

**Turkish Official Correspondence Regulation
By the Turkish Presidency Decision Nr. 2646**

In the Turkish Official Gazette dated 10 June 2020, the Official Correspondence Regulation of 2 February 2015 has been superseded by the Regulation on the Terms and Conditions Applicable on Official Correspondences (the “**new Official Correspondence Regulation**” or the “**Regulation**”) with the Turkish Presidency Decision Nr. 2646 issued on 9 June 2020.

The recently issued Official Correspondence Regulation is applicable on all the Turkish public institutions and organizations aiming to establish a fast, secure, and unique electronic system for the exchange of official information and correspondence between administrations and to determine rules concerning official correspondences exchanged in an electronic environment by using secure electronic signature or in a physical environment by using signatures put in handwriting.

Effective Date

The new Official Correspondence Regulation will be effective as of 1 July 2020 and steps forward with its changes on the use of electronic environment by Turkish administrations firstly introduced by the preceding regulation promulgated in 2015. The new Official Correspondence Regulation enables Turkish administrations to produce documents in electronic environments only in one copy, to lay out the preparation process of the relevant public document under its numbering section, to use verification code and QR code, to issue personalized documents, to use public logo, to affix archive signature, to use unique templates in foreign language among others. The Turkish Digital Conversion Office Presidency prepared and published an e-Correspondence Technical Guideline on its web site defining the technicalities such as structure, format, signing and encoding of documents produced in an electronic environment as official correspondences aiming to enable Turkish administrations for a smooth adaptation process.

EBYS (Electronic Document Management System)

In order to comply with the rules of the new Official Correspondence Regulation, as mentioned above, a unique electronic system will be used by Turkish administrations called “EBYS” standing for the Turkish letters against the Electronic Document Management System.

EBYS is defined as the system protecting the content, metadata, format, and relevancy specifications of documents prepared by the administrations while conducting their activities and substituting as evidence for such activities complying with e-Correspondence Technical Guideline, constituting evidence for the function or transaction underlying the documents, and maintaining the management of documents within the chain of their origin in an electronic environment. EBYS was already being used before the new Official Correspondence Regulation entered into force. The provisional Article 1 of the Regulation stipulates an adaptation process of six months in the lack of an EBYS to be established after the Regulation has entered into force, which will have to comply with the terms and conditions of this new Official Correspondence Regulation. Additionally, the administrations not having obtained their user accounts over DETSIS (Turkish State Organization Central Registry System) will have

to obtain and register their accounts within 30 days following the new Official Correspondence Regulation entered into force. Such user accounts will enable the administrations to determine the right addressee of a document put together in an electronic environment to be exchanged and received through EBYS.

Exemptions

The new Official Correspondence Regulation still excludes certain rules of law stipulating the mandatory use of physical signature such as Article 5 of the Turkish Electronic Signature Law as per which *“conducting of legal transactions mandatorily subject to an official procedure or a special ceremony provided by law and entering into guarantee agreements except for bank letter of guarantees by way of secure electronic signature is not permitted.”*

Similarly, top secret and secret documents along with documents with a special degree of secrecy have to be signed off physically as per the 2019/23 Turkish Presidency Decision. In the new Official Correspondence Regulation, the aforementioned exemptions have been accumulated under the definition “mandatory circumstance” to which apparently the new unique electronic signature system (EBYS) will not be applicable. Another type of circumstances excluded from the new Official Correspondence Regulation is named as “extraordinary circumstances” defined as circumstances, which may lead to security gap and negatively affect the Turkish state or administrations, if occurred. Long-running electricity cuts, non-functioning of EBYS for a long time due to hardware and software problems as a result of which the physical preparation of documents is required are also defined as extraordinary circumstances. Documents produced under mandatory circumstances and extraordinary circumstances shall be exchanged and maintained within physical environment conditions.

e-Correspondence Technical Guideline

Any document falling within the scope of the new Official Correspondence Regulation have to be produced in electronic environment by virtue of documents to be prepared in accordance with e-Correspondence Technical Guideline and to be affixed with secure electronic signatures as per its Article 4 of that Regulation. Such documents shall be exchanged with their correspondents and have to be kept in an electronic environment. Any document bearing a secure electronic signature shall not be separately printed and not signed by a signature in handwriting of which storage in physical environment is also not permitted.

Detailed Writing Rules

The new Official Correspondence Regulation set forth also rules for the number of documents to be produced by Turkish administrations in an electronic environment or under mandatory or extraordinary circumstances. The mentioned Regulation additionally stipulates the format of the document including its dimensions, type and size of character thereof. Accordingly, as per Article 7 of the new Official Correspondence Regulation, an optional use of “Times New Roman” in 12 fonts or “Arial” in 11 fonts will be mandatory. If required, Turkish administrations will be able to decrease the afore stated fonts to 9 fonts where communication section of the documents may be written in 8 fonts. The new Official

Correspondence Regulation set forth from A to Z all the rules the Turkish administrations have to comply with for putting together a document in an electronic environment, i.e. spaces to be allocated in the text, how to use a logo in an official document, abbreviations, headings to be used therein, numbering of such documents, where to put a date where to put a signature thereon, unique expressions to be used for signing off, picking up the addressees, how to express subject matters etc. The Regulation entails all kinds of templates where the rules of the Regulation will be applicable.

Exchange and Receipt of Documents

We believe that it is worthwhile to give information about the rules concerning the exchange and receipt of documents in an electronic environment provided in the new Official Correspondence Regulation.

According to Article 30 of the Regulation;

- It is essential that exchanging and receipt of documents signed with secure electronic signature are recorded by a third party authorized by the relevant legislation to operate in the electronic environment. However, exchanging and receipt of secure electronic signed documents between the administrations can be done within the framework of the agreements to be made by the parties and with another transmission mechanism provided that they are recorded.
- Documents signed with secure electronic signature can also be transmitted via data storage tools. In this case, the record regarding the sending and receiving process has to be kept.
- The administration is obliged to process the documents sent to it within the scope of the official correspondence and prepared in accordance with the e-Correspondence Technical Guide.
- The administration has the right to reject a document sent from another administration within the scope of official correspondence and not prepared in accordance with the rules defined in the e-Correspondence Technical Guide. In this case, the administration rejecting the document sent to it shall inform the sending administration until the end of the second working day following the date of receipt of the document.
- Documents signed with a secure electronic signature sent out of the administration within the scope of official correspondence are encrypted electronically when necessary. Encryption of electronic documents shall be done as described in the e-Correspondence Technical Guide. The encryption certificates to be used have to be obtained from authorized electronic certificate service providers.
- The administrations requesting that an encrypted document be sent to them in accordance with the encryption mechanism defined in the e-Correspondence Technical Guide shall provide an electronic encryption certificate for them. Electronic

encryption certificates created for administrations are shared over DETSIS. Administrations are obliged to accept documents sent to them within the scope of official correspondence from other administrations and encrypted in accordance with the e-Correspondence Technical Guide, provided that they have an electronic encryption certificate. Administrations may use encryption mechanisms other than the encryption mechanism defined in the e-Correspondence Technical Guide, provided that they mutually agree.

- If the Administration cannot decrypt a document within the scope of the official correspondence, which is encrypted as defined in the e-Correspondence Technical Guide, or if it decrypts the document and determines that the content of the document does not have the features defined for the encryption mechanism specified in the e-Correspondence Technical Guide, with the information describing the encrypted document transmitted to it until the end of the second working day following the day when the encrypted document was received, it notifies the contracting authority and records both this notification and the encrypted document transmitted to it. In case the administration does not report, the encrypted document sent is deemed to be opened, its content has been accessed and it is deemed that this document has been prepared in accordance with the e-Correspondence Technical Guide.

Timing for Fulfilling Opinion, Information, and Documentation Requests by the Administrations

According to Article 33 of the new Official Correspondence Regulation, requests for opinion, information, and documents inside and outside the administration shall be written daily. The administrations shall fulfil the requests for documents that are not specified in time, without prejudice to the special provisions in the relevant legislation, at least five working days after the request is received by them. Any information and opinion requests not specified in the deadline shall be fulfilled by the relevant administration within fifteen business days at the latest after the request is received. The date of request receipt, the time of entry of the related letter to the EBYS for electronic requests; for the requests received in the physical environment, it shall refer to the time when the relevant letter enters EBYS or corporate document recording system.

Non-Complying Documents

Any replies to documents not adequately put together as per the new Official Correspondence Regulation, the addressee may be warned to comply with the relevant provision of the Regulation. If the non-compliance continues, except for documents with a deadline subsequent non-compliant documents may be rejected.

Initiative Granted to Administrations

e-Correspondence Technical Guideline explicitly states that except for any documents exchanged by the administrations under mandatory or extraordinary circumstances, all documents to be exchanged by the administrations have to comply with the rules of the new



Official Correspondence Regulation. According to paragraph 2 of Article 36 of the Regulation, administrations have been granted certain room for determining additional rules in producing documents in an electronic environment, however, such rules should not be contradictory with the rules of the new Official Correspondence Regulation.

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