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Legal Developments in Turkey in March 2010

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Headlines

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- Nabucco Project Approved by the Parliament
- Use of Domestic Certified Seeds Promoted by the Government
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- Reciprocal Promotion and Protection of Investments
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Plaintiffs are no longer required to pay Court Fees

Constitutional Court ruled on Court Fees

In order to file a lawsuit, ¼ of the 54% of the disputed amount is paid in advance by the plaintiffs in accordance with Turkish procedural law. The remaining amount is to be paid upon the Court's decision. The remaining amount of the decision duties shall be paid to the Court in order to have it notified to the defendant pursuant to Article 28 of the Law on Duties nr. 492 (the "Law"), and to take further action pursuant to Article 32 of the Law.

This Article 28 of the Law on Duties, has been subject to too many criticism in the past. A plaintiff has filed a case to the European Court of Human Rights and the ECHR has decided that this Article is against the Convention on Human Rights (ULGER v. TURKEY). Accordingly, some

courts have started to apply this decision of the ECHR and waived the obligation of the plaintiff to pay such duties in order to have the decision notified to the defendant.

Finally, there has been an application to the Turkish Constitutional Court and the Constitutional Court, on January 14, 2010, has annulled this Article 28 of the Law with respect to the said arguments and in accordance with the decision of the ECHR. Therefore court decisions can now be notified to the defendants without paying the remaining court fees.

However the Constitutional Court did not annul Article 32 of the Law requiring the claimant to pay the remaining court fees in order to take further legal action (e.g. to enforce the decision).

The decision of the Constitu-

tional Court (2009/27 P., 2010/9 D.) was published in the Official Journal dated 17.03.2010 and numbered 27524.

The decision is welcomed amongst the legal professionals, though Article 32 is still considered as an obstacle for plaintiffs to seek their rights.



Constitutional Court has decided in favor of the plaintiffs in an issue debated for the last decade.

Nabucco Project Approved by the Turkish Parliament

Agreement between Austria, Bulgaria, Hungary, Romania and Turkey regarding the Nabucco Project has been approved by the Turkish parliament by the Law no 5956. The Law was published in the Official Journal dated 11.03.2010 and numbered 27518.

Preparations for the Nabucco project started in 2002 and the intergovernmental agreement was signed on

13.07.2009. If built, the pipeline is expected to be operational by 2015 and it will create an alternative route to provide the Europe's natural gas demand, since Central and Western Europe will face a short-fall in its energy supply in the near future.

The pipeline will connect the Eastern border of Turkey, to Baumgarten in Austria through Bulgaria, Romania and Hungary.

The demand for new resources to ensure supply diversification caused the parties to sign the Agreement.

Other Important Developments in February 2010

- **Use of Domestic Certified Seeds Promoted by the Government**

Council of Ministers' Resolution regarding the Subvention of Certified Seed Production and Use of Domestic Certified Seed, Sapling, Seedling and Standard Sapling was published in the Official Journal dated 04.03.2010 and numbered 27511.

Aim of the decision is to support the farmers using domestic certified seed, sapling, seedling and standard sapling in certain types of plant production in which the use of certified seed is insufficient.

- **Abolition of Visas between Turkey and Jordan**

Agreement between the Republic of Turkey and the Hashemite Kingdom of Jordan on the Mutual Abolition of Visas was ratified by the Council of Ministers (2010/198) and published in the Official Journal dated 13.03.2010 and numbered 27520.

With the ratification of the Agreement, Jordan was added to the Middle Eastern countries that the visa requirement was abolished recently.

- **Agreements on Reciprocal Promotion and Protection of Investments between Turkey and**

- Romania (Law No. 5961),

- the Kingdom of Bahrain (Law No. 5966),

- the Kingdom of Thailand (Law No. 5967) were approved by the Turkish Parliament.

- **Free Trade Agreement with Serbia**

Law no 5954 regarding the Ratification of the Free Trade Agreement between the Republic of Turkey and the Republic of Serbia was published in the Official Journal dated 09.03.2010 and numbered 27516.

Recently, the Economic Cooperation Agreement between the two countries was ratified by the Council of Ministers on 21.01.2010.

- **Economic Cooperation Agreement with Montenegro**

Agreement between the Republic of Turkey and Montenegro on Economic Cooperation was ratified by the Council of Ministers (2010/210) and published in the Official Journal dated 13.03.2010 and numbered 27520.

- **Three Agreements between Turkey and the Sultanate of Oman**

Agreement between the Republic of Turkey and the Sultanate of Oman concerning the Reciprocal Promotion and Protection of Investments was ratified by the Council of Ministers (2010/169) and published in the Official Journal dated 13.03.2010 and numbered 27520.

Agreement between the Republic of Turkey and the Sultanate of Oman for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income was ratified by the Council of Ministers (2010/173) and published in the Official Journal dated 13.03.2010 and numbered 27520.

Agreement on Judicial Assistance between Turkey and Oman was approved by the Law no. 5960 published in the Official Journal dated 24.03.2010 and numbered 27531.



Certified seeds are controlled in laboratories and have a high quality of genetical potential. Use of certified seeds increase productivity.

Economic cooperation in the neighboring area is of utmost importance.



Turkey has been concluding bilateral agreements with its neighbors.

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Aydas Liman Kurman Attorneys at Law is a law firm established in Ankara aiming to provide high quality legal services to its local and international clientele.

You can refer to our website in order to learn more about our practices.

You can contact Mr. Altan Liman at altan@aydaslimankurman.av.tr to obtain further information on the topics covered in this newsletter and on other legal issues.

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