

The Resolution

January 2019

Number

14

NEW ERA IN THE COLLECTION OF DEBTS ARISING FROM THE SUBSCRIPTION AGREEMENTS



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“Law on Commencement of the Enforcement Proceedings of Receivables Arising from Subscription Agreements” (Law) was published in the Official Gazette on 19/12/2018 and entered into force through its’ publication with the aims of speeding up the collection process of receivables arising from subscription agreements; reducing the workload of enforcement offices and providing a lower collection fee for citizens. Subscribers should pay attention to these changes brought by the Law.

Scope and Purpose of the Law

The law aims the enforcement proceedings without judgment based on receivables arising from subscription agreements to be conducted via UYAP on a digital platform. It is set forth to initiate the enforcement proceedings without judgment and to pursue these proceedings until the attachment stage via “Central Enforcement System” created under UYAP. As a result of this new platform, Enforcement proceedings will be substantially simplified.

The Law covers the enforcement proceedings followed by a lawyer in relation to the receivables arising from subscription agreements regulated under the Consumer Protection Law or any applicable legislation or the goods or services provided to the consumer consideration of which is reflected on an invoice.

Legal Fees Change with the Law

The Creditor will pay lower legal fees in the enforcement proceedings commenced within the scope of this Law. As it is seen, the burden of fee on citizens was also relieved.

Functioning of the Central Enforcement System



After the registration with the system, a payment order is issued. The payment order having a central tracking number is transmitted to PTT through the system and the payment order is notified to the debtor through PTT.



The enforcement proceeding will be concluded when the debt is paid to the account number stated in the payment order with its fees and other expenses arising from the enforcement proceeding.

Contest the Payment Order via Secured Electronic Signature

The contest of the debtor via secured electronic signature through the Central Pursuance System is also possible via the new regulation. The contest stops the enforcement proceeding and the enforcement office must upload the relevant document to the system within two (2) business days.

It should be highlighted that the contest will be deemed as notification to the creditor's lawyer at the end of the fifth day following the its uploading to the system. Accordingly, depending on the documents of the creditor, the prescribed terms in the law for the elimination of the contest on the action for annulment of contest shall begin on the date when the contest is deemed as notified.

In case there is no contest to the payment order or the debt is not paid in spite of the annulment/abolition of contest, the enforcement proceedings will continue upon the request of the creditor and attachment proceedings may be commenced.

Effective Date of the Central Enforcement System

The provisions of the Law for the Central Enforcement System shall enter into force on 01/06/2019. Also, the Law shall not be applicable to the pending enforcement proceedings as of the effective date of the Law.

Property Query About the Debtor

Creditor will be able to make an inquiry through UYAP in exchange for 0,50 TL (Fifty Kurus) whether the debtor has any goods, rights or receivables.

If the creditor makes the relevant inquiry through UYAP without request of the attachment whether the debtor has goods, rights or receivables; it only gives information on whether it exists or not; but it will not give the details on the substance of the goods, rights or receivables.

Due to the fact that nearly 3.5 million out of 8 million enforcement proceedings are arising from subscription agreements, it is expected that new regulations will accelerate and facilitate the collection process.

Information Update About the Mandatory Mediation in Commercial Lawsuits

As it is stated in our december issue, according to the Law numbered 7155, the mandatory mediation era in commercial lawsuits began as of the date of 01/01/2019. Pursuant to paragraph 2 of article 5/A of the Turkish Commercial Code, the period of mandatory mediation in relation commercial lawsuits is different from the mediation period determined by the general provisions. As per the aforementioned article, in commercial lawsuits, the mediator concludes the application within six (6) weeks after his/her appointment. This period may be extended maximum for two (2) weeks by the mediator in obligatory cases.

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, debt recovery, 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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