



IT HAS BEEN DECIDED TO IMPOSE SANCTIONS ON INCUMBENT SUPPLY COMPANIES REGARDING NON-PERFORMANCE OF PAYMENTS OF UNLICENSED ELECTRICITY GENERATION COMPANIES

The Procedures and Principles Regarding Non-Payments in the Scope of Unlicensed Generation (“**Procedures and Principles**”) has been adopted with the decision of the Energy Market Regulatory Board (“**Board**”) numbered 11008 and dated 9 June 2022 was published in the Official Gazette dated 15 June 2022 and numbered 31867.

Under the Procedures and Principles and the Regulation on Unlicensed Electricity Generation in the Electricity Market (“**Unlicensed Generation Regulation**”), certain sanctions have been adopted regarding the failure to make the required payments to the generation companies engaged in unlicensed electricity generation activities by the incumbent supply companies.

I. EXECUTIVE SUMMARY

With this Memorandum following issues have been reviewed:

- (i) *Measures brought by the Procedures and Principles regarding the fulfillment of the obligations in accordance with the legislation, regarding the payments to be made to unlicensed electricity generation companies by the incumbent supply companies within the scope of the Unlicensed Generation Regulation, and*
- (ii) *Scope of the authority of the Board regarding imposing a sanction in case the incumbent supply companies do not fulfill their obligations in due time and/or partially or completely.*

II. SANCTIONS TO BE IMPOSED TO INCUMBENT SUPPLY COMPANIES

Within the scope of the Unlicensed Generation Regulation, the surplus energy generated by the generation companies operates in unlicensed electricity generation activities will be purchased by the incumbent supply company and the price of the purchased electricity must be paid to the generation company by the relevant incumbent supply company.

In this regard, if the relevant incumbent supply company does not partially or completely fulfill its payment obligation regarding the purchased electricity to unlicensed generation companies, the Board may decide to

impose a sanction under the Procedures and Principles. In this context, for a period to be determined by the Board, not exceeding 1 year,

- (i) Net advance receivables within the scope of the transactions carried out in the day-ahead market and intraday market will be blocked by the central settlement institution, and
- (ii) As the seller, it will not be allowed to enter a bilateral agreement notification based on the settlement, forward-looking bilateral agreement notifications regarding sales will be canceled and the relevant parties will be informed via the Market Management System.

However, there are other limitations that incumbent supply company will be subject to and these limitations are as follows:

- (i) Where the incumbent supply company is the balance-responsible party of a balance-responsible group; the balance responsible group will be distributed effective from the beginning of the first billing period following the Board decision date and will not be allowed to become a party to a balance responsible group.
- (ii) If the incumbent supply company is in a balance responsible group, effective from the beginning of the first billing period following the Board decision date, it will be removed from the group and will not be allowed to be in a balance responsible group.

The total amount to be paid in accordance with the Unlicensed Generation Regulation will be notified to the central settlement institution by the relevant supply company and EPIAŞ as market operator, until the invoice deadline at the latest, following the final settlement notification for each invoice period within the implementation period.

If the blocked advance amount of the incumbent supply company is less than the total amount to be paid in accordance with the Unlicensed Generation Regulation, the payments will be made as follows, respectively:

- (i) Invoice receivables, if any, of the relevant incumbent supply company will be blocked by the central settlement institution,
- (ii) In case the blocked invoice receivable is not sufficient, the remaining amount will be transferred to the Unlicensed Generator Blocked Cash Guarantee Account, which will be opened separately in accordance with the Procedures and Principles, at the central settlement institution by the relevant incumbent supply company.

The blocked amounts will be paid to the accounts of the relevant unlicensed generation companies and related supply companies by the central settlement institution on the eighth business day following the final settlement notification.

III. OBLIGATIONS OF THE INCUMBENT SUPPLY COMPANIES

Certain obligations to be fulfilled by the incumbent supply companies have been regulated under the Procedures and Principles. In this context, several sanctions are adopted such as, the incumbent supply companies are required to execute a contract with the central settlement institution which regulates the obligations of the parties and in case the payments to be made cannot be met from the blocked advance amounts and invoice receivables, the incumbent supply companies are obliged to send the missing amount to the Unlicensed Generator Blocked Cash Guarantee account at the central settlement institution via EFT.

IV. ENTRY INTO FORCE

The incumbent supply companies are obliged to complete all necessary measures within the scope of the Procedures and Principles by 30 June 2022. Except for the Provisional Article 1 of the Procedures and Principles, in which the date of compliance of the supply companies with the duties is determined, other articles will enter into force on **1 July 2022**.

Our assessments in this newsletter do not constitute legal recommendation or legal opinion and Aksu alıřkan Beygo Attorney Partnership may not be hold responsible depending on these assessments. It is recommended to obtain legal opinion for your inquiries within the scope of this memorandum.

Please contact us for detailed information.

LEVENT YETKİL

Partner



Levent.yetkil@aschukuk.com

OYA GÖKALP

Senior Associate



Oya.gokalp@aschukuk.com

DİDEM BAYRAKTAR

Associate



Didem.bayraktar@aschukuk.com

ASChukuk
AKSU ALIŐKAN BEYGO AVUKATLIK ORTAKLIĐI

Esetepe Mh. Harman 1 Sk. No 5 Harmancı Giz
Plaza Kat 3-8-15-16 34394 ŐiŐli - İstanbul

+90 212 284 98 82
+90 212 284 98 83
+90 212 279 63 32
info@aschukuk.com

www.aschukuk.com