

ESTABLISHMENT OF A COMPANY WITH FOREIGN CAPITAL AND PARTNERS IN TURKEY

A company, even with % 100 foreign capital, can be established in one day in Turkey and no pre-establishment permits are required. For establishment it is necessary and simply enough to apply to the related Trade Registry Office with the required documents.

According to the Turkish Trade Law there are four types of incorporated companies: joint stock, limited liability, commandite and collective companies. Unincorporated companies such as joint ventures, business associations and consortiums can also be established. Apart from these foreign investors are also allowed to open branch or liaison offices, invest in existing companies, make financial investments in stock market or make concession agreements with the Turkish government (build-operate-transfer agreements). This article concentrates on joint stock and limited liability companies, which interest foreign investors particularly.

JOINT STOCK COMPANIES (J.S.C.)

A joint stock company is established at least with five shareholders and a minimum capital of 50.000 TL. A shareholder can be a real person or a legal entity, whose liability is limited with his/its subscribed capital. The company's liability is limited to its assets. The capital is divided into shares and the company issues share certificates, which can be purchased in the stock market if the company is listed in there.

The mandatory bodies of company are board of directors, general board and board of auditors. Minimum three shareholders form the board of directors and they are responsible for representation and direction of the company. General board consists of all shareholders and is entitled to change the articles of association, to approve financial accounts and to distribute profits. Board of auditors has at least one and at most five members. If there is only one auditor, he/she must be a Turkish citizen. If there are many auditors, more than half of them must be Turkish citizens.

Joint Stock companies can be established in order to be in all legal commercial activities mentioned in the articles of association without any necessity of permission. But following joint stock companies are established with permission from the Ministry of Industry and Commerce; banks, private finance houses, insurance and financial leasing companies, holdings, companies operating exchange offices, warehousing companies, public companies subject to the Capital Markets Law, companies forming and operating free zones.

First step of the establishment is to apply to the related Trade Office with the required documents listed below. As a consequence of the registration at the Trade Office, the company receives its legal entity and the establishment is announced in the Commercial Registry Gazette. It is also necessary to apply to the Tax Office for obtaining tax number after the trade registration and then the company can start commercial activities.

LIMITED LIABILITY COMPANIES (L.L.C.)

Limited liability companies are established with a minimum capital of 5.000 TL and at least 2 and at most 50 shareholders. A shareholder can be a real person or a legal entity, whose liability is limited with his/its subscribed capital. Limited liability companies can not issue share certificates.

In case there are more than twenty shareholders in a limited liability company, a general board should be formed to make decisions. Unless there are more than twenty shareholders, decisions are made by their written statements (votes). A shareholder's voting power is limited to his/her subscribed capital sum. General board cannot transfer its powers of amending the articles of association, assigning or dismissing directors and auditors, approving financial accounts and balance sheets to another company organ. Shareholders represent and direct the company, unless certain shareholders or non-shareholders are assigned as directors and representatives. A limited company with twenty or more shareholders should have at least one auditor.

Limited liability companies can be established in order to be in all legal commercial activities mentioned in the articles of association although they are not allowed to carry on an insurance business according to Turkish Law.

The company receives its legal entity after applying to the related Trade Registry Office with required documents listed below. Then the registered company is announced in the Commercial Registry Gazette. Finally right after the registration in the Tax Office, the company is ready to operate.

Required Documents for Establishing Joint Stock or Limited Liability Companies:

1. Petition (containing Tax Office information and signed by the authorities or their agents)
2. Establishment report form
3. Notarised articles of association (in 15 days after notarization)
4. Notarised identity papers of the founders and the authorities
5. Circular of signatures
6. Receipt indicating the payment of an amount (% 0,1 of the capital) to a consumer fund account in the Directorship of the Protection of Consumers and Competition
7. Chamber of Commerce registration bill
8. Letter of subscription
9. Receipt indicating the amount of paid-up capital
10. For foreign founders passport and a notarised copy (real person) / certificate of activity with an apostille and a translated copy (legal entity)

GENERAL INFORMATION FOR FOREIGN INVESTORS

Turkey pursues a non-discrimination and equal treatment policy towards foreign investors and almost all sectors are open to foreign capital and investors. The previous permission and approval system was turned into the information system. According to the Foreign Direct Investment Law, a foreign investor is defined as a foreign citizen, a legal entity, which is established with respect to another country's

law, or an international organization investing in Turkey. Turkish citizens inhabiting in another country are also considered as foreign investors.

Foreign investors are allowed to transfer abroad their profits, dividends, sale, liquidation and compensation values, debts arising from license, management agreements, foreign credits and principal interests resultant from their activities in Turkey through banks and private financial houses.

The Turkish Constitution Law allows foreign investors to apply to national or international arbitration courts in case of a conflict. Turkey is also a member of MIGA (Multilateral Investment Guarantee Agency) and ICSID (International Centre for Settlement of Investment Disputes).

For further information contact details;

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