

Turkey Announces Exemptions to Share Transfer Prohibition for Unlicensed Solar and Wind Electricity Generation Facilities

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Turkey's Energy Market Regulatory Authority ("**Authority**") has announced exemptions to the ban on share transfers for wind and solar generation facilities with installed capacity up to 1 MW, until provisional acceptance of such unlicensed facilities. Persons eligible to apply to produce energy from the wind or solar based generation facilities have also been narrowed, among other amendments.

A range of changes and the exemption were announced in Official Gazette number 29865 on 22 October 2016, entering into force on the same date. These make changes to:

- The Regulation Regarding Producing Unlicensed Electricity in the Electricity Market ("**Regulation**"), published in Official Gazette number 28783 on 2 October 2013; and
- The Communiqué on Application of the Regulation Regarding Producing Unlicensed Electricity in the Electricity Market ("**Communiqué**"), published in Official Gazette number 28783 on 2 October 2013.

Accordingly, the following circumstances are now exempt from the general prohibition on share transfers which applies until unlicensed facilities receive provisional acceptance:

- Shareholding changes arising out of a change in the publicly held shares of the public entity itself, or its public entity shareholder.
- Direct or indirect changes in the shareholding structure arising out of exercise of pre-emption rights held by existing shareholders.
- Indirect changes in the shareholding structure arising out of shareholding changes in the foreign shareholders.
- Direct or indirect changes in the shareholding structure arising out of public offering of the legal entity or its shareholders.

Persons eligible to apply to produce energy from the wind or solar based generation facilities have also been narrowed. Accordingly, the following categories can no longer apply to produce unlicensed energy in the relevant distribution region:

- Direct or indirect shareholders of distribution or supply companies appointed for a specific region.
- Entities controlled by distribution or supply companies appointed for a specific region.
- Persons employed by direct or indirect affiliates of the distribution or supply companies appointed for a specific region.
- Legal entities controlled by the above persons.

Other notable changes made to the Regulation and Communiqué include:

- Distributions companies continue to be required to notify the Turkish Electricity Transmission Company ("**TEİAŞ**") about the total installed capacity which can be connected to each transformation centre for generation facilities based on renewable sources with installed capacity of up to 1 MW (or threshold determined by the Council of Ministers). However, the provision in the Regulation which required TEİAŞ's evaluations to be taken as the base for establishing such connections has now been repealed.

- Capacity which is allocated to wind and solar applications which TE?A? determines are eligible to produce uninterrupted renewable power using renewable energy upon technological improvements, is now excluded from the capacity quota which is allocated to facilities based on wind and solar resources up to 1 MW installed capacity (or threshold determined by the Council of Ministers).
- Distribution companies can now cancel the Call Letter to Connection Agreement, Connection Agreement and System Usage Agreement of the facility if it is determined that leaked electricity was used in a consumption facility.
- Additional support granted to local content fees for unlicensed producers has now been abolished.
- Before receiving provisional acceptance, applicants must submit a construction licences for the consumption facility and/or a similar substitute document.

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

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