



THE SCOPE OF PUBLIC AGENCIES TO ENTER INTO DEBT ASSUMPTION TRANSACTIONS FOR BUILD-OPERATE-TRANSFER PROJECTS HAS BEEN EXPANDED

The Law on the Amendment of Certain Laws numbered 7297 (“**Law**”) was published in the Official Gazette dated March 20, 2021 and numbered 31429 and Article 2 of the Law has amended the Law on the Implementation of Certain Investments and Services within the Framework of Build Operate-Transfer Model numbered 3996 (the “**BOT Law**”).

I. MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE MAY ENTER INTO DEBT ASSUMPTION TRANSACTIONS UNDER BUILD-OPERATE-TRANSFER PROJECTS

Pursuant to the BOT Law and the Law on the Regulation of Public Finance and Debt Management numbered 4749 (the “**Public Finance Law**”); the Ministry of Treasury and Finance and the public agencies tendering relevant projects within the framework of Build-Operate-Transfer Projects (“**BOT Projects**”) currently facilitates the financing of the companies winning the tender by way of loan assumption, debt assumption and treasury guarantees in BOT Projects.

However, the preamble of the Law states that foreign financial institutions have certain reservations on the ability of private sector or special budgeted agencies to fulfil their obligations due to the negative financial conditions of Covid-19 pandemic and in order to tackle these reservations, Provisional Article 4 has been added to the BOT Law by way of Article 2 of the Law to provide additional collateral to foreign financial institutions by the Ministry of Transportation and Infrastructure (the “**Ministry**”) within the general budget.

The Ministry may become party to the debt assumption agreements to be executed by its affiliated special budgeted public agencies regarding the BOT Projects meeting the prerequisites under the “**Implementation Conditions of the Law**” section below as to ensure the fulfilment of the obligations of the relevant public agency arising from the debt assumption agreement.

The relevant legislation regards the General Directorate of Highways and the General Directorate of Civil Aviation to be such special budgeted public agencies.

II. THE MINISTRY IS EXEMPTED FROM CERTAIN PROVISIONS OF THE PUBLIC FINANCE LAW

Ministry is exempted from certain obligations arising under the Public Finance Law in order to facilitate the execution of debt assumption agreements by the Ministry. Within this scope, the Ministry is exempted from:

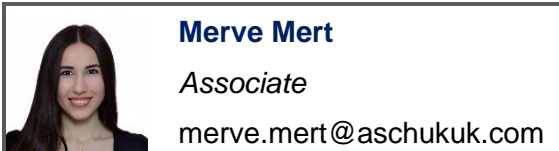
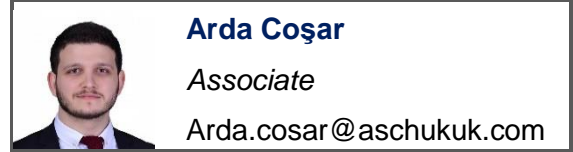
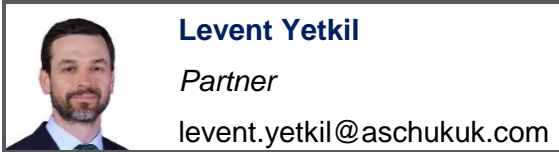
- (i) Article 4 titled "Authority"; authorizing the Ministry of Treasury and Finance, primarily to permit for obtaining external financing, to become a party to financial obligations in the name of Republic of Turkey and managing of such financial obligations and authorizing the President with respect to matters for which the Ministry of Treasury and Finance has no authority and committing the Republic of Turkey to financial obligations and guarantees.
- (ii) obligations under Article 8 titled "Debt Assumption"; authorizing the President in the projects that are expected to have a minimum investment amount of 1 billion Turkish Liras and that are executed under the BOT Law, vesting the Central Administration Budget Law with the determination of debt assumption limits, regulating public accounting and financing principles.

III. IMPLEMENTATION CONDITIONS OF THE LAW

Certain prerequisites are stipulated for the implementation of the Law in relation to the BOT Projects to be implemented by special budgeted public agencies affiliated to the Ministry. See a summary of such prerequisites below:

- (i) The BOT Project must be tendered after March 15, 2020,
- (ii) They are planned to be financed from foreign financial resources and
- (iii) The Implementation Agreement must not have been signed as of March 20, 2021, the date on which Article 2 of the Law amending the BOT Law became effective and was published in Official Gazette.

Please contact us for detailed information.



This newsletter has been prepared as of March 22, 2021 for informative purposes regarding The Law on the Amendment of Certain Laws numbered 7297 and published in the Official Gazette dated March 20, 2021 and numbered 31429.

Our assessments in this newsletter *do not constitute legal recommendation or legal opinion* and Aksu Çalışkan 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.

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