

# client alert

STATE OF EMERGENCY | TURKEY |

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## RECENT DEVELOPMENTS IN TURKEY FOLLOWING THE DECLARATION OF THE STATE OF EMERGENCY

A state of emergency was declared throughout Turkey for a period of 90 days starting from 21 July 2016, at 1 a.m. The Council of Ministers is now entitled to issue statutory decrees on matters necessitated by the state of emergency.

Accordingly, statutory decree No. 669 on Taking Certain Measures within the Scope of the State of Emergency and the Establishment of the National Defence University and the Amendment of Certain Laws (the "**Statutory Decree No. 669**") was published in the Official Gazette dated 31 July 2016, No. 29787.

Under that regulation, certain measures were taken regarding the organisation of the Turkish Armed Forces and the Gendarmerie. Furthermore, Article 179 of the Bankruptcy and Enforcement Law No. 2004, which is of high importance for corporations, was also affected.

### **SUSPENSION OF THE POSSIBILITY TO REQUEST THE POSTPONEMENT OF BANKRUPTCY**

Article 179 of the Bankruptcy and Enforcement Law provides that companies (or cooperative companies) whose liabilities exceed its assets will be declared bankrupt by the court. However, representatives of such companies (or cooperative companies), or their creditors, may request the courts to postpone the declaration of bankruptcy on the basis of a "recovery project", indicating that the financial status of the company can be improved. In such cases, the courts may decide to postpone the declaration of bankruptcy if the recovery project is considered serious and convincing.

Article 4 of Statutory Decree No. 669 removes the possibility of applying to the courts to postpone a declaration of bankruptcy for as long as the state of emergency lasts. Companies (or cooperative companies) facing financial difficulties due to the current market situation cannot, therefore, apply for a declaration of their bankruptcy to be postponed, though this right may be of vital importance when facing financial difficulties. Indeed, the postponement granted them a chance to suspend the initiation and pursuit of enforcement proceedings launched against them.

The implementation of this change still has some grey areas. The status of applications to postpone a declaration of bankruptcy made prior to 31 July 2016, and the possibility of extending postponement periods that were granted prior to the Statutory Decree entering into force have not been clearly defined. Though some approaches have already been brought by the doctrine, such grey areas still need to be clarified through court precedents.

We will continue to stay abreast of all legal developments regarding the current situation, and will keep you informed of any further changes affecting the business environment in Turkey. In the meantime, we remain ready to answer any questions you may have regarding your specific investment projects in Turkey in light of the current situation.

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

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