



MONTHLY BULLETINS
JANUARY, 2019

Our monthly law bulletin contains practical information for companies, amendments in our legislation, current case law and sectoral regulations.

We wish that the Monthly Bulletins January 2019 prepared by Gürpınar Law Firm will be beneficial to you.

I. Announcements

Default Interest Rate on Late Payments in the Goods and Services Procurement

The Communiqué on the Determination of the Default Interest Rate on Late Payments to the Creditor in the in the Goods and Services Procurement has been issued by the Central Bank in accordance with the seventh paragraph of Article 1530 of the Turkish Commercial Code. From 01.01.2019, if the default interest rate on late payment to the creditor in the provision of goods and services is not foreseen in the contract or the related provisions are invalid, the interest rate will be applied as 0 21.25 percent annually. The minimum amount of expense of collecting debts that can be demanded is TL 245,00.



The Liability of Banks in Honouring Bad Cheques Has Increased

In the event of bad checks, the amount required to be paid by banks is increased from TL 1,600 to TL 2,030 for each check sheet. The amendments entered into force on 28 January 2019.



Registration on VERBIS for Second Group Data Controller

Pursuant to the announcement of the Personal Data Protection Board (Board) published on 2 January 2019, the registration on the Data Accounts Register Information System (VERBIS) for the second group of data controllers has started on January 1, 2019. The second group of data collectors, whose total number of employees and yearly financial balance sheet are under the figures determined by the Board but whose main activities are specially qualified personal data processing, are required to register to VERBIS until 31.03.2020.

II. Legislative Amendments

The Law Regarding the Amendments to Tax Laws, Certain Laws and Statutory Decrees

The Law Regarding the Amendments to Tax Laws, Certain Laws and Statutory Decrees numbered 7161 has been published in the Official Gazette dated 18 January 2019. The law includes various amendments in the laws such as Expense Taxes Law, Income Tax Law, Value Added Tax Law, Corporate Tax Law, Public Procurement Law, Public Procurement Contracts Law, Social Insurance and General Health Insurance Law.

Investments regarding the construction of renewable and other energy facilities of organized industrial zones and small industrial sites are exempt from Value Added Tax (VAT). **(Entered into force on the date of publication.)**

With the amendment in the Article 344 of the Turkish Code of Obligations, the lease is determined not to exceed the twelve month average of consumer price index (CPI), instead of producer price index ("PPI"). The amendments entered into force on 01.01.2019.

The Financial Stability Committee has been set up to support the financial system and to increase economic growth and to maintain trust in the markets.

With the amendment in the article 50 of Unemployment Insurance Law No. 4447, the condition that requires permanent working and paying the premiums for last 120 days has been abolished. Working under the service contract has been regulated as sufficient condition.



Two New Regulations Regarding Concordatum

In the Official Gazette dated 30.01.2019 and numbered 30671, two new regulations concerning concordatum were published: The Regulation on Commissioner for Concordat and Creditors' Committee and The Regulation on Documents to be added to the Concordat Request. Regulations include the documents to be added to the concordat request, the form and content of these documents and the conditions for becoming a commissioner for concordat. in a nutshell:

The documents that the debtor should add to the concordat request are: Concordat preliminary project, documents showing the status of assets, list of credits and creditors, comparison chart and audit report providing reasonable assurance.

The debtor, who is not subject to bankruptcy, shall attach the concordat preliminary project, the list of credits and creditors and the documents showing the status of the debtor's assets to the concordat request.

The details of the documents to be prepared by the borrower and the audit reports to be prepared by an independent audit committee are regulated in the articles.

The main conditions required to be a Concordat Commissioner are: to be a citizen of Turkey, having graduated from at least 4 years of undergraduate education or their equivalence accepted by Council of Higher Education, having professional experience of not less than 5 years.

Both regulations entered into force on the date of their publications.

III. Decisions

The termination of the contract of the employee who frequently submits medical reports: Decision numbered 2018/1756 and dated 08.11.2018 of the 9th Civil Chamber of the Court of Cassation

It was stated in the decision that the insufficiency of the worker is one the valid reasons to terminate the employment agreement as regulated in Labor Law. Frequently getting sick and receiving reports is an example of the insufficiency of the worker.

In the reasoning, this has been indicated: "In case of frequent reports, the employer will not be able to benefit from the performance of the worker. It is a clear fact that the worker, who constantly gets ill and gets reports, will cause negativity in the workplace. Frequent emergence of illness is given in the Labor Law as an example of the insufficiency of the worker. This is because that situation is considered to be a disadvantage for the workplace."

It is decided as: "It is clear that the plaintiff's behavior, frequently submitting medical reports, may impair the workflow and the employer cannot be expected to bear that. It should be accepted that the termination of the employment contract of the plaintiff is not based on a fair reason, but the plaintiff's behavior causes a valid reason for termination."

Obtaining a consumption tax on the energy resources that the Company obtains and uses by its own means is a violation of the right of property: Decision numbered 2015/941 and dated 25.10.2018 of the Constitutional Court

The applicant has stated that there is no regulation in Law no 2464 on the taxation of those who consume their own electricity and coke gas. He, therefore, has claimed that the interference with the right to property by taxation of electricity and gas consumption was not lawful.

In its judgment, the Court noted that there was an interference with the applicant's right to property through taxation in the concrete case: "An intervention on property rights through taxation needs to have a specific, accessible and foreseeable legal basis."

The court has decided that the plaintiff's claim is admissible and the principle of legality stipulated in Articles 13, 35 and 73 of the Constitution was violated.

IV. News

Target Deadlines for Investigation Prosecutions and Trials

The Ministry of Justice launched the Practice of Target Deadlines for Investigation Prosecutions And Trials. Target deadlines were determined for each case and each investigation. Required arrangements were made accordingly in the National Judiciary Informatics System (UYAP).

As of 01.01.2019, the trial and investigation target deadlines started to be notified to the parties. In case of exceeding the deadlines specified, priority will be given to cases exceeding the deadlines. The practice will be carried out without compromising the quality of judgment. The time-outs will then

be put on the table, the problems will be determined and the necessary measures will be taken.

Some prescribed deadlines are as follows: 10 to 13 months for all criminal cases, 10 months for divorce cases, 8 months for child support cases, 3 months for guardianship.



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