commercial Code (TCC) came into effect as of 1st July 2012. Together with amendments to that Code - which became effective on the same day – and regulations to complete the new law many changes were done. The purpose was to bring Turkish Commercial Law to international standards and align with EU-LAW

## LEGAL FORMS OF COMPANIES

Individuals or legal entities can set up companies in the form of joint stock (AŞ), limited (Ltd.), branch or partnership. There are no permission and/or approval and minimum capital requirements for foreign investors. However, according to the local regulations, there is a minimum capital requirement for different types of companies irrespective of the investor's nationality. The establishment of a liaison office is possible by a foreign investor, provided that it does not involve any kind of commercial activity.

In addition to these, Swiss companies wishing to trade in Türkiye could also consider:

- Agents
- Distributors
- and other business partners

All companies must be registered with the Trade Registry Office and announced at the Trade Registry Gazette ([www.ticaret Sicil.gov.tr](http://www.ticaret Sicil.gov.tr)).



For more information, visit the website of the Investment Office as well as the booklet “Establishing Company in Türkiye” from the Ministry of Trade.

## **REGULATIONS GOVERNING SALES AGENTS AND COMMERCIAL REPRESENTATIVES**

Agency contracts are regulated under the new Turkish Commercial Code No. 6102 (“NTCC”) in a more detailed manner and some legal issues, which were not prescribed by the law but regulated as per Supreme Court of Appeals’ decisions, are reflected in the text of the code for the first time. Therefore, while in this paper we review the general provisions of the new law on agency contracts, we also evaluate the new issues regulated in the new law.

Pursuant to Article 102 of the NTCC, “*he/she who takes as a profession the permanent carrying out of negotiation activities (i.e. intermediation activities) for contracts relating to a commercial enterprise or conclusion of such contracts on behalf of such commercial enterprise in a specific place or territory, without an ancillary role such as a commercial intermediary, mercantile agent, sales clerk or employee, shall be deemed to be an agent.*”

In view of this definition, the main elements of an agency relationship may be briefly summarized as follows:

- The agent must negotiate and/or conclude contracts relating to a commercial enterprise;
- There must be an underlying agreement that constitutes the basis of the agent’s negotiation or contracting activities; and
- Such activities must show permanence and the agent must pursue these activities as a career.

In this respect, an agent carries out brokerage activities for businesses relating to the commercial enterprise of the principal, or performs such activities on behalf of the principal. The relationship between an agent and a principal is deemed as a form of “special representation”. A real person or legal entity agent is legally required to conduct the agency operation in compliance with the principal’s instructions and in a manner consistent with the interests of the principal.

The freedom of contract principle is also relevant for agency contracts. In the absence of a formal contractual arrangement, provisions on agency contracts laid down in the NTCC shall apply. In the cases where there is no provision in the articles of the NTCC on agency contracts, the provisions concerning occasional intermediaries under the new Code of Obligations No. 6098 (“NTCO”) will be applied to the commercial agencies who act as intermediaries, and the provisions concerning commissioners will be applied to the commercial agencies who conclude contracts; if there are no such provisions, then the provisions about representation will be applied.

Certain special topics regarding agency are regulated under other various codes. For example; insurance agencies are regulated in the Insurance Code and travel agencies are regulated in the Travel Agencies and Travel Agency Unions Code. The intermediaries who are agencies of brokerage houses in the purchase and sale of capital markets instruments are regulated under the Communiqué of the Capital Markets Board Regarding The Principles on Intermediary Activities and Intermediary Institutions, Serial: V, No: 46.

## **PROTECTION OF INTELLECTUAL PROPERTY**

The concept of intellectual property covers a wide range of products created by human intelligence, intellectual accumulation and mental creativity, ranging from music, literature, industrial designs to scientific inventions. Of course, these products will not be subject to protection as long as they remain in the thought phase and are not shared with others other than the producer. However, when these ideas and products are shared with other people and especially when these products are subject to trade for profit, their protection comes to the agenda.



Intellectual property can be analysed under two main headings: Industrial property rights and copyrights. Industrial property rights cover technological inventions, models, trade marks of goods and services, industrial designs and geographical indications. Copyrights, on the other hand, include the rights of the creators of literature, music, artistic and audiovisual products, films, computer programs and software, and the secondary rights, called neighbouring rights (or related rights), of performers, producers and publishers other than the original producers of these products.

The protection of these rights comes into question when the producers or creators of these products authorise or contract with other persons or entities for the reproduction and marketing of these products or for their use in the production of another product. The protection is aimed at preventing the use of these products by persons other than the original right holder. This protection is regulated by national laws and these rights are also protected outside the relevant country by international regulations.

Another issue that comes to the fore while protecting these rights is the consideration of public interest. While protecting the rights of the right holder of a product within the scope of intellectual property, the interests of the society should also be considered. A product within the scope of intellectual property is the result of the work, labour, investments and expenditures of the person or institution that invented or produced it. This person or organisation should naturally be compensated for this, and others should not be able to benefit from it without permission or without compensation. Otherwise, creativity will not be encouraged and society will not create an incentive environment for new inventions and new works of art. This is one aspect of the public interest in question. On the other hand, it is another aspect of the issue that in every invention, in every work, there is a share of the common accumulation of humanity and that, from an ethical point of view, that invention should be used for the benefit of the whole society, at least on condition that the right holder makes a reasonable profit. In addition, the extent to which it would be correct to approach every invention only within the framework of commercial and economic interests and to put the interests of individuals ahead of the interests of society at all costs is another issue that can be discussed. For example, when a product related to human health is in question, will the right of the patent holder or public health be prioritised? If the price of a medicine to treat a fatal disease increases excessively due to patent protection and patients cannot obtain the medicine, will the priority be given to the right to life of the patients or the patent right of the pharmaceutical company? If the invention will not bring sufficient profit to the patent holder, how else will researchers be encouraged to work on new inventions and how will companies be directed to R&D activities? We can give different answers to these questions depending on our approach and value judgements, but it must be said that it is difficult to give satisfactory answers to these questions and these issues are discussed, negotiated and subject to disputes in different concrete situations.

Another situation that raises the issue of public interest arises in case of abuse of these rights. Another controversial issue is what should be done if the right holder - which in practice may also be monopolisation - does not offer the product of its intellectual property to consumers at a reasonable price, even though the society needs it, or if it violates the conditions of free competition.

## **PROCEDURES FOR COLLECTING PAYMENT**

There are three methods of enforcement proceedings:

- General seizure enforcement proceedings
- Enforcement in particular to bonds and
- Eviction of rented immovable properties

The creditor submits a "debt collection request" to the relevant debt execution office (residence location of the debtor). Upon 7 days' written notice for payment of debt, the debtor may object to the payment order by:

- Objecting the signature (imzaya itiraz): if the debt is established by a deed and the debtor claims that the signature on the deed is does not belong to him (in other words, forged/fraudulent), he may submit an objection to the Debt Execution Office by contesting the signature on that deed.
- Objecting the debt (borca itiraz): if the debtor claims he does not owe a part of the relevant debt or the debt itself entirely or he claims that the creditor does not have the authority to request

debt collection against him, he may submit an objection to the Debt Execution Office and contest the debt.

- Objecting the authority (yetkiye itiraz): if the debtor believes that the debt execution office, which initiated the debt collection process, does not have the authority to execute the debt enforcement then the debtor may object to that debt enforcement office for not having the authority to do so.

## **ENFORCING COMMERCIAL CONTRACTS AND RESOLVING DISPUTES**

The competent authority for the settlement of disputes that may arise in international agreements may also be determined by the parties. The contracting parties may authorise a state court through a jurisdiction agreement, or they may conclude an arbitration agreement.

The Turkish private law judicial system is a unique judicial system that combines the institutions and practices that it has imported from different continental European legal systems with the institutions and practices that it has produced itself. Within this system, in addition to the classical judicial institutions and concepts, there is also a sui generis institution such as execution without writ of execution, which is unique to Turkish law in terms of the form and scope of its application.

Turkish private law proceedings have continued to operate as a two-tier system for many years, and with the introduction of the courts of appeal in 2016, it has gained a three-tier structure. This development, which can be characterised as accurate in terms of legal security, has further deepened the problem of the length of the proceedings in Turkish private law.

As a matter of fact, in order to solve the long trial periods, compulsory mediation was introduced on 1 January 2018 for disputes between employees and employers, which constitute a large part of the workload of the judiciary. As a result of the statistical success in the resolution of labour law disputes, commercial cases have also been included in the mandatory mediation practice as of 1 January 2019. The legislator plans to expand the scope of the mandatory mediation practice, particularly in consumer cases. In addition to mediation as a condition for litigation in Turkish law, it is observed that a large number of disputes are concluded through arbitration as another alternative resolution mechanism. In this context, the Istanbul Arbitration Centre ("ISTAC"), which is also supported by official institutions, operates effectively in local and international disputes as an alternative resolution mechanism, despite various prejudices.

In addition, the need for rules regulating economic relations is increasing due to today's developing and complex commercial life. Since those who violate these rules are the people who are in managerial positions in commercial life, the types of offences that cause economic damage are also known as "white collar crimes". All these developments have made commercial punishment a more widely used instrument.

## **OVERVIEW OF PUBLIC PROCUREMENT SYSTEM**

The purpose of this Law is to establish the principles and procedures to be applied in any procurement held by public authorities and institutions governed by public law or under public control or using public funds.

a) public administrations included in the general budget, administrations with special budget, special provincial administrations and municipalities and their related revolving funds organizations, associations (except those operating as professional organizations and their supreme institutions), legal persons,

b) state economic enterprises, consisting of public corporations and state economic establishments,

c) social security establishments, funds, legal persons that are established in accordance with special laws and that are assigned with public duties (except for professional organizations and foundation institutions of higher education) and institutions with independent budgets, d) any institutions, organizations, associations, enterprises and corporations which more than half of their capitals, directly or indirectly, together or separately are owned by those stated in items (a), (b) and (c), e) procurement of works by the banks within Law No: 4603 and by the corporations which more than half of their capitals, directly or indirectly, together or separately are owned by those banks. However, Saving Deposit Insurance Fund and banks whose shares are partially or fully owned by this Fund, banks covered by the Law No: 4603 and corporations which more than half of their capitals, directly or indirectly, together or separately are owned by those banks (excluding the procurement of works mentioned in paragraph (e)), real estate investment trusts, which are subject to Capital Market Law, of the banks covered by the Law 4603 and enterprises, establishments and corporations who carry out activities in the energy, water, transportation and telecommunication sectors are out of the scope of this Law.

### **Exceptions**

a) procurement of agriculture or livestock products, by authorities included within the scope of this Law, directly from the producer or its partners in order to process, utilize, improve or sell pursuant to the establishment purpose or regulations of such authorities and services procurements to be made from development cooperatives of forest villages and from villagers pursuant to Law No: 6831, Forest Law, b) goods, services and works procurement which are decided by the relevant ministry that these are related to the defence, security or intelligence or that these require to be treated confidentially, or procurements requiring special security measures during the performance of the contract pursuant to related legislation or those concerning the cases in which the basic interests of the state's security needs to be protected,

c) procurements of goods, services or works, which are to be realized with foreign financing pursuant to international agreements, and in the financing agreement of which it is stated that different tender procedures and principles will be applied; all kinds of consultancy and loan graduating services with regard to borrowings from international capital markets; procurement of goods and services to be made by Republic of Turkish Central Bank relating to production and printing of banknotes and valuable documents; any kind of procurement for consultancy services in privatization implementations pursuant to Law no: 4046, dated 24.11.1994; procurements of goods and services related to commercial activities by enterprises, undertakings and companies operate in the field of air transport,

d) procurements of goods, services or works of branches of contracting authorities in foreign countries; goods or services procurements which necessarily to be made in place for means of transport during their presence in foreign countries,

e) for the institutions covered by this Law; purchases of goods and services from punishment execution institutions and the institutions of jails workhouses affiliated to Ministry of Justice, from rest homes and orphanages attached to the Social Services and Child Care Institution, from schools and centres involving production attached to Ministry of Education, from institutes and breeding stations attached to the Ministry of Agriculture and Village Affairs and from Printing House of Prime Ministry on the condition that these goods and services are produced by themselves, purchases of goods and services which are in the principal status of State Supply Office from the General Directorate of State Supply Office, purchases of freight, passenger and port services from the Republic of Turkey General Directorate of State Railways, purchases of fuel and transportation from the General Directorate of Liquidation Works Revolving Fund Administrations as well as the purchases of goods, services, and consultancy services from the Scientific and Technological Research Council of Turkey within the scope of research and development activities, purchases of meat and meat products from the General Directorate of Meat and Fish Products Agency and purchases of monoblock wheels and wheel sets used in vehicles that tow or are towed on rail from the General Directorate of the Machinery and Chemical Industry Agency,

f) purchases of goods and services necessary for research and development projects executed and supported by national research and development institutions and purchases of all kinds of research and development services excluding those where the authorities covered by this law meet the whole financing and exploit the outputs only in executing their own activities,

g) goods or services procurements of the institutions listed in subparagraphs (b) and (d) of first paragraph of second article for their commercial and industrial activities, to be made in order to cover the needs relating directly to production of goods and services or to their principal activities, the estimated costs and contract prices of which do not exceed two trillion three hundred billion Turkish

Liras (five million eight hundred forty-nine thousand four hundred twenty-six Turkish Liras excepting those financed by treasury guarantee or by means of transferring directly from the transfer order of budget,

h) services procurements by contracting authorities that are under the scope of this Law with a view to providing diagnosis and cure for the persons entitled pursuant to their special legislation and purchasing of drugs and medical supplies with prescription during outpatient treatment by persons whose treatments are undertaken by their authorities, goods and services procurements to be made by contracting authorities providing health services covered by this Law from each other intended to diagnosis and treatment,

i) survey, restoration, restitution and conservation projects of movable and immovable cultural heritage falling under the scope of the Protection of Cultural and Natural Heritage Law, No: 2863, dated 21.07.1983, road rehabilitation and environmental planning projects and their implementations; and also goods and services procurements related to assessment, protection, transportation and excavation works of those projects

j) drafting emergency response plans and procurement of services, tools, appliances and materials which are urgently needed in order to decontaminate the sea environment and to execute those plans within the scope of Law on Interference in Emergency of Sea Pollution by Reason of Petroleum and Detrimentials and on Compensation of Damages, k) goods and services procurements with regard to repair and restoration and landscaping of cultural properties of foundations, l) goods and services procurements necessary for implementing protection measures to be taken in line with the legislative provisions on witness protection, m) spot purchases of liquidated natural gas (LNG) by Petroleum Pipeline Corporation (BOTAŞ) through importing, n) goods and services procurements through agreements and contracts allowing guarantees in advance in order to ensure provision of urgent needs that likely come up in cases such as defence, security and humanitarian aid issues which may arise from either international obligations or for national purposes, in a fast and effective manner, o) energy and fuel purchases by the state economic enterprises operating in the fields of electricity generation, transmission, trading and distribution to be made in order to carry out these activities, from other authorities and institutions, p) goods and services procurements by General Directorate of Youth and Sports and by autonomous sports federations relating to national and international sports events, r) within the scope of Ministerial Decrees concerning the Coal Aid for the Poor Families, regardless of who the operator is, the goods and services procurements by the General Directorate of Turkish Coal Enterprises from coal fields belong to itself or its subsidiaries or affiliates shall not be governed by this Law, except prohibition and criminal provisions

## SOURCES OF INFORMATION AND REFERENCES

[www.mfa.gov.tr](http://www.mfa.gov.tr)

<http://www.abgs.gov.tr/>

<http://www2.ihale.gov.tr/>

<https://cms.law/en/che/>

<https://www.efta.int/>

<https://www.erdem-erdem.av.tr/>

<https://tim.org.tr/tr/default>

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