

Amendments to the Law on Movable Pledge in Commercial Transactions Numbered 6750

In accordance with the Law on the Amendment of Certain Laws for the Improvement of the Investment Environment numbered 7099 which was published in the Official Gazette on 10 March 2018 ("Law"), along with the regulations made in the Turkish Commercial Code, Tax Procedural Law, Social Security and General Health Insurance Law, Law on Municipal Revenues, Customs Law, there have been several changes made in the Law on Movable Pledge in Commercial Transactions numbered 6750 with the aim of small - medium sized enterprises to obtain finance easier.

- With the amendment included to article 4/6/c, setting forth the essential elements to be included in a pledge agreement, if the movables which to be subject to the pledge agreement would not characteristically contain any distinctive features such as HS code, serial number, chassis no, etc., then it will be possible to put pledge on such movables by specifying its features in general.
- Introducing a new subparagraph "p" to article 5/1, "all kinds of similar movable assets and rights" has been added among the exclusive movables which to be part of the pledge (e.g. receivables, IP rights, raw materials, all types of income and revenues, consumable materials, commercial products, tenancy rights etc.). With this subparagraph, it has been aimed to ensure that all movable assets and rights of small-medium sized enterprises will also be subject to pledge to be issued.
- Article 7 had regulated that if any movable asset would become an inseparable part of any asset or mixed with similar assets, the pledge on the relevant asset would be deemed established over all. However, it has been replaced by article 29 of the Law, regulating the interest, insurance and the natural product of the movable assets or substitutes will be automatically included within the scope of the pledge. In addition to this, in the event that the pledge is put on a manufacturing process together with the movables used for such process, then the pledge will also automatically cover the receivables to be entitled during and as a result of the concerned manufacturing process. The principles related to this process shall be determined under a separate regulation. With this new article, the good faith of the third party shall be preserved who do not know and need to know that the movable asset is pledged.
- In parallel to the replacement of article 7, the provision regulating the principle applicable to priority of pledges on the combined and mixed assets has also been abolished.
- According to previous version of article 14, in case the debt und is not paid, the creditor could only proceed with execution proceedings as specifically mentioned in the article (demanding the transfer of the title of the pledged movable through execution offices for first degree pledgees, transferring the receivables to the asset management companies, or using the tenancy or licensing rights over assets). However, with the current version of the article, the creditor can also directly apply for execution proceedings pursuant to the general provisions in the event of a default (i.e. collecting the receivables by selling the goods under the Bankruptcy and Enforcement Law).
- New version of article 15 of the law sets forth different time frames for both local and foreigner pledgees with respect to the cancellation of the pledge. Accordingly, the pledgee should apply to the Registry for the foreclosure of the pledge upon satisfaction of the secured receivable. It is determined that the foreigner pledgee should apply within 30 business days as of the satisfaction of the secured receivable while it is set 15 business days for Turkish pledgees. If the pledgee fails to apply for the foreclosure within such periods, it may be subject to an administrative fine equal to 10% of the secured receivable. In accordance with the new version of Article 15, the implementation of administrative fine has become conditional to the complaint of pledger or debtor against the pledgee.
- As to article 18/1, it is determined that if there is no provision in Law on Movable Pledge in Commercial Transactions, the provisions of Turkish Civil Code numbered 4721 related to immovable assets will be applicable instead of the provisions related to the movable assets



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