

## Overview of the Law on Amendments to the Enforcement and Bankruptcy Law and Other Laws

The Law on Amendments to the Enforcement and Bankruptcy Law and Other Laws, which was published in the Official Gazette no. 30361 and entered into force on March 15, 2018 ("the Amendment Law"), amends particularly Enforcement and Bankruptcy Law and other laws such as Law on Collection Procedure of Public Receivables, Law on Notifications, Law on Fees, Law on Cooperatives, International Arbitration Law, Law on the Establishment, Duties and Jurisdiction of First Instance Judicial Courts and Regional Courts of Justice, Civil Procedure Law, Turkish Commercial Code and Law on Postal Services. The Amendment Law aims to enhance the investment environment in Turkey by increasing the quality and speed of the judicial system and the enforceability of the contracts.

We summarize some significant amendments below.

### Significant Amendments to the Enforcement and Bankruptcy Law no. 2004

The most significant change in the Amendment Law is the abrogation of postponement of bankruptcy and adoption of a more efficient and functional structure for composition with creditors, which is an agreement between the debtor and the creditors approved by a court. It should be noted that the procedure for composition with creditors has already been regulated under the Enforcement and Bankruptcy Law; but has not been actively used in practice. For a more effective and functional procedure for composition with creditors the below listed amendments were made;

- The periods concerning procedures for composition with creditors have been shortened,
- The courts having jurisdiction are changed from enforcement courts to commercial courts of first instance,
- Detailed announcement and notification procedures have been regulated in order to establish certainty of the procedures until the approval of the composition with creditors and to increase the ability of creditors to collect their receivables,
- Documents to be attached to the application for composition with creditors are redefined with a view to monitoring the current financial situation of the debtor in a more detailed and clearer way,
- It is aimed to establish an efficient way to assure conclusion of the composition with creditors and to avoid bankruptcy of the debtor once the conditions for composition with creditors are met, and eventually to provide continuation of the commercial activities of the debtor.

Apart from the above, some other amendments are as follows: the order of the priority rights of pledgees on the sales price is put forward; the period for the bankruptcy office to decide for the type of bankruptcy and creditors' list are shortened; in liquidation of the bankruptcy estate and encashment process in enforcement proceedings by way of seizure, liquidation of the goods and rights (which form a commercial integrity or which are established to generate a higher revenue when sold all together) as a whole have been made mandatory.

These amendments entered into force on March 15, 2018.

### Significant Amendments to the Law on Collection Procedures of Public Receivables no. 6183

In the previous version of the provision, public receivables arising from the estate rights in kind such as custom duties, building and land taxes were before the receivables secured with pledges by order. The new provision, on the other hand, reserves the rights of the pledgees and prescribes that the abovementioned public receivables are to be collected after the payment of the receivables secured with pledges.

These amendments entered into force on March 15, 2018.

### Significant Amendments to the Law on Notifications no. 7201

Since the notification periods are of importance in terms of shortening the term of the proceedings and ensuring the right to fair trial, the scope of those being subject to mandatory electronic notification was expanded to all public institutions and organizations, public authorities, municipalities, village administrations, companies, cooperatives, associations, foundations, trade unions, professional associations, government business enterprises, publicly owned corporations, lawyers, notaries, experts, mediators and in-house lawyers. Post and Telegraph Organization ("PTT") is assigned for the operation of electronic notification transactions through National Electronic Notification System. Formation of electronic notification addresses is also regulated.

These amendments will be effective as of January 1, 2019.

### Significant Amendments to the Law on International Arbitration no. 4686

In order to resolve the question of the court with jurisdiction and to speed up the court proceedings in cases where courts' involvement is necessary during the course of arbitration proceedings (e.g. appointment or challenge of arbitrators, recognition and enforcement of foreign arbitral awards), the courts having jurisdiction to hear such cases are clearly stated. Accordingly, Regional Appellate Courts are given jurisdiction for cancellation actions to be filed against arbitral awards. Concerning the cases where a court decision is needed during arbitration proceedings, for which civil courts of first instance had jurisdiction, it is provided that either civil court or commercial court of first instance will have jurisdiction depending on the subject matter of the dispute.

These amendments entered into force on March 15, 2018.

### Significant Amendments to the Code of Civil Procedure no. 6100

For the purpose of shortening the length of the proceedings, the time for the submission of experts' report is reduced to 2 months for cases where simplified rules of procedure are applicable. The extension period for the submission of experts' report is as also reduced to 2 months.

Some further amendments in Code of Civil Procedure are concerning domestic arbitration and made in line with the amendments in the Law on International Arbitration. Accordingly, while the Regional Appellate Courts are given jurisdiction for cancellation actions; for cases where the courts' involvement is needed during the course of arbitration proceedings, either civil courts or commercial courts will have jurisdiction depending on the subject matter of the dispute.

These amendments entered into force on March 15, 2018.

### Amendments to the Turkish Commercial Code no. 6012

In order to shorten the length of proceedings, commercial cases under the value of TRY 100.000 are made subject to simplified rules of procedure. Apart from that, provisions regarding postponement of bankruptcy, which has been abrogated, are amended for coherency with the provisions concerning composition with creditors.

These amendments entered into force on March 15, 2018.

### Amendments to the Law on Postal Services no. 6475

With the amendments, e-apostille system, in which the person who requested apostille has a document with e-signature and apostil, or can download the relevant document from the website of Ministry of Justice of the relevant country by a code given to him, is introduced. In this system, PTT is authorized to receive requests for documents with e-apostille, to verify the identification of the applicant, to determine and collect service charges, to convey the documents with e-apostil generated by competent authorities to applicants, and to verify these documents.

These amendments will be effective as of January 1, 2019.



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