

Litigation

The cap of 25% increase rate for lease agreements has been extended until July 1, 2024

Law No. 7456 Amending Certain Laws and Decree Law No. 375 on the Amendment of Additional Motor Vehicles Tax for the Compensation of Economic Losses Caused by the Earthquakes Occurred on 6/2/2023 ("Omnibus Law") has been published in the Official Gazette dated 15th of July.

Clause 23 of the Omnibus Law added "provisional clause 2" to Turkish Code of Obligations ("TCO"). As the provisional clause 2 sets forth:

"In terms of residential rents, agreements regarding the rents to be applied in the lease periods renewed between 2/7/2023 and 1/7/2024 (including these dates) are valid provided that they do not exceed twenty-five percent of the rental price of the previous lease year. If the rate of change in the consumer price index ("CPI") of the previous lease year according to the twelve-month averages remains below twenty-five percent, the rate of change shall be valid. This rule applies also to lease agreements longer than one year. Agreements which exceed these rates are invalid in terms of excess amount. The provision of this paragraph shall also be applied to the decisions to be made by the judge pursuant to the second paragraph of Article 344."

The limit of "25%" increase was first introduced by Law No. 7409 on the Amendment of the Turkish Code of Obligations and the Attorneyship Law on 11 June 2022. As the amendment highlighted, such limit of "25%" was applicable to the agreements with the leased periods renewed between 11/6/2022 and 1/7/2023. By Omnibus Law, this temporary limitation has been extended to 1st of July 2024 (including this date).

The cap of 25% applicable to rent increases shall be valid only for residential lease agreements, and it shall not be in force in terms of roofed workplace rents. Roofed workplace rents shall continue to be subject to "CPI twelve-month averages change rate". As for the residential agreements, if the CPI ratio is lower than the %25 of the rental price of the previous year, then the CPI may be chosen by the parties for the residential lease agreements. Since the aim of the amendment is protecting and favoring the tenant, the

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parties may always agree on a lesser amount in the lease agreement.

In the residential lease agreements the rental fee was determined in a foreign currency shall not be in the scope of this cap. They shall be increased by considering the average of CPI in the previous year (after the first five-year period).

25% limitation shall continue to be valid in situations where the rate is determined by the judge within the scope of a rental determination lawsuit. In the agreements which the lessor and the lessee have not agreed the rental fee increase, the cap of 25% increase shall be applicable. However, the amount of increase regarding lease agreements which are longer than five years or which will be renewed at the end of five year will be determined by the Judge in every five-year considering the market price of leased property at the time.

The amendment enacted by the Omnibus Law has entered into force on its publication date for a temporary period.



Practice Area News

Istanbul Financial Center Regulation entered into force. Istanbul Financial Center Regulation, prepared accordingly with Law on Istanbul Finance Center, has been published in the Official Gazette (numbered 32241) on 7th of July and entered into force on the same day. The Regulation sets forth the provisions on procedures and principles for the implementation of Law on Istanbul Finance Center, including but not limited to, the management and operation of Istanbul Finance Center, conditions and processes of the participation certificate and the functions of the one-stop bureau.

Regulations on Increasing Tax Burden. Presidential Decrees numbered 7343 - 7346 have been published and entered into force on the 7th of July. They introduced new measures to increase the public revenue needed to cover the expenses caused by the earthquakes hit on 6th of February. Accordingly, VAT rates and fixed charge amounts together with the changes in banking and insurance transactions tax and withholding tax rates on certain transactions are increased. Additionally, Law No. 7456 Amending Certain Laws and Decree Law No. 375 on the Amendment of Additional Motor Vehicles Tax for the Compensation of Economic Losses Caused by the Earthquakes Occurred on 6/2/2023 published in the Official Gazette on 15th of July, brought up new tax increases on corporate income tax rate, the repeal of corporate income tax and VAT exemptions for real estate sales, and the repeal of corporate income tax exemptions for investment funds. Immediately after, on 16th of July, the Presidential Decree numbered 32250 has been published and entered into force. As the decree imposes, special consumption tax has been increased on certain petroleum and fuel products.

In the Firm

- Gokalp Arslan is a full-service law firm founded in Istanbul in 2022 by Burcu Dal Gokalp and Alper Arslan, after many years of legal experience, to offer robust, timely, high quality and cost effective legal services to meet its clients' needs. The firm offers broad range of services, mainly on corporate law, M&A and dispute resolution (arbitration & litigation) and labour law. Gokalp Arslan was recognized in the latest edition of The Legal 500 (Legalease) and listed as the "Firms to Watch: Dispute Resolution, EMEA Region."