

client alert

PROJECTS | TURKEY |

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NEW ENVIRONMENTAL IMPACT ASSESSMENT REGULATION: ESSENTIAL INFORMATION FOR ALL NEW PROJECTS

The Environmental Impact Assessment Regulation (the "**Regulation**") was published in the Official Gazette no. 29186 dated 25 November 2014, abolishing the former regulation. Even though the Regulation entered into force immediately on its publication date, already-submitted project files will benefit from a transition period and accordingly remain subject to the provisions of the former regulation.

The newly adopted provisions of the Regulation have not considerably impacted the stages of the application process for environmental assessment reports and project presentations. Nonetheless, significant changes have been made to the scope of projects subject to the Regulation.

FILING FOR ENVIRONMENTAL IMPACT ASSESSMENT AND PROJECT PRESENTATION

As the application scope has been narrowed by providing for higher thresholds with respect to the capacity and the size of the projects, the Regulation's amended provisions have accordingly put in place exemptions for certain projects in terms of environmental impact assessment.

Following the respective changes under the Regulation, certain projects now only require to be presented to the Ministry of Environment and Urbanization (the "**Ministry**") or governorships (if authorized by the Ministry), as opposed to the usually applicable time-consuming process requiring delivery of an assessment report to the Ministry. In this respect, such an assessment report is no longer mandatory for projects such as:

- Railway projects not exceeding 100 kilometres;
- Airport projects comprising runway(s) shorter than 2,100 metres;
- Wind farm projects having a 1 to 50 MWm installed capacity (under the previous regulation, exemptions were applicable for projects with a maximum of 20 turbines);

- Solar power plant projects having an installed capacity between 1 to 10 MWm (under the previous regulation, exemptions were applicable for projects with a maximum of 20 hectares of solar field);
- 5 to 15 kilometre power transmission line projects with a minimum potential of 154 kV;
- Housing estate projects with a minimum capacity of 500 residences (200 under the previous regulation);
- Tourist facility projects with a minimum capacity of 100 rooms.

Please note that the above list is not exhaustive and that the aforementioned projects are only mentioned by way of example.

Contrasting with the general process simplifications brought by the Regulation as mentioned above, other projects such as hydroelectric power plant projects may be considered as having been negatively impacted by such regulatory changes. Indeed, the former regulation provided that any such projects would be subject to obtaining an environmental impact assessment report if their minimum installed capacity was of 25 MWm, whereas the Regulation has brought this threshold down to 10 MWm.

EXEMPTIONS AVAILABLE UNDER THE REGULATION

It shall also be noted that the Regulation also takes into consideration the latest decision of the Constitutional Court which ruled on the cancellation of certain provisions of the Environment Law (providing specific exemptions for projects being at planning or tendering stage). Accordingly, projects that are registered with the Government Investment Program before 23 June 1997, and that are at production or operation stage as of 29 May 2013, shall also be exempted from the Regulation's scope of application.

In compliance with Turkish bar regulations, opinions relating to Turkish law matters which are 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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