

# Draft Law on Amendments to the Turkish Commercial Code and Certain Other Laws

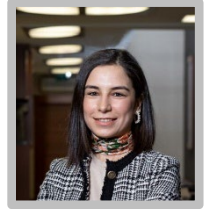
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The Draft Law on Amendments to the Turkish Commercial Code and Certain Other Laws (the “**Draft Law**”), which introduces changes related to Turkish companies’ management and capital requirements, was submitted to the Presidency of the Turkish parliament on 3 May 2024. We reviewed the changes proposed to the Turkish Commercial Code numbered 6102 (the “**TCC**”) under the Draft Law.

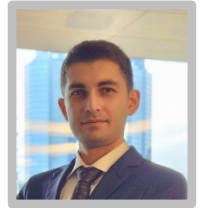
## Amendment to the Terms of the Chairman and the Vice Chairman of the Board of Directors

The Draft Law removes the obligation to annually appoint the chairman and the vice chairman to the board of directors of the joint stock companies.

Under the current version of Article 366/1 of the TCC, the board of directors of the joint stock companies appoints a chairman and a vice chairman from among its members each year. Therefore, even in cases where the board of directors is appointed for a three-year term, the board must nevertheless convene annually and adopt a resolution on the distribution of duties to determine the chairman and the vice chairman for each year. These appointments are registered with the trade registries and announced in the Turkish Trade Registry Gazette.



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Pursuant to the planned changes under the Draft Law, the board of directors appointed to serve for a three-year term will be able to appoint a chairman and vice chairman to cover their entire term of office, without the need to adopt each year a separate resolution for the distribution of duties.

## **Amendment to the Non-Delegable Duties and Authorities of the Board of Directors**

The Draft Law envisages amendments to the subparagraph (d) of Article 375/1 of the TCC, which regulates the non-delegable duties and authorities of the board of directors, to remove the authority to appoint managers of its branches and authorized signatories of the companies, from the non-delegable powers of the board of directors.

Currently, authorized signatories and branch managers of companies can only be appointed with a resolution of the board of directors. With the proposed amendment under the Draft Law, it will be possible for appointments of authorized signatories and branch managers, excluding senior executives of companies, to be made by company officers authorized outside the board of directors.

## **Amendment Regarding the Authority to Convene a Board Meeting**

The Draft Law envisages changes to Article 392/7 of the TCC, which regulates the procedure for convening board meetings.

Pursuant to the current procedure under the TCC, the authority to convene a board meeting is vested with the chairman, and any board member may request the chairman to convene a meeting. However, the article does not expressly state what happens if the chairman fails to convene the meeting despite a request from a board member.

According to the planned amendment under the Draft Law, if a written request is made by the majority of the board members, the chairman will be obliged to convene a board meeting within 30 days from the date the request is received. If the chairman or the vice chairman cannot be reached within this period, or if no convening notice is issued, the board members requesting the meeting will be authorized to convene the meeting directly. Furthermore, the draft provision explicitly allows for a different procedure for convening board meetings to be provided in the company's articles of association.

## **Litigation Expenses Against Trade Registry Directorates in Reinstatement Lawsuits**

The Draft Law envisages a new provision stipulating that in the reinstatement lawsuits to be filed by creditors or other persons with a legal interest in relation to companies or cooperatives that were de-registered by the trade registry pursuant to the Provisional Article 7 of the TCC, no judicial expenses and attorney fees can be awarded against trade registry directorates involved in the judicial process due to legal obligation.

## Regulations on Minimum Capital Requirements

Pursuant to the Presidential Decree No. 7887 [1] (the “Decree”), the minimum capital amount for newly established joint stock companies was increased from TRY 50,000 to TRY 250,000, and for limited liability companies from TRY 10,000 to TRY 50,000, effective January 1, 2024. Furthermore, the minimum capital amount for privately held joint stock companies accepting the registered capital system was increased from TRY 100,000 to TRY 500,000.

The Draft Law proposes inclusion of Provisional Article 15 to the TCC, which sets out certain rules to ensure that the companies incorporated before January 1, 2024 with capital amounts below the new capital thresholds, to adjust their capitals. Pursuant to the draft provision, joint stock companies and limited liability companies with capital below the minimum capital requirements will be deemed dissolved if they fail to complete the shortfall by December 31, 2026. Furthermore, privately held joint stock companies that have adopted the registered capital system with issued capital of at least TRY 250,000 must increase their initial and issued capital to TRY 500,000 by the mentioned date, or they will be deemed to have exited the registered capital system. However, if the increased capital of the privately held joint stock companies that have adopted the registered capital system is below TRY 250,000, they will also be deemed dissolved.

To facilitate the capital adjustment process, the Draft Law stipulates that no meeting quorum will be required at the general assemblies in which the companies will increase their capital amounts to the statutory thresholds. Decisions will be made by a simple majority of votes present at the meeting, and no privileges can be exercised against such decisions.

In addition, the Ministry of Trade will be authorized to extend the deadline for meeting minimum capital requirements by up to two years, with each extension not exceeding one year.