

**Esin
Avukatlık
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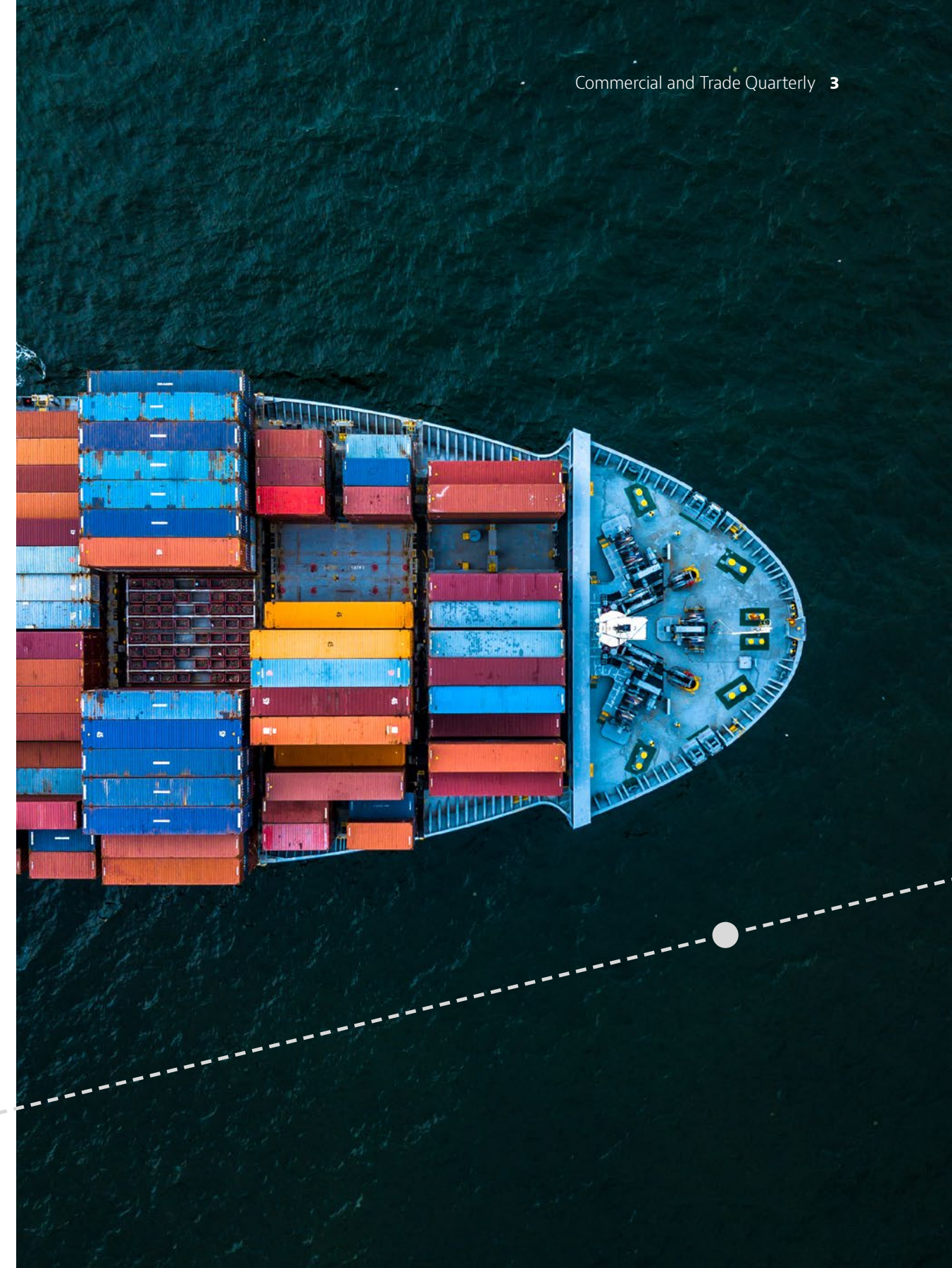
Commercial and Trade Quarterly





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In recent weeks, the Decree on Electronic Export Incentives and the new Regulation on Consumer Arbitration Committees have been published in the commercial and trade sector. In addition, there have been various amendments to the communiqués on environmentally friendly design requirements and energy labeling for certain products, the Regulation on Consumer Credit Agreements, the Law on the Regulation of Retail Trade, the Regulation on the General Principles of Waste Pretreatment and Recovery Facilities and the Regulation on the Principles and Rules to be Applied in Retail Trade. In addition, the monetary limits for application to consumer courts and the fines for consumer law violations have been increased.

Decree on Electronic Export Incentives

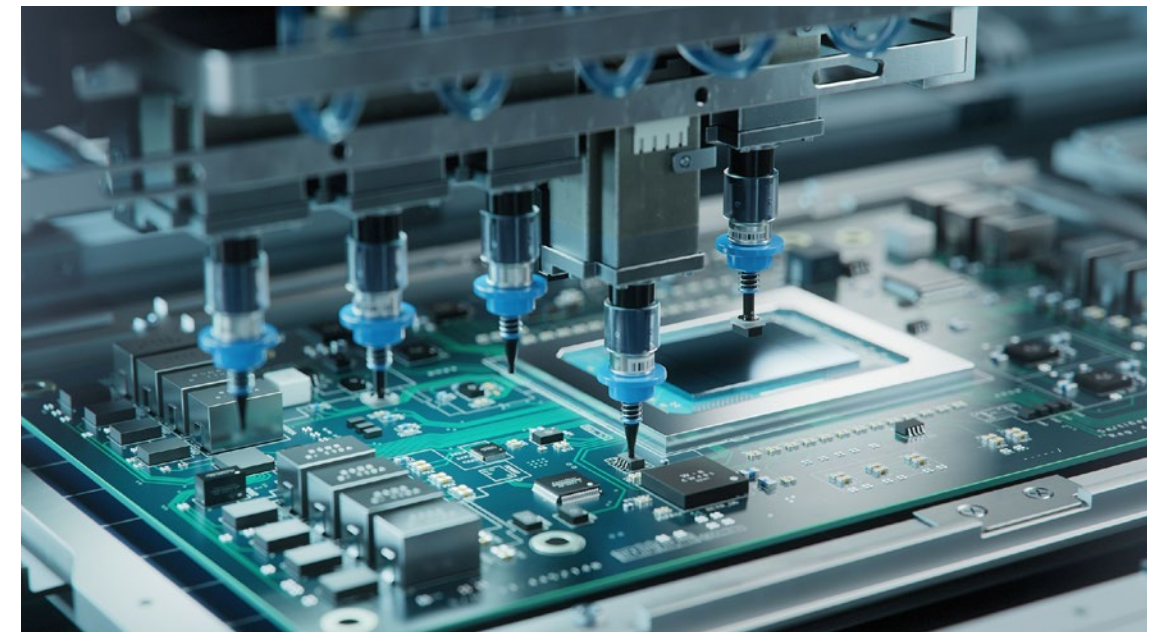
On 25 August 2022, the Presidency of the Republic published the Decree on E-Export Incentives. The decree aims to prepare companies, marketplaces and retail e-commerce sites for e-export, to exhibit Turkish products and brands online in foreign markets and marketplaces, to ensure fast delivery for the orders from abroad and to increase the e-export volumes of companies. The decree regulates the procedures and principles regarding the material support to be provided by the Support and Price Stabilization Fund for the expenses related to the activities of the e-export consortiums and Türkiye E-Export Platform.

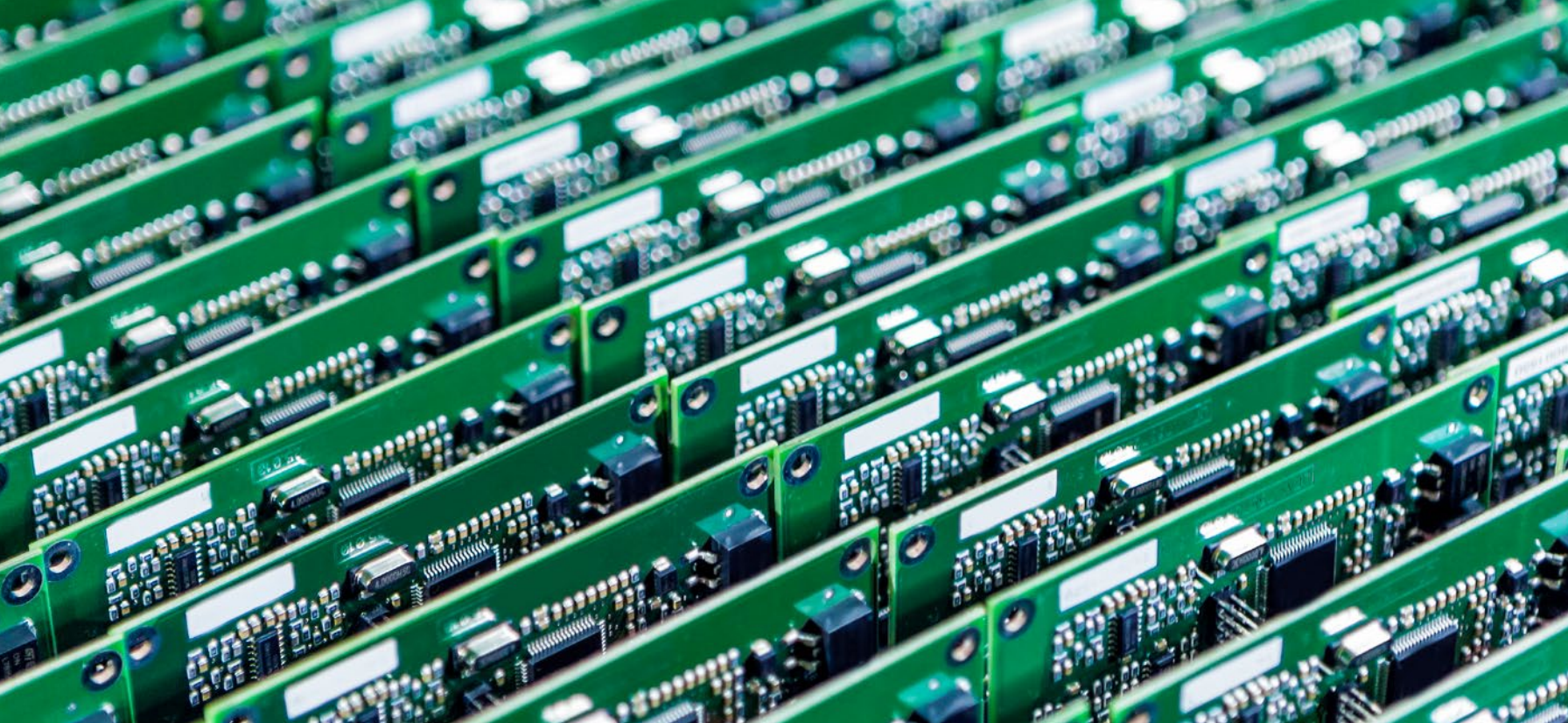
The decree is available [here](#) (in Turkish).

The main regulations introduced under the decree are as follows:

- The main incentives that the companies, e-export consortiums, retail e-commerce sites and marketplaces can benefit from within the scope of the decree are as follows:
 - A report incentive at the rate of 50% up to TRY 1.5 million per year will be provided for the creation of market entry strategies and action plans.

- Within the scope of the digital marketplace promotion incentive, 50% of digital marketplace promotion expenses not exceeding 20% of the total sales realized through digital advertising will be supported for three years and up to a maximum of TRY 7.5 million per year depending on the company level; up to TRY 15 million per year for retail e-commerce sites and up to TRY 25 million per year for e-export consortiums. In addition to the digital marketplace promotion incentive, within the scope of the e-export promotion incentive, 50% of the expenses related to other marketing activities can also be supported.
- Companies, e-export consortiums, retail e-commerce sites and marketplaces can benefit from the 50% incentive for order fulfillment and warehouse rental for three years.





- Expenses for integration services to be carried out in Türkiye for foreign marketplaces will be supported at a rate of 50% and up to TRY 200,000 for three years for each integration of maximum of six marketplaces.
- Expenses related to the opening of online stores abroad, annual payments of the stores and services to be received from e-commerce stakeholders abroad will be supported at a rate of 50% for three years and up to a maximum of TRY 3 million per year for e-export consortiums and up to TRY 1.5 million per year for other beneficiaries.

- Marketplace commissions will be supported at a rate of 50% for three years and up to TRY 750,000 per year depending on the company level, up to TRY 2.5 million per year for retail e-commerce sites and up to TRY 3 million per year for e-export consortiums.
- The calculation of the rates for the incentives of digital marketplace promotion, order fulfilment and warehouse rental and marketplace commission expense will be based on the sales rate of Turkish products and products within the scope of the Brand and Turquality support program. Support rates can be increased for target countries determined by the Ministry of Trade.

- Marketplaces and retail e-commerce sites supported in accordance with the Decree on Branding Supports for Service Sectors Earning Foreign Exchange can also apply for incentives in accordance with the period and procedure determined by the Ministry of Trade.
- Companies within the e-export consortium cannot apply for digital marketplace promotion, order fulfillment and marketplace commission expense incentives in foreign marketplaces in the countries where the e-export consortium makes sales.
- Procedures regarding incentive application conditions and processes, required information, documents and practical issues will be determined by circulars to be issued by the Ministry of Trade.
- The decree also regulates the consequences of noncompliance in the event that misleading information/documents are submitted or misleading statements/commitments are made. In this context, for instance, the application file containing misleading information will not be evaluated and the applicant will not be able to make a new application for six months. In the event that payments have been made based on such misleading information and statements, the payments will be refunded and the beneficiary will not be able to make a new application for one year.

Regulation on Consumer Arbitration Tribunals

On 21 September 2022, the Ministry of Trade published the Regulation on Consumer Arbitration Tribunals and repealed the Regulation on Consumer Arbitration Tribunals dated 27 November 2014 ("**Repealed Regulation**"). The Regulation sets out the procedures and principles regarding the establishment and operation of consumer arbitration tribunals. The provisions regarding the seven-day period in the case of a deficiency in the application and the provisions regarding the completion of the decision will enter into force on 1 January 2023, while the other provisions entered into force on 1 October 2022.

The Regulation is available [here](#) (in Turkish).

The main regulations under the Regulation are as follows:

- The maximum monetary value limit of disputes for applications to be submitted to the consumer arbitration tribunals is determined as TRY 30,000, regardless of whether the province has metropolitan or non-metropolitan status.
- District governorships will register the applications with the Consumer Information System immediately.
- Various rules have been introduced on the organization of consumer arbitration tribunals, such as the physical storage of consumer arbitration tribunal membership documents, the principle of equal and rotating representation in appointments in provinces with more than one bar association, loss of membership and filling vacancies.
- The passport number or foreigner identification number for foreigners — and if the applicant is not a consumer, the tax identification number, address and other contact information — must be included in the applications submitted and the decision report of the consumer arbitration tribunals. In addition, if the applicant has an attorney, the name, surname, tax identification number and address of the attorney must also be specified in the application.
- If there is a deficiency or inconsistency in the mandatory information required in the application, the chairperson of the consumer arbitration tribunal will grant an additional period of seven days in writing for the applicant to fulfill the requirements.
- Upon the finalization of the decision rendered by the consumer arbitration tribunal, a new application with the same subject, reason and parties as the finalized decision cannot be submitted. Otherwise, the consumer arbitration tribunal will take into account the finalized decision and the final judgment ex officio or upon the objection of one of the parties. If there is a pending dispute, finalized decision or final judgment, the consumer arbitration tribunal will reject the application.
- The parties can request the completion of the decision, if there is any outstanding decisions regarding the claims in the initial application within 15 days upon the notification of the final decision.
- The decisions of the consumer arbitration tribunals can also be appealed before the consumer court in the place of the consumer's place of residence in addition to the place where the arbitration tribunal is located.



Regulation Amending the Regulation on Consumer Credit Agreements

On 23 September 2022, the Ministry of Trade published the Regulation Amending the Regulation on Consumer Credit Agreements.

The Regulation is available [here](#) (in Turkish).

The main amendments introduced under the regulation are as follows:

- Any products or services offered to the consumers other than interest, dividends, taxes, funds and similar legal expenses of credit agreements and insurances except credit-related insurance are defined as ancillary financial products and services.
- The scope of the information that must be provided before the establishment of a fixed-term consumer credit agreement has been expanded. In this context, in the case of insured and uninsured credit offers, i) sample payment plans for both offers if the credit installment amounts are equal, comparative information on the installment amount and total repayment amount instead of the sample payment plan, and ii) information on the name and duration of credit-related insurances and whether they are renewable or not should be provided within the preliminary information.
- The creditor can offer the consumer a credit agreement that includes insurance only if the creditor also offers the consumer a credit agreement that does not include credit-related

insurance. In order for the creditor to be able to offer the consumer a credit agreement that includes credit-related insurance, the creditor must prepare the Consumer Credit Preference Form annexed to the regulation together with the pre-contractual information form in at least 14-point font size, including the consumer's preference and approval regarding the insurance, and provide a copy of it to the consumer on paper or via a permanent data storage device.

- The fixed-term consumer credit agreement must include information on the name and duration of credit-related insurances and whether they are renewable or not, if the insured credit offer is accepted by the consumer.
- The consumer can exercise the right of withdrawal without notice by paying the entire credit debt early within the 14-day withdrawal period.
- Credit-related insurance must be compatible with the subject of the credit. More than one insurance covering the same collateral cannot be taken out in relation to the credit. Provision of an insurance that exceeds the credit amount is prohibited.
- If the contractual interest rate is increased in indefinite-term credit agreements, the consumer must be notified in writing or through a permanent data storage device 30 days prior to the entry into force of this change. If the contractual interest rate is decreased, this change will be applied as of the last payment date for the period in which the notification is made.

Communiqués

On 7 October 2022, the Ministry of Industry and Technology amended the following communiqués in order to harmonize regulations with the EU legislation in terms of energy labeling and environmentally sensitive design requirements for products:

- Communiqué Amending the Communiqué on Energy Labeling of Household Dishwashers (2019/2017/EU) (SGM:2021/2)
- Communiqué (SGM:2022/21) Amending the Communiqué on Energy Labeling of Household Washing Machines and Household Drying Washing Machines (2019/2014/EU) (SGM:2021/4)
- Communiqué (SGM:2022/22) Amending the Communiqué on Environmentally Sensitive Design Requirements for Household Washing Machines and Household Drying Washing Machines (2019/2023/EU) (SGM:2021/3)
- Communiqué (SGM:2022/23) Amending the Communiqué on Environmentally Sensitive Design Requirements for Cooling Devices (2019/2019/EU) (SGM:2021/7)
- Communiqué (SGM:2022/24) Amending the Communiqué on Energy Labeling of Cooling Devices (2019/2016/EU) (SGM:2021/8)
- Communiqué (SGM:2022/25) Amending the Communiqué (2019/2024/EU) (SGM:2021/9) on Environmentally Sensitive Design Requirements for Cooling Devices with Direct Sale Function

- Communiqué (SGM:2022/26) Amending the Communiqué on Energy Labeling of Cooling Devices with Direct Sale Function (2019/2018/EU) (SGM:2021/10)
- Communiqué (SGM:2022/27) Amending the Communiqué on Environmentally Sensitive Design Requirements for Computers and Computer Servers (2013/617/EU) (SGM:2021/14)
- Communiqué (SGM:2022/28) Amending the Communiqué on Environmentally Sensitive Design Requirements for Servers and Data Storage Products (2019/424/EU) (SGM:2021/15)

Communiqués are available [here](#) (in Turkish)

Amendments to the Law on the Regulation of Retail Trade

On 9 November 2022, the Law on the Regulation of Retail Trade was amended with the Law Amending the Income Tax Law and Certain Laws and Decree Laws.

The law is available [here](#) (in Turkish).

The amendments to the Law on the Regulation of Retail Trade are as follows:

- An administrative fine of TRY 10,000 has been set as the lower limit for each violation and the upper limit of the administrative fine has been increased to TRY 300,000 for those who fail to comply with the rules of professional conduct



and the measures taken by the Ministry of Trade and secondary legislations in carrying out commercial activities such as the purchase and sale of immovable property and second-hand motor vehicles.

- The lower limit of the administrative fine to be imposed on those who fail to provide the information and documents requested by the authorized auditors or who prevent the auditors from performing their duties, has been set as TRY 50,000 and the upper limit of the fine has been increased to TRY 250,000.
- While determining the amount of the fine in the implementation of administrative fines with lower and upper limits, issues such as the content, repetition and number of the violation, the benefit obtained due to the violation and the damage caused as well as the fault and economic status of the perpetrator will be taken into consideration.

Regulation on the General Principles of Waste Pretreatment and Recovery Facilities

On 24 November 2022, the Ministry of Environment, Urbanization and Climate Change published the Regulation Amending the Regulation on the General Principles of Waste Pretreatment and Recovery Facilities.

The regulation is available [here](#) (in Turkish).

Within the scope of the regulation, waste processing facilities must comply with the procedures and principles determined by the Ministry of Environment, Urbanization and Climate Change against pollutants such as dust, odor, dust emission, noise and vibration. In addition, the surroundings of the facilities that process construction and demolition wastes that are not included in Annex-1 and Annex-2 of the Regulation, but in the 17th section of the waste list in Annex-4 of the Waste Management Regulation, should be arranged in a way to ensure facility security and to prevent unauthorized entry of persons.

Regulation Amending the Regulation on Principles and Rules to be Applied in Retail Trade

On 7 December 2022, the Ministry of Trade has published the Regulation Amending the Regulation on Principles and Rules to be Applied in Retail Trade.

The Regulation is available [here](#) (in Turkish).

The amendments aim to develop policies to ensure effective and sustainable competition in retail trade, enlighten the public and enable consumers to make price comparisons. Accordingly, chain stores that offer fast-moving consumer goods for sale in the food retail sector and have more than 200 branches are obliged to

transfer data on the products they offer for sale and their branches to the system determined by the Ministry of Trade. This data may be shared with relevant institutions, organizations and the public, and the Ministry of Trade will notify the relevant chain stores of the procedures and principles regarding the data transfer.

Türkiye Raises Threshold for Consumer Courts in 2023

Consumer complaints against sellers and manufacturers may be brought before Turkish consumer courts only if the amount in dispute is above a certain threshold. These thresholds are determined shortly before the beginning of each calendar year. Consumer complaints below the jurisdictional thresholds may only be brought before a consumer arbitral tribunal. Through the Communiqué on Raising the Monetary Limits Set Forth in Article 68 of Law No. 6502 on the Protection of Consumers and Article 6 of the Consumer Arbitral Tribunals Regulation, Türkiye set the threshold for 2023, raising it by 122.93%.

Any consumer complaints below TRY 66,000 (approximately USD 3,538) must be submitted to consumer arbitral tribunals, whereas those above the threshold must be submitted to consumer courts.

The communiqué is available [here](#) (in Turkish).





Türkiye Increases Fines for Consumer Law Violations in 2023

Effective 1 January 2023, higher fines will be imposed for certain violations under Law No. 6502 on Protection of Consumers ("Consumer Protection Law"). The fines will increase by 122.93% from 2022.

The communiqué is available [here](#) (in Turkish).

In particular, companies that:

- used unfair terms or failed to use 12-point bold type with clear language in consumer agreements; failed to provide a guarantee certificate; or failed to provide explicit and legible safety information to consumers for goods deemed potentially harmful to consumers or the environment will be subject to a fine of TRY 1,371 (approximately USD 73) per violation.
- failed to comply with the obligations on consumer loan and housing finance agreements and agreements concluded outside the workplace will be subject to a fine of TRY 6,928 (approximately USD 371) per agreement or transaction.
- made deceptive or misleading representation through mass media advertising will be subject to a fine ranging from TRY 34,701 to 1,388,526 (approximately USD 1,860 to 74,445) per violation.

Conclusion

Significant legislative developments continue to be made in the commercial and trade sector. All stakeholders in the sector should carefully review the legislative developments and ensure compliance with the regulations.

Contacts

TEAM /EKIBİMİZ



Can Sözer

Partner
CIPP/E

+90 530 555 3963
can.sozer@esin.av.tr



Ecem Elver

Senior Associate

+90 530 555 39 74
ecem.elver@esin.av.tr



Aybüke Gündel Solak

Senior Associate

+90 536 861 12 57
aybüke.gündel.solak@esin.av.tr



Yiğit Acar

Associate
CIPP/E

+90 549 825 77 69
yigit.acar@esin.av.tr



Berfu Öztoprak

Associate

+90 549 842 78 24
berfu.oztoprak@esin.av.tr



Ayça Doğu

Associate

+90 549 842 78 22
ayca.dogu@esin.av.tr



Ecenur Etiler

Associate

+90 549 439 01 93
ecenuretiler@esin.av.tr



Gizem Nur Yıldırım

Associate

+90 549 439 02 06
gizem.yildirim@esin.av.tr

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www.esin.av.tr