

DRAFT OMNIBUS LAW AMENDING CERTAIN LAWS

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The government prepared a [Draft Omnibus Law Amending Certain Laws \(“Draft Law”\)](#) consisting of 62 articles which aims to reduce the impacts of Covid-19 pandemic in mainly economic, social and medical areas. The Draft Law was shared with the stakeholders and is expected to be on the Turkish Grand National Assembly’s agenda anytime soon.

The Draft Law is envisaged to enter into force on its publication date.

The main novelties particularly with respect to the labor legislation, State procurement legislation, legislation regarding usage of Treasury-owned immovable, energy legislation, forestry legislation and the commercial legislation, proposed in the Draft Law are as follows:

The Labor Law¹

- **Temporary Employment Assurance:** A provisional article is envisaged to be included in the Labor Law. Accordingly, except for the employee’s incurable illness, the employer cannot terminate the employment contracts during three months following the date of entry into force of this Article due to the public benefit required as a result of the COVID-19 pandemic. The President is authorized to extend such period up to six months. However, during this period the employer can require the employee to take unpaid leave.

The Unemployment Insurance Law²

- **Allowance Support:** The employees who took unpaid leave as per the provisional article to be included in the Labor Law as explained above, and the ones whose employments were terminated after 15 March 2020 and unable to benefit from unemployment payments will receive an allowance in the amount of 39,24 Turkish Liras per day for the period during which termination by the employer is prohibited. The President is authorized to extend such period up to six months.

If it is determined that the employee, who receives the allowance support, continues to be employed by the employer *de facto*, aggravated administrative fines will be applied.

The State Procurement Law³

- **Force Majeure:** A force majeure clause is proposed to be included in the State Procurement Law and the conditions under which the administration may accept the force majeure event’ existence, including granting of extension and termination of the contract, are determined.

¹ Published in the Official Gazette dated 10 June 2003 and numbered 25134.

² Published in the Official Gazette dated 8 September 1999 and numbered 23810.

³ Published in the Official Gazette dated 10 September 1983 and numbered 18161.

- **Authorized Ministry for Disposal of Treasury-owned and State-owned Immovable:** The authority to determine procedures and principles regarding the transactions for the sale, leasing, barter of and easement right establishment over the Treasury-owned immovable and lease of and granting of usage right over the State-owned immovable, , except those with historical and aesthetic value, is transferred from the Treasury to the Ministry of Environment and Urbanization. Also, granting of construction right in return for flat or land share (*arsa veya kat karşılığı inşaat yaptırılması*), over the Treasury-owned immovable is enabled. The tenders for transactions listed above may also be conducted via electronically.

The Law Amending the Law on Utilization of Treasury-owned Immovable and Value Added Tax⁴

- **Actions to be Taken in Cases of Force Majeure:** With inclusion of an additional article to the said law, in case of and during a force majeure event, the Finance Minister is authorized to decide to postpone, decrease, split into installments, not to accrue interest or accrue an interest which is lower than the applicable interest rate and determine the other issues with respect to contractual fees and adequate pays to be paid for the Treasury-owned immovable.

Amendments related to Cancellation of Certain Licenses and Termination of Certain Transfer Agreements and Electricity Sale Agreements

- **Cancellation of Autoproducer and Generation Licenses & Termination of Certain Agreements:** The legal persons are entitled to cancel their existing production or autoproducer preliminary licenses, licenses or license applications within the scope of the Electricity Market Law⁵ by applying to Energy Market Regulatory Authority, within two months following the effective date of the amendments; and in such case the guarantees will not be forfeited but be returned to the relevant legal entities.

(i) The contracts concluded as a result of Royalty Tenders with Thermal Power Plant Installation Condition made by the Turkey Coal Enterprises under relevant legislation, provided that thermal power plant installation is not completed as of the entry into force date of this amendment and (ii) the transfer Agreements and electricity sale agreements concluded for establishment of electricity power plants based on domestic coal or renewable energy resources, as a result of privatization tenders under Article 18(5) of the Electricity Market Law, will be terminated and liquidated in case of application to the administration within two months following the effective date of this amendment. In such case the guarantees will not be forfeited but be returned; and the termination agreements will be exempt from the stamp tax duty.

The Forestry Law⁶

- **Postponements of the Collection of the Fees:** Except for the permits granted for tourism facility, the fees to be collected in return for the permits granted to real and private legal persons in state forests and the recreation areas and immovable leased by the General Directorate of Forestry between the period of 1 April 2020 and 30 June 2020 will be postponed for three months without any condition and these receivables will be collected until the end of the deferred period without any delay increase or interest. In the permits, the site will be delivered by receiving a bank letter of guarantee in return for the fees of the first year.

The Turkish Commercial Code⁷ ("TCC")

- **Submission of Signature Declarations:** In addition to the trade registries, the notaries are once more authorized to issue signature declarations, which will be submitted to trade registries, for merchants and authorized representatives of legal entity merchants. However, authorized representatives of limited liability companies are excluded from notaries' authorities and their signatures will only be declared to the trade registries. Further, if the trade registry can display the signature of the persons, whose signature is taken to be recorded in the database by the

⁴ Published in the Official Gazette dated 18 July 2001 and numbered 24466.

⁵ Published in the Official Gazette dated 30 March 2013 and numbered 28603.

⁶ Published in the Official Gazette dated 8 September 1956 and numbered 9402.

⁷ Published in the Official Gazette dated 14 January 2011 and numbered 27846.

public institutions and organizations and obtained electronically by the Ministry of Commerce from the relevant institution and organization, and store this signature in trade registry file; the signature declaration will not be required.

- **The Deadline Extension for Auditor Appointment:** The deadline set out in Article 399(6) of the TCC for auditor appointment is extended for one months as “within the first **five** months of the relevant fiscal year”.
- **The Deadline Extension for Holding the Ordinary General Assembly Meetings and Introducing of Administrative Fines:** The deadlines set out in Articles 409 and 617 of the TCC, for holding ordinary general assembly meetings for joint stock and limited liability companies, respectively, are extended for two months, as “within the **five** months following the end of each activity period”. Further, board members of the joint stock companies and managers of limited liability companies who do not call the ordinary general assembly meeting in the envisaged deadline, will be subject to administrative fines.
- **Limitations on Profit Distributions until 31 December 2020:** Except for the companies in which the State, special provincial administration, municipality, village and other public legal entities hold shares, the profit amount to be distributed by the capital companies until 31 December 2020 must not exceed 25% of the 2019 net profit amount; and the board of directors must not be authorized by the general assembly to distribute advance dividends. If the general assembly resolved to distribute profit of 2019 accounting period; however, no payment has yet been made or partial payment has been made to shareholders, payments of the portion exceeding 25% of the 2019 net profit amount will be postponed until 31 December 2020.

As explained in one of our [client alerts](#), this was already announced by the several chambers of commerce upon request of the Ministry of Commerce; however, the announcement was rather interpreted as a suggestion than a legal obligation because there was no legal basis for such limitation

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