

# Doing Business in Turkey



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EXPERTISE

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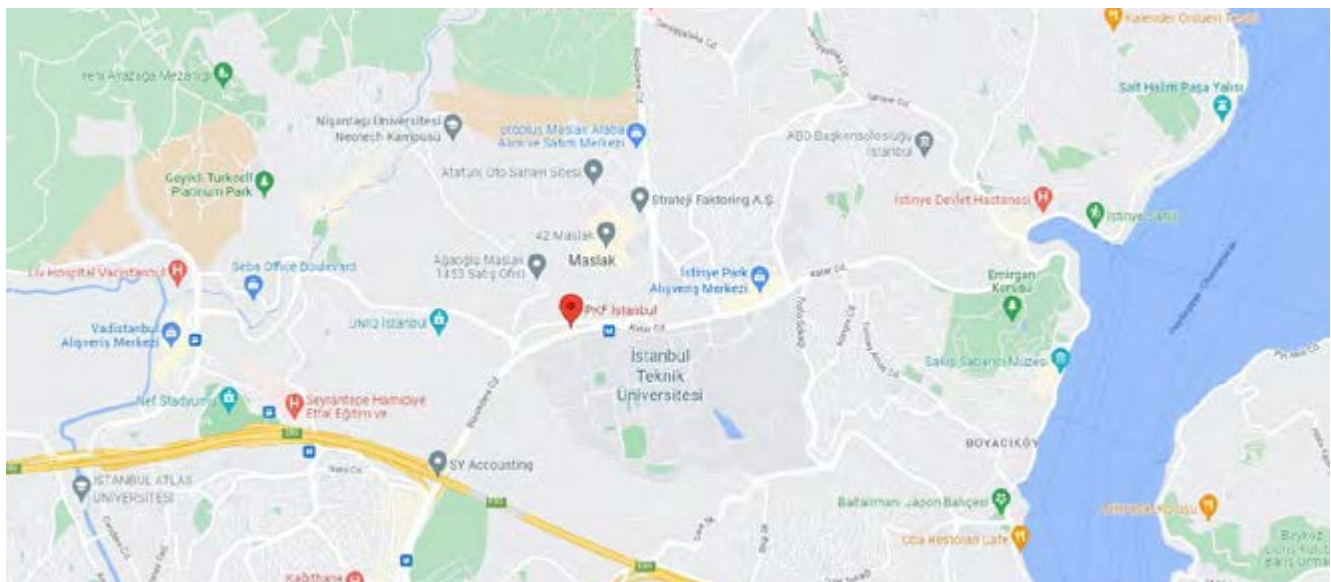
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# Foreword

The PKF ‘Doing Business in Turkey’ publication provides an overview of the most important aspects of doing business in Turkey and we trust it will be both informative and useful.

As the famous saying goes, Turkey has been a bridge between Asia and Europe. As such, our geographical position has been one of the most important centres of commerce since antiquity. In spite of economic indicators in the world that have been deteriorating since 2016 and unrest in the region, Turkey remains a centre of attraction for investors. New incentives for investors that have been on the agenda especially after 2016 have increased the importance of Turkey in the region even more. As PKF Istanbul, we wanted to prepare a guide for foreign investors wishing to invest in Turkey. We hope that this publication will help investors obtain initial information on what they will need when arriving in Turkey.

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**Human  
resources**



# Demographic and Environmental Overview

## A profile of Turkey

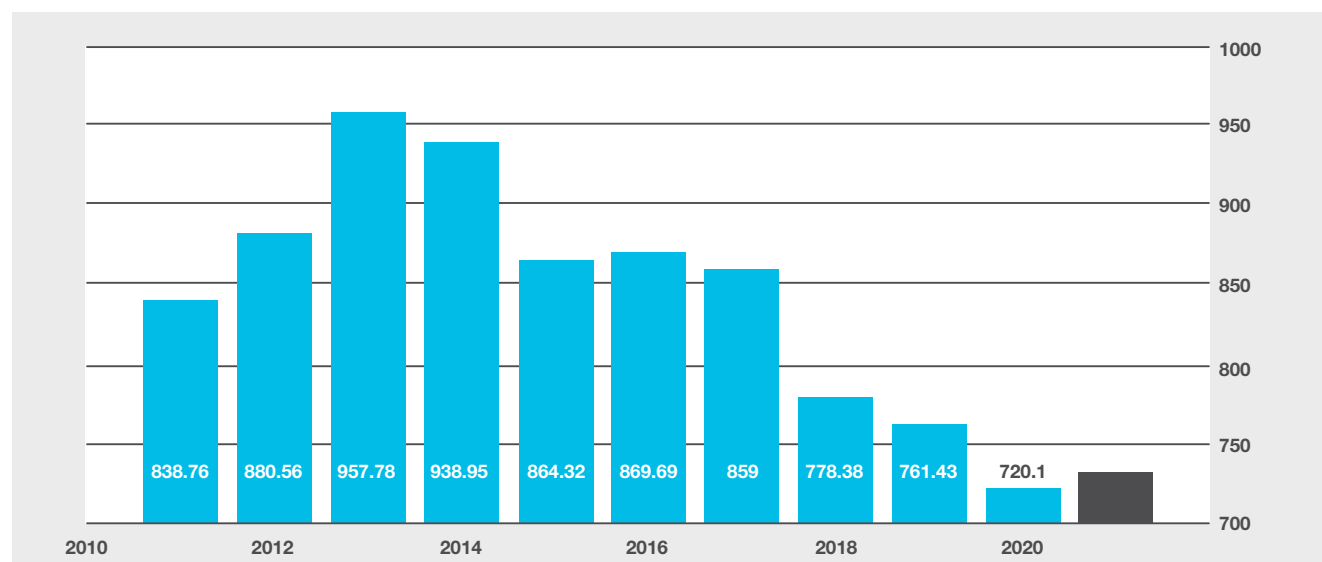
Turkey is located on two continents: Asia and Europe. It has a geostrategic position which allows access to the markets of Europe and the Middle East.

Thanks to its geographical location, Turkey is a critical player in global affairs and is recognised as an emerging market and regional leader. It is a country where a rich heritage and national identity coexist with modernisation and innovation. According to the forecasts of the International Monetary Fund (IMF), Turkey will lose its place among the twentieth largest economies in the world by the end of 2021. Turkey, which will fall to the twenty-first in 2021, will regress to the twenty-second in 2022. According to the IMF, Turkey will return to the top 20 as the nineteenth largest economy in the world in 2023.

## Economic summary

### Gross domestic product

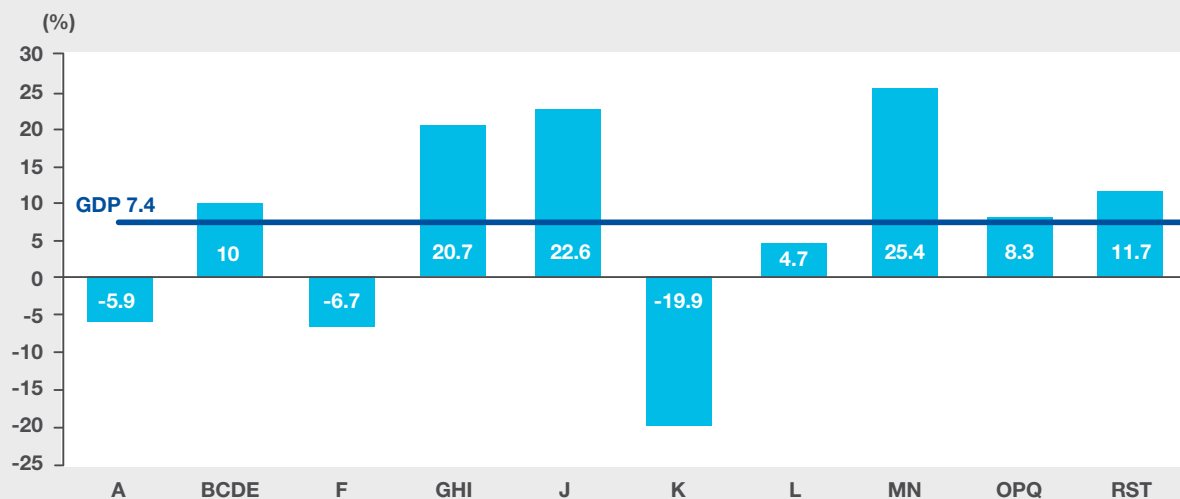
Gross domestic product (GDP) in Turkey is USD 740 billion (2021); GDP in Turkey was worth USD 720.1 billion in 2020, according to official data from the World Bank. The GDP value of Turkey represents 0.64% of the world economy.





GDP increased by 7.4% in the third quarter of 2021 compared with the same period in 2020. When the activities which constitute gross domestic product were analysed, the value added increased by 25.4% in professional, administrative and support service activities, 22.6% in information and communication, 20.7% in services, 11.7% in other service activities, 10% in industry, 8.3% in public administration, education, human health and social work activities and 4.7% in real estate activities. The value added decreased by 19.9% in financial and insurance activities, 6.7% in the construction sector and 5.9% in agriculture, forestry and fishing.

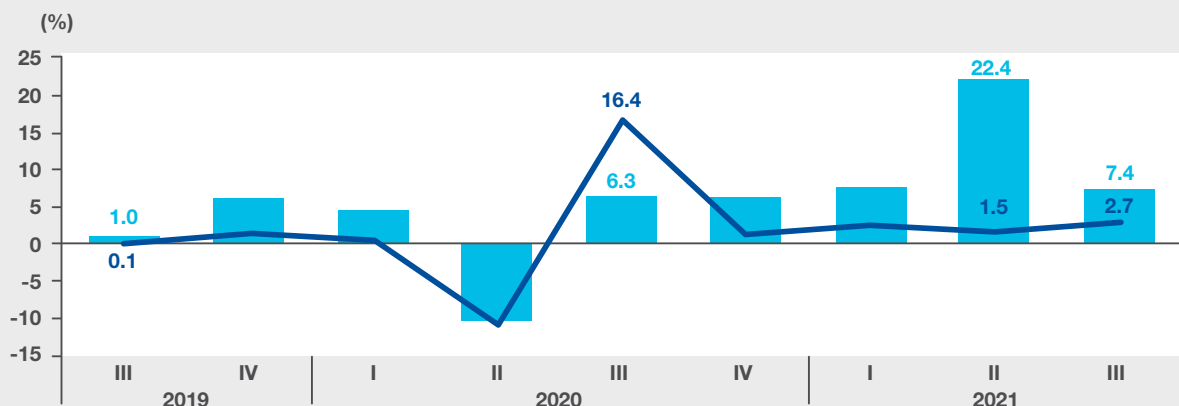
### GDP, Percentage change at A10<sup>(1)</sup> level by branches of economic activity, Quarter III: July-September, 2021



● Growth rate at A10 level — GDP growth rate

(1) A-Agriculture, forestry and fishing, BCDE-industry, F-Construction, GHI-Services, J-Information and communication, K-Financial and insurance activities, L-Real estate activities, MN-Professional, administrative and support service activities, OPQ-Public administration, education, human health and social work activities, RST-Other service activities.

### GDP Percentage Rate, Quarter III: July-September, 2021

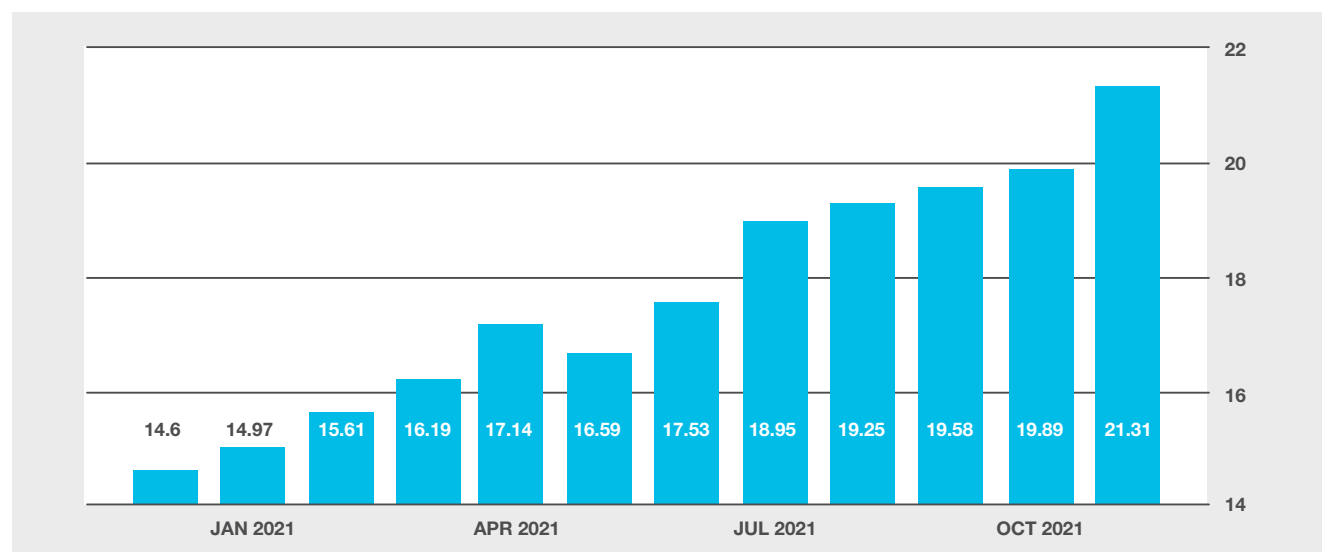


● Percentage change compared to same period in previous year (unadjusted)  
 — Percentage change compared to the previous quarter

GDP increased by 35.5% and reached TRY 1,915,467 million (equivalent to USD 225,497 million) at current prices in the third quarter of 2021.

## Inflation

The annual inflation rate in Turkey rose to 21.31% in November 2021 from 19.89% in the previous month and above market expectations of 20.7%. Energy costs climbed 22.14%, accelerating from a 25.76% gain in October 2021 while food inflation eased slightly (27.11% in November 2021 compared to 27.41% in October 2021). Core inflation, which excludes volatile items such as food and energy, rose to 17.62% from 16.82% in October 2021. On a monthly basis, consumer prices jumped 3.51%, more than expectations of a 3% rise.

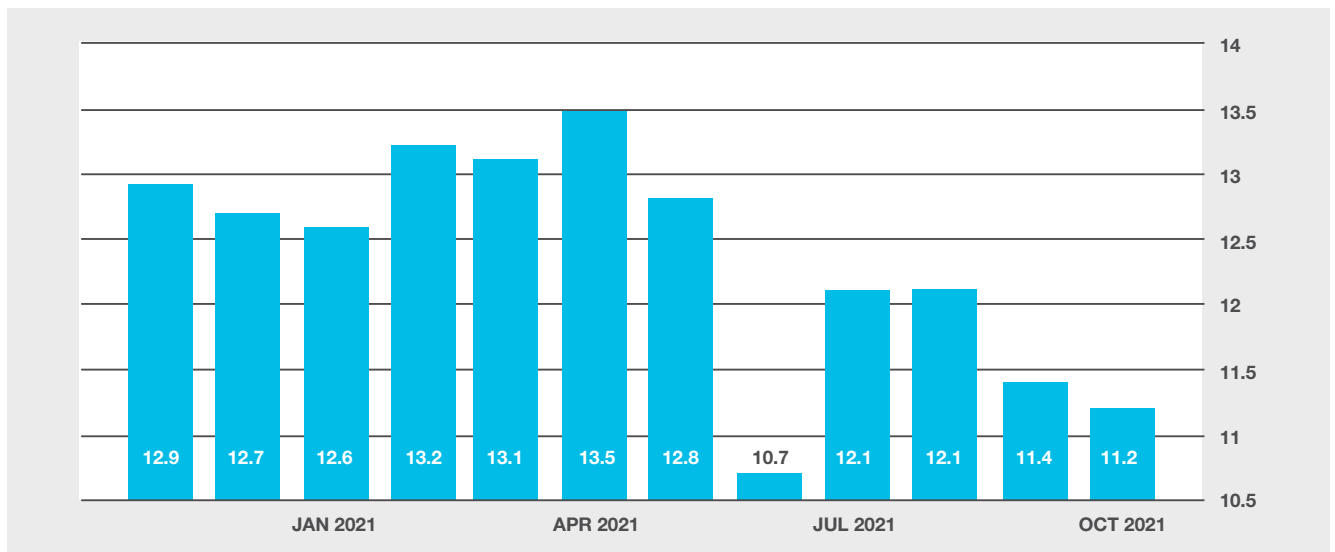


SOURCE: TRADINGECONOMICS.COM | TURKISH STATISTICAL INSTITUTE

In Turkey, the most important categories in the consumer price index are food and non-alcoholic beverages (23.7% of total weight); housing, water, electricity, gas and other fuels (15.9% of total weight) and transportation (14.3%). Others include: furnishings, household equipment and routine maintenance (8%); hotels, cafes and restaurants (7.5%); clothing and footwear (7.4%); and alcoholic beverages and tobacco (5%). The index also includes miscellaneous goods and services (4.7%); communication (4.4%); recreation and culture (3.8%); health (2.7%) and education (2.6%).

## Unemployment

The seasonally adjusted unemployment rate in Turkey declined to 11.2% in October 2021 from a downwardly revised 11.4% in the previous month, the lowest jobless rate since June 2021. The number of unemployed decreased by 75,000 from the previous month to 3.717 million and employment levels rose by 180,000 to 29.581 million. Job losses occurred in industry and construction, while employment was up in services and agriculture sectors. Meanwhile, the labour force participation rate edged up to 52% from an upwardly revised 51.9% in September 2021. The labour underutilisation rate inched up one percentage point to 22.8%, while the youth jobless rate for those aged between 15 and 24 years was down 0.8 percentage points to 20.1%.



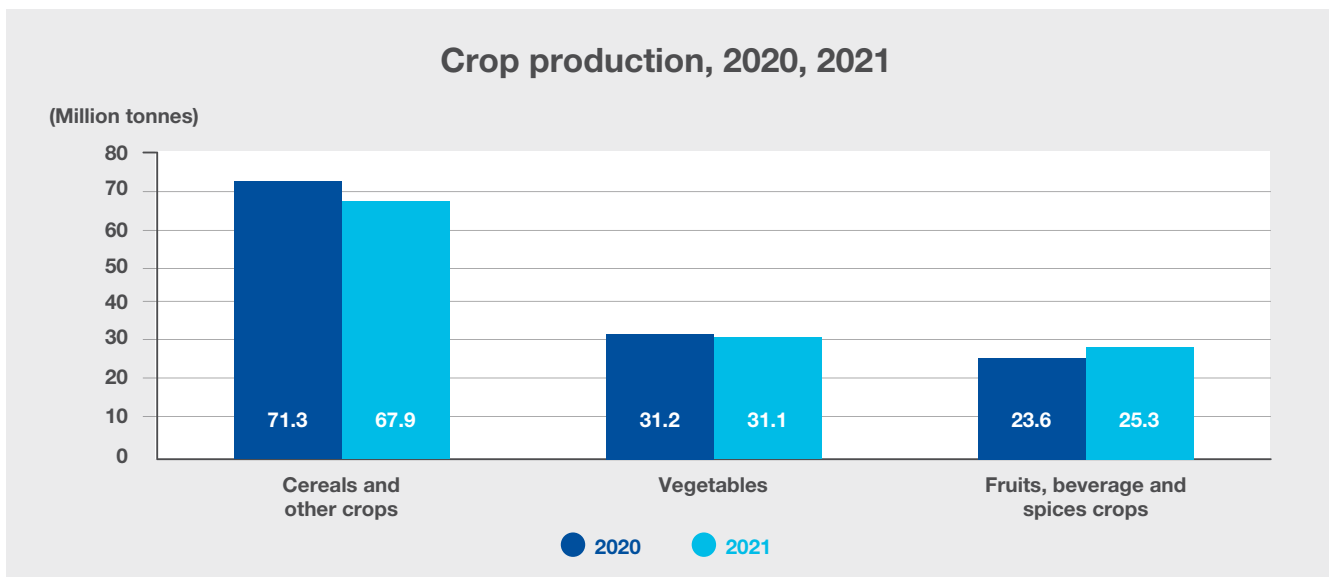
SOURCE: TRADINGECONOMICS.COM | TURKISH STATISTICAL INSTITUTE

## Arable land use

Arable land (percentage of land area) in Turkey was reported as 40.63 % in 2021, according to the World Bank collection of development indicators, compiled from officially recognised sources. Data in respect of arable land in Turkey (including actual values, historical data, forecasts and projections) was sourced from the World Bank in December 2021. Arable land includes land defined by the FAO (Food and Agriculture Organisation) as land under temporary crops (double-cropped areas are counted once), temporary meadows for mowing or for pasture, land under market or kitchen gardens, and land temporarily fallow. Land abandoned as a result of shifting cultivation is excluded.

## Crop production first estimation, 2022

It was estimated that production of cereals and other crops and vegetables will decrease when compared with the previous year. In the first estimation of 2022, production quantities of cereals and other crops will decrease by 4.7%, vegetables will decrease by 0.3%, while fruits, beverage and spices crops will increase by 7.1% when compared with the previous year. Production quantities in 2022 were estimated approximately as follows: 67.9 million tonnes of cereals and other crops, 31.1 million tonnes of vegetables, and 25.3 million tonnes of fruits, beverage and spices crops.



## Agriculture

Recent policy reforms, notably in integrating environmental concerns into agriculture, strengthening the legal framework, reforming institutions and improving rural policy, have brought about important improvements. However, the productivity and efficiency of the Turkish agricultural sector still remain low, due to small, fragmented farms, low education attainments and poor agro-ecological conditions.

Turkey should shift its output-based farm support policies towards measures that help farmers increase competitiveness, raise farm incomes and tackle environmental problems.

Turkey is the world's seventh largest agricultural producer, and a top exporter of crops ranging from hazelnuts and chestnuts to apricots, cherries, figs, olives, tobacco and tea.

Agriculture is Turkey's largest employer, representing 25% of the workforce and contributes 8% of the country's economic activity.

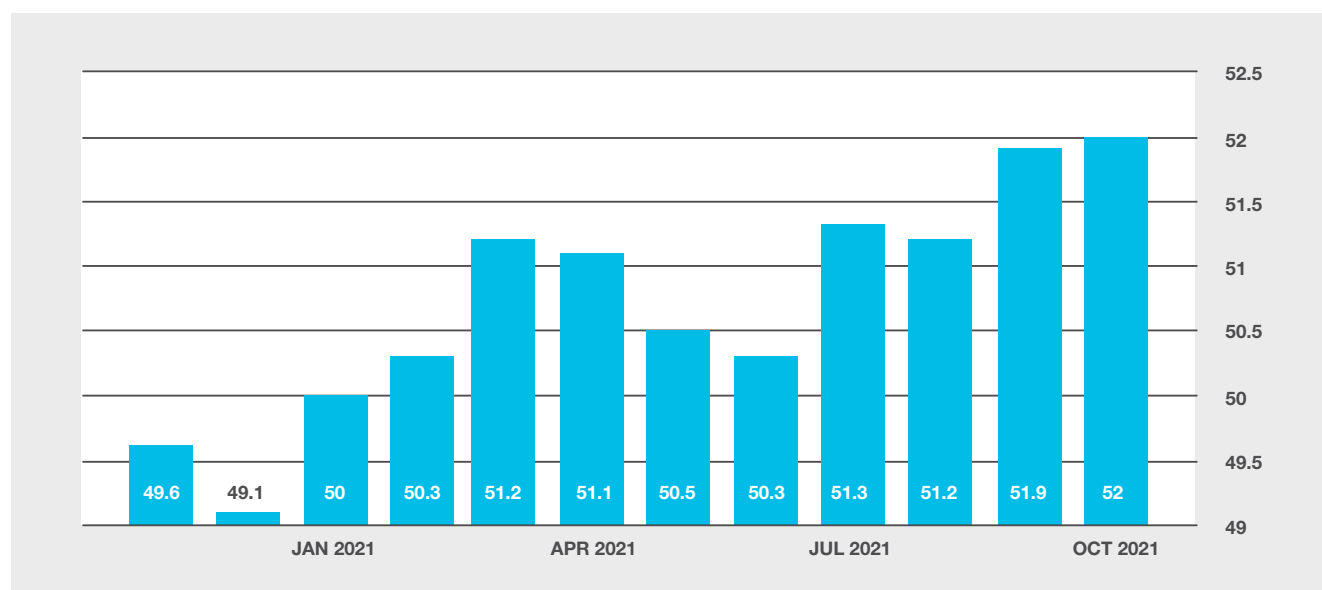
Nearly two-thirds of Turkish farms are less than five hectares in size.

Total support for producers in Turkey was 1.61% of GDP in 2020, higher than the OECD average.

Indicator	2015	2016	2017	2018	2019	2020	1986 - 2020
Total Support Estimate, % of GDP	2.36	2.53	1.97	1.25	1.22	1.61	
Producer Support Estimate, % of GFR	26.4	30.0	23.5	16.1	14.9	19.6	
Nominal Protection Coefficient, Ratio	1.28	1.34	1.23	1.13	1.12	1.07	
Agriculture in GDP, %	6.9	6.1	6.0	5.8	6.4	-	
Agricultural employment, %	20.41	19.50	19.38	18.43	18.11	-	

## Labour force

The labour force participation rate is the number of people who are employed or unemployed but looking for a job divided by the total working-age population. The labour force participation rate in Turkey increased to 52% in October 2021 from 51.9% in September 2021.



SOURCE: TRADINGECONOMICS.COM | TURKISH STATISTICAL INSTITUTE



## Industries

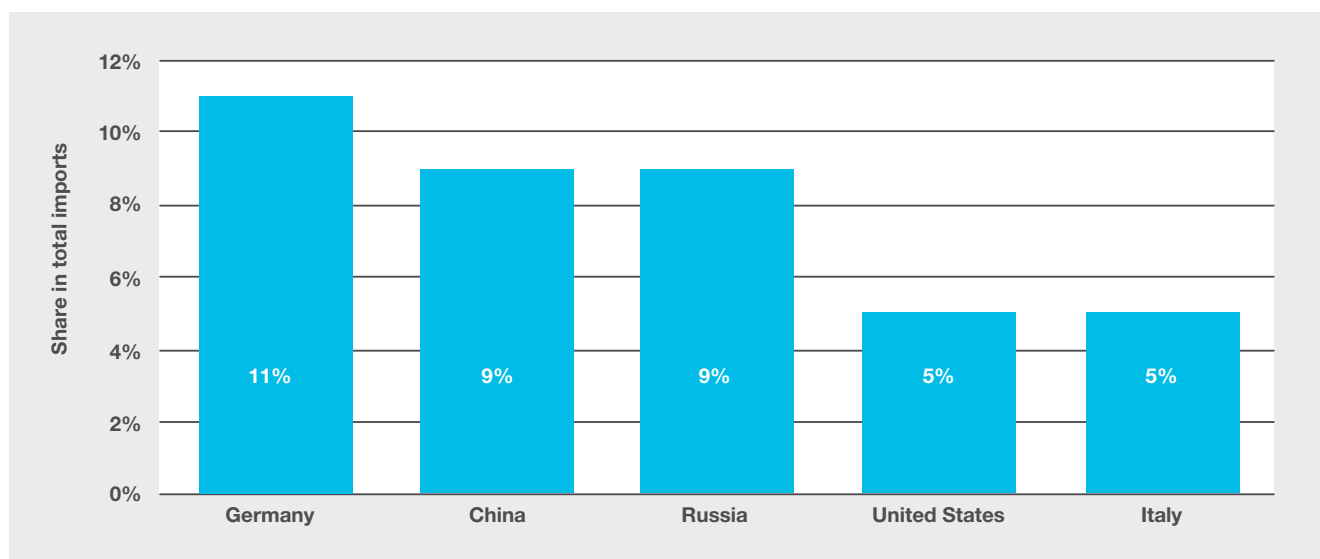
The main industries in Turkey include textiles, home appliances, steel and steel products, jewellery iron, chemicals, cement, food processing, motor vehicles (cars, trucks and buses), construction, glass, ceramics, mining and tourism.

## Natural resources

Turkey's key natural resources include iron ore, copper, coal, chromium, antimony, mercury, gold, celestite (strontium), emery, barite, borate feldspar, pyrites, clay, limestone, magnesite, marble, perlite and pumice.

## Imports and exports

The following graph shows the main import partners of Turkey in 2021. Germany was the leading import partner of Turkey in that year, with a share of 11% in all imports.



The Republic of Turkey is strategically located at an intersection between western Asia and south-eastern Europe. The transcontinental nation shares its borders with eight countries: Armenia, Azerbaijan, Bulgaria, Greece, Georgia, Iran, Iraq and Syria.

Turkey recorded the following levels of imports and exports in October 2021 (percentage increases are based on a comparison to October 2020):

- Exports increased by 20.17% to USD 20,807 million
- Imports increased by 12.97% to USD 22,270 million
- Foreign trade volume increased by 16.33% and reached USD 43,077 million
- The ratio of exports to imports was 93.4%.

Applying a continental lens, 55.7% of Turkey's exports by value were delivered to European countries while 26% were sold to Asian importers. A further 9% of exports were made to Africa. Smaller percentages went to North America (6.9%), Latin America excluding Mexico but including the Caribbean (1.7%) then Oceania led by Australia, Marshall Islands and New Zealand (0.7%).

## Services and exchange controls

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Regulatory and supervisory authorities are established to control the markets, supervising and monitoring market activities for any regulations or problems. Some of the important entities in Turkey and their roles are as follows:

- The **Competition Authority (CA)** aims to maximise economic efficiency by establishing and protecting competition in the market.
- The **Energy Market Regulatory Authority (EMRA)** regulates and supervises the energy market; its aim is to offer electricity and energy sources to consumers at an appropriate quality, quantity, price and in an environmentally sustainable way.
- The **Banking Regulation and Supervision Agency (BRSA)** protects the rights and benefits of depositors; guarantees the trust and stability in financial markets; supports development of the finance sector and facilitates the efficient working of the credit system.
- The **Capital Markets Board of Turkey (CMB)** aims to ensure efficient and extensive involvement of the public in economic development through transforming investments into securities and protecting the rights and benefits of investors.
- The **Information and Communication Technologies Authority (BTK)** performs the legal regulation, supervision, authorisation and reconciliation within the telecommunications market.
- The **Tobacco, Tobacco Products and Alcoholic Beverages Market Regulation Board (TAMRB)** controls operations about tobacco, tobacco products, alcohol and liquor relating to registration, authorisation and regulatory systems for the enforcement of laws.
- The **Privatisation Administration (PA)** has full responsibility for coordinating privatisation processes in Turkey.
- The **Public Procurement Authority** establishes the principles and procedures to be applied to any procurement held by public authorities and institutions governed by public law, under public control or using public funds; it coordinates the procurement of goods, services or works financed by any resource at the disposal of the contracting authorities referred to in the law.
- The **Sugar Authority** is responsible for establishing the principles and procedures of the sugar regime, sugar production, pricing and supplying through local production or by import. The Authority supervises the sugar legislation.
- The **Radio and Television Supreme Council (RTSC)** is responsible for regulating and supervising radio and TV operations. Licence and authorisation for broadcast are granted to terrestrial, digital, satellite, cable and IPTV broadcasters by the RTSC.
- The **Public Oversight, Accounting and Auditing Standards Authority (POA)** is established to develop standards, ensure that financial reports are issued and supervised in compliance with international standards and secure an efficient public oversight.

## Turkey today

### Geography

Thanks to its geographic position, Turkey is a bridge between Asia and Europe. Over the last thousand years many states have been established in the area where Turkey lies. Surrounded by seas from three sides, Turkey has always been an essential place of settlement and investment with fertile soils that experience four seasons.

Located in the time zone of GMT+3, Turkey offers the opportunity to communicate with countries both in the west and in the east within the same business day.

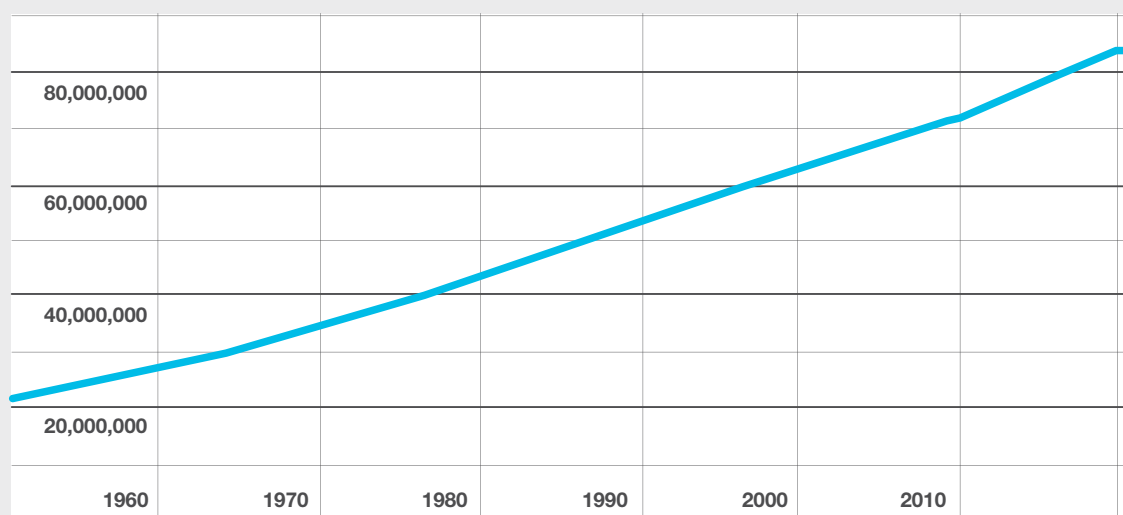
### Climate

Although Turkey is in a largely Mediterranean geographical position where climatic conditions are quite temperate, due to its nature and especially the presence of mountains extending parallel to the coast, different climatic characteristics are observed in each region. The country is in the temperate climate zone in the northern hemisphere. There are usually four seasons. However, due to the influence of the seas and mountains, the climate is not the same in every region.

### Population

- The current population of Turkey is 85,674,867 people as of 23 December 2021, based on Worldometer elaboration of the latest United Nations data.
- Turkey's population was estimated at 84,339,067 people at mid-year 2020 according to UN data.
- Turkey's population is equivalent to 1.08% of the total world population.
- Turkey ranks number 17 in the list of countries (and dependencies) by population.
- The population density in Turkey is 110 people per km<sup>2</sup> (284 people per mi<sup>2</sup>).
- The total land area is 769,630 km<sup>2</sup> (297,156 mi<sup>2</sup>).
- 75.7% of the population is urban (63,803,445 people in 2020).
- The median age in Turkey is 31.5 years.

**Turkey Population (1950-2020)**



— Turkey Population

## Population and annual population growth rate, 2007-2020



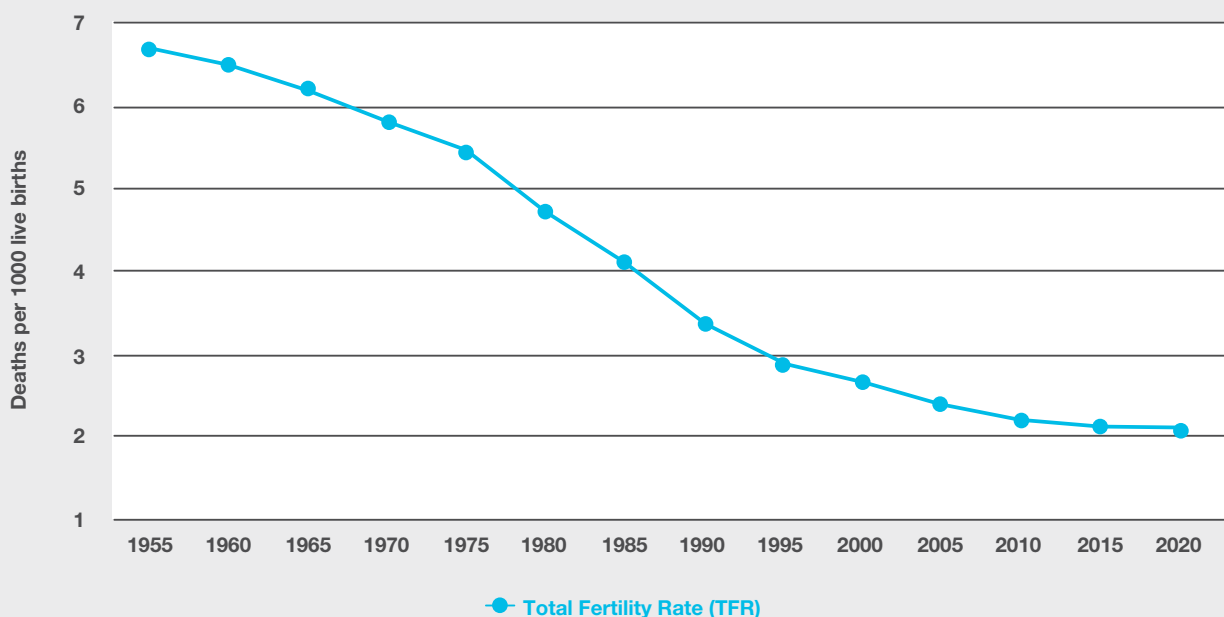
The population residing in Turkey increased by 459,365 people compared to the previous year, and reached 83,614,362 people as at 31 December 2020. The male population was 41,915,985 people and the female population was 41,698,377 people, meaning that 50.1% of the total population was male and 49.9% of the total population was female.

According to the results of the Address Based Population Registration System (ABPRS) in 2021, foreign citizens residing in Turkey decreased by 197,770 people and became 1,333,410 people. 49.7% of this population were males and 50.3% of this population were females.

### Fertility in Turkey

A total fertility rate (TFR) of 2.1 represents the replacement-level fertility, being the average number of children per woman needed for each generation to exactly replace itself without needing international immigration. A value below 2.1 will cause the native population to decline.

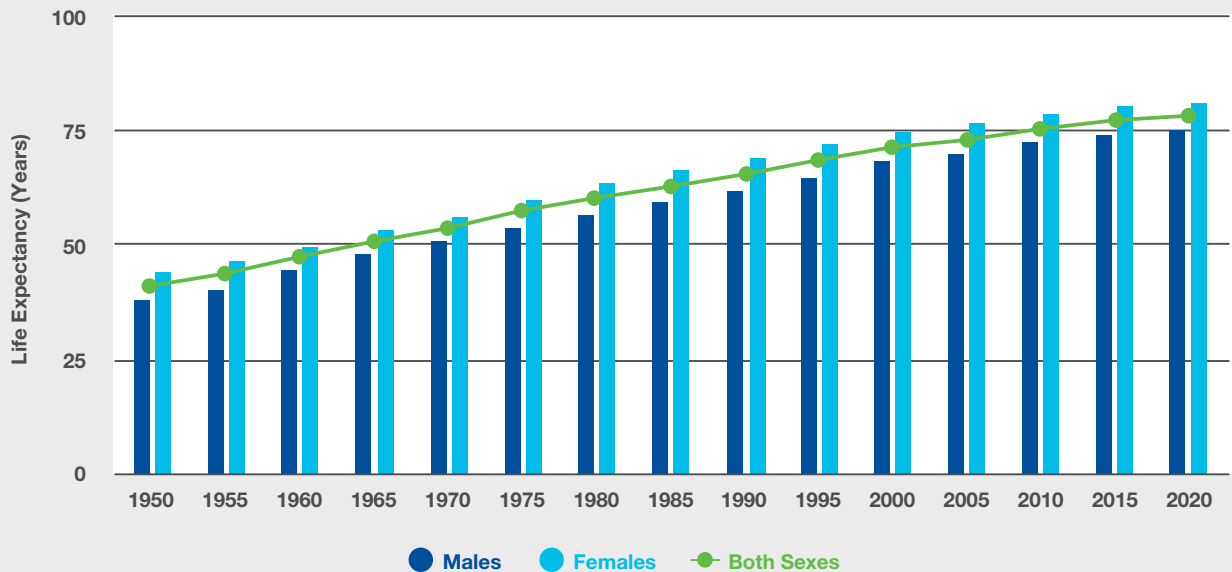
## Total Fertility Rate in Turkey, 1955-Present





## Life Expectancy in Turkey from 1955 to Present

Males, Females, and Both Sexes combined



### Political system

The Republic of Turkey is an independent state established by the decree of the parliament on 29 October 1923, following the suffering of the Ottoman Empire in World War I. The first president Atatürk initiated a programme of political, economic and cultural reforms of the new republic. The political system in Turkey is a democratic parliamentary republic system, which is based on social justice and the rule of law in a secular constitution, allowing multiple political parties.

### Communications

- Telephone users: 11,308,444 (2021)
- Mobile cellular users: 77,800,170 (2021)
- Internet users: 46,838,412 (2021)

### Transport

To get around Turkey, there are two main possibilities: road or air transport. Ferries and railways are also available. Turkey offers a wide range of affordable public transport which helps travellers who have limited budgets. One of the most important factors indicating the level of development of a country is the availability of public transport services.



# Consumer Protection and Special Industries

## Intellectual and industrial property rights

Turkey is one of the most important jurisdictions for intellectual property (IP) law, litigation and enforcement. It is a transportation hub between Europe and Asia. Most textile companies either have manufacturing facilities in Turkey or outsource manufacturing of their products to companies in Turkey. Protection of IP rights is therefore very important in Turkey.

IP cases are handled by specific IP courts (intellectual property civil courts and intellectual property criminal courts) in Turkey. These courts are located in most of the large cities. Judges in those courts handle only IP cases; this creates a more predictable litigation and enforcement environment in Turkey.

Further, Turkish IP law is closely aligned with EU law and international norms. Therefore, Turkey is well positioned for protecting IP rights both in terms of modern and EU-aligned legislation and IP litigation. Having said that, there are many local features, which are explained in the rest of this chapter.

With regard to the alignment to EU laws, Turkey is a signatory to the following key treaties and conventions. All of the treaties and conventions mentioned below have been enacted and are part of local IP law:

- the Paris Convention
- the Patent Cooperation Treaty (PCT)
- the European Patent Convention
- the Berne Convention
- the Madrid Protocol
- the Hague Agreement
- the Rome Convention

Turkey is also a member of the World Trade Organization and is a signatory to the Agreement on Trade-Related Aspects of Intellectual Property Rights.

## Consumer and user protection

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### Rights under the general law

Most consumer protection issues arise out of contracts, whether written or verbal.

Under the general law of Turkey there is no distinction between a consumer contract and any other type of contract when it comes to the obligations of the parties. The only distinction concerns how any disputes are to be dealt with.

### Specific consumer protection legislation in Turkey

There are various pieces of legislation in Turkey specifically aimed at consumer protection. They give the consumer various rights and include the provisions set out below.

#### The right to return goods

Consumers may return any goods that they have purchased, within 30 days, without having to give any justification for their decision to do so. The goods must not be damaged.

They are entitled to a full refund.

This right does not apply to certain things such as underwear and perishables.

#### Internet sales and other 'buying at a distance' contracts

There is a specific regulation relating to 'buying at a distance' contracts, i.e. contracts for the provision of goods or services that are not made on the premises of the trader.

If you need help with a consumer protection problem in Turkey, there are two main options: (i) you can contact the Consumer Commission and report the problem to them; or (ii) you can take the matter up through your lawyer and the courts. In either case, you should have first notified the other party about the nature of your dispute and given them a reasonable time (usually interpreted as 15 days) to put the problem right.

#### The Consumer Commission

Turkey has a special arrangement – the Consumer Commission – to deal with small consumer disputes, meaning disputes where the value is less than TRY 3,000. In fact, disputes involving amounts less than TRY 2,000 are dealt with by the Commission in the town concerned, and disputes involving amounts between TRY 2,000 and TRY 3,000 are dealt with by the provincial commissioner.

The Commission is set up by the provincial governor and comprises four people: one a lawyer, one from the municipal council, one from the local chamber of commerce or merchants and one from a consumer organisation. Any issues falling within its jurisdiction are submitted to the Commission on a special form, which can be downloaded from its website.

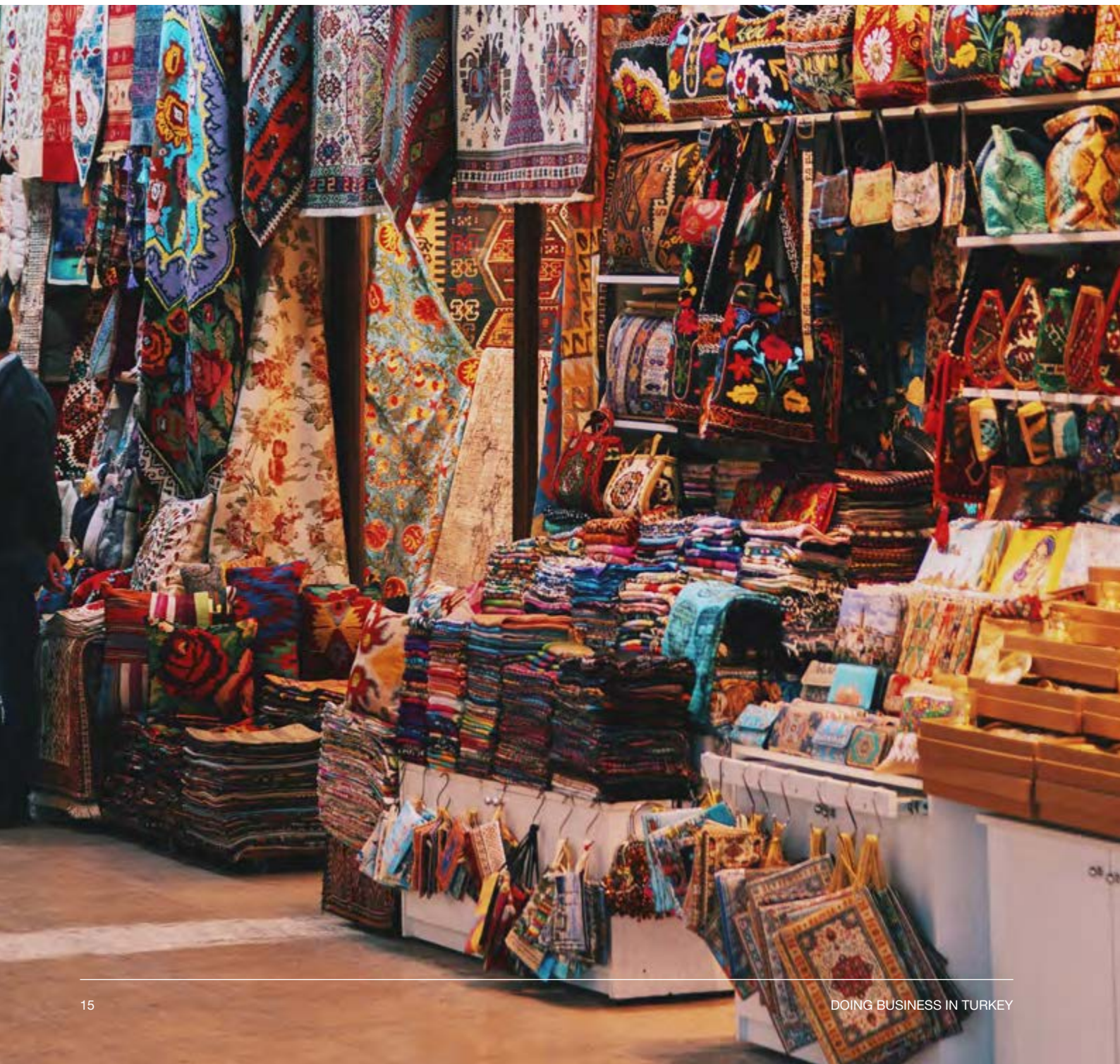
The Commission then asks the business for a response to the complaint. It then decides whether the complaint is justified. There is no trial or public hearing. This is a simple and quick procedure, which can resolve lots of small problems.



## Special Court of Consumer Rights

Disputes involving amounts greater than TRY 3,610 must be dealt with by the Special Court of Consumer Rights. These are not available in every town. If there is no Special Court of Consumer Rights in a particular place, disputes will go to the regular civil courts. There are no court charges for cases brought before the Special Court of Consumer Rights. The process followed in this court is similar to that followed in any civil court trial.

The court's powers allow it to order that the goods should be returned to the seller or that the price of the goods or services should be refunded or reduced. It cannot order general compensation (for example, for damage caused to your clothes by a defective washing machine). For that you would have to go to the ordinary civil courts.







# Legal Framework for Business

According to Foreign Direct Investment Law No. 4875, foreign investors are entitled to establish joint stock companies, limited liability companies and branches in Turkey, in line with Turkish Commercial Code No. 6102. Foreign investors are also allowed to incorporate liaison offices, which are preferred as another vehicle to enter the Turkish market, as per the provisions of the law.

## Accounting regulations in Turkey

Accounting and auditing practices must be evaluated within the framework of the New Turkish Commercial Code (TCC). To ensure a more effective auditing and public oversight system, the Public Oversight, Accounting and Auditing Standards Authority (KGK) was established in accordance with the Public Oversight Accounting and Auditing Standards Authority's Organisation and Responsibilities Decree Law No. 660 of 2 November 2011. Members of the management board were appointed on 14 December 2011 and the Authority started its operations as of 22 December 2011. Pursuant to the decree law, the Authority is the only body authorised to publish accounting and auditing standards in Turkey.

According to the New TCC, companies are obliged to maintain statutory books and individual or consolidated financial statements in accordance with Turkish Accounting Standards and Turkish Financial Reporting Standards (TAS/TFRS), a direct translation of the International Financial Reporting Standards (IFRS).

## Accounts controls in Turkey: Statutory audits

The Turkish Commercial Code No. 6102 (the Commercial Code) of 2012 (as amended) governs the corporate financial reporting, accounting and auditing requirements in Turkey. The Code outlines the preparation and publication of financial statements and provides legal backing to the standards that have been issued by KGK.

KGK has adopted the strategy of taking as reference the international standards published by the International Federation of Accountants (IFAC), within the framework of its authority to publish the Turkish Auditing Standards (TDS) given to it with the Decree Law No. 660 (KHK). This preference is essentially a requirement of our country's European Union candidacy process and has been accepted exactly in the Turkish Commercial Code No. 6102. However, in the Independent Audit Regulation dated 26 December 2012, Turkish Auditing Standards started to address many different areas, including the information systems audit that came into force pursuant to the Decree Law No. 660. Turkish Auditing Standards are defined as international standards and regulations in the fields of education, ethics, quality control and information processing.

- International Standards on Independent Auditing (ISA) are applied in the independent auditing of historical financial information. It was written in the context of an independent auditor's audit of the financial statements. The standards require the auditor to obtain reasonable assurance on which to base the auditor's opinion as to whether the financial statements as a whole are free from material misstatement due to fraud or error. If standards are used in audits of other historical financial information, they need to be adapted to meet the requirements of the circumstances.
- International Standards on Review Engagements (ISRE) are applied to reviews of historical financial information, including interim periods. A limited audit provides a limited level of assurance to users regarding the reliability of historical financial information.
- International Standards on Assurance Engagements (ISAE) are applied to other assurance engagements, with the exception of audits and reviews of historical financial information.
- International Related Services Standards (ISRS) are the standards published by the International Auditing and Assurance Standards Board (IAASB) on related services other than assurance engagements. The auditor's service here is not intended to provide reasonable or limited assurance to relevant users.

Act No. 6103 on the Application of the Turkish Commercial Code of 2011 (as amended) grants authority to the Council of Ministers to determine the scope of entities subject to mandatory audit requirements in Turkey. In January 2013, the Council of Ministers enacted the Resolution on the Determination of Companies Subject to Independent Audit, which stipulates that listed companies, banks, insurance companies and brokerages are required to have mandatory annual audits of their financial statements. The Council of Ministers also sets the audit requirements based on the size of entities and, in 2021, significantly lowered previously established thresholds so that companies that satisfy at least two of the following criteria during two consecutive financial years are required to have mandatory audits:



- A. Threshold values for companies whose capital market instruments are not traded in a stock exchange or other organised markets but considered publicly traded within the scope of the Capital Markets Board of Turkey (SPK):
  - Total assets are TRY 15 million
  - Annual net sales revenue of TRY 20 million
  - Companies with 50 employees
- B. Threshold values for other companies not in the scope of the SPK:
  - Total assets are TRY 30 million
  - Annual net sales revenue of TRY 40 million
  - Companies with 125 employees
- C. Threshold values for companies other than those listed in subparagraphs (a) and (b):
  - Total assets are TRY 35 million
  - Annual net sales revenue of TRY 70 million
  - Companies with 175 employees.

Under the Code, the right to conduct statutory audits is granted to members of the Union of Chambers of Certified Public Accountants of Turkey (TÜRMOB) who satisfy the requirements established by the KGK. The Public Oversight, Accounting and Auditing Standards Authority's Organisation and Responsibilities Statutory Decree No. 660 also authorises the KGK to issue auditing standards in compliance with international standards. As per those laws, the KGK has published national standards complying with ISAs issued by the IAASB with small amendments to take into consideration the Turkish environment. The 2021 edition of the Handbook of International Quality Control, Auditing, Review, Other Assurance and Related Services Pronouncements is the latest version adopted by the KGK.

### Content of financial data to be published: Annual accounts

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As per the Turkish Tax Procedures Code, all resident companies and Turkish branches of foreign entities are required to keep statutory books based on the Uniform Chart of Accounts and in accordance with the accounting principles explained in Accounting System Application Communiqués (Turkish GAAP). Statutory books must be kept for a period of five years. There are initiatives for harmonisation with IFRS through the Capital Market Law as well as the New TCC. The New TCC has recently brought an independent audit obligation to certain categories of companies that were not in scope of independent audit before.

Article 182 of the Tax Procedures Law itemises the legal books that should be maintained by companies that keep their records per the balance sheet method. These are:

- journal ledger
- general ledger
- inventory ledger.

In addition to the above ledgers, the TCC requires the maintenance of the following books:

- resolution book (joint-stock companies)
- managers resolution book (limited liability companies)
- share ledger
- general assembly and negotiation book.

These legal books should be certified by a public notary before the commencement of the new accounting year. In general an accounting year is deemed to be a calendar year but a different fiscal year is acceptable if approved by the Ministry of Finance. The company's accounting can be performed by a shared service centre located abroad and the electronic server can also be located outside Turkey, bearing in mind that all original documents and records should be made available in case of an inspection or upon any statutory request. It is mandatory that the legal books be kept in the local language, presented in Turkish lira and in line with the Turkish Uniform Chart of Account; however, dual language records are allowed. Legal books should be printed as hard copies if the company is not registered with e-invoicing and/or e-bookkeeping systems.





# Forms of Business Organisations

## Setting up a Turkish company

Foreign enterprises that want to open businesses in Turkey are required to complete a few steps before starting operating. These steps consist of:

- Choosing the type of company they want to establish and having the incorporation documents drafted and notarised in accordance with the Companies Law
- Opening the corporate bank account and depositing the share capital required by law
- Appointing the company's directors or managers, as prescribed by the legislation
- Submitting the incorporation documents and the details of the shareholders and managers to the Trade Register
- Obtaining the tax and VAT numbers, as well as registering for social security purposes with the tax office.

One of the most important steps in opening a company in Turkey is the preparation of the documents needed to register the business with the Trade Register. The main set of documents which need to be drafted and notarised is the articles of association which need to contain all the details of the shareholders – their names, their places of residence, their contribution to the share capital of the company and the number of shares they own in the business. The articles of association must also contain information about the managers of the company, including their name, the way in which they are appointed and can be revoked and their duties and obligations. The same document must clearly state the Turkish company's trade name, its address in this country and a description of the object of activity. The articles of association can also contain other clauses, related to the amendments which can be brought to the company and dispute resolution methods if any problems arise between the shareholders. It is very important for the articles of association to be drafted in accordance with the provisions of the Commercial Code. If you are a foreign entrepreneur and want to open a company in this country, our law firm in Turkey can help you with the preparation of these documents.

An important aspect which should be considered is that in the case of setting up a sole proprietorship, a simple application form needs to be filed with the Trade Register. In the case of partnerships (which in Turkey are known as commandite companies), the partnership deed triggers the formation of the entity.



It takes about one week to set up a company in Turkey. The procedure takes longer in the case of a branch office. If you need further information on the procedures applied by the Turkish authorities at the incorporation of a company, please contact our team of lawyers in Turkey. We can help with personalised company registration services in Turkey.

## Opening a branch

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Foreign investors in Turkey have many options when it comes to opening a company. Entrepreneurs who want to expand their activities in the country can choose to open a new company or a branch in Turkey. A branch of a foreign parent company has several advantages over a subsidiary in terms of the speed of incorporation and incorporation costs.

A branch is essentially an extension of the parent company outside the country. This is a good thing as the incorporation costs will generally be lower than in the case of a new company or a subsidiary and it can commence its activities in Turkey much faster. On the other hand, the branch is fully dependent on the parent company which is fully liable for the debts and obligations of the Turkish branch. Like any other legal entity in Turkey, the branch must be registered at the Trade Register. Before registering the branch, a set of documents needs to be drafted and prepared in order for the representatives of the branch to be able to make the application for registration. Other features of the branch office which need to be considered are as follows:

- It cannot complete activities other than those undertaken by the parent company.
- The parent company will be liable for all the actions of the branch office in Turkey.
- The branch office must bear the same name as the parent company.
- The branch office cannot make decisions about the sale or purchase of assets.
- From a taxation point of view, the branch office will pay taxes only on the income generated in Turkey.

The creation of a branch office in Turkey must be based on a resolution passed by the shareholders or by the directors of the parent company. Both foreign and local companies can operate through branches in Turkey; therefore, the resolution is passed based on the local rules applicable in the jurisdiction in which the company is based. No matter how the decision is made and the resolution is passed, it must be submitted to the Ministry of Industry and Commerce in Turkey. Then, the following documents must be filed with the Companies Register when it comes to foreign companies establishing branches in Turkey:

- The resolution passed by the shareholders or directors confirming the decision of setting up the branch
- A copy of the passport of the person appointed by the parent company to act as a representative in the branch
- The signature of the appointed representative which must be certified by a Turkish public notary
- A power of attorney granted by the parent company to the representative in Turkey
- The parent company's Certificate of Registration issued by the Trade Register in the country of origin.

Although establishing a branch is not as common as opening a liaison office or incorporating a subsidiary in Turkey, some foreign companies prefer a branch to enter the Turkish market on a temporary basis without establishing a fully independent company. Branches have less corporate formality (i.e. there is no need to hold annual General Assembly meetings, no need to appoint a Board of Directors and obtain Board resolutions, etc.) and they can be managed relatively easily from abroad.

However, it is important to remember that branches are permitted to enter into commercial transactions and undertakings in Turkey, with all the liabilities and risks to be assumed by the parent company and at least one representative manager of the branch must be vested with full authority, which may not be attractive to companies that are not willing to carry out any activity in Turkey in the short term.

The main disadvantage of opening a branch in Turkey for foreign companies is the requirement to have at least one manager who is a resident in Turkey. Also, as mentioned above, the branch's legal eligibility to enter into commercial transactions when there is no distinct corporate veil between the parent company and the branch may also be unattractive for some foreign companies who do not want to perform any commercial activity in Turkey and thus they may prefer liaison offices. Branches also do not have the automatic tax exemptions that are provided to liaison offices.

Investors can establish five types of company within the scope of the Turkish Commercial Code. However, foreign investors typically establish joint-stock companies and limited liability companies in Turkey.

### Limited liability company

A limited company is established by one or more real or legal persons under a commercial title. Its principal capital is set and consists of the aggregate of the principal capital shares. In limited companies, shareholders are not liable for the company's debts, and they are liable only for paying the principal capital shares that they have subscribed for and for fulfilling their additional payment and ancillary performance obligations stipulated in the articles of association. Limited companies must be established with a minimum capital of TRY 10,000 and with a minimum of one shareholder. Trade names in Turkish must include the expression 'Limited Şirket' (limited company) and must specify the company's area of activity. The capital to be placed by other shareholders must be at least TRY 25 or multiples of TRY 25.

### Joint-stock company

Pursuant to article 329 of the Turkish Commercial Code No. 6102, a joint-stock company is a company with determined capital that is divided into shares and liable for its debts only to the extent of its assets. Shareholders in joint-stock companies are liable for the company only with their capital shares that they have subscribed. Unless otherwise provided in special laws, joint-stock companies must be established with a minimum capital of TRY 50,000 and with a minimum of one shareholder. (On the other hand, the starting capital of non-public joint-stock companies which have adopted the registered capital system must be at least TRY 100,000.)

Trade names in Turkish must include the expression 'Anonim Şirket' (joint-stock company) and must specify the company's area of activity.

Pursuant to the 'Communiqué on Increasing the Capitals of Joint-Stock and Limited Companies To The New Minimum Amounts and Determination of Joint-Stock Companies Whose Incorporation and Amendment to Articles of Association are Subject to Permission' which was published by the Ministry of Customs and Commerce in the Official Gazette dated 15 November 2012 and numbered 28468, banks, financial leasing companies, factoring companies, consumer financing and card services companies, asset management companies, insurance companies, holdings established as joint-stock companies,



companies operating exchange offices, companies dealing with public warehousing, warehousing companies licensed for agricultural products, product specialised stock market companies, independent auditing firms, surveillance firms, technology development zone management companies, companies subject to the Capital Market Law dated 28 July 1981 and numbered 2499 and companies establishing and managing free zones are subject to permission from the Ministry in terms of their establishment and amendment to their articles of association.

### **Representative office – liaison office**

A representative office can be defined as ‘offices established by non-resident individuals and legal entities with social, cultural or economical purposes such as communication, entertainment, providing contacts, conducting market research at the country of investment, close follow up of business opportunities at the country of investment and offering information to the main company’. Under foreign investments legislation, the representative office is prohibited from conducting business activities; therefore the economical structure of such offices has to be closely observed. As business activities are not permitted, these offices should not have tax liabilities in respect of corporate tax and value added tax in the territory where they are located.

According to article 3/h of the Law on Foreign Direct Investments No. 4875, the General Directorate of Foreign Investments (GDFI, Yabancı Sermaye Genel Müdürlüğü) is entitled to give permission to companies which are founded upon foreign legislation for establishing representative offices in Turkey, provided that they do not carry out commercial activities in Turkey.

For establishing a representative office in Turkey, the following conditions should be met:

- The legal entities that wish to establish a representative office in Turkey should be founded under foreign legislation and the legal entity should be a corporate entity.
- The representative office to be established in Turkey should not conduct commercial activities in Turkey.

The requests of foreign companies for opening representative offices for fields such as capital markets and the insurance trade are assessed by organisations and institutions which are authorised under specific legislation.

The following documents must be provided to the GDFI when an application for establishing a representative office in Turkey is made:

- The original commercial activity certificate belonging to the main company and certified by the Turkish Consulate or apostilled according to the provisions of the Convention Abolishing the Requirement of Legalisation for Foreign Public Documents
- The activity report, balance sheet or income table prepared for the main company (of the previous year)
- The original certificate of authority given to the person entitled to act on behalf of the representative office
- In cases where the establishment procedure is carried out through the mediation of another person, the original power of attorney.

The public notary certified translations of these documents should be presented during the application. In addition, a detailed petition containing the presentation of the company seeking to establish a representative office in Turkey and the planned future activities for the representative office should be produced. Applications in respect of establishing a representative office should be made to the GDFI, Undersecretariat of Treasury. When the necessary documents are presented and the required forms are filled out, the permission is given within five business days.

A copy of the registration certificate to the tax department for the representative offices who have the establishment permission must be sent to the GDFI within one month. In the event of an address change, the GDFI must be notified of the new address within one month. Representative offices are granted activity permission for a maximum of three years. For duration extension requests, the past activities, future plans and targets of the representative office are taken into consideration and a maximum three-year extension is granted each time. The representative offices should inform the GDFI about their annual activities by the end of May each year. For this purpose, the form entitled 'Information Form About Activities of Representative Offices' is used and must be submitted alongside the documents proving that expenses of the office were allowed, with the foreign currency brought into the country from abroad.

Where a representative office ceases its activities, the inspection record obtained from the relevant tax department is sent to the GDFI. The offices are not entitled to any transfer claims except for the remainder amount following a liquidation.

All expenses of the representative offices are allowed with the foreign currency which is brought into Turkey from abroad. The representative offices cannot carry out any commercial activities in any case and cannot have activities in other fields which are outside the terms of the given permission. Moreover, these offices cannot claim transfers for profit and similar earnings, other than on a cessation of the office's activities and on liquidation.

### **Purchasing shares in an existing company**

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The General Directorate of Foreign Investment must be officially informed about any share transfer to foreign investors. Please note that buying an existing company or part ownership requires a detailed due diligence, tax planning and well-structured contractual terms to protect the buyer's interest and to minimise potential legal risks.

### **Share transfers in limited liability companies**

In order to complete a share transfer in a limited liability company, the parties have to comply with a rigid procedure. The notarisation of the share transfer agreement and the approval of share transfers by the general assembly with the affirmative votes of the majority of the shareholders are required. In addition, the registration and announcement of the new share transfer at the local trade registry office are also required. Any restriction on the transfer of the shares to third parties or the other shareholders can be imposed under the articles of association.

The purchase of shares is subject to stamp tax (0.948%) and VAT (18%). If an individual purchases shares, only stamp tax is payable. VAT would be excluded where the transferor has possessed the relevant shares for a period of at least two years.

New shareholders of a limited liability company are jointly and severally liable against previously unpaid public receivables such as taxes, duties, levies and charges if the company is unable to make the required payments.

### **Share transfers in joint-stock companies**

In order to complete a share transfer in a joint-stock company, the endorsement and transfer of share certificates (in the bearer form) are required. If the company has not issued any share certificates, the transfer of the shares shall be completed within the share ledger of the company. The notarisation of the share transfer agreement as well as the registration and announcement of the new share transfer at a local trade registry office is not required.

Joint-stock companies can disapprove the transfer of the shares (that are not quoted on the stock exchange) by using their takeover right. A company can only reject the transfer of shares that are quoted on the stock exchange where the articles of association explicitly restrict the transfer exceeding a given limit. Moreover, joint-stock companies can reject a share transfer where the transferee's ability to pay is doubtful, or the transferee has not paid the requested deposit to the joint-stock company. The transfer of share certificates is exempt from stamp tax and other duties and charges except for VAT (18%).

Additionally, if the joint-stock company shares are sold by an individual after five years, they are exempt from tax. If a corporation sells the company shares after five years, 75% of the gain is exempt from tax. Where the transferor has held the related shares for a period of at least two years, VAT will be excluded. For shares quoted on the stock exchange, there are no tax liabilities including VAT as a result of the transfer of the shares. Unlike limited liability companies, the shareholders of joint-stock companies are not personally liable for any unpaid taxes and other fiscal liabilities that cannot be collected from the entity.

The 'legal representatives' of a joint-stock company are personally liable for any unpaid taxes and other fiscal liabilities that cannot be collected from the entity. Not only the legal representatives who are in office at the time a public receivable is due but also those who were in office at the time of the occurrence of the fiscal obligation would be jointly and severally liable. Where a director(s) is appointed as a fully authorised board member to represent the company or a manager(s) is appointed to represent the company, the directors in the board of directors would not be personally liable for any unpaid taxes and other fiscal liabilities.

## Purchasing real estate property in Turkey

Foreigners may purchase land and property in Turkey in their own names provided that properties are located in towns (i.e. there must be a municipality in the area where the property is and the property must be situated within the boundaries of that municipality or borough), not in villages or rural areas and outside of military zones. In order to acquire the title of a property, an application has to be submitted to the local Land Registry Office in which the property is situated. After carrying out necessary searches and checks for the abovementioned requirements, the transfer of title is effected by the Land Registry Office. During the transaction, evidence or the documents concerning the transfer of the full purchase price into Turkey must be presented to the Land Registry Office. Also a 1% duty (i.e. tax) for both the purchaser and seller is due and collected during the transaction (1.5% from 2021). There exists an annual property tax, collected by the municipalities (i.e. local governments) at the rate of 0.3% for private buildings. Newly built properties are exempt from the annual property tax for five years. All properties are subject to revaluation every five years for tax purposes. The acquired property may be resold or rented out and the proceeds may be transferred out of Turkey. Different regulations apply when a property is purchased for business related purposes.

Ownership is defined in article 35 of the Turkish Constitution. This article stipulates that anyone is entitled to ownership and that these rights can only be restricted by other legal stipulations. The restrictions may consist, for instance, of zoning schemes or restrictions applicable to foreigners. The ownership regulations are elaborated in the Turkish Civil Code, article 633. This mainly explains how ownership is acquired. For the purchase of property by a foreign person, the registration of the land is especially important. In Turkey there are regional directorates of the Land Registry Office, which are subdivided into provincial or district offices and they are all controlled by the state.

In most European countries the buyer and seller go to a public notary to have the property put in the name of the new owner. The public notary is responsible for the correct settlement of this procedure. The public notary is also responsible for the delivery, which often takes place in the form of a 'deed of transfer' and the entry in the property register. In contrast to this, the entry in the property register in Turkey is not performed by a public notary, but by an official of the Property Registry Department. It is legally compulsory for both sides (the seller and the buyer) to be present at the entry.



It is possible to authorise another person to do so but the authorisation requires a notarial deed. As a security measure, it is also advisable to authorise the sale through an official notary. The delivery of the deed of transfer does not require the intervention of a public notary in Turkey. The only applicable stipulation concerning the delivery is that it takes place in writing. After the entry and delivery the Property Registry Department issues a proof of ownership, which is called 'Tapu'. The ownership is only obtained at the moment that the building(s), if under construction, has been completed and the full amount has been paid.

In general there are no legal restrictions in respect of the acquisition of property by foreigners. However, the Village Act and the Military Prohibited and Security Areas play an important role; article 87 of the Village Act denies the right to foreigners to ownership of property that is outside the centre of a village in case the cadastral division of this area had not been arranged yet or it may belong to the Ministry of Forestry. Also, the Act regarding Military Prohibited and Security Areas can be an impediment and restrict the acquisition of property by foreigners if the property is located within a particular distance of military sites or strategically important areas. The major legal restrictions mentioned above may in turn change or even be (partly) cancelled by more recent legislation which is closely related to the promotion of the economic position of Turkey, the adjustment of regulations and laws in line with those of other EU countries or aimed at promoting tourism in Turkey amongst foreigners.







# Taxation

## The Turkish tax system

Turkey has one of the most competitive corporate tax rates among OECD member countries. The Turkish corporate tax legislation has noticeably clear, objective and harmonised provisions that are in line with international standards. Taxation has an important part in the Turkish economy.

## Corporate tax

Corporations are required to pay advance corporate income tax based on their quarterly profits at a rate of 23% for 2022, 22% for 2023 and 20% for the following years. Advance corporate income taxes paid during the tax year are offset against the ultimate corporate income tax liability of the company, which is determined in the related year's corporate income tax return. The balance of advance tax can be refunded or used to offset other tax liabilities.

In case income elements specified in the Income Tax Law are derived by corporations, taxation is applicable on the legal entities of these corporations.

## Entities liable for corporate income tax

- Capital companies
- Cooperatives
- Public economic enterprises
- Economic enterprises owned by associations and foundations
- Joint ventures

Corporations with legal or business centres located in Turkey are treated as residents and are subject to tax on their income derived in Turkey and other countries. If the legal and business centres are not located in Turkey, then these corporations are treated as non-residents and subject to tax only on their income derived in Turkey. The legal centre is the place stipulated in the articles of association or the incorporation law of corporations, while the business centre is defined as the place where business activities are concentrated and managed.

In Turkey, the corporate income tax rate levied on business profits is 20%. Corporations are required to pay advance corporate income tax based on their quarterly profits at a rate of 23% for 2022, 22% for 2023 and 20% for the following years. The rate of corporate income tax has been increased to 25% for the 2021 tax period.

Resident corporations are subject to a 10% withholding tax when dividends are paid out to shareholders. However, dividends paid by resident corporations to another resident corporation are not subject to withholding tax. As a share capital increase by the corporation using retained earnings is not considered to be a dividend distribution, no withholding tax applies in such cases. Similarly, non-resident corporations are subject to a 15% withholding tax on the remittance of such profits to their headquarters. Withholding tax is applied on the amount after the deduction of corporate income tax from taxable branch profits.

## Non-resident income tax

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Residence is of considerable importance for corporate income taxation. Residents are fully liable under the Turkish tax system (that is, they pay taxes in Turkey based on their worldwide income). Non-residents have limited liability and are subject to tax on only their business earnings derived in Turkey.

Corporations have full liability to Turkish taxation if their legal headquarters (as indicated in the taxpayer's articles of incorporation) or their business centres are in Turkey. Business centre means the place where business transactions are actually concentrated or carried out. All companies established with foreign capital under the Turkish Commercial Code have full liability. Foreign companies investing in Turkey usually have corporate status abroad and their legal and business headquarters are outside of Turkey. For this reason, foreign companies or foreign members of joint venture companies are usually regarded as having limited liability under the Corporate Income Tax Law and are subject to tax only on their business income and earnings derived in Turkey. Under Turkish tax legislation, for the income of a non-resident company to be taxable, the company must have a place of business or a permanent representative in Turkey and the earnings must have been realised either at this place of business or through this representative. Even if these conditions are fulfilled, if a company's business headquarters are not in Turkey and it sells in other countries but not in Turkey the goods purchased in Turkey for export purposes, the company will not be taxed on the earnings derived from this business. On the other hand, all the commercial earnings derived in Turkey (in a place of business or through permanent representatives) by foreign legal entities having a place of business, branch offices or permanent representatives in Turkey shall be taxable.

## Wealth tax

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Despite the risk of World War II, this tax was introduced in 1942. However, such a tax is not applied in Turkey today.

## Inheritance and gift tax

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In Turkey, a progressive tax is applied to items which have been acquired either through an inheritance or as a gift. Gift tax rates range from 10% to 30% of the item's appraised value. Inheritance tax rates range from 1% to 10% of the amount inherited. The amount to be paid depends on the value of the gift or inheritance and the nature of the relationship between the two parties involved. Both taxes are paid in twice-yearly instalments for three years.

When property is inherited, any tax paid on it in another country is deducted from its taxable value. Individuals need to declare gifts and inheritances so that the tax due can be assessed.

Turkish citizens are subject to inheritance and gift tax on worldwide assets received. Resident foreigners are subject to inheritance and gift tax on worldwide assets received from Turkish citizens and on assets located in Turkey received from resident foreigners or non-residents. Non-resident foreigners are subject to inheritance and gift tax on assets located only in Turkey. Items acquired as gifts or through inheritance are subject to a progressive tax rate ranging from 10% to 30% and 1% to 10%, respectively, of the item's appraised value. Tax paid in a foreign country on inherited property is deducted from the taxable value of the asset. Inheritance and gift tax is payable in biannual instalments over a period of three years.

## Value added tax (VAT)

Value added tax (VAT) is levied on goods delivered and services rendered in connection with commercial, industrial and agricultural activities and professional services in Turkey, as well as on goods imported and professional services received from abroad. Persons who deliver such goods or perform such services are liable for VAT. In general, VAT arises when a service is performed, goods are delivered or an invoice is issued prior to delivery of goods or, in the case of imports, when the import clearance document is filed with the Customs Authority.

VAT incurred on purchases of inventory, fixed assets, supplies and other goods and services is recorded as input VAT and offset against the output VAT calculated on deliveries of goods and services. When the output VAT calculated is greater than the input VAT paid/ incurred on purchases, the output VAT in excess of the input VAT is paid to the tax office as 'VAT payable'. In cases when input VAT paid/incurred on purchases is greater than the output VAT calculated, the input VAT in excess of the output VAT is carried forward to the following months so as to be offset against the output VAT to be generated through sales in the following months.

The generally applied VAT rates are set at 1%, 8% and 18%. Commercial, industrial, agricultural, independent professional goods and services, goods and services imported into the country and deliveries of goods and services as a result of other activities are all subject to VAT.

Types of supply	Rate (%)
Most supplies (including services)	18
Basic foodstuffs, books, education services by private schools, tourism services	8
Agricultural products sold as raw materials, newspapers, used cars	1
Delivery of textile and leather products	8
Luxury goods and entertainment services rendered by discos, bars, etc.	18
Medical products and devices	8
Automobiles	18

VAT exemptions include, but are not limited to, the following:

- Exports of goods and services
- Roaming services rendered in Turkey for customers from outside Turkey (i.e. non-resident customers) in line with international roaming agreements, where a reciprocity condition is in place
- Contract manufacturing for clients operating in free zones

- Petroleum exploration activities
- Services rendered at harbours and airports for vessels and aircraft
- Supply of machinery and equipment within the scope of an investment certificate
- Transit transportation
- Deliveries and services made to diplomatic representatives and consulates on condition of reciprocity, to international organisations with tax exemption status and to their employees
- Banking and insurance transactions that are subject to banking and insurance transactions tax

### Reverse charge VAT mechanism

If certain services (e.g. professional services like engineering, legal consultancy, design) from non-residents are received or benefited from by a resident company in Turkey under certain conditions defined by the VAT legislation, VAT is required to be paid by the resident company purchasing/importing the service under the 'reverse charge mechanism' and monthly reverse charge VAT returns (VAT Return No. 2) must be filed by the company for the monthly period in which the transactions are realised. A Turkish resident company treats the reverse charge VAT paid as input VAT and offsets it against the output VAT declared on the regular VAT return (VAT Return No. 1). However, if there is insufficient output VAT to offset, the VAT paid on a reverse charge basis constitutes a cash flow burden on the Turkish company that has purchased the services concerned.

### Special tax and duties

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#### Special consumption tax (SCT)

The special consumption tax (SCT) is a tax applied to manufacturing, importation and first acquisition of a range of goods. SCT is applied once only, unlike VAT. Four main product lists fall within the scope of SCT. They are:

- petroleum products, natural gas, lubricating oil
- automobiles, motorcycles, planes, other vehicles
- tobacco and tobacco products, alcoholic beverages
- luxury products such as diamonds, cellular phones.

#### Banking and insurance transactions tax

The transactions of licensed banks and insurance companies are generally exempt from VAT, but are subject to the banking and insurance transactions tax (BITT) at a rate of 5%, which is due on the gains of such corporations' transactions. Current transactions between banks are subject to BITT at a rate of 1%.

The purchase of goods and services by banks and insurance companies are subject to VAT, but this is considered an expense or cost item. Therefore it is not recoverable (i.e. it cannot be offset against output VAT) in the hands of these corporations.

#### Property taxes

Buildings and land owned in Turkey are subject to real estate tax at varying rates.

## Special communication tax

Special communication tax is governed by article 39 of Law No. 6802. Companies which sign concession agreements with the Telecommunications Authority, pursuant to the Telegram and Telephone Law, or establish or operate telecommunications infrastructure or provide telecommunications services via general licence or authorisation granted by the Telecommunications Authority are required to pay special communication tax. The following transactions are subject to special communication tax:

- Mobile electronic communication services, including sales of prepaid lines
- Radio and television broadcast transmission services via satellite and cable platforms
- Wired, wireless and mobile internet service provider services
- Other electronic communication services not covered above.

Turkey's Revenue Administration announced the publication of Presidential Decree No. 3469 on 29 January 2021, which increased the special communication tax rate for electronic communication services. This included an increase in the rate from 7.5% to 10% for the transactions listed above. The decree was published on 30 January 2021 and entered into force on that date.

## Import duties

For VAT purposes, any importation of goods or services into Turkey is a taxable transaction, regardless of the status of the importer or the nature of the transaction. To equalise the tax burden on the importation and domestic supply of goods and services, VAT is levied only on the import of goods and services that are liable to tax within Turkey. Accordingly, any transaction exempt in Turkey may also be exempt on import. The VAT on importation is imposed at the same rates applicable to the domestic supply of goods and services. In the case of importation, the taxable event occurs at the time of actual importation. The import of machinery and equipment under an investment incentive certificate (IIC) is exempt from VAT.

Goods imported by a newly incorporated company with a certificate of origin from the EU will not attract customs duty. If the payment related to the import is not made before the actual importation, then it is subject to a Resource Utilisation Support Fund of 6% (see further details below). VAT of 18% will be levied on imports and domestic sales. In addition, services received from non-resident companies will be subject to reverse charge VAT at a rate of 18%.

Following the changes in Turkish economic policy in the 1980s, there has been rapid growth in the foreign trade volume of Turkey. Turkey is a member of the World Trade Organization (WTO) and World Customs Organization (WCO). Turkey signed the 'Decision No:1/95 on Implementation of the Customs Union' with the European Union (EU) on 1 January 1996 and has amended its customs code and legislation in line with those of the EU customs code.

According to the Customs Union, with the exception of certain goods (e.g. agricultural and steel products), no customs tax is incurred on trade between Turkey and the EU as long as the goods are imported to Turkey with an A.TR Movement Certificate proving that the goods are in free circulation in the EU. In order to harmonise its foreign trade, Turkey has also signed several free trade agreements (FTAs) with trade partners in the EU. The Turkish Customs Code is very similar to that of the EU, and its aim is to harmonise the customs practices of Turkey with EU customs practices. The Turkish Customs Code defines the 'Turkish customs territory' as the territory of the Republic of Turkey including the territorial waters, the inland maritime zone and the airspace of Turkey.



The Turkish Customs Code has also brought into force the customs regimes with economic impact that have been in use in the EU countries for a long time. The import taxes, VAT, other taxes and funds are collected at the time of importation. The main tax collected at customs is the import tax. The import tax differs according to the classification of the commodity and to the country of origin.

VAT is also collected at the point of import. The VAT rate is the same rate as the one that is applied for the transactions in the country of origin. The base for VAT is the value of the goods for customs tax purposes plus any kind of tax payable at the point of import and all the expenses incurred until the single administrative document is registered. The VAT rates are 1%, 8% and 18%, varying according to the type of goods imported.

In addition, if the import transaction is not conducted in cash, there is a special Resource Utilisation Support Fund (RUSF), which should also be paid during importation. RUSF is a special kind of fund applied to importations on a credit basis. According to the RUSF legislation, any importation conducted on credit (if the payment related to the importation is not paid before the actual importation) is subject to a special payment of 6% of the value of the goods to be imported. The important criteria are the payment term and whether it is a cash payment or payment on credit. Dumping and anti-dumping duties are collected at the point of import.

In certain cases, such as temporary importation or inward processing, the customs administration shall require a kind of guarantee letter to secure the taxes. The amount of this guarantee shall cover all the taxes payable in the case of an importation. There is no customs tax on trade between the EU and Turkey except for certain products (e.g. agricultural and steel products). However, it is crucial that the imported goods are imported together with an A.TR Movement Certificate proving that the goods are in free circulation. In the case of FTAs, the goods must be imported with a EUR.1 certificate, giving proof of their country of origin in order to benefit from the FTA. Turkey applies the Common Customs Tariff of the EU to third countries, except for agricultural and steel products.

### Electronic transformation in Turkey

With the technological developments in recent years, organisations in the public or private sector carry their financial process controls to the electronic environment. Many sectors are entering the digitalisation process by keeping up with technology day by day. This digitalisation process is called electronic transformation (e-transformation for short). The concept of e-transformation plays a critical role in the self-development of businesses. E-transformation, which is a transition process, is subject to some regulation processes.

E-transformation digitalises many processes of businesses and ensures that the workflow runs smoothly. In today's competitive environment, making application processes easy and complete is not only an advantage for organisations but also a necessity. That is why e-transformation, which was necessary for large-scale organisations in previous years, is now necessary for businesses of all sizes. In this way, organisations enter a general transformation process and improve themselves. The first step of e-transformation is the implementation of digital business processes such as the widespread use of the internet or the use of online signatures. It is possible to adopt a sustainable policy with e-transformation.

The Turkish tax authorities aim to convert paper filing requirements into electronic format.



Although e-invoice and e-ledger keeping services were offered to all companies in Turkey in 2010 and 2011, this system was adopted in real terms as these practices became mandatory for approximately 20,000 companies. Meanwhile, online merchants have had to invest in e-archive billing, retail businesses have had to invest in next-generation cash register devices, while others have had to deal with e-tickets, e-cash and other electronic applications.

## **Main applications**

- E-invoice mandatory in Turkey
- E-archive mandatory in Turkey
- Export and tax free e-invoicing
- E-ledger
- E-waybill

## **E-invoicing**

E-invoice is an electronic document that is determined by the Revenue Administration and has the same characteristics and validity as a printed invoice. While reducing the cost to businesses, it also removes complexities and saves time. According to the Tax Procedure Law No. 509 published by the Revenue Administration, companies with gross sales revenue exceeding TRY 5 million for accounting periods in 2021 are obliged to use e-invoices. Thus, it has been determined that these organisations are obliged to use the e-invoice system on 1 July 2021. Due to being a closed system, where only Turkish registered users can exchange invoices between themselves, many companies are registered in e-archive invoicing or continue to issue paper invoices. Following the upcoming obligation to issue export invoices through the e-invoicing application, the number of e-invoices is expected to increase significantly.

## **E-archive**

E-archive ensures that the first copies of invoices are sent to all customers electronically and that these invoices are stored electronically. Thanks to e-archive, businesses save money by eliminating printing, delivery and archiving costs. In addition, it has been determined that the rule for e-invoice is also valid for e-archive. Companies conducting online sales of goods have been obliged to issue e-archive invoices since 1 January 2016. There are currently 7,700 users and this number is expected to increase significantly in the future as more companies voluntarily register to eliminate paper processing and archiving. According to tax authorities' data, close to one billion e-archive invoices were issued within the year ended 31 December 2021.

## **Export and tax free e-invoicing**

From 1 July 2017, companies registered with the e-invoice application will be expected to issue all their export invoices and tax-free invoices through the e-invoice system. In the case of exporting goods, a 23-digit reference number will be generated by the system and the company is expected to include it in box 44 of the export declaration. Regarding tax-exempt invoices, the customs officer will be able to receive the invoices electronically and approve the return to non-residents accordingly.

## **E-ledger**

E-ledger service is a system that allows you to organise, store and send accounting ledger accounts electronically to the Department of Revenue Administration. Although organisations use the e-book system, they have not dealt with problems such as storing documents, taking risks and increasing costs for many years. Currently, there are 60,000 registered users of the e-ledger application, which is very similar to the e-invoice application due to the similarity in determining the scope of responsibility.

Since 2011, companies have been able to produce a journal and a book of accounts in electronic format. These systems have significantly saved paper and costs, as companies are not expected to print and notarise every page of their ledgers. Instead, it is signed with the company's electronic financial stamp and there is a summary page uploaded to the Revenue Administration system on a monthly basis.

The number of users of the e-ledger application is expected to continue to increase in the coming years as more companies reach the threshold (TRY 10 million or about EUR 2.5 million). Since this is a stationary system and there are more than 100 authorised software solutions for producing electronic notebooks in the required format (XBRL) and in accordance with defined standards, the threshold can be lowered to speed up the conversion to this system.

## E-waybill

E-waybill is a document which includes information that can be on a waybill, as set out by Tax Procedure Law No. 213, with the data format and standards prescribed by the Turkish Revenue Administration. It is sent by a supplier and customer to each other on a closed system in an electronic environment. An e-waybill has the same properties as a paper waybill and can replace it.

After 1 January 2017, taxpayers that meet the requirements can use the e-waybill system. The electronic document is based on UBL (Universal Business Language) like an e-invoice. The e-waybill system works on a 'closed-system' like that for e-invoices. In view of this, suppliers and customers should register to use the e-waybill system and may choose either direct GIB (Revenue Administration in Turkey) integration or service provider systems.

The advantages of using e-waybills are as follows:

- decrease in waybill printing and archiving cost
- effective reconciliation process between parties
- fast search, connection and transmission advantage in electronic environment
- sending the response is transmitted electronically to the vendor for partial acceptance, return or faulty products.

Vehicle registration plate and driver ID information can be shown on e-waybills. For e-waybills that have this information, delivery can be done without a paper waybill by means of integration work that will be with GIB, the Security General Directorate and the Ministry of Communications.

## Tax on insurance premiums

Social security premiums for both the employer and the employee total 34.5% of an employee's salary; 14% for the employee and 20.5% for the employer. In addition to social security payments, unemployment contribution is 3% of the salary; 1% for the employee and 2% for the employer. The social security ceiling is determined as TRY 37,530 for the period from 1 January 2022 to 31 December 2022. Additionally, the minimum wage applied in Turkey is exempted from the income tax base.

## Payroll taxes

In accordance with Turkish tax regulations, all employees working under a resident employer are included in the local payroll. The employer withholds taxes and other duties on income at source, and the employees receive the net amount after deductions. Income tax and stamp tax should be declared by the employers filing the withholding tax return. (Please also note that even if it is obtained from a single employer, if the total annual wage income exceeds TRY 600,000 for 2020 (TRY 650,000 for 2021), individuals will have to submit a declaration.)

The social security premiums and the unemployment premiums should be declared by the employers filing the social security premium declaration on a monthly basis. Income tax, stamp tax, social security premiums and unemployment premiums are the legal deductions from salary.

### Unemployment insurance

The employer is required to deduct unemployment premiums and declare these along with the social security premium contributions on a monthly basis. The rates are 2% for the employer and 1% for the employee.

### Local taxes

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#### Digital services tax (DST)

The digital services tax became effective as of 1 March 2020. Revenues generated from digital services provided in Turkey (including any and all kinds of advertising services provided through digital media, sale of audio, visual or digital content through digital media and services provided through digital media, services of the provision and operation of digital media enabling users to interact with each other and intermediation services provided by digital service providers through digital media) are subject to DST.

The rate of this tax is 7.5% on the revenue generated from services falling within the scope of the DST in the relevant taxation period. The president of Turkey is authorised to reduce the rate to 1% separately, for each service type or collectively, or to increase the rate up to 15%. The relevant taxpayers are the digital service providers. The tax residence status of the digital service providers (i.e. whether they are considered full taxpayers or non-residents performing activities in Turkey through a permanent establishment or permanent representative) has no impact on the tax liability.

#### Stamp tax

Stamp tax is applied to a wide range of documents, including but not limited to, agreements, deeds of assignment, deeds of undertaking and payrolls. There are two types of stamp tax; proportional stamp tax and fixed stamp tax. The proportional stamp tax rates vary between 0.189% and 0.948% depending on the type of document with an overall cap of TRY 3,534,679.90 (for 2021).

#### Real estate tax

Buildings and land owned in Turkey are subject to real estate tax on the tax value of the property at varying rates between 0.1% and 0.6% depending on the classification of the property. The property tax is payable annually, in two instalments in March to May and November. Real estate tax is regularly collected by municipalities. It can be paid in one go or can be divided into two instalments. The first instalment is in March, April and May; the second installment is made in November.

#### Valuable house tax (VHT)

Owners, usufruct right holders or those making dispositions of residential immovable property in the absence of an owner or a usufruct right holder of residential immovable properties located within the borders of Turkey and with a building tax value exceeding TRY 5,227,000 (for 2021) will be VHT taxpayers regardless of their status as a natural person or a legal person. Progressive VHT rates range from 0.3% to 1% depending on the building tax value of the property. If the owner of the immovable property with a building tax value exceeding TRY 5,227,000 has only one immovable property then that immovable property will be exempt from VHT. Also, if a person has more than one residential immovable property within the scope of VHT, the property which has the lowest value will also be considered within the scope of the exemption. VHT is accrued annually and taxpayers should declare tax for each of the following years. VHT should be paid in two instalments by the end of February and August of the relevant year.



# Labour Law

## An outline of employment law

Employment in Turkey is mainly governed by the Turkish Labour Law and Trade Union Law. The principal law governing the employer–employee relationship in Turkey for individual parties is Turkish Labour Law No. 4857. The Turkish Labour Law is applicable to all workplaces, other than those specified in the mentioned law, to their employers and employers’ representatives and to the employees of the said workplaces, regardless of their activities.

The main institution involved with employment issues is the Ministry of Employment and Social Security Affairs. Labour disputes are handled by specialised courts called Labour Courts. The Turkish Labour Law sets forth provisions both for individual and collective employment and indicates key factors of employment, such as:

- Individual employment regulations
- Employment contract
- Working time
- Salary
- Holidays
- Military service
- Maternity leave and other leave provisions
- Equality
- Termination of employment
- Collective employment regulations
- Trade unions
- Collective bargaining agreements
- Collective dismissals

## Recruitment

There is a probation period for employees in Turkey. The Employment Law in Turkey clearly states that new employees must pass the probation period of up to two months, a time when the worker has the possibility of leaving the job without further notice in this sense. However, during this period, the employer is obliged to provide a contract with complete information about the job title and tasks, working hours, payment, work conditions, holiday rights, litigation cases and much more. This is the standard contract that also comprises information about the probation period. It is important to have the legal support of a Turkish attorney who can explain your rights when receiving an employment contract.

Also, managers or directors of a company in Turkey need to know in-depth details about their work contract and the situations related to how they can resign if needs be. For a full-time contract, the maximum period of working during a week is 45 hours. Additionally, 'home office' is a workplace definition in Turkey. People can work by using their home as a home office. An employee who works more than 45 hours per week will be paid for supplementary hours. These hours have another payment regime that is 50% higher than that for regular working hours. Entrepreneurs who do not want to pay for supplementary hours have the possibility to give free time to their employees. For every hour worked as a supplement, a worker is entitled to 1.5 hours of free time. The total number of supplementary hours worked per year cannot exceed 270.

According to the Labour Law, there are six public holidays per year and all of these are paid (1 January, 23 April, 1 May, 19 May, 30 August, 29 October). Every employee can get an extra two periods (maximum eight days) of religious holiday per year. Besides these days, every worker will have a holiday between a minimum of 14 and 26 working days, according to their years of work. The wages can be paid in Turkish lira (TRY) in the bank account of every employee or, if the relevant company is a foreign capitalised company, wages can also be paid in foreign currency. There is no restriction related to the duration of an employment contract. Contracts for a definite period of time can be renewed more than once only in certain situations. A foreign citizen who wants to work at a Turkish firm must first obtain a work permit and work visa; this procedure can take nearly one month. In most cases, salaries for employees in Turkey are paid on a monthly basis. However, in exceptional cases, senior employees in a company might have extra benefits over and above the salary. Some workers in Turkey are paid on a daily basis, in cash, but they might be subject to a different kind of employment contract.

### Standard regulations for employment contracts

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According to the Labour Law, employment contracts must generally be established for an indefinite period. However, contracts may be established for a limited period of time if some objective conditions are fulfilled. Definite-term employment contracts are effective for a duration stipulated therein and terminate without notice. In line with labour law principles, definite-term employment contracts must be in written form. Moreover, according to article 12 of the Labour Law, no distinction can be made between employees working on fixed-term and those on indefinite-term employment contracts, merely because an employment contract is a temporary one. This regulation is a requirement of the equal treatment principle which prevails in Turkish law.

In a definite-term employment contract, the term may be decided explicitly or implicitly. Definite-term employment contracts must extend until the completion of a certain job or the occurrence of a certain event. The general principle is that definite-term employment contracts should be made for a single period of time, if not precluded by other exceptions in the law. Renewing a fixed-term employment contract will result in changing the contract status to an indefinite term, according to Supreme Court decisions. This will result in notice period requirements in the event that any party wishes to terminate the contract. As a rule, in Turkish law, the agreement of the parties is sufficient for the establishment of an employment contract, and it is not required to be in writing. However, there is a written-form requirement for some employment contract types, which are as follows:

- Definite-term employment contracts
- Employment contracts made with employees subject to the Maritime Labour Law No. 854 ('Maritime Labour Law') (Maritime Labour Law applies to seafarers working on ships flying the Turkish flag and having a gross tonnage of 100 tons or more)
- Employment contracts with employees subject to the Press Labour Law No. 5953 ('Press Labour Law') (Press Labour Law applies to employees working in an intellectual or artistic capacity in newspapers and magazines published in Turkey, as well as in photography and news agencies)



- On-call employment contracts
- Remote working contracts

Employment contracts can be established on a full-time or part-time basis. Working at a rate of two-thirds or less of the working hours in a full-time employment contract constitutes a part-time employment contract. Accordingly, the contract of an employee who works for 30 hours a week or less in a workplace where a 45-hour working week is applied is a part-time employment contract. An employee working on a part-time employment contract cannot be treated differently from a full-time employee unless there is a reason justifying the discrimination.

## Visas and work and residence permits

In Turkey, all foreign nationals to be employed by resident companies need to obtain a work permit to be issued by the Ministry of Labour and Social Security.

### Evaluation criteria for granting work permits

The evaluation criteria designated by the Ministry of Labour and Social Security for the purpose of fulfilling transactions related to foreigners' work permit requests are summarised below:

- The 5:1 ratio: At least five persons who are citizens of the Republic of Turkey must be employed per each foreign national to be employed at the workplace for which a work permit is requested. In case the foreign national requesting a work permit is a shareholder of the company, this condition shall be required for the last six months for a one-year work permit to be granted by the Ministry of Labor and Social Security. In case of requesting a work permit for more than one foreign national at the same workplace, the condition to employ five Turkish citizens per each foreign national shall be required individually (this condition shall not be applicable if the Turkish entity applying for the work permit works with the governmental authorities under a governmental contract for the purpose of realisation of a public project that is crucial for the Turkish economy).
- Conditions regarding paid-in capital and sales volumes of the employer: Paid-in capital of the workplace must be at least TRY 100,000 or it should have gross sales of at least TRY 800,000 or the export volume in the last year must be at least USD 250,000 (this condition shall not be applicable if the Turkish entity applying for the work permits works with governmental authorities under a governmental contract for the purpose of realisation of a public project that is crucial for the Turkish economy).
- For work permit requests regarding foreign nationals to be employed by associations and foundations, the condition regarding minimum capital, sales and export volume shall not be applied; and both of the aforementioned conditions shall not be applicable for work permit applications related to those foreign nationals to be employed in representative agencies of foreign countries' airlines in Turkey as well as those who will work in the education and home services sectors.
- Condition for foreign shareholders: If a foreign national requesting a work permit is a shareholder of the Turkish company, they must own at least 20% of the shares in the company and the amount of their shares must correspond to at least TRY 40,000.
- Salary amount which is declared by the employer to be paid to a foreign national must be at a level which complies with the position and competence of the foreign national (limits are determined as a multiple of the minimum wage amount depending on the type of profession and expertise of the foreign national).
- For foreign nationals to be employed by companies in the entertainment sector as well as in tourism occupations requiring specific expertise and proficiency, there will not be a separate quota application provided that at least ten Turkish citizens are employed in these firms.

## Work permits

For companies established in accordance with Law No. 4875 (governing foreign investments in Turkey), an application has to be made to the Ministry of Labour and Social Security to obtain a work permit for each foreign employee. The Ministry of Labour and Social Security reviews, evaluates and approves the work permit applications. Applications for work permits can be made inside or also outside Turkey. Foreign nationals residing outside Turkey shall apply to the relevant Turkish consulate of either their country of residence or their country of citizenship. Those foreign nationals who have a valid residence permit can apply directly to the Ministry of Labour and Social Security.

Applications made outside of Turkey via relevant Turkish consulates are realised by the issuance of the work visa. Following the application of the work visa, the Turkish consulate gives a reference number to the foreign applicant.

This reference number is used in the online work permit application. An online work permit application is also mandatory for work permit applications submitted within Turkey. The application for a work permit should be made prior to the arrival of the foreign employee in Turkey. The preparation of the required documents and the processing of an application by the Ministry of Labour and Social Security may sometimes take a few months; it is advisable that the application be filed by the local employer a few months before the planned commencement of employment of the foreign individual concerned. The documents and information to be submitted to the Ministry of Labour and Social Security for work permit applications are listed below.

Documents to be submitted by the employee:

- Petition requesting the work permit, addressed to the Ministry of Labour and Social Security
- Foreign personnel application form
- Translated and notarised copy of the passport
- First three pages of the passport and the pages on which the visas are issued
- Translated and notarised copy of diplomas (graduate and postgraduate)
- Curriculum vitae form
- Passport sized photographs in the number to be requested
- Power of attorney (notarised and apostilled).

Documents to be submitted by the employer:

- Petition requesting the work permit, addressed to the Ministry of Labour and Social Security



- Original balance sheet and profit/loss statement of the preceding year, approved by the relevant tax office
- For legal entities which will employ foreign experts in the scope of engineering, architecture, contractor and consultancy services; copy of the contract executed with the foreign personnel and payroll evidencing that a Turkish engineer/architect has been employed for the same profession
- Where the employer is awarded a public bid, document approved by the related public authority for the contracting of the public work
- The Turkish Trade Registry Gazette indicating the most recent capital and shareholding structure of the company
- For liaison office employees, opening permission for the liaison office from the Treasury
- For liaison office activities, bank statements documenting the transfer of at least USD 200,000 to the liaison office bank account in Turkey
- The employment contract to be executed in line with Turkish Labour Law or any assignment letter that shows the assignment to Turkey
- Signature circular
- The last month of social security declarations with personnel list attached
- Certificate of Activity which is approved by the Trade Registry
- Tax registration certificate
- Tax office document showing no outstanding liabilities.

It should be noted that the Ministry of Labour and Social Security may request additional documents to issue the work permit. If the applicant is an engineer/architect, a 'diploma equivalency certificate', documents from the professional institution (chamber) evidencing the membership and evidence that the applicant has not been prohibited to work as an architect/ engineer shall also be required. If the applicant is an engineer/architect but will not work in this position, then an undertaking of the employer stating this will be required.

As a result of changes effective as of 11 April 2014 in accordance with the new Law on Foreigners and International Protection (Law No. 6458), work permits that are issued by the Ministry of Labour in Turkey will constitute a residence permit within their period of validity. The use of work permit based residence permit booklets is no longer applicable following the introduction of this new law, as individuals will be provided with ID cards which will be directly issued by the Ministry of Labour.

In line with this new law, foreign nationals no longer need to apply at the local security office after the issuance of their work permit (though residence permit applications at security offices for family members are still required). Instead of this, the first requirement for work permit applications made outside of Turkey is to realise the work visa endorsement to their passports from the Turkish consulate once the work permit is approved. Following their entry to the Turkish territory, within 20 working days their residency address in Turkey will need to be registered at the civil registry office.

## Working visa

Obtaining authorisation to work in Turkey is dependent on securing a work permit. After the work permit is issued, the foreign individual is required to apply to the Turkish consulate in their home country so as to obtain a working visa. Where an application is made from abroad, application for a working visa should be made to the relevant Turkish consulate within at most 30 days from the date of obtaining the work permit.

## Social security

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The lack of a minimum retirement age and very low minimum contribution periods caused a financial imbalance in the Turkish social security system in the 1990s. With the idea of restructuring the social security system in the mid-2000s, two important laws were enacted by the Turkish parliament: the Social Security Institution Law (which merged the three institutions providing social security to employees, self-employed persons and civil servants separately into a single institution covering all three groups) and the Social Insurance and General Health Insurance Law. Based on data from 2016, just over 20 million people contribute to the social security system (premium payers). There are around 11 million pensioners and around 34 million dependents.

### Social security insurance branches

The Social Security and General Health Insurance Law classified certain types of risks into three different insurance branches and determined the contribution rates accordingly.

- **Short-term insurance branch**

Short-term insurance branch includes work-related accident insurance, occupational disease insurance, sickness insurance and maternity insurance. The rights and benefits provided for temporary incapacity, permanent incapacity and grants to the beneficiaries of the insured such as funeral allowance are all in this category.

- **Long-term insurance branch**

Long-term insurance branch includes old-age insurance, invalidity insurance and survivors' insurance. The rights and benefits provided for old age pension, a single lump sum old age payment, invalidity pension and grants to the beneficiaries of the insured such as survivors' pension or funeral allowance are all in this category.

- **Unemployment insurance branch**

Unemployment insurance branch covers unemployment benefits provided for employees who lose their jobs for reasons other than their own fault or will. In order to be eligible for unemployment insurance, the employee must have continuously worked and paid unemployment insurance premiums for a minimum period of 600 days in the last three years and social security premiums for a minimum period of 120 days prior to losing their job. Unemployment insurance is open only to employees. In other words, self-employed people and civil servants are neither required to pay unemployment insurance premiums nor eligible for its benefits. The minimum unemployment benefit is 40% of average earnings in the last four months but it cannot be more than 80% of the gross monthly legal minimum wage.

### General health insurance

Apart from the aforementioned three branches of insurance, general health insurance is also a compulsory scheme within the Turkish social security system. It is defined in the law as an insurance which ensures maintenance of individuals' health status and the financing of costs that arise in case the individuals experience health risks.

### Social security premiums

The current regulations stipulate that the compulsory social security premiums have to be shared between the employer and the employee. The legal burden to pay the employee's portion is on the employer as well although that can be deducted from the employee's salary. Social security premiums are calculated as a percentage of the employee's gross earnings which include salaries and wages, bonus payments, private health insurance and individual retirement system payments made by the employer. A social security payment cap is applied when the amount of the aforementioned earnings in law exceed a certain threshold. This cap is formulated as 6.5 times the minimum wage.





Over this threshold, the premium to be paid remains unchanged. The state contributes as much as one quarter of all the premiums collected for long-term and general health insurance branches as well as 1% for unemployment insurance (which is equal to the employee's share).

Furthermore, 5% of the employer's share in the long-term social security premiums of the employees are subsidised by the Turkish state for private sector employers provided that they pay social security premiums for their employees on time and have no outstanding debt to the social security institution. In that case, the total social security premium burden decreases from 37.5% to 32.5%.

Social security premiums are paid on a monthly basis and are deductible from taxable income.

### Prevention of occupational hazards

The Law on Turkish Occupational Health and Safety (Law No. 6331) ('OHS Law') aims to regulate the duties, authority, responsibility, rights and obligations of employers and workers in order to ensure occupational health and safety at workplaces and to improve existing health and safety conditions. The OHS Law, published on 30 June 2012, builds upon the Turkish Labour Act of 2003 and represents a significant expansion of the protections and rights afforded to Turkish workers as well as more extensive employer responsibilities with regard to workplace health and safety. Among these employer mandates are several proactive concepts new to Turkey including employer risk assessments, accident prevention plans, industry hazard classes, on-site occupational safety experts, employee safety classes and periodic medical examinations for employees.

The OHS Law governs workplace environments and industries (both public and private) as well as virtually all classes of employees including part-time workers, interns and apprentices. It should be noted that while in scope the legislation is the most comprehensive to date and encompasses many industries and economic sectors, notable exemptions exist. Excluded from the scope of the OHS Law are the Turkish Armed Forces, gendarmerie, police, the National Intelligence Organisation, activities of emergency response units, in-home workers, the self-employed and rehabilitation courses provided for convicts. One notable expansion of employer responsibilities is the requirement to provide on-site risk mitigating experts and physicians. The OHS Law mandates that safety experts and workplace doctors be provided by employers in certain situations. Such individuals can be appointed from amongst employees, or in cases in which no such qualified individual exists, an individual may be contracted from government-established common health and safety units. These medical experts are defined as holders of a workplace certificate of medicine approved by the Ministry of Labour. In especially hazardous conditions, the employer may be required to establish a full-time health and safety unit.

This represents a significant increase in the scope of government health policies as well as an increase in employer obligations and places an additional, associated financial burden on employers. Given the expansion of employer responsibilities, the law provides financial assistance in the form of external funding provided by the Social Security Institution to smaller firms engaged in hazardous industries. These smaller employers are defined as those with fewer than ten employees in a workplace classified as 'hazardous' or 'very hazardous' as well as 'less hazardous' on an individual basis as the court may mandate.

The law establishes classes of hazards upon which different regulations and responsibilities will be placed. As mentioned above, these include very hazardous, hazardous and less hazardous classifications. Very hazardous classifications include, but are not limited to, mining, construction, shipbuilding, power generation, collection and elimination of hazardous waste and manufacturing processes that involve toxic chemicals. Pursuant to article 10 of the OHS Law, employers are required to perform an assessment of the risks present or potentially present in their workplace environment and the hazardous or potentially hazardous task being undertaken by the employees. Such an assessment can be prepared by the employer or produced externally. (This is one feature of the OHS Law that could potentially be abused by employers and, if any discernible abuse does in fact occur with harmful results, could lead to further amendment of the regulations.)

Similarly, article 11 mandates that employers prepare internal plans for potential and possible workplace emergencies associated with unique work environments, hazardous materials and equipment. These plans must mitigate risks and plan for emergency responses.

The OHS Law represents the most significant legislation aimed at improving workplace health and safety ever enacted in Turkey. It expands the rights and privileges afforded to employees while greatly expanding the responsibilities and obligations of employers to provide for a safer and more representative work environment. While seen as necessary and progressive legislation, the statutory requirements place significant responsibilities on employers which will likely translate into higher operating costs. While the Ministry of Labour is empowered to ensure implementation of the OHS Law, full implementation will likely take time to achieve. Similarly, greater clarification is needed regarding full versus part-time employment, hazard classification and employer medical responsibilities. Nevertheless, the OHS Law should be appreciated as a positive step towards expanding and clarifying employer and employee responsibilities, while concomitantly establishing mechanisms for a safer workplace and meeting international standards of workplace health and safety.





# E-business Legal Framework

## Civil and commercial regulations

Under the law, execution of agreements by electronic means is effective only if executed through secure electronic signatures in accordance with the Electronic Signature Law No. 5070. Agreements executed by secure electronic signatures have the same legal effect as if they were executed in writing. However, collateral agreements (other than bank letters of guarantee) cannot be executed using secure electronic signatures. Further, for agreements where there are statutory form requirements (for example, notarisation), these must be complied with.

The Law on Regulation of Electronic Commerce No. 6563 and its secondary legislation (namely, the Regulation on Electronic Communication and Commercial Electronic Messages No. 29417 and the Regulation on Service Providers and Intermediary Service Providers in Electronic Commerce No. 29457) mainly cover, among other things:

- Obligations and liabilities of persons providing services through electronic mediums
- Prevention of unsolicited electronic commercial communications
- Personal data protection.

## Record-keeping

The obligation for specific taxpayer groups to prepare, keep and submit some records in electronic form has been introduced with the Tax Procedure Code General Communiqué No.431. The aforementioned communiqué came into effect from 1 January 2015. The entities listed below are obligated to prepare records within the scope of the aforementioned communiqué, keep these records and submit them when required:

- Those having either one of the franchise, transportation, distributor, storage (including sea vehicles), mineral oil, free user, bunker fuel delivery, transmission, refinery or processing licences according to the Petroleum Market Law (Law No. 5015)
- Those having either one of the compressed natural gas (CNG), storing, wholesale, distribution, transmission, importation or exportation licences in accordance with the Natural Gas Market Law (Law No. 4646)

- Those having either one of the distributor, storing, transportation or autogas franchising licences according to the Liquefied Petroleum Gas Market Law (Law No. 5307).

It is compulsory to keep the following records:

- sales records
- purchase records
- beginning and end of period inventory records
- import records
- export records
- production records
- other records (information regarding customs tariff position numbers).

### Protection of personal data

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In April 2016, Turkey completed the final step in a long-running process to enact the Law on Protection of Personal Data No. 6698 ('the Data Protection Law'). The Data Protection Law received presidential approval and its final text was published in the Official Gazette, Number 29677 on 7 April 2016. Prior to this date, Turkey did not have specific legislation addressing personal data protection.

From 7 April 2016 onwards, a general prohibition applied in Turkey on the processing or storing of personal data without explicit consent from the data subject, subject to certain limited exceptions where such consent is not required. Companies which held personal data prior to 7 April 2016 received a two-year grace period to ensure the data met the new legislative requirements.

The enactment process for a local data protection law had been ongoing for more than 35 years, starting with the execution of the Convention for the Protection of Individuals with Regard to Automatic Processing of Personal Data ('Convention 108'). Turkey executed Convention 108 with other Member States on 28 January 1981, but delayed its ratification into national law until 2 May 2016. It entered into force on 1 September 2016.





## Scope of application

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- **Personal scope:** Article 2 of the Data Protection Law states the scope of the law. Accordingly, the Data Protection Law shall apply to natural persons whose personal data is processed and natural or legal persons who process such data fully or partially through automatic or non-automatic means only for the process which is part of any data registry system set out in the Law. In this regard, the Data Protection Law ensures protection for data belonging to natural persons and data related to legal persons who do not fall within the scope of the Data Protection Law. There is no distinction between private corporations and public authorities under the law. Therefore, rules and procedures determined by the Data Protection Law apply to all institutions and organisations.
- **Territorial scope:** Unlike the GDPR, the Data Protection Law does not have a territorial scope. That being said, in line with the principle of territoriality applicable under Turkish law, the Data Protection Law shall apply to all natural and legal persons who process Turkish-originated data, regardless of whether they reside in Turkey or abroad.
- **Material scope:** Processing of personal data is defined as an operation that is carried out on personal data such as collection, recording, storage, retention, alteration, re-organisation, disclosure, transferring, taking over, making retrievable, classification or preventing the use thereof, fully or partially through automatic or non-automatic means only for the process which is a part of any data registry system. Accordingly, any system structured according to a specific criterion to facilitate access to personal data will be evaluated within the scope of the Data Protection Law.

## Intellectual and industrial property rights

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In Turkey, there are two main laws to protect intellectual property rights: the Industrial Property Law No. 6769 and the Law on Intellectual and Artistic Works No. 5846. Patents, utility models, trademarks, industrial designs and geographical indications are mainly protected by the Industrial Property Law. Copyrights are protected under the Law on Intellectual and Artistic Works. According to Turkish law, protection is also possible under general provisions such as those on unfair competition.

# Appendix

# Reference websites

- <https://www.statista.com/>
- <https://www.tuik.gov.tr/Home/Index>
- <https://www.oecd.org/>
- <https://www.worldometers.info/>
- [https://www.gib.gov.tr/sites/default/files/fileadmin/taxation\\_system2016.pdf](https://www.gib.gov.tr/sites/default/files/fileadmin/taxation_system2016.pdf)
- <https://www.tbb.org.tr/>
- [https://theodora.com/wfbcurent/turkey/turkey\\_economy.html](https://theodora.com/wfbcurent/turkey/turkey_economy.html)
- <https://fanack.com/turkey/governance-and-politics-turkey/>
- [http://www.twarp.com/transport\\_turkey.htm](http://www.twarp.com/transport_turkey.htm)
- <http://www.allaboutturkey.com/tax.htm>
- <http://www.invest.gov.tr/en-US/investmentguide/investorsguide/Pages/Taxes.aspx>
- <https://www.ifad.org/en/web/operations/w/country/turkey>

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