

Renewable Energy 2020

Contributing editor
Eric Pogue



Publisher

Tom Barnes

tom.barnes@lbresearch.com

Subscriptions

Claire Bagnall

claire.bagnall@lbresearch.com

Senior business development managers

Adam Sargent

adam.sargent@gettingthedealthrough.com

Dan White

dan.white@gettingthedealthrough.com

Published by

Law Business Research Ltd

Meridian House, 34-35 Farringdon Street

London, EC4A 4HL, UK

Tel: +44 20 3780 4147

Fax: +44 20 7229 6910

The information provided in this publication is general and may not apply in a specific situation. Legal advice should always be sought before taking any legal action based on the information provided. This information is not intended to create, nor does receipt of it constitute, a lawyer-client relationship. The publishers and authors accept no responsibility for any acts or omissions contained herein. The information provided was verified between July and August 2019. Be advised that this is a developing area.

© Law Business Research Ltd 2019

No photocopying without a CLA licence.

First published 2017

Third edition

ISBN 978-1-83862-152-0

Printed and distributed by

Encompass Print Solutions

Tel: 0844 2480 112



Renewable Energy

2020

Contributing editor**Eric Pogue**

Hunton Andrews Kurth LLP

Lexology Getting The Deal Through is delighted to publish the third edition of *Renewable Energy*, which is available in print and online at www.lexology.com/gtdt.

Lexology Getting The Deal Through provides international expert analysis in key areas of law, practice and regulation for corporate counsel, cross-border legal practitioners, and company directors and officers.

Throughout this edition, and following the unique Lexology Getting The Deal Through format, the same key questions are answered by leading practitioners in each of the jurisdictions featured.

Lexology Getting The Deal Through titles are published annually in print. Please ensure you are referring to the latest edition or to the online version at www.lexology.com/gtdt.

Every effort has been made to cover all matters of concern to readers. However, specific legal advice should always be sought from experienced local advisers.

Lexology Getting The Deal Through gratefully acknowledges the efforts of all the contributors to this volume, who were chosen for their recognised expertise. We also extend special thanks to the contributing editor, Eric Pogue of Hunton Andrews Kurth LLP, for his continued assistance with this volume.



London

August 2019

Reproduced with permission from Law Business Research Ltd

This article was first published in September 2019

For further information please contact editorial@gettingthedealthrough.com

Contents

Global overview	3	Korea	56
Eric Pogue and Mike Klaus Hunton Andrews Kurth LLP		Hoon Lee and Pan-Soo Kim Jipyong	
The global trend of offshore wind energy	5	Mexico	63
Lauren A Bachtel Hunton Andrews Kurth		Rogelio López-Velarde, Amanda Valdez and Daniela Monroy Dentons López Velarde SC	
Brazil	7	Nepal	70
Fabiano Ricardo Luz de Brito, Giovanni Loss, Pablo Sorj, Marina Anselmo Schneider and Ana Carolina Calil Mattos Filho, Veiga Filho, Marrey Jr e Quiroga Advogados		Mahesh Kumar Thapa Sinha Verma Law Concern Ryan T Ketchum Hunton Andrews Kurth LLP	
Chile	14	Nigeria	74
Felipe Bahamondez Prieto, Paulina Farías Castro and Diego Peña Diez DLA Piper Chile		Ike C Ibeku and Ifeyinwa Ufondeu Benchmac & Ince	
Egypt	21	Spain	83
Donia El-Mazghouny Shahid Law Firm		Gonzalo Olivera and Alberto Artés King & Wood Mallesons	
Ethiopia	26	Taiwan	91
Mahlet Kassa Woldesenbet LLP Lidet Abebe Tizazu Law Office Ryan T Ketchum Hunton Andrews Kurth		Grace Chih-Wen Chou and Sean Yu-Shao Liu Lee, Tsai & Partners Attorneys-at-Law	
Germany	30	Tanzania	98
Christine Bader and F Maximilian Boemke Watson Farley & Williams LLP		Nicholas Zervos, Clara Mramba and Seif Ngalinda VELMA Law	
India	36	Turkey	105
Dibyanshu, Prateek Bhandari and Shikha Rastogi Khaitan & Co		Mehmet Feridun İzgi Firat İzgi Avukatlık Ortaklığı/Firat İzgi Attorney Partnership	
Iran	44	Ukraine	115
Behnam Khatami, Masoomah Salimi, Niloofar Massihi and Farzaneh Montakhab Sabeti & Khatami		Igor Dykunsyy and Yaroslav Anikeev DLF Attorneys-at-Law	
Japan	50	United Kingdom	125
Norio Maeda, Amane Kawamoto, Keisuke Yonamine, Kentaro Moriya, Yuto Tokoro and Yooya Jung Nishimura & Asahi		John Dewar and Seyda Duman Milbank, Tweed, Hadley & McCloy LLP	
		United States	133
		Mike Klaus, Jeff Schroeder, Eric Pogue and Laura Jones Hunton Andrews Kurth LLP	

Turkey

Mehmet Feridun İzgi

Fırat İzgi Avukatlık Ortaklığı/Fırat İzgi Attorney Partnership

MARKET FRAMEWORK

Government electricity participants

1 | Who are the principal government participants in the electricity sector? What roles do they perform in relation to renewable energy?

Ministry of Energy and Natural Resources (ETKB)

In Turkey, energy policy is created and implemented by the ETKB. In that respect, ETKB is in charge of setting and implementing long-term plans by determining a strategy in relation to the electricity market based on this task.

Energy Market Regulatory Authority (EMRA)

Law No. 4628 was enacted in Turkey in 2001 in order for the electricity market to be accessible to private entities and for electricity market operations to be conducted under the conditions of a free market economy and Energy Market Regulatory Authority (EMRA) was established to regulate this new structure. Law No. 4628 was renamed the 'Law on Organisation and Duties of Energy Market Regulatory Authority' upon the enactment of the Electricity Market Law (EML) No. 6446 in 2013. Law No. 4628 is still in force as the law that regulates the formation and tasks of EMRA. In that regard, EMRA acts as an independent administrative authority in charge of regulating and auditing electricity market in line with this law as well as the duties and tasks ascribed by the EML.

According to the aforementioned legal regulations, EMRA is the administrative authority primarily responsible for granting licences identifying the operations permissible for legal and natural persons in energy and electricity sectors in addition to their rights and liabilities arising from those activities and drawing up the existing contracts falling under the scope of the transfer of operating right. Furthermore, monitoring the market performance, creating and amending performance standards and distribution and customer services regulations and have such implemented, determining and implementing the pricing principles in the sector and the formulae related to the adjustments to be required because of inflation are among the other matters for which EMRA is responsible. On the other hand, perhaps one of the most important of EMRA's tasks is to audit the market. In that regard, EMRA is responsible for ensuring legal persons operating in the electricity market act in compliance with the laws and regulations in force. In addition to this responsibility, EMRA is authorised to impose administrative sanctions granted to it under the relevant laws in relation to any discrepancies that are ascertained.

General Directorate of Renewable Energy (YEGM)

Article 10/B of the Law on Organisation and Duties of Ministry of Energy and Natural Resources No. 3154 provides that procurement of utilisation of renewable energy resources in Turkey falls under the responsibility

of the YEGM affiliated to the ETKB. Pursuant to the duties and powers ascribed under the relevant legal regulations, YEGM is responsible for:

- conducting measurements to determine and evaluate all kinds of energy resources including, especially, the hydraulic, wind, geothermal, solar, biomass and other renewable energy resources in the country, preparing feasibility and sample implementation projects; developing pilot systems in collaboration with research institutes, local administrations and non-government organisations and conducting promotion and advisory activities;
- creating awareness about the efficient use of energy in the industry and buildings and conducting activities to that end;
- monitoring and auditing energy efficiency implementation projects and research and development projects approved by the Energy Efficiency Coordination Authority;
- monitoring and evaluating the studies and developments within the fields of renewable energy and energy efficiency, determining the R&D objectives and priorities in line with the requirements and conditions of the country, performing and having third parties perform R&D activities to that end, disclosing the outcomes of those activities to the public along with the economic analyses; and
- developing projections and suggestions for evaluating renewable energy resources and increasing energy efficiency.

State-owned energy companies

The Turkish Electricity Administration (TEK) was established in line with Law No. 1312 enacted in 1970 with the objective of eliminating the distributed structure in the electricity sector and ensuring operational integrity according to which specified areas of the licensed companies as well as the generation, transmission, distribution and sales of electricity outside the boundaries of municipalities were incorporated under TEK. To offer services more efficiently and effectively in line with contemporary practices and also in compliance with the privatisation policies, TEK was reorganised into two separate state economic enterprises, TEAŞ and TEDAŞ, pursuant to Council of Ministers Decree No. 93/4789 dated 12 August 1993.

In 2001, public electricity assets were organised under three distinct legal entities pursuant to Law No. 4628: the operations conducted by TEAŞ were distributed to three separate companies, namely the Electricity Generation Company (EÜAŞ), the Turkish Electricity Transmission Company (TEDAŞ) and the Turkish Electricity Transmission Company (TEİAŞ).

Electricity Generation Company (EÜAŞ)

EÜAŞ is a state enterprise that aims to deal with generation and selling of safe, sustainable, high-quality, efficient, cost-effective and eco-friendly electricity energy in line with the principles of profitability and efficiency with due regard for public benefit. The share of the company in generation of electricity is reduced in a planned way for the benefit of private electricity companies according to the strategic plan conducted

for rendering a free market, the privatisation plan and relevant legal regulations. Currently, the company operates varying types of electricity plants with an installed power of 18,435MW, 12,772MW of which accounts for hydroelectric plants.

Turkish Electricity Transmission Company (TEİAŞ)

All the electricity transmission in Turkey is operated by TEİAŞ as a result of the state's general energy policy. TEİAŞ is a public economic enterprise that conducts its operations in line with the transmission licence granted by EMRA.

Turkish Electricity Distribution Company (TEDAŞ)

TEDAŞ, one of the companies incorporated as a result of the demerger in 2001, is mainly responsible for performing electricity distribution operations. Notwithstanding the foregoing, Turkey was divided into 21 distribution zones that were entirely privatised under the project for privatisation of public-owned electricity enterprises in order to create a competitive environment in electricity distribution and the retail sales industry and launch the required reforms.

TEDAŞ is still in good standing and fulfils the functions of brokering and auditing the settlement of general lighting expenses ascribed to TEDAŞ under EML in addition to assuming some other tasks such as nationalisation ascribed through relevant legal regulations.

Turkish Electricity Trade and Contracting Company (TETAŞ)

Incorporated as the first and sole public energy wholesale company following the demerger of TEAŞ into three companies under the privatisation initiatives in energy sector in 2001, TETAŞ is an Economic State Enterprise with liability limited with its capital and undertakes electricity trade and contracting activities in line with the general energy and economy policy of the State.

In this context, TETAŞ purchases electricity from energy plants owned by EÜAŞ, plants operated through build-operate, build-operate-transfer and operating right transfer models, other countries under import agreements and balancing markets and sells it to electricity distribution companies, commissioned supply companies, customers with direct connection to the transmission system, other countries within the scope of export agreements and balancing markets.

Energy Exchange Istanbul (EXIST) | (EPIAŞ)

The company was incorporated on 18 March 2015 in line with the provisions of Electricity Market Law No. 6446 of 14 March 2013 and Turkish Commercial Code No. 6102. EPIAŞ is mainly involved in planning, establishing, developing and operating the energy markets included in the market operating licence in an effective, transparent and reliable manner so as to satisfy the requirements of the energy market. It aims to ensure reliable reference price formation without discriminating among equal parties and become an energy market operator allowing for trading activities through market mergers along with the highest level of liquidity based on the increasing number of market actors, product range and transaction volume. It is the sole entity that acts as an energy exchange market in Turkey.

Municipalities

Municipalities are empowered to organise tenders for granting the right to utilise landfill gas to companies intending to establish plants using landfill gas as fuel for biomass plants. In addition, energy plants file applications to the relevant municipalities to fulfil a number of requirements such as a building licence, earthquake resistance certificate, workplace opening and operating licence just like enterprises in other sectors, and they are subject to the supervision of municipalities in such non-sector-specific matters.

Other

Apart from explanations provided above, some of the governmental authorities are critical of allocation of primary resources. For instance, a water utilisation agreement has to be executed with the General Directorate of State Hydraulic Works (DSİ) in relation to hydroelectric plants. Geothermal energy, on the other hand, is under the responsibility of the General Directorate of Mining affiliated with the ETKB. Permits for measurement stations for wind plants and solar plants are granted by the General Directorate of Meteorology. The Ministry of Environment and Urban Affairs is in charge of environmental impact assessment reports, while forestry permits are issued by the General Directorate of Forestry affiliated with the Ministry of Forestry and Water Affairs. The Ministry of Finance conducts the processes for expropriation of the real estate required by the licence holder generation companies.

Apart from those listed above, other public enterprises and organisations may be empowered to issue certain administrative permits according to the type of the primary energy, location of the resource and relevant conditions. For instance, if the project site falls within an area that is entirely or partially under protection, the High Council of Cultural and Natural Heritage Preservation affiliated with the Ministry of Culture shall be involved in the process, whereas the Provincial Directorate of Agriculture shall be responsible for determining and certifying the agricultural attribute of any given land.

Private electricity participants

2 Who are the principal private participants in the electricity sector? What roles do they serve in relation to renewable energy?

Private generation companies and supply companies operate in line with the (wholesale-retail) licences as per the EML. Also, since the distribution zones are privatised, the distribution activities are currently performed by private companies. The supply company belonging to the same group fulfils the functions attributed to a commissioned supply company and acts as the end resource supplier for supplying electricity to end consumers.

Apart from those companies acting in line with licences issued under EML, private companies especially assume an active role in project development phase.

Despite certain differences in generation levels, private companies may invest in renewable energy by pursuing a licensing process quite similar to that required for a conventional plant. For renewable resources, the tendering process projected for wind and solar plants is different from conventional plants. The winning project is granted a right to connect to the system from the relevant connection point and the project is licensed according to the outcome of the tender.

Besides the foregoing, renewable energy enterprises with an installed power below 1MW are not obliged to incorporate companies and receive licences in Turkey until the amendment on the EML. 1MW installed power restriction has been raised to 5MW with the decision numbered 1044 of President of the Republic, which is published in the Official Gazette dated 10 May 2019 and numbered 30770. Those enterprises are entitled to generate electricity in line with certain conditions and sell the excess power to the grid. Thus, the government encourages small-scale investors to contribute to the system in the renewable energy field. Therefore, those developing projects below 5MW could be considered as participants in the sector. Unlicensed installed power was 5,488.6MW as of January 2019, with a great increase in comparison with the previous year. See www.teias.gov.tr/sites/default/files/2019-02/kurulu_guc_ocak_2019.pdf.

For wind power plants under construction between 2012 and 2018, most investments are made by private companies. Certainly, the most important reason is that the electricity generation sector is

made available to private investments and the government offers incentives for renewable investments by providing purchasing guarantees. Currently, there are 180 wind plants. Approximately 5,386.85MW of the total investment is operated by 21 different domestic and foreign energy companies (see www.tureb.com.tr/files/bilgi_bankasi/turkiye_res_durumu/istatistik_raporu_ocak_2019.pdf).

A similar structure is also encountered with respect to solar power. In 2018, the total number of Installed solar power plants in operation reached 5,868; 4,981.2MW of which is unlicensed and 81.8MW of which is licensed. Almost all of those plants comprise small-scale and unlicensed projects in the private sector.

As for geothermal energy, Turkey hosts an installed power of 1,188MW, almost wholly owned by private companies.

Similarly, biomass and landfill gas plants of nearly 811MW are entirely operated by private companies.

In that respect, private sector participants are entitled to develop projects and make investments through licensed and unlicensed investments to the extent allowed by grid restrictions. There are various private investments made in this way in Turkey. Foreign investors have also participated in most of those investments. There is no restriction for foreigners in that regard. The pace of improvement in wind power investments in Turkey is clearly fast.

Unlicensed electricity generation plants connect to the grid over the distribution voltage level. Therefore, distribution companies assume an important role especially for executing connection agreements for those plants. On the other hand, supply companies are obliged to purchase the electricity generated by unlicensed plants for 10 years pursuant to the legislation on supporting renewable energy resources. Also, they fulfil the financial obligations ascribed to them under the renewable energy supporting mechanism.

Definition of 'renewable energy'

3 | Is there any legal definition of what constitutes 'renewable energy' or 'clean power' (or their equivalents) in your jurisdiction?

Turkish regulations contain a number of definitions for renewable energy resources and generation plants based on such resources. In that regard:

- the Law on the Use of Renewable Energy Resources for Generating Electric Energy No. 5346 defines renewable energy resources as non-fossil energy resources such as hydraulic, wind, solar, geothermal, biomass, gas derived from biomass (including landfill gas), wave, current energy and ebb tide;
- the Regulation on the Unlicensed Electricity Generation in Electricity Market also defines 'renewable energy resources' same as Law No. 5346; and
- Electricity Market Licence Regulation, on the other hand, defines generation plants based on renewable energy resources as plants based on wind, solar, geothermal, biomass, gas derived from biomass (including landfill gas), wave, current energy and ebb tide as well as channel or river-type hydroelectric plants or those with a reservoir area smaller than 15km² or with pumping storage.

Framework

4 | What is the legal and regulatory framework applicable to developing, financing, operating and selling power and 'environmental attributes' from renewable energy projects?

In Turkey, activities related to electric energy involve generation, transmission, distribution, wholesale or retail sale, import, export and market operations of electricity and EML No. 6446 sets forth the rights and obligations of all real and legal persons related to those activities. Pursuant

to the relevant law, generation, transmission, distribution, wholesale, retail sale, market operations, import and export of electricity activities may only be pursued if the required licence regarding the relevant activity is obtained.

EMRA is in charge of providing all kinds of permits, approvals and conducting audits for all activities to be undertaken in electricity markets. Distinct licences are required for each activity in electricity market and also for each plant if any activity is performed in more than one plant and the eligibility criteria to obtain licences are provided in the EML and Electric Market Licence Regulation.

Under this law, legal persons shall receive a permit known as a licence in order to operate in the electricity market. In addition to this permit, it is obligatory to secure the necessary environmental impact assessment resolutions rendered by the Ministry of Environment and Urban Affairs in order to perform the above-mentioned operations and receive licences for electricity markets.

Law No. 6446 also provides that legal persons intending to generate electricity shall have to secure a specific permit known as a preliminary licence that is valid for a specific duration so as to receive the approvals, permits, licences and so on, required for initiating the investment for generation plants. Preliminary licences could be defined as a preparatory permit issued for allowing persons to complete the required procedures in the course of the licensing process.

There are a number of exceptions to the licence and preliminary licences to be granted for renewable energy. In that, it is not necessary to receive a preliminary licence and licence for generation plants with an installed power up to 5MW or the cap determined by means of a decree of the President of the Republic and using all the energy generated in the plants based on renewable energy resources without feeding any of the energy to the transmission or distribution system and having the generation and consumption at the same measurement point. According to the article 28 of Regulation on the Unlicensed Electricity Generation in Electricity Market: 'The energy produced by natural or legal persons at their generation facility established in a distribution place can be consumed in a consumption facility provided that it is owned by the same person and in the same distribution place.'

Licences are issued for a period of minimum 10 years and maximum 49 years with due regard for the attributes of the activity. The term of generation licences granted for renewable energy resources, however, is 30 years.

Apart from preliminary licence and licence, EMRA issues a renewable energy resource certificate (YEK certificate) to the legal person holding a generation licence to allow for determination and follow-up of the resource type during trade of electric energy generated through renewable energy resources in national and international markets. Besides the above-mentioned use of the YEK certificate, it is also used for practices under the renewable energy support mechanism (YEKDEM) for electricity generated through renewable energy resources in generation plants under the licence, and determination and follow up of resource type in the sale of electricity in renewable energy generation plants in markets under the emissions trading scheme.

Apart from YEK certificate, legal persons generating electricity from renewable resources are entitled to receive a Certificate for Generating Electricity from Renewable Resources from the ETKB as per Law No. 6446.

Stripping attributes

5 | Can environmental attributes be stripped and sold separately?

The increasing public awareness on climate change and its impacts and the acceptance of the fact that carbon equalisation is a reliable

precautionary strategy have contributed to the rapid development of voluntary carbon markets in recent years.

Voluntary carbon markets are developed independently from governmental objectives and policies to struggle with climate change and are open to contribution of all segments of the community from the business world to local administrations, NGOs and individuals with respect to carbon equalisation.

Companies intending to equalise greenhouse gas emissions arising from their activities calculate the emission volumes and purchase the carbon certificates generated in line with the projects aimed at reducing and equalising such emissions within the frame of social responsibility principle. The emission certificates traded in this market are called voluntary emission reduction certificate.

Government incentives

6 Does the government offer incentives to promote the development of renewable energy projects? In addition, has the government established policies that also promote renewable energy?

Turkey plans to increase the rate of benefit related to renewable energy resources by 30 per cent as per its energy policy. In that respect, a number of regulations are put in force in order to offer an incentive for the use of renewable energy resources.

First of all, plants generating electricity based on renewable energy resources in Turkey enjoy exemption from value added tax and customs duty. Besides, the EML No. 6446 provides that the annual licence fee will not be collected for generation plants using domestic natural resources and renewable energy resources for the first eight years as from the completion of the plants indicated in the relevant licence.

Also, the YEKDEM has been launched based on the Law on the Use of Renewable Energy Resources for Generating Electric Energy No. 5346. YEKDEM aims to offer incentives to persons involved in generating electricity based on renewable energy resources in Turkey and support generation of electricity based on renewable energy resources. This system sets forth distinct prices, terms and payment methods to be utilised by legal entities generating electricity based on renewable energy resources under generation licences themselves or through supply companies for persons generating electricity without generation licences. Generation plants registered in the system are entitled to benefit from YEKDEM for 10 years and sell electricity at the fixed prices as specified in the Law (see table below) until the amendment mentioned above on Law No. 6446.

Schedule No. I (provided in Law No. 6094 dated 29 December 2010)

Applicable prices (US dollar, cent/kWh)

Hydroelectric generation plant	7.3
Wind-based generation plant	7.3
Geothermal-based generation plant	10.5
Biomass-based generation plant (including landfill gas)	13.3
Solar-based generation plant	13.3

Decision dated 10 May 2019 regulates that; provided that the installed capacity of the generation facilities subject to YEKDEM, which is entitled to receive a connection agreement call letter, is limited to the connection agreement contract power of the consumption facility; the retail single-time active energy price of its subscriber group announced by EMRA shall be applied to the surplus electricity generated for a period of 10 years from the date of commissioning of the facility for the following: (i) up to 10 kW (including 10 kW) for residential subscribers, with production and consumption at the same measuring point; (ii) and solar and power generation facilities with roof and facade applications

for industrial and commercial and lighting subscribers as well as electricity consumption facilities based on other renewable energy sources.

Thus, investors are protected from market risks for 10 years and they are given due support by elimination of any ambiguity. This also provides an additional security for the funding of the project. YEKDEM is considered to be the most important incentive for renewable energy resources in Turkey. Therefore, the figures provided below that amount to a purchasing guarantee are extremely important for domestic and foreign investors.

The incentives provided for renewable energy investments are not limited to those indicated above. The ratio of domestic parts incorporated into the equipment used for investments is also important. According to the system known as the domestic contribution, the prices available in Schedule No. I are increased in the form of domestic contribution for five years according to the ratio of domestic contribution in the equipment based on the ratios provided in the Law (Schedule No. II provided in Law No. 6094 dated 29 December 2010). In that manner, incentives are offered for research and development activities and localisation that are critical for the development of renewable energy. Currently, hydroelectric power plants have the largest share on the list of plants benefiting from YEKDEM as there are 465 plants. Also 160 wind plants, 98 biomass plants, 45 geothermal plants and nine solar plants are known to benefit from YEKDEM (see www.enerjiportali.com/wp-content/uploads/2018/12/2019-Y%C4%B1l%C4%B1-Nihai-YEK-Listesi.pdf). As of the end of 2016, 21.98 billion Turkish liras was paid for 62,474,456.66MWh electricity generated in plants with installed power of 88,438MW under YEKDEM. Hence, YEKDEM became very attractive for investors in Turkey in recent years.

Another incentive method called the renewable energy resource area (YEKA) has come under the Regulation on Renewable Energy Resource Areas, which came into the force on 9 October 2016. This regulation defines YEKA as an area, on either property belonging to the public or Treasury, or privately owned property, which has a high potential for at least one renewable energy resource. The purpose of this new method is creating large-scale YEKA areas for the efficient use of renewable energy resources. To achieve this goal, this new regulation aims to determine these YEKA areas, to allocate connection capacity for these areas, to determine the conditions of the tender for the participating legal persons and the licence application process for tender winners, and also to determine the procedures regarding the sale of the electricity generated in YEKAs. Under the regulation on YEKAs, the use of both domestic equipment and domestically manufactured equipment for YEKA projects is also ensured. YEKA has already become and will continue to be an important development platform for large-scale big-ticket projects.

Establishing policies and incentives

7 Are renewable energy policies and incentives generally established at the national level, or are they established by states or other political subdivisions?

In Turkey, renewable energy policies and incentives are regulated at the national level. In that regard, ETKB prepared a National Renewable Energy Action Plan to increase the share of renewable energy resources in energy generation portfolio.

The National Renewable Energy Action Plan is also an international document available to public opinion that transparently describes the development objectives of Turkey, as well as the measures intended to be taken in line with such objectives as a document issued in compliance with the Directive 2009/28/EC of the European Parliament and of the European Council of 23 April 2009 on offering incentives for the use of energy from renewable resources.

Regional administrations or municipalities do not have any role in any part of energy market policies and incentives that are administered and audited by national state mechanisms (eg, the ETKB, EMRA).

Nevertheless, a number of regional tax rebates and similar incentives are introduced from time to time to eliminate the inequality among the regions in the country under regional investment incentive programmes.

Purchasing mechanisms

8 | What mechanisms are available to facilitate the purchase of renewable power by private companies?

YEKDEM requires supply companies to fulfil the financial obligations ascribed to them. The cost of YEKDEM is distributed among supply companies by the market operator. On the other hand, unlicensed electric generation plants connect to the grid over the distribution voltage and commissioned supply companies arising from segregation of distribution companies are obliged to purchase the electricity generated by unlicensed plants for 10 years.

Legislative proposals

9 | Describe any notable pending or anticipated legislative proposals regarding renewable energy in your jurisdiction.

As a party to the Paris Convention, Turkey has provided intended national contribution declarations. Accordingly, Turkey declared that it shall reduce greenhouse gas emissions calculated based on the reference scenario by 21 per cent in 2030. Several planning and strategy documents were prepared in order to realise the contribution declarations made by Turkey under the Paris Convention. Such documents include different action plans on matters such as climate change, industry, energy efficiency, recycling and transportation systems. Although those documents do not have the force of law in legal terms, they could be considered as indicative of the contents of legislative proposals that might be presented in the near future. It is reasonable to anticipate that Turkey shall continue to offer certain incentives in the renewable energy field. There is no public draft or legislative proposal that aims to alter the foregoing status quo (especially with respect to YEKDEM and domestic contribution model).

Drivers of change

10 | What are the biggest drivers of change in the renewable energy markets in your jurisdiction?

Energy demand in Turkey is increasing rapidly, which has led the government to focus on both primary energy resources and supply safety for electric energy.

Given the primary energy type of installed power in existing generation plants, Turkey is dependent on foreign countries in terms of electricity generation operations. Most of the electricity is still generated in natural gas plants (29.8 per cent according to 2018 data, see www.enerji.gov.tr/en-US/Pages/Electricity). Therefore, one of the most important causes for upward change in the renewable energy market in Turkey is reducing the country's dependence on foreign resources for energy by decreasing energy import.

Also, another important reason for the changes effectuated in the renewable energy field is that the technological developments facilitate generation of renewable energy, thus lowering costs to affordable levels. In addition to the reduction in the cost of generating electricity with renewable energy resources, the international conventions to which Turkey is a party, which provide for increases in the fossil fuel costs through carbon trade, carbon tax and similar mechanisms, have contributed to the increasing popularity of renewable energy.

On the other hand, Turkey is much more advantageous in terms of renewable energy potential compared to fossil resources. In particular, Turkey hosts a high potential of hydraulic, wind, solar, biomass and geothermal energy resources. At this point, it might be reasonable for Turkey to enrich its resource variety with renewable resources to the extent possible in order to ensure effective use of resources.

Hydraulic energy is one of the most important resources with the highest potential in Turkey. The country enjoys a gross hydroelectric potential of 433 billion kWh/per annum, technical potential of 216 billion kWh/per annum and economic potential of 164 billion kWh/per annum.

As for the potential of wind power, Turkey's size is 784.347km² and it enjoys a significant wind potential owing to its climatic characteristics. The wind energy potential of the country is marked with some differences in certain regions according to the wind velocity and continuity. The Electric Works Survey Administration (EİE) conducted a study for determining the wind potential of Turkey resulting in the creation of a Wind Potential Map of Turkey (REPA) in 2006. Based on those studies, the potential wind power that could be used for generating electricity in Turkey was calculated by taking into consideration the wind velocity of 7m/sec and above and it turned out that the country has a total capacity of 47.849MW made up of 10.463MW for sea and 37.386MW for land. REPA indicates that the Aegean and Marmara coasts have the highest wind potential in Turkey.

With respect to solar power, the annual average sunshine duration is 2,640 hours (7.2 hours on a daily basis) in the country, while annually the average solar radiation value is 1,311kWh/m² (3.6kWh/m² on a daily basis). In terms of monthly average sunshine duration, July (365 hours), August (343 hours) and June (325 hours) have the highest potential respectively. EİE prepared a Solar Energy Potential Map of Turkey in 2010. This study indicates that Turkey enjoys a solar power potential equivalent to approximately 56,000MW of thermic plant capacity and it could be possible to generate around 380 billion kWh of electricity per annum if this potential were duly utilised.

Turkey is expected to continue its economic development and thus the increase in energy demand is also expected to continue. In that respect, it is essential for Turkey to commission new plant investment and to maximise the variety of energy resources (eg, requirement for domestic and renewable resource) along with energy efficiency. The government is taking steps to encourage alternative solutions fundamentally based on renewable energy with a view to preventing the risks arising from a high level of energy dependency and developing a sustainable energy model.

Disputes framework

11 | Describe the legal framework applicable to disputes between renewable power market participants, related to pricing or otherwise.

Under Turkish law, there is no provision stipulating specific dispute settlement between renewable power market participants and that requires an application to be made to an arbitration or mediation procedure before filing a lawsuit.

However, regarding the settlement of certain disputes, an option to apply to EMRA is provided under the legislation. For example, pursuant to the Electricity Market Licensing Regulation, concerning the resolution of disputes related to connection and system usage agreements, transmission and distribution licence holders may apply to EMRA or EMRA may act as a mediator for disputes arising from concession and application agreements. Nevertheless, litigation is always possible for the parties despite applying to EMRA.

With respect to disputes to be resolved via litigation, the legal status of the renewable power market participants has an important role in the determination of whether administrative or legal jurisdiction

will be pursued. In the event that one of the parties to the dispute is an administrative body and an administrative act is established, it shall be applied to administrative jurisdiction. Such disputes arise in the renewable energy sector mainly because of the inability of generation companies to benefit from YEKDEM or from incentives provided within the scope of promotion of domestic components.

UTILITY-SCALE RENEWABLE PROJECTS

Project types and sizes

12 | Describe the primary types and sizes of existing and planned utility-scale renewable energy projects in your jurisdiction.

The fundamental projects based on renewable energy resources in Turkey could be listed as projects for hydroelectric, wind, geothermal, solar and biomass plants. Turkey does not plan to engage in concentrated solar power, offshore wind power and ebb-tide, wave and other marine energy projects until 2023.

According to 2018 data, which can be obtained from www.tureb.com.tr/files/bilgi_bankasi/turkiye_res_durumu/istatistik_raporu_ocak_2019.pdf, there are 180 wind power plants in Turkey. These are terrestrial wind plants. Of those 180 plants, 154 are licensed and 26 are unlicensed. When all the wind power plants that have been granted licences and preliminary licences by EMRA are commissioned, 7.9 per cent of the total electricity requirement in Turkey will be met by wind power plants.

According to 2018 data, there are 564 solar power plants in Turkey in total, 549 of which are unlicensed and 15 are licensed. The installed power of those generating electricity with a licence is around 17-18MW.

In addition, according to 2018 data, there are 636 licensed hydroelectric plants in Turkey. According to 2018 data, 11 hydroelectric plants above 250 MWe are currently under construction. The total installed power of hydroelectric plants regarded as renewable energy resources in Turkey is 27,912 MW as of the end of June 2018 (see www.enerji.gov.tr/en-US/Pages/Hydraulics).

Finally, there are 115 geothermal power plant projects in Turkey and 527 geothermal plants are currently under way.

Development issues

13 | What types of issues restrain the development of utility-scale renewable energy projects?

The most important physical obstacle for renewable energy projects in grid scale is Turkey's infrastructure deficiencies. In particular, a lack of capacity in connection points is the most important drawback not only for the development of potential projects but also increasing the capacity of existing projects. Therefore, a lack of infrastructure seems to be an important factor that could deter the private sector from investing in the industry.

Another important point is that EMRA makes frequent use of its power to issue secondary regulations as the sectoral regulator in the electricity market. This leads to a certain ambiguity for private sector participants that conduct feasibility studies and plan projects, which has been a source of complaint by market actors from time to time.

HYDROPOWER

Primary types of project

14 | Describe the primary types of hydropower projects that are prevalent.

In general terms, hydropower plants could be classified as conventional hydropower plants and pumped-storage hydropower plants. Still, it

should be noted that hydropower plants are divided into two according to their storage structure in Turkey, namely storage (reservoir) and river-type (regulator) hydropower plants.

For reservoir hydropower plants, the river is blocked with a 'dam' structure and a reservoir is created on the rear side of the dam. Reservoir hydropower plants allow for adjusting flow rate. Therefore, those plants are capable of generating electricity even in the arid and dry season.

River-type hydropower plants, on the other hand, lack storage structures. These are solely constructed for generating electricity. River-type hydropower plants also do not allow for adjustment of flow rates, thus the amount of power generated by the plant differs according to the season. Electricity generation in the rainy season may increase with higher flow rates, while potentially no electricity may be generated in the dry season.

Legal considerations

15 | What legal considerations are relevant for hydroelectric generation in your jurisdiction?

Persons intending to operate in the energy market in Turkey are obliged to meet the eligibility criteria specified in the EML and Energy Market Regulation. Eligible persons are obliged to file an application for a preliminary licence or licence in line with this law and regulation and to become operational as soon as the relevant processes are completed.

A company must be incorporated with the purposes to deal with power generation in compliance with Turkish Commercial Code in order to file an application for a preliminary licence or a licence. Preliminary licensing and licensing processes (see question 4) are also applicable for this question. Nevertheless, there are several different terms and conditions for hydropower plants.

First of all, persons filing an application for a preliminary licence or licence to use hydraulic resources are required to prove that they have executed or become entitled to execute a Water Use Rights Agreement with the DSİ. The lists of hydropower plant projects developed by DSİ and legal persons and available for application shall be continually announced and updated on the DSİ's website, according to the project phases. As provided below, presenting documentary proof as to the execution or being eligible for execution of water use rights is a preliminary condition for filing an application for a preliminary licence or licence. Nevertheless, it is essential to draw up a water use rights agreement and submit the same to EMRA before starting to invest in the generation plant during the term of the preliminary licence.

Also, it should be noted that the most important condition for a water use rights agreement is that the applicant is obliged to ensure sustainability of natural life in the river bed and leave a sufficient amount of water to meet the requirements of water rights to the river bed continuously without variation. The volume of water to be left to sustain natural life must be a minimum 10 per cent of the average flow rate of the past 10 years forming the basis of the project. This volume can be increased but not decreased.

In addition to the requirement to signing a water use rights agreement, it is obligatory to obtain a positive decision via an environmental impact assessment or else a decision that an environmental impact assessment is not required under the Environmental Impact Assessment Regulation with respect to wind, solar, hydraulic, geothermal or domestic resource (listed in the regulation) based generation plants.

DISTRIBUTED GENERATION

Prevalence

16 | Describe the prevalence of on-site, distributed generation projects.

The requirement for receiving a preliminary licence and licence is not applicable for generation plants based on renewable energy resources of installed power up to 5MW and generation plants using all the energy generated in the plants based on renewable energy resources, without feeding any of the energy to the transmission or distribution system and having generation and consumption at the same metering point. Such plants are called unlicensed power generation plants.

Wind and solar power plants with installed power below 5MW especially have lately gained popularity in the country. As has already been indicated in question 12, 15 of the power plants are currently licensed.

Anyone who is a subscriber to electricity services, regardless of whether they are a real or legal person, can establish an unlicensed power generation plant. These persons must be in possession of at least one consumption facility that subscribes to electricity services. Persons without a subscription cannot establish an unlicensed power generation plant.

Types

17 | Describe the primary types of distributed generation projects that are common in your jurisdiction.

The majority of relevant investments are photovoltaic solar systems below 1MW (both roof applications and outdoor systems). Nevertheless, there are also wind plant investments. In addition, there are cogeneration and micro-cogeneration plants operated through various types of fuel. Those using renewable energy resources are entitled to sell the excess energy to third parties based on the YEKDEM system, which is explained in detail above. The plants owned by private sector investors connect to the grid over the distribution voltage level. Therefore, distribution companies assume an important role, especially for executing connection agreements for those plants. In addition, supply companies are obliged to purchase electricity generated by unlicensed plants for 10 years pursuant to the regulation on supporting renewable energy resources. Also, they must fulfil the financial obligations ascribed to them under YEKDEM.

Regulation

18 | Have any legislative or regulatory efforts been undertaken to promote the development of microgrids? What are the most significant legal obstacles to the development of microgrids?

Where our response to question 16 for promoting the development of small integrated generation projects is applicable, the EML, the Regulation on Unlicensed Power Generation in Electricity Market, which was enacted in line with the aforementioned law, and the Regulation on Certifying and Supporting Renewable Energy Resources include a number of provisions to that end.

Nonetheless, obligation regarding small integrated generation projects to incorporate a company in compliance with the Turkish Commercial Code does not apply as opposed to licensing requirements. Anyone who is a subscriber for electricity services may engage in unlicensed power generation activities without incorporating a company, and meet their own energy requirements in that manner. This practice aims to ensure effective use of renewable energy resources and reduce the costs arising from transmission and grid lines.

Also, commissioned supply companies are obliged to purchase the redundant electric power fed to the system after being generated by

real or legal persons that establish a generation plant based on renewable energy resources under unlicensed generation practices in their respective zones. The purchasing guarantee is limited to 10 years. This obligation is the outcome of the YEKDEM system. Even though there is no restriction as to sales processes, the consumption facility associated with the generation plant under the subscription must be marked with a continuous consumption trend. Still, it should be noted that the government does not purchase the redundant electricity but guarantees the functioning of the system through YEKDEM.

Other considerations

19 | What additional legal considerations are relevant for distributed generation?

As indicated in question 18, supply companies purchase the redundant electricity generated by unlicensed power plants for 10 years under YEKDEM. However, the regulation does not regulate what will happen to the redundant electricity after the 10 years. This shall be ascertained through a legal regulation yet to be introduced.

In addition, the provisions of legislations concerning, especially, small unlicensed generation are amended frequently. Introduction of amendments to the legislations frequently create unease among parties intending to engage in generating electricity. Lack of information and ambiguity created for investors planning to establish small-scale plants are a cause for anxiety and helplessness owing to the lack of clarity, as a result of which they tend to avoid making such investment. Therefore, it is essential to adopt stable legal regulations, amended only as a result of national and international developments in the industry.

ENERGY STORAGE

Framework

20 | What storage technologies are used and what legal framework is generally applicable to them?

Currently, Turkey does not have any commercial technology for storing energy like the rest of the world. Therefore, there is no legal regulation for electricity that cannot be stored.

Still, it is possible to store primary resources and, if required, to generate electricity from such primary resources in our country. With respect to the renewable energy resources, only reservoir hydropower plants are capable of storing energy. In other words, another way to store energy is to store water in a reservoir located high above whenever the power demand of the system is low and to derive hydroelectric power from the stored water at varying and suitable intervals.

Development

21 | Are there any significant hurdles to the development of energy storage projects?

There is no energy storage project undertaken and commercialised by public or private sector in Turkey. In that respect, it is of utmost importance to ensure that private investors focusing on this field develop necessary technologies in addition to securing a well-planned governmental subsidy to that end. There are several projects developed in this respect by the Scientific and Technological Research Council of Turkey, which is a government entity.

FOREIGN INVESTMENT

Ownership restrictions

- 22 | **May foreign investors invest in renewable energy projects? Are there restrictions on foreign ownership relevant to renewable energy projects?**

There is no obstacle for foreign investors intending to invest in renewable energy projects in Turkey. Yet, the preliminary condition for engaging in licensed electric generation operations in Turkey is to ensure that the licence holder either possesses or enjoys the usufruct right of the site where the plant is to be established. The preliminary licence issued by EMRA entitles investors to initiate the processes before relevant institutions and organisations in order to gain title to or usufruct right of the site.

Foreigners may gain title to or usufruct right of the site subject to provisions of applicable legislations.

As for 'foreign capital companies' incorporated in Turkey with foreign investors having 50 per cent or more of the shares of the company individually or jointly, or despite not having the majority of shares as provided above, enjoying the right to assign or dismiss the majority of officers, such companies may obtain possession of real estate or limited real rights on the real estate and use them in order to conduct the operations specified in their articles of association. If those companies are shareholders in any other company incorporated in Turkey directly or indirectly, the same principle shall be applicable to the extent that the final shareholding ratio of the foreign investor in the relevant affiliate is equal to or above 50 per cent, the foreign investors acquire 50 per cent or more of the shares of the domestic companies possessing the real estate directly or indirectly and the shareholding ratio of foreign investors in existing foreign capital companies possessing the real estate reaches 50 per cent or above as a result of the share transfer. Provided that the terms and conditions of the Law on Military Forbidden Zones and Security Zones No. 2565 are adhered to, the acquisition of real estate by companies within the zones specified in article 28 of the relevant law in addition to military forbidden zones and military security zones shall be subject to the permission of the Chief of General Staff or the military commands to be assigned by the Chief of General Staff, while the acquisition of real estate in special security zones shall require the permission of the relevant governorate.

Nevertheless, foreign capital companies incorporated in Turkey with foreign investors having shares less than 50 per cent individually or jointly may acquire real estate based on the same terms and conditions applicable for domestic companies.

Equipment restrictions

- 23 | **What restrictions are in place with respect to the import of foreign manufactured equipment?**

There is no restriction with respect to the use of foreign manufactured equipment in plants in Turkey. On the other hand, the communiqués issued for Prevention of Unfair Competition in Import provide a number of anti-dumping precautions for wire to be imported from China for electric arc welding purposes. Also, as a result of the anti-dumping investigation initiated by the Ministry of Economy about the products allegedly causing unfair competition, solar panels (photovoltaic (solar) modules and panels) manufactured by 16 companies in China were subject to an anti-dumping duty worth US\$20 to 25 per square metre, as those companies were found to have created a negative impact on domestic manufacturing operations.

Although there is no restriction for foreign manufactured equipment, if the licence holder legal entities use mechanical or electro-mechanical equipment manufactured domestically in their generation

plants based on renewable energy resources commissioned prior to 31 December 2015, the electric energy generated in those plants and fed to the transmission or distribution system shall be entitled to benefit from incentives under the Law on the Use of Renewable Energy Resources for Generating Electric Energy. Such incentives are not relevant for unlicensed generation plants.

PROJECTS

General government authorisation

- 24 | **What government authorisations must investors or owners obtain prior to constructing or directly or indirectly transferring or acquiring a renewable energy project?**

Provided that the response to question 4 is also applicable for this question, it should be noted that legal persons that engage in electricity market operations shall be able to initiate their activities only after securing a separate licence for each activity and for each plant if those activities are to be conducted in more than one plant.

All legal persons subject to private law provisions have to be incorporated as a joint stock company or limited liability company under the provisions of Turkish Commercial Code No. 6102, and all shares of joint stock companies have to be registered, apart from the public companies traded in exchange markets under the capital market legislations.

The company's articles of association shall be submitted, indicating that the minimum equity capital of the company has been increased by five per cent of the total investment amount anticipated by the authority for the generation plant. If the legal person is a joint stock company, the articles of association for the relevant company must include a provision that all the shares are registered and the company shall not be entitled to issue bearer shares with the exception of public companies traded in exchange markets under capital market legislations as well as a provision that the company shall not make any variations in the shareholding structure during the preliminary licensing period and the company shall seek the approval of EMRA if it intends to amend the articles of association in order to reduce the equity capital.

Also, legal persons acting in the market are obliged to obtain the permission of EMRA for any processes and transactions that shall lead to change in the title to or usufruct right of the plants.

Offtake arrangements

- 25 | **What type of offtake arrangements are available and typically used for utility-scale renewables projects?**

See questions 4 and 6 for the special regulations on renewable energy field. Plants that are not included in YEKDEM system and those for which YEKDEM liabilities have expired may sell electricity to supply companies or end users through bilateral agreements subject to the provisions of private law just as conventional power generation plants. Also, they may engage in trade activities in day-ahead and day markets.

Procurement of offtaker agreements

- 26 | **How are long-term power purchase agreements procured by the offtakers in your jurisdiction? Are they the subject of feed-in tariffs, the subject of multi-project competitive tenders, or are they typically developed through the submission of unsolicited tenders?**

The long-term bilateral agreement market is open to development in Turkey. The general trend is to trade the electricity in day-ahead and day markets or evaluate it under the YEKDEM system for renewable energy plants.

Operational authorisation

27 | What government authorisations are required to operate a renewable energy project and sell electricity from renewable energy projects?

The roles of private and public sector institutions with regard to both licensed and unlicensed projects have been detailed above and the fact that it has been guaranteed for the electricity to be sold over the amount stated under the list attached to the Law on the Utilisation of Renewable Energy Sources for Electricity Generation No. 5346, and the relevant rights and obligations of the parties was emphasised. Apart from this mechanism, there is no other obligation against any government entity with regard to establishment of a renewable energy plant and sale of electricity produced in such plants.

Decommissioning

28 | Are there legal requirements for the decommissioning of renewable energy projects? Must these requirements be funded by a sinking fund or through other credit enhancements during the operational phase of a renewable energy project?

If a licence holder legal person intends to terminate its operations under the licence, a written application before EMRA shall be filed, along with the justifications for termination at least six months before the intended termination date, whereas distribution companies and commissioned supply companies shall be required to make the relevant application at least 12 months before the intended termination date. Nevertheless, EMRA may, at its sole discretion, not require observation of this notice term based on the impact of the intended termination on the market. Under this application, it is mandatory to list the obligations of the licence holder legal person as of the intended termination as well as the measures to be taken for fulfilling those obligations.

If EMRA confirms the termination request as a result of the assessment, the licence shall be terminated on the date specified in the resolution rendered by EMRA. If EMRA becomes convinced that the termination will give rise to any condition that will be to the detriment of consumers and market conditions, it may deny the request or postpone the termination by duly informing the licence holder legal person of the justifiable reasons for the decision.

If any legal person holding a distribution licence intends to terminate the licence prematurely, the licence shall not be regarded as terminated until a new legal person receives a licence for conducting the operations indicated in the licence.

Decommissioning is not yet explained in detail in Turkish legislation. Therefore, this regulation is open to development for both renewable energy investments and conventional plants.

TRANSACTION STRUCTURES

Construction financing

29 | What are the primary structures for financing the construction of renewable energy projects in your jurisdiction?

The most commonly used structures for funding renewable energy projects in Turkey are known to be project finance and structured finance. Project finance is a funding resource in which lenders make the loan repayment and capital profitability calculations based on the cash flow to be created by the project when such lenders intend to provide financing for economically separable investment projects.

With respect to project finance, first of all, a separate company must be incorporated for the project in line with the provisions of the

Turkish Commercial Code. After that, banking institutions provide loans fundamentally based on the project's cash flow. Some 95 per cent of the project financing in Turkey is made by domestic banks. Apart from banks, leasing companies provide a small amount of financing especially for wind power projects.

While evaluating the projects for project finance purposes, the owners of the project, their background, good standing and financial facilities are reviewed. In addition, before providing loans banks take into account the project excess and delay risks in hydraulic and geothermal projects, and capacity utilisation risk and environmental risks for wind and hydraulic projects while making a loan assessment.

Operational financing

30 | What are the primary structures for financing operating renewable energy projects in your jurisdiction?

Project funding, commercial loans and equity of investors are the fundamental funding tools for such projects.

Loans commonly used in this respect are as follows: Islamic Development Bank Loans for Renewable Energy and Energy Efficiency Projects, KfW (German Development Bank) loans for renewable energy and energy-efficiency projects, European Investment Bank (EIB) loans for small and medium-sized enterprises, EIB loans for environment and energy projects, World Bank loans for renewable energy and energy efficiency projects, EIB loans for renovation and energy efficiency projects in tourism industry, KfW loans for infrastructure projects, Turkish mid-sized sustainable energy financing facility (aiming to finance mid-sized investments in renewable energy, waste-to-energy and industrial energy efficiency). Apart from these, projects are financed through renewable energy equipment suppliers via loans provided by finance corporations of relevant countries and Eximbank.

Also, different business models involving consumer-investors and operators are being rapidly developed for projects below 1MW.

UPDATE & TRENDS

Market trends

31 | Describe any market trends with respect to development, financing or operation in the renewables sector or other pertinent matters.

As per the article of the law published in the Official Gazette dated 19 July 2019, an additional 120 days was granted for the projects that lost consumption-production ties or that have an expired connection agreement. All unlicensed electricity generation projects that could not be implemented, regardless of the reason, will benefit from such law. For the projects whose connection agreement period has not expired yet, the deadline will be extended until the expiration date provided in the law. As the end of the 120-day period coincides with the end of the week, the extension will expire on 18 November 2019.

Legislative proposals

32 | Describe any notable pending or anticipated legislative proposals.

According to the relevant regulations, YEKDEM will end after December 2020. With that said, plants that are accepted to the system before 31 December 2020 will continue to benefit from YEKDEM. While it is not clear what will be the way to support renewable energy projects, the sector expects that the Turkish government will continue its support under an alternative scheme. Market players and banks plan to offer a new incentive model to the Ministry of Energy to enable sustainable financing models for future projects. Sources close to the Ministry of

Energy highlight the possibility of a new model, which will support the projects with respect to the locally manufactured equipment rate. Therefore, any development on this issue is highly anticipated.

Additionally, the industry expects an increase in capacity regarding wind power plants as the law published in the Official Gazette on 28 February 2019 authorises the EMRA to issue a regulation that allows capacity increases in wind power plants provided that they do not benefit from YEKDEM.

Firat İzgi

Mehmet Feridun İzgi

feridun.izgi@firatizgi.com

Seba Office Boulevard, Ayazağa Mah. Mimar Sinan Sok.

No: 21, D Blok, D: 5 34396

Sarıyer/İstanbul

Turkey

Tel: +90 212 235 25 25

Fax: +90 212 235 25 24

www.firatizgi.com

Other titles available in this series

Acquisition Finance	Distribution & Agency	Islamic Finance & Markets	Real Estate M&A
Advertising & Marketing	Domains & Domain Names	Joint Ventures	Renewable Energy
Agribusiness	Dominance	Labour & Employment	Restructuring & Insolvency
Air Transport	e-Commerce	Legal Privilege & Professional Secrecy	Right of Publicity
Anti-Corruption Regulation	Electricity Regulation	Licensing	Risk & Compliance Management
Anti-Money Laundering	Energy Disputes	Life Sciences	Securities Finance
Appeals	Enforcement of Foreign Judgments	Litigation Funding	Securities Litigation
Arbitration	Environment & Climate Regulation	Loans & Secured Financing	Shareholder Activism & Engagement
Art Law	Equity Derivatives	M&A Litigation	Ship Finance
Asset Recovery	Executive Compensation & Employee Benefits	Mediation	Shipbuilding
Automotive	Financial Services Compliance	Merger Control	Shipping
Aviation Finance & Leasing	Financial Services Litigation	Mining	Sovereign Immunity
Aviation Liability	Fintech	Oil Regulation	Sports Law
Banking Regulation	Foreign Investment Review	Patents	State Aid
Cartel Regulation	Franchise	Pensions & Retirement Plans	Structured Finance & Securitisation
Class Actions	Fund Management	Pharmaceutical Antitrust	Tax Controversy
Cloud Computing	Gaming	Ports & Terminals	Tax on Inbound Investment
Commercial Contracts	Gas Regulation	Private Antitrust Litigation	Technology M&A
Competition Compliance	Government Investigations	Private Banking & Wealth Management	Telecoms & Media
Complex Commercial Litigation	Government Relations	Private Client	Trade & Customs
Construction	Healthcare Enforcement & Litigation	Private Equity	Trademarks
Copyright	High-Yield Debt	Private M&A	Transfer Pricing
Corporate Governance	Initial Public Offerings	Product Liability	Vertical Agreements
Corporate Immigration	Insurance & Reinsurance	Product Recall	
Corporate Reorganisations	Insurance Litigation	Project Finance	
Cybersecurity	Intellectual Property & Antitrust	Public M&A	
Data Protection & Privacy	Investment Treaty Arbitration	Public Procurement	
Debt Capital Markets		Public-Private Partnerships	
Defence & Security Procurement		Rail Transport	
Dispute Resolution		Real Estate	

Also available digitally

[lexology.com/gtdt](https://www.lexology.com/gtdt)