

Regulation on Procurement of Real Estate has been issued by the Energy Market Regulatory Authority

24 Dec 2021

The Regulation on Procurement of Real Estate ("**Regulation**"), prepared by the Energy Market Regulatory Authority ("**Authority**") has been published in Official Gazette numbered 31647 on 2 November 2021 and entered into force on the same day. With this new Regulation, the principles regarding the execution of real estate procurement transactions to pre-license/license holders in electricity, natural gas and petroleum markets by the Authority and the duties, powers and responsibilities of pre-license/license legal entities were determined.

Transactions Regarding the Real Estate Facility

Privately owned real estates required for facilities operating under a pre-license/license may be expropriated by the Energy Market Regulatory Board ("**Board**"), if these real estates are found required for the facility operations after the evaluation of the Authority.

Private law legal entities will be able to request the transfer of ownership or easement right from the facilities subject to pre-license/license based-based activities, if they need the ownership, height or depth of the real estate registered in the name of the public legal entity. If deemed appropriate, the relevant transactions will be carried out by the Board.

The requests for the establishment of easement right, granting of usage permission or leasing on the real estates that are privately owned by the Treasury or under the jurisdiction and disposal of the State will be evaluated by the Authority and, if deemed appropriate, the relevant procedures will be completed by the Board.

Procedure of the Warrant

Private legal entities holding a pre-license/license will submit to the Authority a letter of definite and indefinite guarantee in an amount to be determined by the Authority. No security will be required for transactions required by natural gas distribution facilities.

Appointment of an Attorney by the Authority

A proxy may be appointed by the President of the Authority to initiate and execute lawsuits related to real estates within the scope of real estate procurement of facilities subject to pre-license/license-based activities, to carry out other lawsuits that may be brought against the Authority regarding facilities, to participate in lawsuits to be filed in administrative jurisdiction if necessary, and to fulfill the duties assigned by the Authority regarding the lawsuits.

The information and documents to be determined by the Board for the appointment of a proxy are submitted to the Authority by the private legal entity holding a pre-license/license. Fees and other expenses to be received by the attorney are paid by the private legal entity holding the pre-license/license. The fee to be received by the attorney is determined by the fee agreement to be made between the lawyer and the private legal entity holding a pre-license-license.

Other Provisions

Other issues regulated by the Regulation are as follows:

- The Authority will not take action regarding unlicensed electricity generation activity, and the Board will not take any decision. The same is applicable for the electricity generation facilities within the organized industrial zones.
- Procurement of real estate in favor of public legal entities will be carried out by these legal entities, and registration will be made in their own names. In addition, for the places under the private ownership of the Treasury and/or under the jurisdiction and disposal of the State, free of charge easement rights will be established, leases will be made, or usage permits will be given.
- Permission will be required for the use of agricultural properties other than their purpose.

Details of the Regulation can be found at this [link](#). (Only available in Turkish)

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