

Law Bulletin

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Amendments to the Execution and Bankruptcy Law and Other Laws

Law No. 7101 on Amendments to the Execution and Bankruptcy Law and Other Laws (“**Law No. 7101**”) was published in the Official Gazette on 15 March 2018. Law No. 7101 amended substantial mechanisms set out under the Execution and Bankruptcy Law (the “**EBL**”), as well as other laws including the International Arbitration Law, the Law on Procedure of Collection of Public Receivables, the Service of Proceedings Law, the Civil Procedure Law and the Turkish Commercial Code. Below is a summary of significant amendments.

AMENDMENTS TO THE EBL

Abolition of the Bankruptcy Postponement Procedure

One of the most important changes introduced by Law No. 7101 is the abolition of the bankruptcy postponement procedure. Companies with share capitals and cooperatives can no longer request bankruptcy postponement from courts. Instead, the EBL’s concordatum (*konkordato*) procedure has been amended, as an alternative for companies to avoid bankruptcy.

Under the amended EBL, a debtor who cannot pay its due debts or is under the threat of not being able to pay them on their due dates will be eligible to request a concordatum, from the competent commercial court. In addition to the debtor, creditors who can request bankruptcy under the EBL can also resort to the competent commercial court to request a company’s concordatum.

Other Amendments to the EBL

Other significant amendments to the EBL are as follows:

- Creditors, whose receivables are secured by a pledge, are provided with a preferential right over charges and taxes, i.e. certain public receivables. This means that when a debtor’s

KOLCUOĞLU DEMİRKAN KOÇAKLI

asset is sold, the creditor whose receivables are secured by a pledge will receive its receivables before the state collects the relevant charges and taxes arising from the sales. In parallel with this newly introduced provision, the Law on Procedure of Collection of Public Receivables' relevant provisions have also been amended.

- The amendments impose an enlightenment obligation on the bankruptcy administration, for the benefit of creditors admitted to the bankruptcy estate.
- The amendments provide a new procedure with which during the execution and bankruptcy proceedings, the assets that constitute economic integrity can be sold together, if it is estimated that this procedure will generate a higher income.

AMENDMENTS TO THE INTERNATIONAL ARBITRATION LAW

With the new amendments introduced by Law No. 7101, regional appellate courts are now competent to hear set aside lawsuits. For issues where a court decision is needed during an arbitration proceeding (e.g. injunctive relief), the relevant civil court of first instance or commercial court will be competent, depending on the substance of the dispute.

AMENDMENTS TO THE SERVICE OF PROCEEDINGS LAW

With the amendments to the Service of Proceedings Law, the scope of persons to whom service must be made via electronic means has expanded. While the obligation to make electronic service used to cover only joint stock corporations, limited liability partnerships and limited partnerships (*komandit*), with the amended law lawyers, mediators, expert witnesses and notaries have been added to the persons to whom service must be made electronically. A transition period has been set forth for this purpose, whereby the said persons must adopt the necessary measures for electronic service until 1 January 2019.

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