

client alert

INSURANCE | TURKEY |

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RECENT CHANGES AFFECTING MOTOR THIRD PARTY LIABILITY INSURANCE IN TURKEY

In the first week of August, two different amendment texts were published in the Official Gazette regarding the Motor Third Party Liability Insurance ("MTPL"), also known in Turkey as mandatory traffic insurance. These amendments, which have been made by the Undersecretariat of the Treasury (the "Treasury"), mostly involve changes to the procedural steps of executing policies.

AMENDMENTS TO THE REGULATION ON THE TARIFF IMPLEMENTATION PRINCIPLES FOR MOTOR THIRD PARTY LIABILITY INSURANCE

The Regulation on the Tariff Implementation Principles for MTPL has been amended as follows:

- The one-month restriction on making changes to premiums and tariffs has been abolished;
- Changes (increase and decrease) to premiums and related references must be submitted to the Traffic Insurance Center (TRAMER) at least five days before implementation of said change. This pre-information period was of ten days before the amendment.
- Insurance for high-risk insureds may be subject to special provisions set out by the Treasury for sharing the premium and claims among insurance companies. This provision is expected to pave the way for a reduction in the cost incurred by insurance companies, especially as relates to accidents involving commercial vehicles, taxis, etc.

The amendments are effective starting from 20 July 2016.

AMENDMENTS TO THE GENERAL TERMS AND CONDITIONS OF MTPL

Amendments made to the General Terms and Conditions of MTPL have clarified certain principles regarding the liability of the parties, the documents to be provided and the competent authorities for the settlement of disputes. The main details of these amendments are set out below.

- The indirect involvement of a party to an accident has been clarified through the definition of the "state of operation" of vehicles, pursuant to which liability also arises in cases where a vehicle is involved in an accident without contact with any other vehicle.

- The scope of coverage for pecuniary damages has been amended in order to specify that policyholders can be indemnified for pecuniary damage defined under the general terms of insurance as of the date of the accident (whereas the former version provided that the general terms in force as of the date of conclusion of the policy must apply). With this amendment, the general terms and conditions of MTPL align with the existing position of the doctrine and of case law in this respect. The impact of this amendment will nevertheless need to be assessed further, especially where the general terms applied are detrimental to the policyholder. This situation could potentially create a conflict with the provisions of the Turkish Commercial Code and of the Highway Traffic Law, which prohibit the scope of insurance coverage from being narrowed.
- According to the amendments made to the provisions on the settlement of disputes, parties must first apply to the insurance companies before taking any legal action. If the insurance company does not revert in writing within 15 days, or if the indemnity amount is subject to a disagreement, all right holders are entitled to apply to court or arbitration. Parties are also entitled to apply for mediation after 15 days of disagreement over the indemnity (even if they have already submitted their claim to the court).
- The documentation required for the indemnification of pecuniary and physical (permanent disability and decease) damage is now also specifically listed under Annex 6 of the Terms and Conditions.

These amendments are effective from 2 August 2016.

In compliance with Turkish bar regulations, opinions relating to Turkish law matters included in this client alert have been issued by Özdirekcan Dündar Şenocak Avukatlık Ortaklığı, a Turkish law firm acting as correspondent firm of Gide Loyrette Nouel in Turkey.

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