



Amendments Introduced in the Bankruptcy and Enforcement Code and Other Laws of Turkey as of November 30, 2021

The Code on Amending the Bankruptcy and Enforcement Code and Some Other Laws ["**Amendment Law**"] No. 7343 was adopted on November 24, 2021 and entered into force after being published in the Official Gazette No. 31675 on November 30, 2021. In this article, we will explain the critical changes brought by the Amendment Law.

I. Appointment of Chief Executive Officer and Establishment of Head Office of Enforcement Offices

First of all, with the new paragraph added to article 1 of the Bankruptcy and Enforcement Code No. 1241 ["**BEC**"], it is foreseen that chief executive director can be appointed in enforcement offices where the workload or the number of personnel is high. The chief executive officer will have the powers of the executive director.

Similarly, the Ministry of Justice is entitled to establish one or more head enforcement office in areas where the workload or number of enforcement offices is excessive. With this regulation, the duty of oversee, supervise, and take care of administrative affairs of the enforcement offices was taken from the enforcement courts and given to the head enforcement offices. In regions where the head of enforcement offices is not established, enforcement courts will continue to supervise and inspect these offices and take care of their administrative matters. On the other hand, this amendment does not remove the enforcement court's supervisory authority over complaints and objections.

II. Amendments on Adjournment of Execution

One of the important changes made is that decision over adjournment of execution will be taken from the enforcement court of the place where the enforcement proceeds. Prior to the amendment, the decision of adjournment of execution was made by courts of appeal and by the Supreme Court. In addition, in the decisions where the regional court of appeals rejected on the merits, the decision of adjournment of execution will be valid until the expiry of the appeal period.

III. Amendments on Attachment Procedure

The appraisal article has been changed, and the seizing officer will no longer be able to appraise items that have been registered with the registry. The appraisal of registered property must now be carried out by experts who are registered in the regional expert panel list and are authorized by the Ministry of Justice.

The article on seized movables preservation measures has been revised, and as a result, seized and unpreserved items will now be preserved upon the sales request. In terms of motor land vehicles registered in the registry, if all the expenses are paid in advance, the appraisal and sales request can be made together.

Moreover, the attachment request period, which was 2 [two] years for subscription contracts, was increased to 5 [five] years.

IV. Amendments on Sales Request

Another significant change was made regarding request of sale. The debtor will now be allowed to request the sale of the seized property under the new law. Furthermore, the distinction between moveable and immovable property during the sale request period has been erased, and the sale of seized assets can now be requested within 1 [one] year. Furthermore, for things that cannot be sold despite being requested to be sold within a one-year term, the period of requesting sale is prolonged for another year after the first period ends.

Another noteworthy change was made in the article regulating the presumption of ownership in the lawsuit to recover property. Accordingly, in case the debtor and the third party hold the movable property together, and if the third party accepts the receivership, then this property will not be preserved.

V. Debtor's Authority to Sell

The fact that the debtor can request authorization to sell is also a significant change. According to the Amendment Law the debtor may request authorization for the sale of their seized property within 7 [seven] days following the notification of the appraisal. In cases where appraisal is not made, the debtor may also request an appraisal. After the appraisal is completed, the executive director halts any forced sales and provides the debtor a 15-day period to seek a sale. The period for the sale request does not begin until the enforcement court adopts a decision on the sale approval.

Furthermore, the price cannot be less than 90% of the appraised worth of the items or the amount of the secured receivables that have priority over the seller's receivables, whichever is greater, as well as the sum of the enforcement costs incurred for this foreclosure up to this point. Whoever wants to buy the goods from the debtor must pay the determined price within 15 [fifteen] days, and in this case, the executive director must send the file to the enforcement court for a decision on the sale. The court definitively decides to accept or reject the request within 10 [ten] days.

Another important amendment is the exemption from stamp taxes for the agreement between the creditor and the debtor reached before or after the attachment at the enforcement office.

VI. Amendments on Electronic Auction

Another important amendment relates to the auctions. Accordingly, from now on, electronic auction sales will be conducted on the electronic sales portal incorporated into the National Judicial Network Information System. As such, the auction of seized items will now be conducted solely electronically. Also, the distinction between movable and immovable sales has likewise been removed.

Moreover, with the new regulation, the tender buyer has to pay the sales price in cash within 7 [seven] days from the announcement of the auction result report, even if the tender is requested to be annulled. In addition, "associated persons in the official registration" are now permitted to request the annulment of a tender. These individuals were formerly classified

as "related persons in the land registry." Further, other people will have to deposit a security of 5% before requesting the annulment of the tender – this is to avoid malicious annulment requests.

VII. Child's Delivery-Related Article Removed From BEC

With the Amendment Law, articles regulating child delivery have been removed from the BEC. This issue is now regulated by the temporary articles brought under the [Child Protection Law](#) No. 5395. According to this law, the best interests of the child will be taken into consideration as the basis for the decisions to be made about the child and the respective provisions will be applied accordingly.

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