

THE

Gokce

Istanbul

Fine PRINT

January 2015

29

**Get ready for the
battle: Comparative
advertising will be
legal next year**

Highlights of this issue

New Requirements for
Door to Door Sales Contracts

New Rules on Instalment
Sales Contracts

Becoming an Experienced
Angel Investor Now
Made Easy

Get ready for the battle: Comparative advertising will be legal next year

The conditions of the commercial advertisements are restructured with the Regulation on Commercial Advertising and Unfair Commercial Practices. The Regulation which was prepared by the Ministry of Customs and Commerce was published in the Official Gazette on 10 January 2015, and came into force as of such date except its provisions on

comparative advertising, which will be in effect after 1 year upon its publication (i.e. 10 January 2016).

Regulation covers all types of commercial advertising and unfair commercial practices against consumers. Some of the changes introduced by the Regulation are as follows:

Principles

In addition to principles set out in the previous regulation on the same subject matter the Regulation provides the following principles to be complied in advertisements.

Advertisements shall not:

- contain any expressions to denigrate, abuse, bias or discrimination regarding language, race, colour, sex, political opinion, philosophical belief, religion, denomination and similar features,
- be prepared in a way that damaging human dignity and the rights of persons,
- contain expressions or images of someone's private or social life without their prior consent,
- contain before and after treatment expressions or images of sick people,
- contain disease-related injuries and similar expressions or images which causes worry and



misleading information for the community,

- abuse the people's fear and superstitions,

Comparative Advertising

The Regulation enables to make comparative advertising. According to the Regulation, comparative advertising may only be made if the advertisement:

- is not deceptive and misleading,
- does not cause unfair competition,
- includes comparison of the goods or services of the same quality and responds to the request or need,

- compares the issues that will benefit the consumer,
- objective, measurable, numerical data claims based on scientific tests are proven with a report or document,
- disparage or discredit competitor's intellectual and

industrial property rights, business title, company name, other distinguishing marks, goods, services, activities, or other features.

In comparative advertising, competitor's name, trademark, logo or other distinctive shape or expressions along with the trade name or business name may be included, provided that it is in accordance with the abovementioned provisions.

Provision which enables corporative advertising will come

into force after 1 year from the date of publication of this Regulation.

Burden of proof

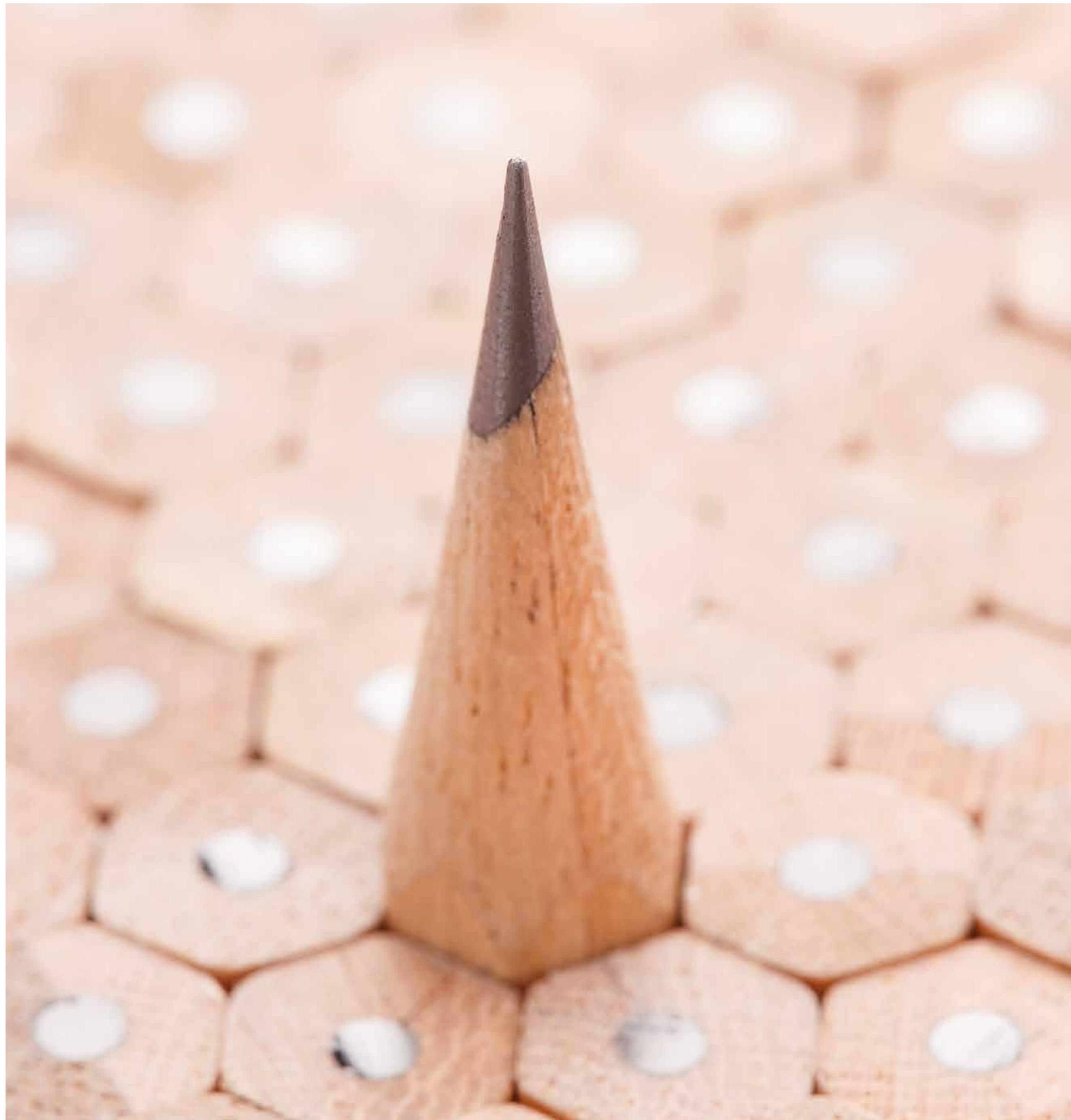
According to the Regulation, claims which are brought forward in the advertisements has to be proven with reports obtained from the relevant departments of universities or accredited testing and assessment organizations or independent research organizations.

Advertisements Containing Price Information

- Advertisements which include the price of goods or the price calculation method must comply with the following principles: the given price information must be relevant to the advertised goods or services;
- consumers should not be misled by giving incomplete information about the price;
- offered price must be the total selling price of the goods or services including all taxes;
- if the goods or services are offered free of charge to consumers in return for fulfilling certain obligations, these obligations that consumers must fulfil must be clearly indicated in the main message of the advertisement.

Witnessed Advertisements

Also as a commonly used method, any image, declaration or reference from doctors, dentists, veterinarians and pharmacists and health claims from health care



providers for goods or services offered cannot be included in the advertisement.

Presentation of Text and Voice Expression

According to the Regulation, information which will affect the purchasing decisions of consumers must be delivered on time and in a manner that can be detected by an average consumer.

The elements of the main promise of the relevant good or service should be stated in a clear and understandable manner in the message of the advertisement.

Captions, static texts or footnotes stating the conditions or exceptions of the main promise shall not annihilate or eliminate

the benefits of the message.

These captions, static texts, footnotes or subtitles have to appear in the screen for 0.25 seconds per word. Also in written advertisement such as brochures or other written medias, letter sizes should be at least or equivalent to 8 pt Arial.

Implicit Advertising

Implicit advertising whether in form of vocal, written and visual made via any communication device is prohibited.

The Turkish language text of the Regulation can be found at the following link:

<http://www.resmigazete.gov.tr/eskiyer/2015/01/20150110-5.htm>

New Requirements for Door to Door Sales Contracts

New Regulation on the Contracts Executed Outside of Workplace was published in the Official Gazette on 14 January 2015. Regulation will enter into effect after three months upon its publication (i.e. 14 April 2015). The previous regulation on the same subject matter called Door to Door Sales Regulation will be abolished on the same date.

The Regulation shall be applicable to all contracts executed with the consumers outside of the workplace, including door to door sales contracts. Certain contracts; such as contracts for sales with an amount under TL 30, financial services contracts, contracts for assembly, maintenance and repair of the goods are out of the scope of the Regulation. These exceptions are listed in Article 2 of the Regulation. Some of the changes introduced by the Regulation are as follows:

Seller/service provider is now required to provide preliminary information on certain aspects of the contract to the consumers before the execution of the contract. Such information must be provided with a "Pre-information Form" -having a font size of 12 pt.- which must be approved and signed by the consumers before signing the contract. The information must be in a comprehensible language, clear and legible.

Regulation makes some additions to the compulsory context of the contracts. The withdrawal period of consumers is increased from 7



days to 14 days in accordance with the new Consumer Protection Law.

The name of the certificate for authorizing the sellers/service providers to execute contracts outside of workplace has been changed from "Door to Door Sales Certificate" to "Authorization Certificate". The current Door to Door Sales Certificates has to be renewed by the sellers/service providers until 1 June 2015.

The Turkish language text of the Regulation can be found at the following link:
<http://www.resmigazete.gov.tr/eskiyer/2015/01/20150114-3.htm>

New Rules on Instalment Sales Contracts

Regulation on Instalment Sales Contracts was published in the Official Gazette on 14 January 2015 and came into effect as of such date.

The Regulation shall be applicable

to all instalment sale contracts executed with consumers and financial leasing contracts in which the consumer is obliged to obtain the ownership of a property upon the expiration of the lease term. Some of the provisions introduced by the Regulation are as follows:

The contracts within the scope of this Regulation must be made in writing and include the mandatory content set out in the Regulation. Consumers have the right of withdrawal without showing any reason and paying a penalty within 7 days upon the execution date of the contracts.

For the agreements where the consumer agrees to pay the total amount in instalments before the delivery of a movable good and the Seller agrees to deliver such movable goods after all instalments are paid and in which the instalment period is more than one year, the provisions of Turkish Code of Obligations No.6098 shall apply.

The provisions of this Regulation shall not apply to purchases made by credit card.

The Turkish language text of the Regulation can be found at the following link:
<http://www.resmigazete.gov.tr/eskiler/2015/01/20150114-5.htm>

Regulation on Business Angel Scheme has been amended

Regulation Amending the Regulation on Individual Subscription Equity was published in the Official Gazette and entered into force on 24 December 2014. The Regulation introduced a number of minor amendments with respect to requirements and

documents for obtaining business angel license.

The Regulation also amended requirements for the experienced angel investors. Within this scope, (i) holding shares in a non-public company which conducted net sales no more than TL 5,000,000 in the previous financial year will suffice to be deemed as an experienced angel investor and remaining conditions stipulated under Article 26 of the amended regulation will not be required; and (ii) minimum investment amount of TL 20,000 to at least 3 emerging companies was amended as investment to at least one emerging company at the same amount.

The minimum investment amounts for the angel investors to benefit from the incentives were also amended. As per the Regulation, emission premiums will also be taken into calculation for assessment of the investment amount.

The Regulation also introduced amendments on business angel scheme networks mainly on accreditation procedures, requirements and cancellation of accreditations.

Turkish text of the Regulation can be found from the following link:
<http://www.resmigazete.gov.tr/eskiler/2014/12/20141224-5.htm>

Electricity Market License Regulation has been Amended Again

The Regulation Amending the Electricity Market License Regulation was published in the Official Gazette dated 26 December 2014 and entered into force as of such date.

The changes introduced by the Regulation on the Electricity Market License Regulation are as follows:

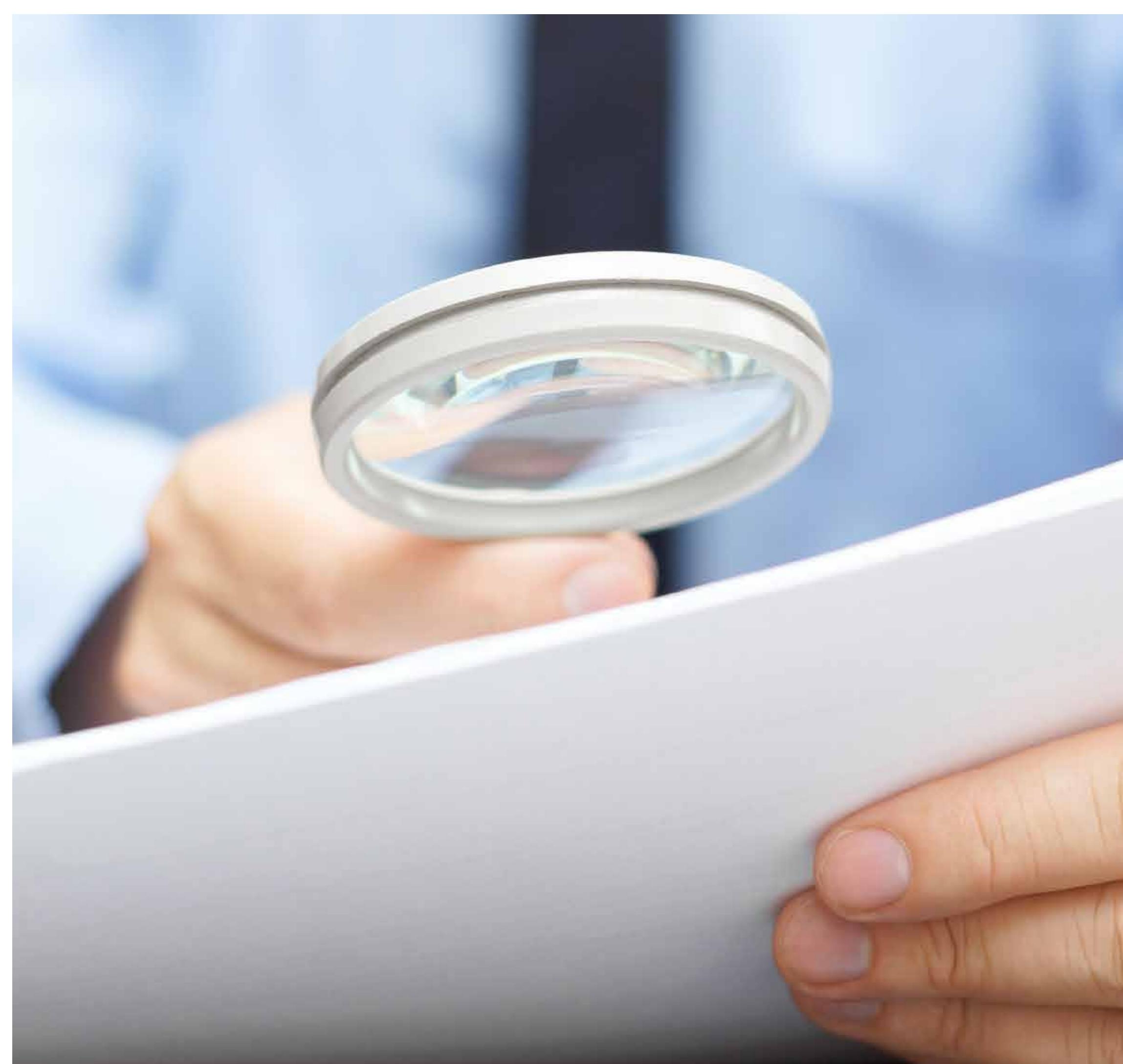
- The following definitions are introduced under Article 4 of the Regulation.

“iii) Enterprise Computing System: computers used by institution employees as well as documents and applications, data bases and e-mail servers and network platforms which render service to the same,

“jjj) Industrial Control System: information and communication systems which provides the supervision and at times management, from a single center or multiple centers, of procedures such as energy generation, processing of raw material, hard coal and similar materials, energy transmission and transfer,”

- The following paragraph is introduced under Article 30 of the Regulation:

“d) to operate the enterprise computing systems and industrial control systems in line with TS ISO/IEC 27001 Information



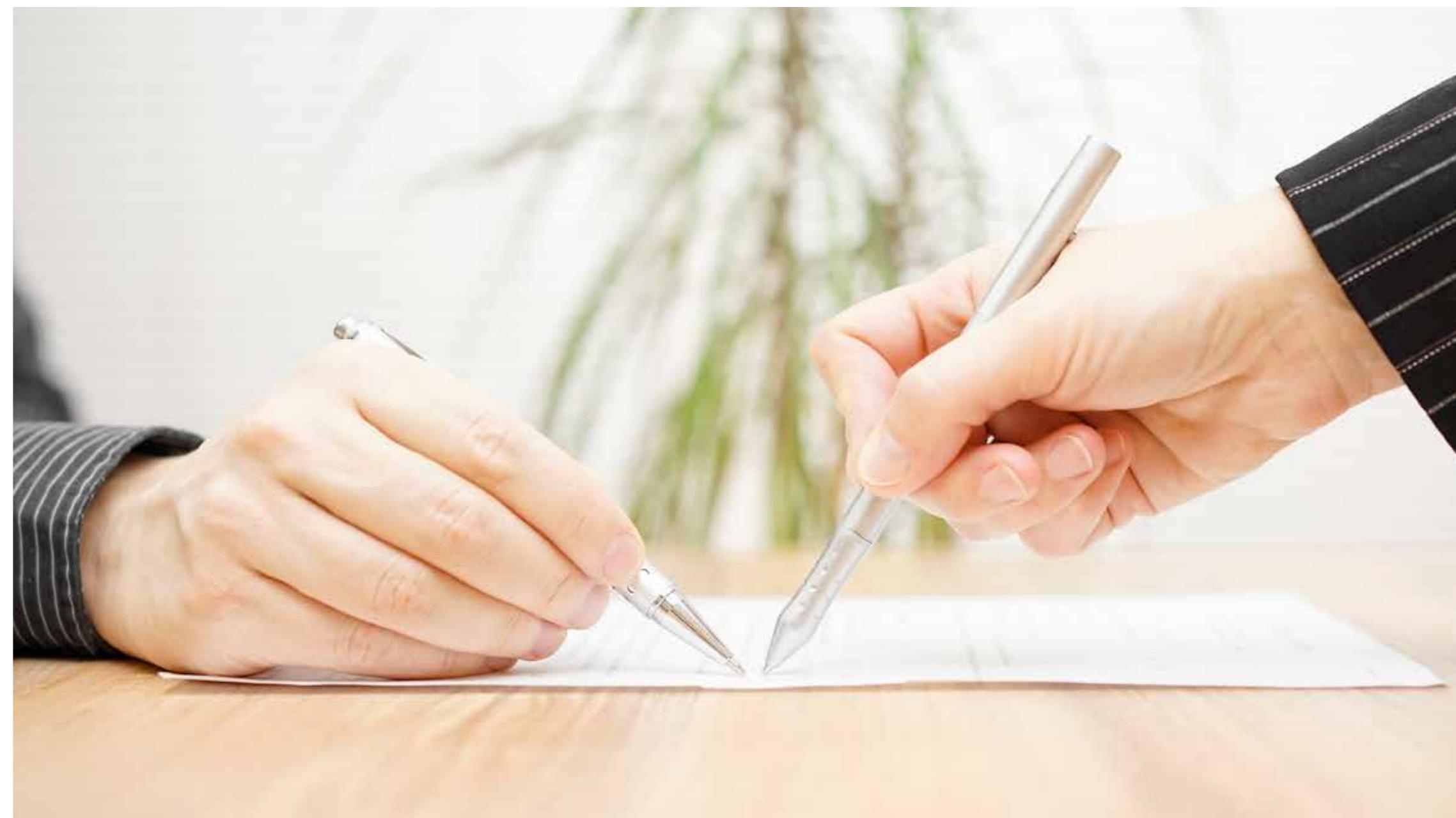
Security Management System standards, for all generation facilities which have 100 MW and more installed capacity and for which provisional acceptances are granted, with the exception of organized industrial zones production license-holders, to document their systems by proving to a certification institution which is accredited to Turkish Accreditation Institution that they comply with TS ISO/IEC 27001 standards and to ensure the validity of such documents,”

- The following paragraph is introduced under Article 31 of the Regulation:

“p) to operate the enterprise computing systems and industrial control systems in line with TS ISO/IEC 27001 Data Security Management System standards, to document the systems by proving their compliance with TS ISO/IEC 27001 standards by a certification institution which is accredited to Turkish Accreditation Institution and to ensure the validity of such documents validity,”

- The following paragraph is introduced under Article 32 of the Regulation:

“g) to operate the enterprise computing systems and industrial control systems in line with TS ISO/IEC 27001 Data Security Management System standards, to document the systems by proving their compliance with TS ISO/IEC 27001 standards by a certification institution which is accredited to Turkish Accreditation Institution and to ensure the validity of such



documents validity,”

- The following paragraph is introduced under Article 33 of the Regulation:

“y) to operate the enterprise computing systems and industrial control systems in line with TS ISO/IEC 27001 Data Security Management System standards with the exception of OSB production license owners, to document the systems by proving their compliance with TS ISO/IEC 27001 standards by a certification institution which is accredited to Turkish Accreditation Institution and to ensure the validity of such documents validity,”

- The date which is specified as 31 December 2014 under Temporary Article 1 is changed as “until the date which the aforesaid services may be provided by the production licence-holder legal entities”.

- The following Temporary Article is introduced under the Regulation.

“Adaptation to enterprise computing and industrial control systems

TEMPORARY ARTICLE 19- (1) The obligations specified under Article 30 (2) (d), Article 31 (2) (p), Article 32 (3) (g) and Article 33 (2) (y) of this Regulation shall

enter into force on 1/3/2016.”
 The Turkish language text of the Regulation can be found at the following link:
<http://www.resmigazete.gov.tr/eskiyer/2014/12/20141226.htm>

Privatization

The Tender for the privatization of Soma B Thermal Plant and the real estates that are used by this Thermal Plant has been varied out.

Initially, sealed bids without elimination were received at the Privatization Administration. The highest bid was USD 333 million on the session without elimination. After this session, open bidding was initiated between Konya Seker Sanayi ve Ticaret A.S. ve Kalyon Insaat Sanayi ve Ticaret A.S.

The highest bidder was Konya Seker Sanayi ve Ticaret Anonim Sirketi with USD 685.5 million.

Agreement on Cybercrimes

The Cybercrime Agreement (proposed on 17 November 2014 with proposal number 7115230) has entered into force as of 1 January 2015 with the Cabinet Decree published in the Official Gazette dated 21 January 2015.

Answers. Not theories.

Gokce Attorney Partnership

Editors:



Bora Yazıcıoğlu
bora.yazicioglu@gokce.av.tr



Zeynep Inal
zeynep.inal@gokce.av.tr

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.

Please contact us at
contact@gokce.av.tr
0 212 352 88 33

The Fine Print is prepared and published for general informative purposes only and does not constitute legal advice or create an attorney-client relationship. Should you wish to receive further information, please contact Gokce Attorney Partnership. No content provided in The Fine Print can be reproduced or re-published without proper attribution or the express written permission of Gokce Attorney Partnership. While all efforts have been made to ensure the accuracy of the content, Gokce Attorney Partnership does not guarantee such accuracy and cannot be held liable for any errors in or reliance upon this information. The Fine Print was created for clients of Gokce Attorney Partnership and the possibility of circulation beyond the firm's clientele should not be construed as advertisement.