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New Omnibus Bill

Law Amending Labor Law and Certain other Laws and Decrees and Restructuring Certain Debts No. 6252 was published in the Official Gazette on 11 September 2014.

With the Omnibus Bill, a number of changes were introduced mainly in the labor legislation, corporate laws, internet and intellectual property laws.

Changes in the Labor Legislation

Some of the important changes

introduced to labor legislation such as Labor Law No. 4857, Social Security and General Health Insurance Law No. 5510, Law regarding Work Permits of Foreign Nationalities No.4817 are as follows:

- Minimum employment of a 6-month-term, which is required in order to be qualified to file a reemployment lawsuit, shall not be applicable to employees in underground workplaces;
- Working hours of the employees in underground mining works shall not exceed 6 hours per day and 36 hours per week;
- As for the annual paid leave, employees in underground works are granted with additional 4 days of annual paid leave;
- Overtime work shall not be applied to the employees in underground mining works except compulsory reasons and

extraordinary circumstances set out in the Labor Law;

- As for the annual paid leave terms of the employees working for a subcontractor and for a period in the same workplace will be taken into account regardless of any change in the subcontractor;
- Employees, who are working in house services and works at least 10 days, will be included within the scope of social security as of 1 April 2015,
- Certain debts arising due to nonpayment of social security premiums, which satisfies a certain criteria set out in the Law, can be restructured.
- Foreign individuals, who are granted with a long term residence permit or who reside in Turkey for a continuous period of 8 years or who work in Turkey for a period of 8 years with a valid work permit may be granted with an indefinite term work permit.



Changes in Turkish Commercial Code

The Omnibus Bill has introduced a number of changes to the current Turkish Commercial Code No.6102 which can be listed as follows:

- board of directors -or general assembly in limited liability companies- may appoint (i) board members who are not authorized to represent the company or (ii) individuals associated with the company under an employment or service agreement as commercial agents of the company by means of an internal directive. In case of such an appointment, the internal directive shall be registered with the Trade Registry and announced at the Trade Registry Gazette. The Board shall still be jointly liable to the company and to third parties for the damages caused by such appointed individuals,
- The Omnibus Bill also granted an additional term of 3 months as of the publication date of the Law for companies who failed to increase their capital to the minimum amounts set forth under the TCC. With this amendment, companies who were dissolved in this regard may be ex officio registered with the Trade Registry provided to increase their capital amounts,
- Deadline for Provisional Article 7 of TCC which regulates deregistration and dissolution of the companies listed therein has been extended to 1 July 2015.

Changes to the Internet Law

The Omnibus Bill also includes some changes to the Law No. 5651 Law on Regulating the Publications Made on Internet Environment and Combating Crimes Committed through such Publications which can be listed as follows:

- Ceiling limit of administrative fine regarding not having updated information on identity of the content providers, hosting provides and access providers in their websites, is increased to TL 50.000 from TL 10.000.
- The Presidency of Telecommunication (TIB) is entitled to acquire and store internet traffic data without a need for any court order,
- Time limit for the access providers to block content upon request of TIB is reduced to 4 hours from 24 hours.

Changes in Intellectual Property Law

The Omnibus Bill also introduces a change in Intellectual and Artistic Works Law No. 5846.

The Omnibus Bill abolishes the following conditions for compulsory purchase by the State of an artistic work, which is deemed to have importance for national culture, before the expiration of the protection period:

- being out of print for 2 years and
- incapacity of the right holder to reprint the work.

The Turkish language text of the Law can be found at the following link: <http://www.resmigazete.gov.tr/skiler/2014/09/20140911M1-1.htm>

New Regulation on Monitoring of the Compulsory Insurances

Regulation on Monitoring of the Compulsory Insurances which regulates the procedures and



principles of following up the compulsory insurances within the scope of the Regulation was published in the Official Gazette on 9 August 2014 to be effective as of 1 January 2014.

Insurances regulated by means of the Regulation are as follows:

- Insurances which fall within the scope of “trust account” maintained by the Insurance Association of Turkey as per Article 14 of Insurance Law No. 5684,
- Insurances required by a Law or a Decree,
- Insurances included within the scope of the Regulation by the Undersecretariat of Treasury.

The Regulation mainly determines (i) authorization of Insurance Information and Monitoring Center (IIMC) such as inspections, supervision, reviews to be realized and maintaining the database by IIMC, (ii) renewal of the insurance policies, (iii) outcomes of lack of insurance and (iv) cautions to be taken for the purposes above.

Turkish language text of the Regulation can be found at the following link:
<http://www.resmigazete.gov.tr/eskiler/2014/08/20140809-23.htm>

Assessment of Capital Adequacy of Banks

The Regulation Amending the Regulation Regarding the Measuring and Assessment of Capital Adequacy of Banks was published in the Official Gazette dated 6 September 2014 and came into effect as of such date.

Certain new definitions were introduced under the Regulation



as follows; principal capital, principal capital adequacy ratio, intermediary firm, minimum lease payments, primary receivables, subordinated receivables, seed capital, seed capital adequacy ratio, advance internal ratings based approach, internal ratings based approaches, principal internal ratings based approach, consolidated principal capital adequacy ratio, consolidated seed capital adequacy ratio, master netting agreements.

Further, the Regulation introduced the principals and procedures for the calculation of the amount for credit risk depending on the different internal ratings based approaches as well as credit risk mitigations. The Regulation also changes classification of risks in scope of standard approach, classification of retail receivables and stock investments. The Regulation introduced the principals and procedures for the calculation of the amount for operational risk depending on the different internal ratings based approaches.

As per the changes adopted with the Regulation, the Banking Regulation and Supervision Agency is authorized to cancel the issued permits as per the audits to be made by the Agency.

The Turkish language text of the Regulation can be found at the following link:
<http://www.resmigazete.gov.tr/eskiler/2014/09/20140906-1.htm>

Calculation by Internal Rating Based Approach

Communiqué on Calculation of Amounts for Credit Risk by Internal Rating Based Approach was published in the Official Gazette dated 6 September 2014 to enter into effect on 1 January 2015. Purpose of the Communiqué is to regulate the procedure and principles regarding the calculation of the amount by way of internal rating based approach. The Communiqué lists (i) the requirements for the banks to calculate the credit risk by way of internal rating based approach with the approval of the Banking Regulation and Supervision Agency; (ii) the principles and

procedures for the calculation of credit risk by way of internal rating based approach; (iii) classification of risks in scope of internal rating based approach; (iv) the principles for the calculation of risk weighted amounts, (v) the exceptions for the use of the internal ratings based approach and (vi) the reporting requirement.

The Turkish language text of the Communiqué can be found at the following link:
<http://www.resmigazete.gov.tr/eskiler/2014/09/20140906-6.htm>

Equity Capital of Banks

Regulation Amending the Regulation Regarding Equity Capital of Banks was published in the Official Gazette on 6 September 2014 and entered into

force as of such date.

As per the amendments introduced by means of the Regulation; (i) in the case that liabilities not monitored over their real value are subject to mitigation from cash flow risk, profits projected to equity are included in determination of the seed capital, (ii) in the case that Bank's seed capital adequacy ratio or consolidated seed capital adequacy ratio falls below %5.125, the value decrease of the cash cover for the share certificates with the approval of the Banking Regulation and Supervision Board is removed from the Regulation; (iii) the Banking Regulation and Supervision Board is authorized to determine the principles and procedure for the value decrease or conversion to the share certificate of the debt instruments to be included in the calculation of additional paid in capital as well as the calculation of the additional capital and (iv) the calculation methods for the additional capital and the general reserves are changed, and (v) the list of exceptions to be used for

calculation of the common equity is extended.

The Turkish language text of regulation can be found at the following link:
<http://www.resmigazete.gov.tr/eskiler/2014/09/20140906-1.htm>

Mitigation of Credit Risks

Communiqué on Mitigation of Credit Risks was published in the Official Gazette on 6 September 2014 and entered into force as of such date. The Communiqué mainly regulates principles and procedures for the credit risk mitigation techniques to be used in the calculation of risk weighted assets under both standard approach and internal rating based approach along with the expected losses.

Within the scope of the Communiqué; (i) acceptance of the funded and unfunded credit protection, (ii) protection methods of funded and unfunded credit to be used for credit risk mitigation, (iii) credit derivatives,



(iv) requirements for protections and credit derivatives and (v) calculation methods for credit mitigation have been regulated in detail.

Turkish language text of the Communiqué can be found at following link:
<http://www.resmigazete.gov.tr/eskiler/2014/09/20140906-5.htm>

Procedures and Principles of Treasury Incentive for Credit Guarantee Institutions

Decree Amending the Decree on Procedure and Principles of Treasury Incentive for Credit Guarantee Institutions was published in the Official Gazette on 13 September 2014 and entered into force as of such date. As per the Decree; (i) maturity of maritime operation facilities has been extended from four years to six years including a grace period of four years for principal

repayment and (ii) maturity of maritime investment facilities has been extended from eight years to ten years including a grace period of six years for principal repayment.

Turkish language text of the Decree can be found at the following link:
<http://www.resmigazete.gov.tr/eskiler/2014/09/20140913-1.htm>

Environmental Permits and Licenses

Regulation on Environmental Permits and Licenses was published in the Official Gazette dated 10 September 2014 to be effective as of 1 November 2014 to replace the Regulation on the Required Permit and Licenses Under Environmental Law.

Activities and enterprises which fall within the scope of the Regulation are listed in Annex 1 and Annex 2 of the Regulation in consideration of their environmental impact and such enterprises are required to obtain a temporary certificate of activity which shall be replaced with an “environmental permit” or “environmental permit and licence” within one year as of the

date of the temporary certificate of activity. The Regulation also regulates authorized entities for issuance of temporary certificate of activity. Within this scope, as for the enterprises listed in Annex 1, Ministry of Environment and Urbanization is authorized while the enterprises listed in Annex 2 fall within authorization of provincial directorates of the Ministry.

As per the Regulation, the ‘environmental permit’ or the ‘environmental permit and licence’ are issued to be effective for a period of 5 years and shall be renewed by means of an application to the authorized entity before 180 days to expiry date of the same.

The Regulation also regulates administrative sanctions for the enterprises in case of a breach of the liabilities under the Regulation.

Turkish language text of the Regulation can be found at the following link:
<http://www.resmigazete.gov.tr/eskiler/2014/09/20140910-4.htm>



Answers. Not theories.

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About our firm

Gokce Attorney Partnership is an Istanbul-based law firm offering legal services across a broad range of practice areas including mergers and acquisitions, joint ventures, private equity and venture capital transactions, banking and finance, capital markets, insurance, technology, media, telecoms and internet, e-commerce, data protection, intellectual property, regulatory, real property, and commercial litigation. Please visit our web site at www.gokce.av.tr for further information on our legal staff and expertise.

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