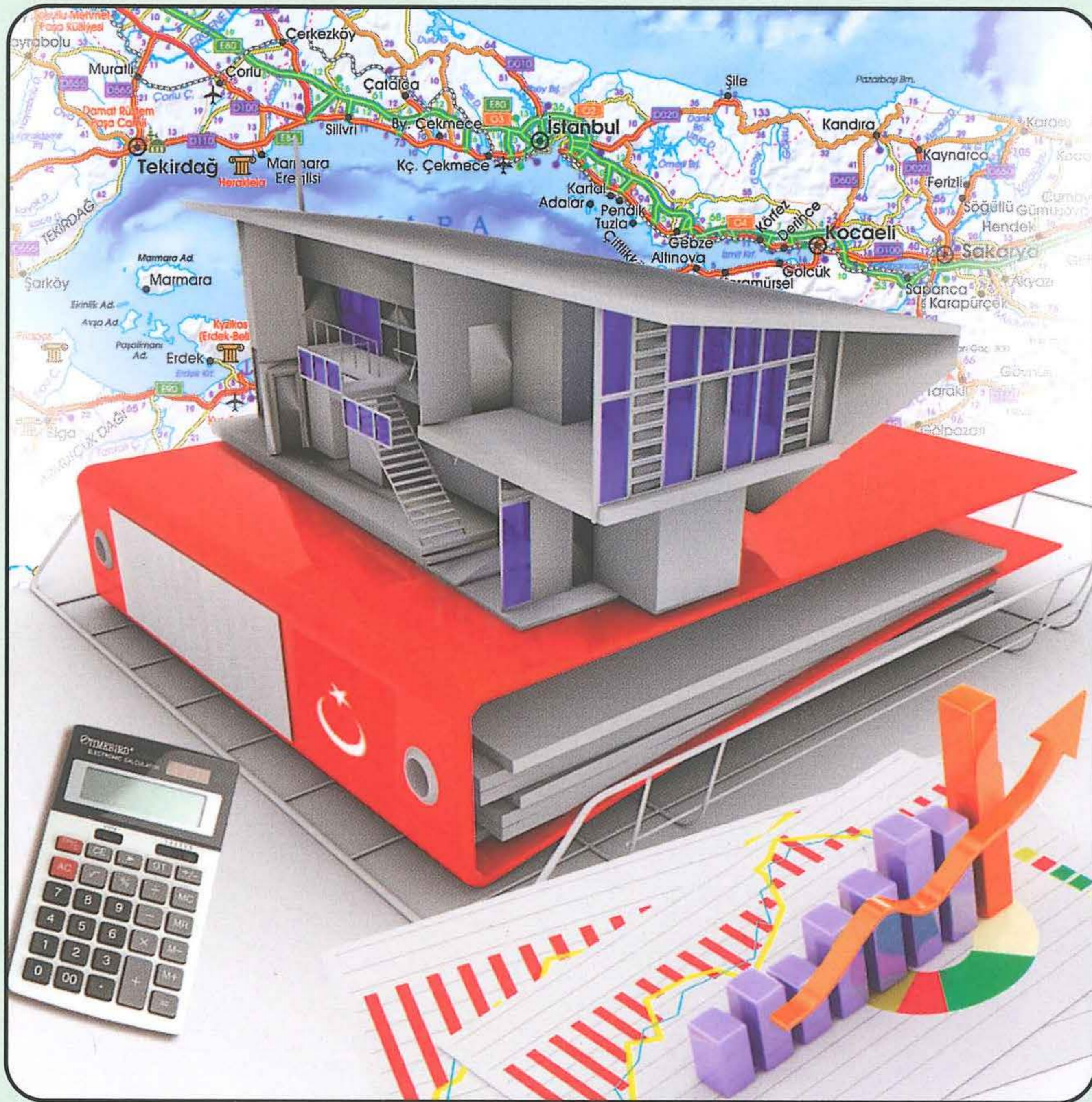


COMPANY ESTABLISHMENT AND REGISTRATION PROCEDURES IN TURKEY



ISTANBUL
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COMMERCE**

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COMPANY ESTABLISHMENT AND REGISTRATION PROCEDURES IN TURKEY

The former Turkish Commercial Code had been regulating business life in Turkey for almost 55 years; it was replaced by the New Turkish Commercial Code which came into effect as of 1 July 2012. Challenges regarding corporate governance have encouraged the Turkish lawmaker to introduce a new progressive commercial law system. The new Code responds to major changes and developments in the local and global business environment.

Major amendments in the New Turkish Commercial Code can be outlined as follows:

Shareholding Structure:

The New Turkish Commercial Code allows the establishment of joint stock companies (*anonim şirket*) or limited companies (*limited şirket*) with a single

shareholder.

Board of Directors:

Under the New Turkish Commercial Code, in compliance with the EU legislation, and in line with the single-shareholder joint stock companies, the board of directors of a joint-stock company may comprise of a single person instead of at least three members.

The New Turkish Commercial Code does not require physical presence of board members. It allows board meetings to be held in an electronic environment.

Besides, legal entities may be appointed as board members. If a legal entity is elected as a member of the board of directors, an individual, designated by the legal entity, shall fulfill the duties on behalf of such legal entity and also be registered and announced.

Registered Capital System:

The New Turkish Commercial Code offers non-public (*private*) companies the opportunity to adopt a registered capital system.

Intellectual Property Rights:

Intellectual property rights may be contributed as capital in-kind. In order to contribute such assets as capital in-kind, those assets must be transferable, and also eligible for a valuation in cash.

1.The Principle Forms of Business Units in Turkey

Within the framework of the new Turkish Commercial Code, two main alternatives are provided for establishing a business activity: Merchants, and Commercial Partnerships and Cooperatives. Foreign businesses can also open a liaison office or branch in Turkey.

In this section, you can find an overview of these alternatives in Turkey.

1.1.Merchant

According to Article 12 of new Turkish Commercial Code, any person who operates a commercial undertaking even only in part under his own name is called a merchant. The person who is running the commercial establishment individually is accepted as a firm.

Merchants must choose and use a trade name in line with the provisions of the Turkish Commercial Code, register their undertakings with the trade registry and

keep commercial books; merchants are also subject to bankruptcy for their debts of any kind (Article 18 of Turkish Commercial Code)

A merchant's trade name consists of the name and last name of the merchant. The trade name should not be misleading for third parties; it is therefore not allowed to use any name which can be associated with commercial partnerships.

1.2. Commercial Partnership

Commercial companies include collective companies (*kollektif şirketler*), commandite companies (*komandit şirketler*), joint-stock companies (*anonim şirketler*) and limited companies (*limited şirketler*).

For the purposes of Turkish Commercial Code, collective and commandite companies shall be regarded as partnership companies, and joint stock, limited and commandite companies the capital of which are divided into shares shall be regarded as capital companies.

1.2.1. Joint Stock Company

Joint stock company is a legal entity with a fixed capital divided into shares and liability of which is limited to its assets. It may be established by at least one shareholder; natural person(s) or legal entity(ies).

The share capital of a joint stock company shall not be less than 50,000 Turkish Liras and in public joint stock companies that have adopted registered capital system the initial capital shall not be less than 100,000 Turkish Liras.

The shareholders' liability towards the company is limited to the payment of subscribed share capital and any extra payment and ancillary act obligations stipulated in the articles of association.

As a general rule, establishment of a joint stock company is not subject to legal permission. However certain regulated entities, such as banks, insurance companies, factoring companies, holding companies, companies operating as foreign currency exchange offices,

companies dealing with public warehousing, companies that are subject to Capital Markets Law, companies that are founders and operators of free zones should be established as joint stock companies, and their establishment is subject to the approval of Ministry of Customs and Trade.

1.2.2. Limited Company

Limited companies is founded by one or more individuals or legal persons under a trade name, with a certain stock capital.

The shareholders' liability towards the company is limited to the payment of subscribed share capital and any extra payment and ancillary act obligations stipulated in the articles of association.

Limited company can be founded for any economic purpose and scope that are not forbidden by law. (Article 573 of Turkish Commercial Code)

The capital of the company should be minimum 10,000 Turkish Liras. Capital amounts to be subscribed

in by shareholders can be of diverse amounts, but should be at least 25 Turkish Liras or multiples of this amount.

1.2.3. Collective Company

A collective company is established by individuals in order to operate a commercial enterprise under a trade name and where the liability of any shareholder is not limited against the creditors of the company (Article 211 of Turkish Commercial Code)

According to Article 213 of the Commercial Code, the following provisions have to be written in the articles of association of collective companies;

- a) The articles of association of a collective company shall be in writing, and also the signatures on the articles of association have to be approved by a notary public,
- b) That the company is a collective company,
- c) Trade name and registered office of the company,

d) Field of activity of the company (Article 213 of Turkish Commercial Code),

e) The amount of money incurred by each shareholder to be subscribed as capital; the value of any in kind capital and how this value is appreciated; and if personal effort is contributed as capital, the nature, scope and value of such effort,

f) Names and last names of the persons that are authorized to represent the company and whether they are authorized to subscribe individual or collective signatures.

According to Article 213 of Turkish Commercial Code, the shareholders may include any provision in the articles of association provided that these are not contrary to the statutory provisions. The limits of the field of the activity of the company have to be indicated clearly in the articles of association.

The trade name of a collective partnership contains the names and last names of at least one partner and a reference to the partnership and its type.

1.2.4. Commandite Company

A company that is established in order to operate a commercial enterprise under a trade name, and where the liability of one or several of the partners are not limited against the creditors of the company whereas the liability of the other partners is limited by a certain capital is called a commandite company.

Partners with unlimited liability are called active partners, and partners with limited liability are called dormant partners.

The active partners have to be natural persons. The legal persons can only be dormant partners.

The trade name of partnership in commandite companies (whether limited partnership or companies of which capital is divided into shares) shall contain the name and last name of at least one of the active partners and a reference to the partnership and its kind. The names and last names of dormant partners in these kinds of partnerships cannot be put in the partnerships trade name.

1.3. Other Forms of Doing Business in Turkey

1.3.1. Branch

Foreign companies may operate through a branch in Turkey. The branch office of a foreign entity does not constitute a separate legal entity. Accordingly it can neither acquire any rights nor any liabilities.

Every branch shall use the trade name of its head office by indicating that it is a branch. Additions concerning the branch can be made to this trade name.

Trade name of a branch of a foreign company shall indicate where its head office and branch are situated and the fact that it is a branch.

1.3.2. Liaison Office

Liaison offices are a special type of office the main activity of which is to conduct market research and feasibility studies and to search for investment opportunities in the Turkish market on behalf of their head offices.

They are not allowed to be involved in any commercial activity.

2. Company Establishment Procedures

Although the required documents for establishing the above described companies are almost the same, it differs in preferred type or way of participation to the partnership.

As before, a company can start operating its business activities after the approval and registration by the relevant Trade Registry Office.

Since 1996, Istanbul Trade Registry Office has been fulfilling its activity within Istanbul Chamber of Commerce, with its branches located in Kadıköy, Perpa and Giyimkent.

The documents submitted to trade registry offices are reviewed to confirm that they comply with the

applicable legislation and do not violate any third party rights.

All documents and statements described here below should be submitted to the trade registry offices located at the province where the company or partnership will be established.

All registration formalities are subject to fees declared annually by Ministry of Finance, and the fees for publication in Trade Registry Gazette are determined by Union of Chambers and Commodity Exchanges of Turkey in Ankara.

2.1. Documents Required for Merchant Registration

1. Petition (must be signed by the merchant. If it is signed by proxy, the original or notarised copy of the power of attorney must be attached.),
2. Company name certified by a notary public

(contains the information on residential address of the merchant, business address, scope of business, commencement date of operation, nationality, company name and the three specimen signatures and Turkish tax identification number of the merchant under the company name.),

3. Chamber Registration Statement (signed by the merchant and must bear the photo of the merchant),
4. For foreigners, a copy of the passport (translated and certified by notary public).

For foreigners residing in Turkey, notarised residence permit must be submitted.

The capital shall not be less than 100 Turkish Liras and if a capital exceeding 5000 Turkish Liras is brought into the business, it must be documented.

2.2. Documents Required for Establishing a Joint Stock Company

1. Petition (signed by the board of directors or by the members of board of directors who have representative authority. If it is signed by proxy the original or notarised copy of the power of attorney must be attached. The relevant Tax Office must be indicated.),
2. 3 copies of Establishment Declaration Form (Kuruluş Bildirim Formu) (If there is a foreign shareholder, 4 copies are required),
3. For foreign individuals, translated and certified copy of the passport, tax identification numbers obtained from tax offices or the foreigner identification number,

For foreign individuals residing in Turkey, notarised copy of the residence permit must be submitted.

4. 4 copies of notarised articles of incorporation,
5. Signature declarations of the authorized persons under the company name,
6. Founders' declaration (must be signed by the founders),
7. Bank receipt indicating the minimum amount of the share capital (according to Turkish Commercial Code or articles of association are paid (At least 25% of the nominal value of the shares subscribed in cash shall be paid before official registration, whereas the balance shall be paid within twenty-four months following the registration of the company.),
8. Original bank receipt (receipt from Halk Bankası indicating that the 4/10,000 of the capital is deposited to Turkish Competition Authority, or the EFT receipt signed and stamped "collected" - Account no: 80000011-IBAN:TR40 0001 2009 4520 0080 0000 11),

9. Chamber Registration Statement (must bear the photos of natural persons and be signed by authorised persons).

(A written statement by members of the board of directors who are not shareholders. The statement must include residence address, citizenship, Turkish identity number (if applicable) of the director. For foreign directors, Turkish tax identification number or the identity number issued by the relevant foreign country must also be included, and a notarized copy of the passport and, if resident in Turkey, notarized copy of the residency permit must be attached.)

(If a legal entity is appointed as the member of the board, an individual representative (acting on behalf of the company) must be appointed by such legal entity and a notarized copy of the relevant corporate resolution must be submitted.)

If the establishment of the company is subject to permission, then the permission of the Ministry of Customs and Trade and any other relevant authority must also be

submitted.

2.3. Documents Required for Establishing a Limited Company

1. Petition (signed by all the managers of the company. If it is signed by proxy the original or notarized copy of the power of attorney must be attached. The relevant Tax Office must be indicated.),
2. 3 copies of Establishment Declaration Form (*Kuruluş Bildirim Formu*) (If there is foreign share holder, 4 copies are required),
3. 4 copies of notarized articles of incorporation,
4. Signature declarations of the authorized persons under the company name,
5. Founders' declaration (must be signed by the founders),

6. Bank receipt indicating the minimum amount of the share capital according Turkish Commercial Code or articles of association is paid (At least 25% of the nominal value of the shares subscribed in cash shall be paid before official registration, whereas the balance shall be paid within twenty-four months following the registration of the company.),

7. Original bank receipt (receipt from Halk Bankası indicating that the 4/10,000 of the capital is deposited to Turkish Competition Authority, or the EFT receipt signed and stamped "collected" - Account no: 80000011-IBAN:TR40 0001 2009 4520 0080 0000 11).

(A written statement by members of the board of managers who are not shareholders. The statement must include residence address, citizenship, Turkish identity number (if applicable) of the manager. For foreign directors, Turkish tax identification number or the identity number issued by the relevant foreign country must also be included, and a notarized copy of the passport and, if

resident in Turkey, notarized copy of the residency permit must be attached.)

(If a legal entity is appointed as the member of the board, an individual representative must be appointed by such legal entity and a notarized copy of the relevant corporate resolution must be submitted.)

2.4. Documents Required for Establishing a Collective Company

1. Petition (signed by the founders. If it is signed by proxy the original or notarised copy of the power of attorney must be attached. The relevant Tax Office must be indicated),
2. 4 copies of Establishment Declaration Form (Kuruluş Bildirim Formu),
3. 4 copies of notarised articles of incorporation,

4. Signature declarations of the authorised persons under the company name,

 5. Chamber Registration Statement (must bear the photos of the partners).
- 2.5. Documents Required for Establishing a Commandit Company**
1. Petition (signed by the authorized person. If it is signed by proxy the original or notarised copy of the power of attorney must be attached. The relevant Tax Office must be indicated.),

 2. 4 copies of Establishment Declaration Form are required,

 3. Chamber Registration Statement (must bear the photos of natural partners),

 4. Signature declarations of the authorised persons under the company name.

2.6. Documents Required for Establishing a Branch Office

1. Petition (must be signed either by an authorized signatory under the Company seal or by proxy, if the latter, then the original or the notarised copy of the attorney is to be attached to the petition),
2. 3 copies of Establishment Declaration Form (Kuruluş Bildirim Formu),
3. A Chamber Registry Declaration Form Statement (Oda Kayıt Beyannamesi),
4. The original copy of the translation of the company's articles of association and its translation (2 copies) (These documents should either be apostilled or certified by Turkish consulates in the country where the company is registered and these approved documents should be notarized and translated into Turkish),
5. The establishment and current status documents

showing the registration and current legal status of the company and its translation (2 copies) (These documents should either be apostilled or certified by Turkish consulates in the country where the company is registered and these approved documents should be notarized and translated into Turkish),

6. The Company's resolution to open a branch (an original and two copies of these documents which should either be apostilled or certified by Turkish consulates in the country where the company is registered. All of the approved documents should be notarized and translated into Turkish),
7. A power of attorney issued by the company for its representative, assigning full representation and accountability (one of the representatives must be resident of Turkey),
8. Signature declaration of the branch representative or representatives under the branch title,

9. If there is a foreign representative of the branch, 2 copies of the passport (translated and certified by authorized persons),

10. The original copy of the declaration which contains the information of home address, business address, scope of business, commencement date of operation, nationality, company name and the name of the representatives of the main company and its translation (it should be signed by the authorized signatory of the main company).

2.7. Documents Required for Establishing a Liaison Office

The investors have to obtain permission from the General Directorate of Foreign Investment of Turkey.

The following documents must be submitted to the General Directorate of Foreign Investment:

1. The Certificate of Activity certified by the Turkish Consulate or approved as per the provisions of the

Convention Abolishing the Requirement of Legislation for Foreign Public Documents, prepared based on of the Hague Conference on International Private Law,

2. The balance sheet and income statement or the operational report of the investors' parent company,
3. The power of attorney/certificate of authority disclosing the name of the person responsible for operating the liaison office in Turkey,
4. A power of attorney is also required in case a person is required to perform duties necessary for establishing the company.

**CONTACT DETAILS OF ISTANBUL TRADE
REGISTRY OFFICE**

HEAD OFFICE

Istanbul Chamber of Commerce
Istanbul Trade Registry Office
Reşadiye Cad. 34112
Eminönü/Fatih- İstanbul/TURKEY

BRANCH DETAILS

Giyimkent Branch

Turgut Reis Mahallesi Barbaros Caddesi
Giyimkent Sitesi E.3-B 135 No:41 Esenler-İstanbul

Kadıköy Branch

Hasanpaşa Eğitim Mahallesi Kasap İsmail Sokak
Sadıkoğlu Plaza No:5 Kadıköy-İstanbul

Perpa Branch

Perpa İş Merkezi B Blok K.13 No:2269-2270
Okmeydanı/Şişli- İstanbul

Call center : 90 212 444 0 486

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Istanbul, the world city, can be best served by institutions operating at world standards. Founded in 1882, Istanbul Chamber of Commerce is an excellent example of such institutions with its pioneering functions, its advanced network, expertise and knowledge as well as its modern dynamic and productive structure. This publication gives information on business establishment and share acquisitions by foreign investors, together with a list of required documentation. It is intended to be a useful manual for foreigners, seeking for a practical information.

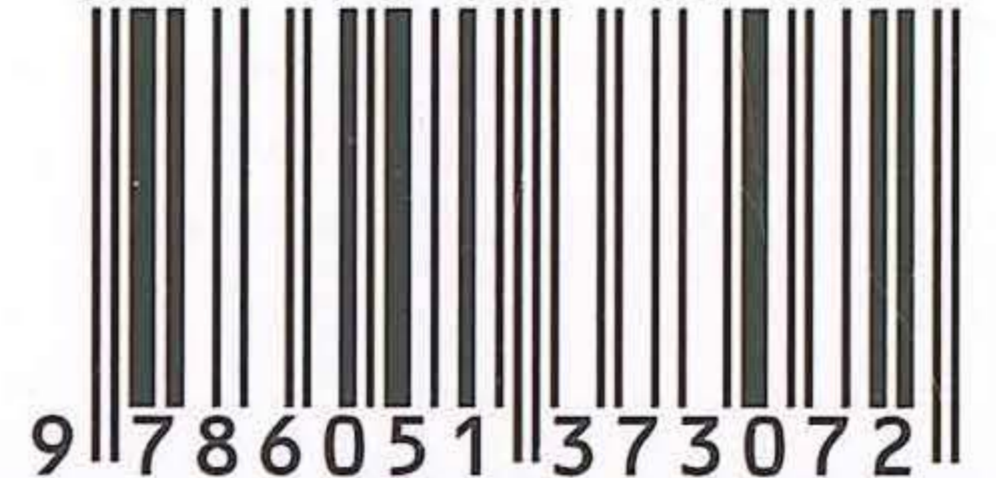


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