



5.6. Step by Step Turkey

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Introduction Turkey

There is a provision in the clause (I) of Article 5 of the Regulation on Opening a Business and Working Licenses published in the Official Gazette dated 10.08.2005 and numbered 25902, which includes the provision "Complying with the provisions of the legislation on foreigners regarding opening and employing businesses by foreign nationals". In accordance with [Law No. 6735](#) foreigners who will open a business must obtain a work permit from the Ministry of Labour, Family and Social Services before starting to work.

If foreigners want to open a business and work under their own names and accounts, they must apply to MoLFSS to obtain a work permit following the completion of the establishment procedures of the said workplaces before the relevant authorities (such as the publication of the workplace in the trade registry or the trade registry office and obtaining a tax number). As a result of the evaluation to be made by MoLFSS, foreigners whose request is approved and who have been granted work permits must apply to the relevant municipalities with these permits and request a business license and work license.

The procedures and principles for Syrians under temporary protection to work in our country are regulated by the "Regulation on Work Permits of Foreigners under Temporary Protection", which was published in the [Official Gazette dated 15.01.2015 and numbered 29594](#), and a work permit from for foreigners MoLFSS under this scope to work in Turkey.

Foreigners working independently on their own behalf and account within the scope of temporary protection, after the completion of the establishment procedures of the workplace on the condition that they have tax numbers, by scanning the documents showing the activity of the workplace such as the trade registry gazette for companies, the relevant chamber registration document for real person merchants, tradesmen and craftsmen, to the automation system during the application. He has to get a work permit before starting to work. The

foreigner will be required to have a work permit while granting a business and working license by the competent authorities.

Syrians in Turkey are almost 4 million

Despite their success, young migrant (Syrian) entrepreneurs in all countries are working in an unfamiliar economy and regulatory environment, limited customer base and inconsistent access to incentives and business support. In Turkey, Partnerships with Turkish businesses can help ease some of these challenges. Syrian businesses bring unique competencies, including familiarity with Turkey's Arabic-speaking consumers and existing links with businesses across Syria, the greater Middle East, and North Africa. Leveraging these competencies can mean new growth opportunities for Turkish businesses. Essentially, while Syrian businesses can offer access to new markets abroad, Turkish businesses can help Syrians crack the market within.

The Turkish Ministry of National Education (MoNE) recommends the following to cultivate greater interaction and eventually partnerships between Turkish and Syrian businesses for mutual benefits:

- Provide Syrian businesses with resources to navigate the Turkish market and regulatory environment.
- Invest in training and capacity development opportunities for Syrian and Turkish businesses, as well as public agencies serving businesses and foreign investors.
- Offer networking opportunities and platforms for Syrians businesses to demonstrate their products and services.
- Reduce policy uncertainties and regulatory burdens to encourage long-term Syrian investment in Turkey and facilitate formalization.
- Increase outreach and equitable access to incentives for Syrian businesses, especially to realize their export potential and brand development.
- Collect and provide access to detailed data on Syrian businesses for further analysis.

Chambers of commerce and industry across all provinces can:

- Prepare Arabic language guides to help Syrian entrepreneurs navigate the process of establishing and operating a business in Turkey. The Gaziantep Chamber of Commerce has experience doing [this](#).
- Staff dedicated help desks for Syrian entrepreneurs interested in establishing a business. Provide training and support on Turkish laws and regulations, banking regulations, and available investment and export incentives.
- Organize business network meetings. Bring Syrian and Turkish businesses together under the umbrella of an impartial chamber.
- Provide Syrian businesses with a platform and venue to introduce their commercial activities to Turkish businesses. Holding these meetings in English may offer a common working language for some potential partners

5.6.1. Step 1: Choose legal form

Company Types under TCC and Alternative Forms

There are corporate and non-corporate forms for companies under the TCC, which states that companies may be established under the following types:

a. Corporate forms

Joint Stock Company (JSC)

Limited Liability Company (LLC)

Cooperative Company

Although some financial thresholds (i.e., minimum capital) and organs differ from each other, the procedures to be followed for establishing a JSC or an LLC are the same.

b. Non-corporate forms

Collective Company

Commandite Company

Although companies may be established according to these five different types, JSC and LLC are the most common types chosen both in the global economy and Turkey.

5.6.2. Step 2: Officially Register your Company with the Chamber of Commerce

Turkey has introduced reforms with a view to making it easier to do business in order to enhance the investment environment, eliminating red tape in setting up a business and minimizing costs and procedures. To this end, establishing a company is now only carried out at Trade Registry Offices located in Chambers of Commerce and designed to be a 'one-stop shop'. The process is completed within the same day. The process of establishing a joint stock or limited liability company is fairly simple and straightforward, especially once the notarization and apostille certification or ratification formalities are completed in respect of the documents to be submitted with the application. In order to begin the process of establishing a company in Turkey, certain information must be entered on MERSIS. This step requires, among others, a tax identification number to be obtained for non-Turkish individuals and/or legal entities who will be shareholders and/or directors of the company. Once the tax identification numbers have been obtained from the relevant tax authority and provided to MERSIS, a MERSIS number will be generated for such foreign nationals.

Upon submission of the articles of association through MERSIS, such articles of association shall be certified by a public notary or the relevant trade registry in Turkey. Upon the certification of the articles of association, the certified articles of association and all other supporting establishment documents (e.g. declarations of signatures by the members of the board of directors and other signatories, letter of blockage from a bank in Turkey certifying that at least 25% of the share capital of the entity has been deposited and blocked in a bank account, etc.), as requested by the relevant trade registry, must be physically submitted for registration. Once the relevant trade registry certifies all documentation as complete and suitable, a registration certificate is provided which evidences the incorporation of the new company. Trade registry will also provide the mandatory legal and financial books of the newly incorporated company together with the registration certificate.

Further reading, [click here](#).

5.6.3. Step 3: Fiscal regulation and Accountancy

TURKISH TAXATION SYSTEM

Turkish direct taxation system consists of two main taxes; income tax and corporate tax. An individual is subject to the income tax on his income and earnings, in contrast to a company which is subject to corporate tax on its income and earnings. The rules of taxation for individual income and earnings are provided in the Income Tax Law 1960 (ITL). Likewise, the rules concerning the taxation of corporations are contained in the Corporation Tax Law 1949 (CTL). Despite the fact that each is governed by a different legislation, many rules and provisions of the Income Tax Law also apply to corporations, especially, in terms of income elements and determination of net income.

INCOME TAX:

Taxable Income:

The income tax is levied on the income of individuals. The term individuals mean natural persons. In the application of income tax, partnerships are not deemed to be separate entities and each partner is taxed individually on their share of profit. An individual's income may consist of one or more income elements listed below:

- Business profits,
- Agricultural profits,
- Salaries and wages,
- Income from independent personal services
- Income from immovable property and rights (rental income)
- Income from movable property (income from capital investment)
- Other income and earnings without considering the source of income

Tax Liability:

In general residency criterion is employed in determining tax liability for individuals. This criterion requires that an individual who has his place of residence in Turkey is liable to pay tax for his worldwide income (unlimited liability). Any person who remains in Turkey more than six months in a calendar year is assumed as a resident of Turkey. However, foreigners who stay in Turkey for six months or more for a specific job or business or particular purposes which are specified in the ITL are not treated as resident and therefore, unlimited tax liability does not apply to them.

In addition to residency criterion, within a limited scope, nationality criterion also applies regardless of their residency status, Turkish citizens who live abroad and work for government or a governmental institution or a company whose headquarter is in Turkey, are considered as unlimited liable taxpayers. Accordingly, they are subject to the income tax on their worldwide income.

Non-residents are only liable to pay tax on their income derived from the sources in Turkey (limited liability). For tax purposes, it is especially important to determine in what

circumstances income is deemed to be derived in Turkey. The provisions of Article 7 of the Income Tax Law deal with this issue. In the following circumstances, the income is assumed to be derived in Turkey.

Business profit: A person must have a permanent establishment or permanent representative in Turkey and income must result from business carried out in this permanent establishment or through such representatives.

Agricultural income: Agricultural activities generating income must take place in Turkey.

Wages and Salaries:

- Services must be rendered or accounted for in Turkey.
- Fees, allocations, dividends and the like paid to the chairmen, directors, auditors and liquidators of the establishment situated in Turkey must be accounted for in Turkey.

Income from Independent Personal Services: Independent personal services must be performed or accounted for in Turkey.

Income from Immovable Property:

- Immovable must be in Turkey;
- Rights considered as immovable must be used or accounted for in Turkey.

Income from Movable Capital investment: Investment of the capital must be in Turkey.

Other Income and Earnings: The activities or transactions generating for other income, specified in the Income Tax Act, must be performed or accounted for in Turkey. The term accounted for used above to clarify tax liability of the non-residents means that a payment is to be made in Turkey, or if the payment is made abroad, it is to be recorded in the books in Turkey.

Determination of Net Income:

Business Profit:

Business profit is defined as profit arising from commercial or industrial activities. Although this definition is very comprehensive and includes all types of commercial and industrial activities, the ITL excludes some activities from the contents of business profits. Generally, activities performed by tradesmen and artisans who do not have permanent establishments are not assumed as commercial and industrial activities and are exempt from income tax.

Furthermore, in order to tax income resulting from commercial and industrial activities there has to be continuity in performing these activities. In other words, incidental activities in that nature are not treated as commercial or industrial activities and therefore, the Income Tax Law deals with these activities as the other income and earnings.

The ITL does not list each commercial and industrial activity and only refers to the Turkish Commercial Law for the scope of these terms. Yet several activities are listed namely for clarification in Article 37. These are as follows:

- The operation mines, stone and time quarries, extraction of sand and pebbles operations of brick and tile kilns;

- Stock brokerage;
- Operating of private schools, hospitals and similar places;
- Regular operations of sale purchase and construction of real estate;
- Purchase and sale of securities on someone's behalf and on a continued basis;
- Fully or partly sale of land which has been obtained by purchase or barter and subdivided within five years of its date of purchase and sold during this period or in subsequent years;
- Earnings from dental prosthesis.

Basically, the taxable income of a business enterprise is the difference between its net assets at the beginning and at the end of a calendar year.

Two methods are used to compute business profits: Lump-sum basis and actual basis. In the former method, the Income Tax Law specifies estimated business profits for taxpayers who are qualified for such treatment according to the relevant provisions of the Law. The main assumption is that those taxpayers specified by the Law have difficulty to keep accounting books and to determine their income on the actual basis. Therefore, their income taxes are assessed on their estimated profits determined by the Law.

In the latter method business profits are determined on the actual basis: Taxpayers are required to keep accounting books to record their actual revenues and expenses which occur within the calendar year. In general, business related expenses paid or accrued related to business are deducted from revenues:

Expenses to be deducted:

In order to determine net amount of business profits on the actual basis, the following expenses may be deducted from revenues:

- general expenses made for earning and maintaining business profit;
- food and boarding expenses provided for employees at the place of business or in its annexes;
- expenses for medical treatment and medicine;
- insurance and pension premiums;
- clothing expenses paid for employees;
- losses, damages, and indemnities paid based upon written agreements, juridical decrees, or by order of law;
- expenses for travel and lodging relevant to the business;
- expenses for vehicles which are part of the enterprise and used in the business;
- taxes in kind such as building, and consumption, stamp and municipal taxes and fees and charges, related to the business;
- depreciations set aside according to the provisions of the Tax Procedure Law;
- payments to the unions;

Payments, which are not accepted as expenses:

Those payments listed below are not considered as deductible expenses;

- funds withdrawn from the enterprise by the owner or by his spouse or children, or other assets in kind taken by them;
- monthly salaries, wages, bonuses, commissions and compensation paid to the owner of the enterprise, to his spouse, or his minor children;
- interest on the capital invested by the owner of the enterprise;
- interest based on the current account of the owner of the enterprise, his spouse, his minor children including interests on all form of receivables;
- all fines and tax penalties as well as indemnities arising from unlawful actions. Indemnities incurred as penalty clauses of contracts shall not be considered indemnities of a punitive nature;
- % 0 per cent of the advertising expenses for all kind of alcohol and alcoholic beverages, tobacco and tobacco products (current rate has been reduced to 0 percent by a Governmental Decree).

5.6.4. Step 4: Write a business plan

See [Chapter 4](#) and [Chapter 6](#).

5.6.5. Step 5: Opening a Business Account

The company must obtain potential tax identity numbers for non-Turkish shareholders, and non-Turkish board members of the company from the relevant tax office. This potential tax identity number is necessary for opening a bank account in order to deposit the capital of the company to be incorporated.

The documents required by the tax office are as follows:

Petition requesting registration

Articles of association (one original)

Copy of the tenancy contract showing the registered address for the company

If the process is going to be followed by proxy, a power of attorney must be issued specifically showing the authority to act on behalf of the company before the tax authority in order to obtain a tax identity number or potential tax identity number.

Bank Accounts

In the recent years the Turkish Republic has alleviated the processes to open a bank account in Turkey for foreigners with the means of some regulations in order to increase investment and make it more convenient to foreigners. These regulations will enable a foreigner who has come to Turkey for working to send easily money to his family abroad, they will enable that the daily

life of a foreigner will get easier by being able to take advantage of banking processes and they will enable that the investment and company financial activities of foreigners will be realized considerably faster and many more advantages. However the opening procedures of a bank account for foreigners varies from bank to bank. While taking not long in some banks, it can be the opposite in another. Some major Turkish banks are İş Bankası (Isbank), Yapı Kredi Bankası, TEB, QNB Finansbank, Halkbank, Vakıfbank, ING Bank, Akbank, Ziraat Bankası and Garanti Bankası.

How is the Procedure ?

There are two types of opening a bank account for foreign citizens in Turkey; the first one is the procedure to open a bank account for persons and the second one is for accounts in the name of a company.

The legal procedures and principles in order to be able for a foreign citizen to open a bank account in Turkey are listed below:

First of all, the person wanting to open a bank account has to determine a correspondence address.

Foreign citizens have to own a tax number to be able to open a bank account in Turkey. The foreign citizen can get a potential tax number by visiting a state tax office with his/her within a time that depends on the density of the office.

With the tax number received from the tax office, the foreigner will be able to open a bank account and realize banking processes.

Some banks may ask for a mobile phone number of its customers. The foreign citizen needs therefore to procure a telephone number from a Turkish operator company.

The legal procedures and principles in order to be able for a foreign company to open a bank corporate account in Turkey are listed below:

Contrary to personal bank accounts, corporate accounts can only be opened by the director owning a signing authority.

A tax number needs to be procured from the tax office for the company. The company for which a bank account is to be opened, does not need to be located in Turkey or have financial activities in Turkey. It is sufficient to have a correspondence address.

In order to open an account, the competent company director applies to the bank together with the tax number and all documents of the company translated and approved by the notary or consulate. These company documents are the main company agreement, trade chamber registries, commercial register, establishment and activity documents and if available licences.

İşbank: Opening a bank account at İşbank is quick and easily. It is necessary to gather the documents below and apply to the nearest İşbank branch.

A valid passport not older than 10 years or a valid residence permit (if both are not available, and official document approved by the Turkish Ministry of Finance validating the national ID document will be accepted)

Your Foreigner's Identification Number or Tax Identification Number

Proof (copy of electric, water, natural gas or phone bill addressed to your name and of the last three months) of your valid residence address in Turkey or the printed address on your passport

Garantibank: Visit the branch in order to get a Mobile/Online Banking password to be able to open an account.

Akbank: Visit branch in order to open a bank account or get an online banking password or call the Akbank expat banking service.

Ziraat Bankası: In order to open a Foreign Currency Current Account or a Turkish Lira Current Account you can apply to our branches or our internet branch.

5.6.6. Step 6: Environmental Protection Laws and Rules and Applying for Permits

The Environmental Law and its secondary legislation regulate the protection of the environment and sanction any action which violates the rules in the legislation and may cause pollution to the environment. The Ministry of Environment and Urbanization acts as the regulatory authority through its provincial directorates. Depending on the nature and type of the activity, investors may be obliged to obtain environmental impact assessment reports and environmental licenses. Non-compliance with the Turkish environmental legislation may result in the imposition of administrative fines and civil and criminal liability

ENVIRONMENTAL PERMITS AND ASSESSMENTS

Pursuant to the Environmental Law, environmental permits and assessments are governed by the Regulation on Environmental Permit and License and the Environmental Impact Assessment Regulation. These regulations introduce an extensive system of licenses and permits required to be obtained pursuant to the environmental legislation. 7.1.2 Environmental Impact Assessment Depending on the risk profile that the activity of an entity possesses vis-à-vis the environment, such entity may be required to obtain an environmental impact assessment report. For large-scale industrial investment, it is almost always mandatory to obtain a report analyzing whether the investment would have significant adverse effects on the environment. The report itself is not sufficient to obtain the clearance of the Ministry of the Environment and Urbanization for the implementation of the project. The applicable legislation also requires public consultation meetings and review by a special independent committee before the Ministry of Environment and Urbanization may issue an “Environment Impact Assessment Affirmative” or “Environment Impact Assessment Negative” decision.

In the former case, the investor can proceed with the investment, subject to other necessary clearances being obtained (if any), whereas the latter restricts any future activity in connection with the investment. Moreover, for the activities subject to environmental impact assessment without getting the EIA Affirmative decision, no other public procedure such as tenders, incentives, and plan approvals could be conducted. EIA behaves like a prerequisite for whole other procedures

Environmental Permits

Investors are obliged to obtain either a “Environmental Permit” or “Environmental Permit and License” depending on the impact of their activities on the environment. The Ministry of Environment and Urbanization issues an “Environmental Permit” in connection with air emission, environmental noise, deep sea discharge, or hazardous waste discharge from a

facility. Investors have to obtain an “Environmental Permit and License” in relation to the technical sufficiency of the relevant facility. Each permit and license issued under the Environmental Law is valid for 5 years from the date of issuance and is renewable for additional 5-year periods thereafter. As a general rule, entities active in the energy, mining, construction and building materials, metal, chemical, surface coating, forest products, food, agriculture and stockbreeding, and waste management sectors and industries are required to obtain either an “Environmental Permit” or an “Environmental Permit and License”, depending on their production capacity and their discharge requirements. Even if an entity is not subject to licensing under the environmental legislation, it must still comply with the same whilst engaging in activities.

Other Environmental Obligations

Although most of the environmental obligations are covered by (i) Environmental Law, (ii) Environmental Permits and Licenses Regulation and (iii) Environmental Impact Assessment Regulation, other (in particular sector-specific) environmental obligations are included in other regulations. Entities should also comply with other environmental obligations with respect to the area of activities, specified in the Industrial Air Pollution Control Regulation, Regulation on Assessment and Management of Environmental Noise, Regulation on Protection of Wetlands, Waste Management Regulation, Oil Waste Control Regulation, Packaging Waste Control Regulation, the Regulation on Mitigating the Impacts and Preventing the Severe Industrial Accidents, Radiation Safety Regulation.

SANCTIONS

The Environmental Law introduces a strict no-fault liability regime for non-compliance with the law and polluting the environment. Polluters are liable for the loss occurred due to their actions, regardless of the degree of fault. In case of a violation, the accused company may be given a reasonable time (not exceeding 1 year) to remedy the breach failing which it may face sanctions. Although most sanctions exist in the form of an administrative fine, violating the Environmental Law and its secondary legislation may also lead to criminal liability for the polluter. For 2019, the administrative fines due to non-compliance with the Environmental Law and its secondary legislation may reach up to TRY 6,017,320 depending on the severity of the breach. Each year, applicable administrative fine is increased pursuant to a rate announced by the President

5.6.7. Step 7: Privacy / Personal Data Protection (Making a business website)

The General Data Protection Regulation (“GDPR”) came into force in May – as every business in Europe knows. Turkey has similar legislation, although some differences exist. Companies doing business in Turkey need to know how these laws work in practice.

Enacted in 2016, [Turkish Data Protection Law \(“DPL”\)](#) is accompanied by other regulations and communiqués, while draft versions of secondary legislation have been published by Turkey’s supervisory authority, the Personal Data Protection Board (“DPB”). Under these changes, data controllers have to comply with multiple obligations when dealing with personal data, while the legislation also affects every employee, making it important for companies operating in Turkey to understand the consequences of compliance failure.

In examining the differences between DPL and GDPR, the key point is how they affect businesses operating in Turkey. Originating from EU Directive 95/46/EC, DPL features various additions and revisions. Although it contains nearly all the same fair information practice

principles, DPL does not allow for a “compatible purpose” interpretation while any further processing is strictly prohibited. If data is compiled for a purpose where the subject has given consent, the controller can use it for another purpose, provided that additional specific consent is given, or if further processing is needed for what are deemed to be legitimate interests.

Grounds for processing under DPL are comparable to those which apply for GDPR, save that explicit consent is required when sensitive and non-sensitive personal data is processed – a much more time-consuming exercise. At first blush, such a burdensome obligation should give DPL a higher level of data protection than GDPR. However, DPL’s definition of explicit consent needs to be set against GDPR’s regular consent. Both require “freely given, specific and informed consent” but GDPR also provides that there has to be “unambiguous indication of the data subject’s wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her.”

Under DPL, the cross-border transfer of personal data to a third country is similarly troublesome: the country of destination has to have sufficient protection, according to criteria decided by the DPB. Alternatively, parties must commit to provide sufficient protection that meets DPB approval. But DPL also includes the following: “In cases where interests of Turkey or the data subject will be seriously harmed, personal data shall only be transferred abroad upon the approval of the Board by obtaining the opinion of relevant public institutions and organizations.” This obliges data controllers to evaluate whether a transfer might possibly cause serious harm, and if it does, they need to obtain the DPB’s approval. However, it is unclear how such interests are to be determined. GDPR requires controllers to maintain internal records, although there is no general requirement to register with the data protection authorities, whereas DPL provides a hybrid solution, combining registration and record-keeping requirements: a registration mechanism mandating data controllers to register with a data controllers’ registry. The draft DPB regulation requires them to hand over their Personal Data Processing Inventory and Personal Data Retention and Destruction Policy to the DPB before completing their registration. For any business that is subject to both DPL and GDPR, the best way to avoid duplication of compliance effort is to formulate a flexible compliance model that satisfies the demands of regulatory authorities in multiple jurisdictions.

Further Information: [click here](#)

5.6.8. Step 8: Insurance

The [social security system in Turkey](#) is predominantly similar to Bismarck model, one of four basic insurance systems which are Continental Model (Bismarck), Liberalistic Model (Beveridge), Northern European Model and Mediterranean Model. Bismarck Model refers to a system where the premiums paid over the wages of employees according to their insurance status are collected in a joint pool and the benefits are provided based on the paid premiums only when old-age pension is entitled. The amount of the benefits to be granted to the insurance holders in cases of retirement, accident and sickness varies by the income they previously had. The main actors in this system are employees, employers and representatives in public sector. This system has more regulatory measures in labor market than liberalistic system, which hinders labor market flexibility. Concordantly, strict rules and collective bargaining mechanisms have come to the fore.

Turkish Social Security System has also some elements of the Mediterranean Model as well as Bismarck Model. The Mediterranean Model is derived from the Continental Model and bears a resemblance to this model in the sense that the paid social insurance premiums provide a basis

for future social security benefits. Another aspect of the Mediterranean Model similar to Turkish Model is the wideness of informal economy. For this reason, the system does not cover many people; however social risks are tried to be eliminated through family ties. This model has brought into prominence the concepts of traditional family and agricultural society; thus people are supported by their families without considering whether the state provides benefits or not in case of revenue loss or social risks.

By this reform, a number of structural changes have been made on Turkish social security system. A transition has been realized from the system which entitles various rights to different professional groups to the system which ensures the unity of standards and norms in terms of retirement insurance. Having the aim to ensure the sustainability of the system, these structural changes have not led to deviation from the Mediterranean Model-Continental Model.

Social Security Reform

Since 1990s, a number of financial problems have been experienced in Turkish social security system due to various reasons such as early retirement implementations, high rates of unregistered employment and income replacement and low rates of premium collection and earning subject to contribution. This system does not include the entire population and not have adequate safeguards against poverty. The provision of services by different social security institutions in nonsystematic way hinders the unity of norms regarding rights and obligations of employees. It became compulsory to make reforms in social security system as a result of all these problems and ageing tendency of the population which is one of the major factors affecting the financial sustainability of the system.

For the purpose of restructuring the social security system, a reform was realized in 2008 when the Law No. 5510 entered into force for seeking solutions to the prominent problems such as the existence of increasing deficit of the system and different implementations that the institutions had in the provision of health and insurance services.

The primary aim of the social security reform is to create an equitable, easily-accessible and financially sustainable social security system that provides more effective protection from poverty.

The social security reform consists of 4 complementary components:

Universal Health Insurance providing an equitable, protective and quality healthcare services for the entire population,

An aid system which enables all needers to access the services with the combination of non-contributory payments and social benefits provided disorganized,

A single retirement regime including short and long term insurance branches apart from health insurance,

A new institutional structure facilitating daily life of our citizens through modern and efficient services.

The social security reform particularly includes the regulations regarding the enhancement of the retirement system and expenses. From this point of view, a set of changes have been made on pension replacement rate, updating coefficient, number of paid premium days and age parameters and a transition period has been envisaged. As the previous rules continue to be

followed until the completion of transition period, the effect of these parametric changes on social security deficit cannot be seen exactly in the short term until the 2040s.

The reforms made up to now aim at increasing the services for insurance holders as well as removing defects in the social security system. In this context, various regulations have been made in the field of both health and retirement so that insurance holders can receive services at the shortest time. A number of implementations have been put into practice to facilitate insurance holders' access to hospital services and the relevant procedure requiring a long wait has started to be made on internet.

The primary objective in a people-oriented system is to provide services at local levels. For this reason, the system where services are provided from center has been left and Social Security Centers have been built in many districts with a view to enable insurance holders at local levels to receive services easily.

Financing of Social Security

Social security is generally financed through premiums or contributions collected from workers, employers and state around the world.

There are two ways to follow in financing social security system:

Capitalization or saving method (fund management)

Pay as you go (allocation) method

The pay-as-you-go method is used for financing social security system in Turkey. Under Turkish social security system, premiums are collected for long and short term insurance; unemployment insurance and universal health insurance. In order to lessen the effects of early retirement on national economy, social security premium is collected from pensioners who continue to work after retirement.

The following table indicates insurance branches and rate of premiums paid under these branches:

Individuals to Pay Premiums

Individuals to pay premiums vary according to the status of insurance holders:

The long and short-term insurance, universal health insurance and unemployment insurance premiums of the individuals working on service contract (workers) shall be paid to the Social Security Institution by their employers by deducting the amount equal to the rate of premium collected over total earnings from workers' wages and adding the amount of premium to be paid by the employers.

The long and short-term insurance and universal health insurance premiums of the individuals working on own names and accounts (employers) shall be paid to the Social Security Institution by themselves.

The long-term insurance and universal health insurance premiums of civil servants shall be paid to the Social Security Institution by the Public Institution where they work by deducting the amount equal to the rate of premium collected over total earnings from civil servant's salary and adding the amount of premium to be paid by the institution.

The long-term insurance and universal health insurance premiums of optional insurance holders shall be paid to the Social Security Institution by themselves.

5.6.9. Step 9: Management of human resources

Under Turkish law, labour legislation is applicable to almost all employees, regardless of the size of the employer for which they work. The most significant piece of labour legislation in Turkey is the Labour Law. Other significant pieces of legislation relating to employment matters are as follows: (i) the provisions of Article 14 of the Law No. 1475 which govern severance payments, (ii) the Labour Health and Safety Law, and (iii) Trade Union and Collective Bargaining Agreements. Moreover, the Turkish Code of Obligation includes a chapter on employment agreements, which will be applicable in cases where the above-mentioned legislation does not address the matter in question.

EMPLOYMENT AGREEMENT

Employment agreements are treated differently than other private agreements under Turkish law. The main objective of employment agreements is to protect the employee and maintain a social balance between the employee and the employer. In order to ensure that these objectives are met, the legal rights and benefits granted to employees under the Labour Law are mandatory and cannot be excluded or altered contractually to the detriment of the employee. However, contractual arrangements which enhance the legal rights and benefits granted to employees under the Labour Law are permitted. It is mandatory to execute a written agreement should the term of the employment relationship be for one or more years. Except where a contract has not been executed, the employer shall, no later than two months after employment begins, provide a written document containing general and special terms relating to working conditions, daily or weekly working hours, remuneration and supplementary salaries, payment terms, and provisions that both the employer and the employee are required to fulfil upon termination of the agreement. Otherwise, a monetary fine may be imposed on the employer for each employee working without a written agreement. If employment agreements are not in writing, they are still valid; however, the employee may demand from the employer a document bearing his signature and stating the general and, if any, special terms of employment at any time

Definite – Indefinite Term Employment Agreements

Under Turkish law, employment agreements can be made for a fixed or indefinite term. An employment agreement between an employer and employee will be deemed to be for a fixed term if it is concluded in writing and any one of the following conditions exists: (i) if it is concluded for a definite term work, (ii) if its term depends on an objective condition such as completion of a certain task, or (iii) if its term is subject to the completion of a certain aim. A fixed-term employment agreement cannot be renewed more than once, save where there is a material reason which justifies renewal. If an employment agreement does not meet the above conditions, it will be considered an indefinite term employment agreement.

4.2.2 Part-time – Full-time Employment Agreements

Employment agreements can stipulate whether an employee works on a part-time or full-time basis. If the weekly working hours of the employee are considerably lower than those of a full-time employee, the employment agreement is deemed to be a part-time employment agreement. Part-time employment can be for an indefinite term or fixed-term if the fixed term employment conditions referred to in the section above are met.

For more information:

<https://www.invest.gov.tr/en/library/publications/lists/investpublications/legal-guide-to-investing-in-turkey.pdf>

5.6.10. Step 10: Patents and Brands

The [Turkish Patent Institute](#) provides effective protection and widespread usage of industrial property rights ensuring that Turkish industry and technology plays a leading role in global competition. It strives to be a leading institution in the world of industrial property.

Mission

- * To provide effective protection of patents, trademarks, industrial designs and other industrial property rights.
- * To contribute to the development of Turkish economy and technology by encouraging creativity and innovation.
- * To disseminate the awareness and knowledge of industrial property rights throughout the country and to cooperate with the related sectors.
- * Providing a customer orientated, timely and high quality service to constitute an effective industrial property system by strengthening legal, technical and human infrastructure.
- * To represent Turkey on international platforms and strengthen co-operation for the protection of the interests and development of the Turkish economy.

Normally, national patent applications should be filed in Turkish and a translation thereof (English, German, or French) depending on the searching authority must be supplied upon requesting the search. However, a national patent application may also be filed in English, German or French provided that an additional fee is paid for supplying the translation in Turkish within one month.

Requirements of a national patent application in Turkey

Applicants must supply the following items in order to meet the basic requirements prescribed by the law:

- Petition of filing requesting grant of a national application,
- a description of the invention,
- one or more claims,
- any drawings referred to in the description or claims,
- an abstract,
- payment of the official fees.

Examination stage

Official fees: Official Fee of the competent Examination Authority.

If applicant selects an examination authority who acted for the same application also as the searching authority, special discounts apply. However, searching and examination authorities are not needed to be necessarily the same.

Turkish Patent Institute applies “examination cycles” if the first examination report contains a negative opinion. Applicant is then invited to respond to the first examination report and pay again the examination fee (second cycle). If the second examination report still contains a negative opinion as to patentability, a third chance, which is actually the last chance, is given to overcome the objections in the negative report where applicant needs to pay again the examination fee (third cycle). If the third examination report does not allow any claim in the claims set, application is eventually refused. If the examination reports reference at least one claim as being patentable, application may proceed to grant based on the allowed claim(s).

Once the application is found to be allowable by the TPI, applicant is invited to pay the grant fee mentioned above in order to proceed to grant and publish the same in the official bulletin. Turkish patent applications are subject to renewal fees from the second and each subsequent year calculated from the filing date of the application. A renewal fee is due on the same day of the month containing the anniversary of the date of filing of the national patent application. If the applicant fails to do so, such renewal may still be paid within an additional term of six months with surcharge.

Failure to pay the renewal fees within the additional 6 months results in loss of rights which can only be remedied with a request for re-establishment of rights. TPI strictly applies the “all due care” criterion such that the reason for failure was caused by unforeseeable reasons and applicant has duly spent every effort for not to cause any loss of rights.

Appeal

Normally decisions of the TPI can be brought into the attention of Board of Re-examination and Evaluation acting as a kind of Board of Appeal. However, decisions pertaining to substantive issues such as patentability, generally do not deviate from the findings of the Examination Reports. Therefore, this Board mostly reviews procedural matters such as whether a procedural violation ever had occurred in the grant procedure. Decisions of this board can be appealed before the Specialized IP Courts in Ankara.

Oppositions / Third Party Observations

The current patent law does not allow post-grant oppositions to the granted patents in Turkey. As a post-grant action, third parties may only proceed with filing a lawsuit requesting nullity of the concerned patent before the competent courts.

Third party observations, however are allowed only in certain points of the grant procedure. Therefore, observations filed in other time points of the procedure have no effect at all.

First time point is that, observations can be filed within six months after publication of the search report in the official bulletin. This would have no substantial effect if the observations are not filed in two languages (i.e. Turkish and the language of the competent Examination Authority) simply because the foreign Examination Authority should be able to interpret the observations. Observations may be considered by the applicant and can be regarded as a warning pushing the said applicant to restrict the claims' scope or even withdraw the application depending on pertinence of the cited prior art.

However, the applicant has also the chance to ignore the observations and request an unexamined patent. This request is published in the official bulletin giving a chance to third parties to request examination of the application, and along with this request, file their observations in two languages (i.e. Turkish and the language of the competent Examination Authority). As noted, examination request is made by the third parties and therefore the relevant fees must be paid by them. It should be borne in mind that there is no other chance to file observations in subsequent stages, such as in the examination procedure.