

COVID-19 crisis inspires global tightening of Foreign Investment Screening

Turkey

Turkey has adopted many measures to respond to the COVID-19 outbreak, but there is no measure directly affecting or targeting foreign direct investments or FDI. Therefore, FDI will continue to be subject to the existing rules.

Foreign investments are protected by the Turkish Constitution, the Foreign Direct Investment Law and other related regulations. In the international context, Turkey is party to bilateral investment treaties on the protection and promotion of investments and double taxation treaties, as well as several treaties regarding customs union, free trade, multilateral investments, protection of Social Security rights and agreements concerning alternative dispute resolution methods, such as ICSID. Turkey's bilateral investment treaty and double taxation treaty counterparts include almost all OECD and European Union countries, including the United States, Russia, China, Germany and the United Kingdom.

The applicable legislation defines "foreign investor" as foreign individuals, foreign entities and non-resident Turkish citizens making a foreign direct investment into Turkey. "Foreign direct investment" includes assets of foreign or domestic origin that are used to establish a new company or branch or to acquire shareholding in a Turkish company. Assets of foreign source may include cash capital, corporate securities (excluding government

bonds), machinery, equipment or intellectual property. Assets of domestic origin may include profits, receivables or natural resource exploration rights.

With the exception of certain limited sectors (such as ownership in media companies, certain maritime activities, real property acquisitions etc.), foreign investors are on an equal footing with Turkish investors.

Turkish legislation provides minimum standards of protection to foreign investors in terms of: (i) equal treatment with domestic investors, (ii) expropriation and nationalization, and (iii) expatriation of proceeds.

Foreign investors having a subsidiary, branch or liaison office in Turkey have certain notification obligations, including an annual notification regarding operations and notification of certain specific events such as changes in foreign ownership.

By **Ekin Inal, Inal Kama**