

COVID-19 Pandemic may constitute a “Force Majeure” for Public Procurement Contracts

7 Apr 2020

As per the Presidency Circular numbered 2020/5 ("Circular") published in the Official Gazette dated 2 April 2020 and numbered 31087, with regards to contracts executed as a result of tenders carried out within the scope of the Public Procurement Law numbered 4734 and the exemptions therefrom, applications regarding impossibility of performance of the work subject to the contract whether temporarily or permanently, partially or in whole due to the COVID-19 outbreak shall made by the contractors to the administration party to the contract. Accordingly, said impossibility of performance must be documented by the applicant contractor.

The administrations shall review the applications in line with Article 10 of the Public Procurement Contracts Law numbered 4735 titled "Force Majeure" and other relevant legislation and shall submit for Turkey's Ministry of Treasury and Finance's consideration prior to making a decision.

As a result of the revisions of the relevant administrations, if it is determined that;

- (i) The said impossibility has not arisen due to the fault of the contractor,
- (ii) The said impossibility prevents the contractors from fulfilling its obligations under the contract, and
- (iii) The contractor cannot resolve the impossibility,

the administration shall be entitled to grant an extension of time or decide to terminate the contract.

Please see this [link](#) for the full text of the Circular (only available in Turkish).