

Note with regard to the latest developments on environmental law in Turkey

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1. Legislative and policy developments

Repeal process: The latest policies and applications of the incumbent government (the Government of Justice and Development Party- the AKP Government) can be challenged as far as the protection of environment, human rights, and even the rule of law are concerned. The government continued to repeal several previous regulations aiming to protect the environment. Repealing process is part of the government's main policy of giving priority to developmental and associated interests over environmental issues, and aiming to reduce or eliminate established legal requirements related to the several investments as constructing hydropower, road and bridge as well as mining. Consequently Turkey's national parks, forests, wetlands, and agricultural areas as olive yards are under an increasing threat from destructive policies of the government. The main examples of repeals under that policy are the publication of the new by-laws on both the protection of wetlands, and environmental impact assessment. The former has changed the status of wetlands and reduced the degree of protection while the latter has provided new exemptions from environmental impact assessment procedures and associated licenses related to the several activities as certain scaled railroad projects, dredging projects, mass housing projects, golf facilities, shopping malls, and wind power plants, through either directly or granting the discretion to the competent authority. Apart from exemptions that by-law also shortens the submission time for the prepared report to the relevant authority. Bodies who prepare reports on behalf of developers have three months rather than the previous six to prepare and submit the report. Consequently the amendment allows project owners to obtain the required permission quicker, so saving time and cost.

Nuclear power stations: Regarding the nuclear energy governmental efforts are ongoing to complete the legislative background to response to the requirements contained in two agreements signed respectively with Russia and Japan to construct two nuclear facilities on the contrary of serious public concerns. The long-awaited draft framework law on nuclear energy and the establishment of an independent regulatory authority was opened for consultation.

The second revised report regarding the environmental impact assessment for the construction of the first nuclear power plant of Turkey which is submitted by the Russian project company ROSATAM, finally was approved by the Ministry of Environment and Urbanization in December during the official visit of Russian President to Turkey. However, ROSATAM still needs to obtain all the necessary licenses as site and construction license, and a building permit in accordance with Turkey's legislative requirements in order for the construction of the plant to start. On the other hand, according to the view and reports of the scientists as well as environmental and professional organizations the approved report is not appropriate as the previous ones, and it does not response to the serious warnings that the plant could hurt the region's ecosystems once it comes to operational. The issues such as the waste, emergency plan and who will be responsible in the event of a nuclear accident are among the concerned and objected matters. Furthermore several other issues as the conformity of the approval with the national legislation, and the efficiency of the company

who prepared the report also raise serious controversies. Therefore the approval is primarily a political decision dismissing the environmental concerns with the construction that is already falling behind the planned schedule, and favoring the investors.

2. Cases

The Constitutional Court has annulled the amendment that has been made in 2013 in the Environment Act 1983 by the AKP government to introduce additional exemptions to projects subjected to environmental impact assessment. Currently the exact reasoning is not known since the judgment of the Court has not been published yet. The Court as reaching that decision which was announced in July 2014 probably is taken into account the Article 56 of the Constitution. That article prescribes that “Everyone has the right to live in a healthy and balanced environment. It is the obligation of the State and citizens to improve the environment, to protect the environmental health and to prevent the environmental pollution”. However, in spite of that, the AKP government continued to constructing activities with regard to the controversial investments because the Court’s judgment was not published in the official gazette, and its judgments in general are not retroactive under the Constitution. Consequently, as a counter step, the Government published the above mentioned new controversial by-law regarding environmental impact assessment on 25 November to allow the same kinds of additional exemptions for several large infrastructure projects.