

# YAZICILEGAL

## NEWSLETTER

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### **Amendment to the Decree on Government Assistance for Investments**

The Decree on Government Assistance for Investments numbered 2012/3305 dated 15 June 2012 which was published in the Official Gazette numbered 28328 and dated 19 June 2012 (the “**Decree on Government Assistance for Investments**”), regulates the procedures and principles to be implemented by the Ministry of Economy of Turkey in order to support various investments by way of different incentive systems and supporting elements. With regard to the implementation of these supports, Turkey is split into 6 areas according to their social economic developments. The first area is considered more developed than others and as a consequence, it benefits the least from incentives and supports. From this perspective, area 6 is the one which can benefit the most from the support, on the basis that it is considered the least developed area. With the Decree on Government Assistance for Investments numbered 2017/2011 published in the Official Gazette on 3 May 2017 numbered 30055, licensed warehousing investments and nuclear power plant investments are now included in the preferential investment topics stated under the Decree on Government Assistance for Investments. Regardless of where the investments on nuclear power plant and licensed warehousing take place, those shall benefit from the incentives and supports as if they are located in area 5. Nevertheless, if such investments are planned to be conducted in area 6, they shall be treated according to the broad opportunities granted to area 6.

### **Regulation on Implementation of Industrial Property Law**

The Regulation on the Implementation of Industrial Property Law (the “**IP Regulation**”) was published in the Official Gazette numbered 30047 and dated 24 April 2017. The IP Regulation supersedes the regulations on the implementation of decree-laws regarding protection of patent rights, industrial designs, geographical marks and trademarks.

The IP Regulation constitutes the legislation where the procedures and principles relating to the application of trademarks, geographical marks, design, patents, utility models, and traditional product names are combined together.

Similar to the Industrial Property Law (the “**IP Law**”), the IP Regulation comprises of 5 sections namely (i) trademarks, (ii) geographical marks and traditional product name, (iii) design, (iv) patent and utility model; and (v) common provisions. Below you may find brief explanations on certain novelties pertaining to each section of the IP Regulation, apart from the common provisions.

- ✓ **Trademark:** The IP Regulation clarifies the application procedures concerning trademark types that are newly introduced by the IP Law such as sound and movement trademarks. For instance, it is required for sound recordings to be submitted during the application of sound trademarks and the image sequence is required to be submitted for movement trademarks. In furtherance, as a novelty, in case a third party claims that a trademark was unlawfully registered, the Turkish Patent and Trademark Institution (the “**Institution**”) is entitled to request the parties to mediate during the evaluation process of such claim.
- ✓ **Geographical Marks and Traditional Product Name:** The IP Regulation includes detailed information on the registration process of geographical marks and traditional product names. Similar to the abovementioned trademark registrations, in case a third party alleges that a geographical mark registration was unlawful, the parties can be requested to mediate the dispute by the Institution before the Institution adopts a final decision.
- ✓ **Design:** Under the former legislation, an applicant was entitled to file more than one design registration by making only one application. Although this right is maintained under the IP

Regulation, there is a new limitation according to which, within one application, it is only possible to file up to 100 design registrations.

- ✓ **Patent and Utility Model:** In case a deficiency is detected during the application of patent and utility model, 3 months' cure period was granted by the former regulation whereas under the IP Regulation such cure period is decreased to 2 months.

### **Amendment to the Industrial Registry Communiqué**

In the Official Gazette numbered 30075 and dated 24 May 2017, the Communiqué numbered 2017/15 (“**Amendment Communiqué**”) amending the Ministry of Science, Industry and Technology’s Industrial Registry Communiqué 2014/11 determining the principles and procedures regarding the registration to the Industrial Registry of businesses subject to the Industrial Registry Law (numbered 6948), was published. With this amendment, in order to perform registration to the Industrial Registry, the documents needed to be delivered to the Science, Industry and Technology Provincial Directorates such as capacity report and other similar registration documents shall now be submitted electronically. Similarly, instead of preparing documents such as application denials, approvals and similar documents in written form, the Science, Industry and Technology Provincial Directorates shall prepare the documents electronically. Apart from the novelties regarding the electronic system, the cancellation of registration is re-organized by the Amendment Communiqué. Thus, in case an Industrial Registry certificate and registration is to be cancelled, the provincial directorates shall now perform an on-site examination in order to observe whether the production actually ceased to operate.

### **Amendment to the Environmental Impact Assessment Regulation**

The Environmental Impact Assessment Regulation published in the Official Gazette dated 25 November 2014 and numbered 29186 (the “**EIA Regulation**”) was amended with the amendment regulation published in the Official Gazette dated 26 May 2017 and numbered 30077 (the “**Amendment Regulation on the EIA Regulation**”). Below you may find some of the most important changes

implemented by the Amendment Regulation on the EIA Regulation.

- ✓ Formerly, in order to initiate the incentive, approval, authorization and license application procedures, “Positive Environmental Impact Assessment” or “Environmental Impact Assessment is Not Required” decisions of the relevant competent authorities were required; with the regulation amendments, such applications can be initiated before the above mentioned decisions are adopted.
- ✓ An online platform for the environmental impact assessment process has been announced with the Amendment Regulation on the EIA Regulation. The procedures and transactions related to the environmental impact assessment shall now be conducted via the Online EIA Process Management System (e-EIA).
- ✓ Wind power plants with turbine count of 20 and over and solar power plants with project sites of 20 hectares and over are now included within the scope of environmental impact assessments meaning that such mentioned projects are required to obtain the decision of “Positive Environmental Impact Assessment”.

The following changes are implemented to some of the projects subject to evaluation in order to determine whether such projects require a decision of “Environmental Impact Assessment Is Not Required” or “Environmental Impact Assessment Is Required”.

- ✓ The housing number for collective housing projects have been changed to 200 from 500;
- ✓ For shopping malls, 50,000 m<sup>2</sup> and more area including closed parking areas has been changed to 10,000 m<sup>2</sup> and more closed construction area;
- ✓ Wind power plants having turbine count of 5 or more are included in the scope;
- ✓ Solar power plants having 2 hectare or more project site are included in the scope; and
- ✓ For water abstraction or water storage projects, 1,000,000 m<sup>3</sup>/year has been changed to 300,000 m<sup>3</sup>/year or more.

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This newsletter has been prepared only for information purposes. Please do not hesitate to contact us if you need assistance or more detailed information.

Yours faithfully,  
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