

Litigation

Settlement of Disputes in the Earthquake Region

On 6th of February 2023, two strong earthquakes struck southern and central Turkey and northern and western Syria. This was the most devastating natural disaster that happened in the last century. It severely affected eleven provinces of Turkey where approximately 14 million people were living (the "Region").

Following the earthquakes, the Ministry of Justice, Head of Legal Affairs announced its decision on 14th of February 2023 concerning the settlement of disputes arising from the earthquake and facilitation of proceedings in the earthquake region ("Decision").

In its Decision, the Ministry clarified that having recourse to Law on Adoption of the Decree concerning the Settlement of Legal Disputes arising from the Natural Disaster and Facilitation of Certain Procedures in the Natural Disaster Region (No: 4539) (the "Law") might facilitate the perpetuation of evidence, filing claims before the courts and seeking judicial help for the victims. The aim of the Law is protecting the rights of victims of the natural disaster.

As the Law facilitates:

- i) The perpetuation of evidence shall be requested by filing a petition before the court. Such applications shall have priority before the court. The petition may also be filed by spouse and/or relatives within the third degree of kinship.
- ii) A notarised power of attorney shall not be sought. The attorney may represent their clients via authorization document accompanied by an ID provided by the Bar Association.
- iii) The rules on the judicial consultation shall be applicable upon the request of the victims.
- iv) The relevant clause of Code of Civil Procedure on producing evidence and certification shall not be applicable to the victims for their declarations on victim status.
- v) Certain judicial fees shall not be applicable for the duration of six months following the date of the earthquake.
- vi) For the provision of a certificate of inheritance, the official registrars shall be examined. If there is no record available, other admissible evidence shall be sought. The certificate of inheritance may be provided by any notary and/or Court of Peace regardless of the residence of the applicant in respect to the claims in the State of Emergency Region.

The following secondary regulations are also issued and announced for the settlement of disputes in the Region:

- i) Presidential Decree concerning the declaration of

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"State of Emergency" in the Region for the following three-month period (Announced on 8th of February 2023). Such decision was approved by the National Assembly on 10th of February 2023.

ii) Presidential Decree concerning the "Measures taken in the judiciary within the scope of the State of Emergency" was announced on 11st of February 2023 (Official Gazette No:32101). Accordingly with the Decree, all the statutory deadlines in regard to judicial processes (including the process of mediation and/or conciliation) were ceased until 6th of April 2023. These measures were in force for the victims resident and/or present in the Region and for their legal proceedings all over Turkey. It was applicable also to the legal proceeding pursued by the attorneys as victims who were resident and/or present in the Region.

However, the following deadlines were not covered by the scope of the Decree:

- i) Crime, penalty, fault, administrative sanction and disciplinary confinement;
- ii) Pre-trial measures in the scope of Code of Criminal Procedure;
- iii) Preliminary injunctions in the scope of Code of Civil Procedure;
- iv) Elections of President and/or National Assembly.



Practice Area News

The Information and Communication Technologies Authority blocked access to Ekşi Sözlük, one of the most followed online platforms. Although the access ban was canceled by the decision of the Ankara 4th Criminal Court of Peace, the Ankara 5th Criminal Court of Peace accepted the objection and finalized the decision to impose an access ban. Ekşi Sözlük is expected to make an individual application to the Constitutional Court under "breach of freedom of expression" following the final decision of block access. The reason for the decision to block access was that Ekşi Sözlük writers gave false information to the public, tried to manipulate the public, and although the content-based access blocking decisions issued by the criminal judgeships of peace were fulfilled by the management of Ekşi Sözlük.

The Constitutional Court evaluated a case where the recording of an applicant's conversation regarding the debt relationship and presenting it as evidence to a criminal investigation file in which he was founded as a suspect. The court decided that the act in question violates the right to request the protection of personal data. The decision dated September 29, 2022 regarding the application numbered 2018/16857 was published in Official Gazette dated December 1, 2022 and numbered 32030.

The Amnesty Law relating to Restructuring of Tax and Some Other Receivables an Amendments to Certain Laws (the "Law") published on the Official Gazette dated 12th of March 2023 and has entered into effect. The scope of Law includes the taxes, duties, administrative fines and some other receivables relating to tax periods prior to 31st of December 2023. If there is an existing court case or if the statute of limitations to challenge has still not run, then the taxpayer may benefit from the Law by paying only 50% of the principal amount. For disputed receivables, the application will be made according to the status of the last judicial decision (cancellation/approval). Tax inspections that started before the effective date of the Law will also be able to benefit from the provisions of the Law.

The Personal Data Protection Authority has fined TikTok for failing to adequately protect children's data due to cyber security gaps and gathering user data without obtaining proper consent by its decision on 1st of March 2023 (Decision No: 2023/134). The fine is in the amount of TL 1,750,000. The Authority also ordered Tiktok to fulfill its obligations of providing Turkish translation of service terms, amending the confidentiality policies, and complying with the obligation to inform.

In the Firm

Gökalp Arslan is a full-service law firm founded in Istanbul by Burcu Dal Gökalp and Alper Arslan, after many years of legal experience to offer robust, timely, high quality and cost-effective legal services to meet their clients' needs. The firm offers a broad range of services, mainly, on dispute resolution (litigation-arbitration), mergers and acquisitions, corporate law and labour law.