

Client Alert

NEW ERA IN COMMERCIAL LEASES

When the Turkish Code of Obligations (the “**TCO**”) entered into force on 1 July 2012, it introduced numerous provisions in favor of lessees, similar to the pro-lessee provisions of the former Law on Real Estate Leases, without distinguishing between residential leases and workplace leases. However, upon the request of prominent investors, especially the shopping mall investors, a transition period was granted for the parties of commercial leases to comply with the new provisions of the TCO. Through the Provisional Article 2 of Law numbered 6217, the enforcement of the TCO’s nine provisions was postponed to 1 July 2020 for commercial leases where lessees are deemed as merchants under the Turkish Commercial Code or where lessees are private or public legal entities. There provisions are:

Assignment of Lease Agreement (Article 323), Return of Leased Property Before End of the Agreement (Article 325), Termination with Just Cause (Article 331), Restriction on Linked Agreements (Article 340), Security Payment by Lessee (Article 342), Prohibition of Amendments to Detriment of Lessee (Article 343), Determination of Rent (Article 344), Prohibition on Regulation to Detriment of Lessee (Article 346), Limited Termination Grounds (Article 354).

During the postponement period, the parties were free to determine the matters that fall within the scope of the postponed provisions, and in the absence of relevant provisions in their agreement, the provisions of the former Code of Obligations, former Law on Real Estate Leases as well as the established precedents of the Court of Cassation used to apply. On the other hand, the postponed provisions of the TCO applied to the residential leases throughout the postponement period. Accordingly, the precedents established for the residential leases based on the TCO during the postponement period, will also apply to the commercial leases as of 1 July 2020.

Please contact us in case of any questions regarding this matter.