

Lease Agreements under Turkish Law

Enacted in 1955, Law No. 6570 on Real Property Leases (the **Law**) is the main piece of legislation governing landlord-tenant relationships in Turkey. The lease of all “covered” (*i.e.*, surrounded by walls and having a roof) real properties, which are located (i) within the boundaries of a municipality or (ii) in a harbor, pier or railway station, are subject to the Law. The provisions of the Turkish Code of Obligations No. 818 (the **TCO**) that do not contradict with the Law are also applicable to the above-mentioned leases.

The intent of the Law is to protect the tenant, and the landlord has limited grounds to claim the tenant's eviction. Furthermore, the Law's interpretation by courts and thus relevant precedents to date are even more pro-tenant.

The Lease Agreement

Neither the Law nor the TCO stipulates any specific requirement with regards to the form of lease agreements. Accordingly, parties may even enter into verbal lease agreements. However, for ease of proof, it is highly recommended to execute a written lease agreement including essentials such as lease term, lease (together with its annual increase), deposit amount, etc.

Lease Term and Automatic Renewal

Term. In accordance with the Law, the tenant and landlord may freely determine the term of the lease agreement they execute. The duration of the term has effects, among others, on the (i) stamp tax to be paid by the parties, (ii) eviction of the tenant, and (iii) unilateral termination right of the tenant.

Termination. The Law provides that the tenant can unilaterally terminate a lease agreement without any reason provided that s/he serves a 15-day prior notice on the landlord before the lease term's expiration. On the contrary, the landlord is not vested with such right and can take legal action against the tenant only if one of the grounds for eviction specified under the Law (or another ground specified under the TCO) exists.

Automatic renewal. A major difference between the Law and the relevant laws of other European countries (*e.g.*, France) is that upon expiry of its term, the lease agreement is automatically renewed with the same term and conditions for a period of one year, provided that such lease agreement has not been terminated by the tenant 15 days prior to the expiration of its term. For the avoidance of doubt, even where (i) the lease agreement explicitly provides that it shall be automatically terminated upon expiry of its term and (ii) the tenant does not unilaterally terminate the agreement as explained above, such lease agreement is automatically renewed. This is to say, the provision of the Law regarding automatic renewal is mandatory (*ordre public*), which means parties cannot agree to the contrary.

Annotation with the Title Deed Registry

Upon mutual agreement and in return for a fee to be paid by the tenant, an annotation (*serh*) with regards to the lease agreement can be registered with the relevant title deed registry.

The annotation is not a condition for the validity of the lease agreement yet has the following benefit for the tenant: In the event the leased property is sold by the landlord or somehow transferred to a third party (*e.g.* sale through public auction), the annotation prevents the new landlord from evicting the tenant. Otherwise, the new landlord has the right to file an eviction lawsuit within six months provided that a written notification is sent to the tenant within one month from the transfer date.

Lease, its payment and increase

Under Turkish law, there is no restriction with regards to the determination of leases and the parties may mutually determine it in Turkish Lira or foreign currency.

In case the lease in a lease agreement executed for residential purposes is above TL 500 (approximately EUR 250), the tenant must deposit it to the landlord's bank account. On the other hand, in workplace leases, the tenant must deposit the lease to the landlord's bank account regardless of its amount.

If the lease is fixed over Turkish Lira, the parties to the lease agreement may mutually agree on the applicable rate of increase. However, according to longstanding precedents of the Turkish Court of Appeals, the rate of increase in lease agreements cannot exceed the wholesale price index, which is annually announced as determined by the Statistics Institution of Turkey (*Turkiye Istatistik Kurumu*). Under the Law, the lease cannot be increased if it is agreed on a foreign currency. To illustrate this by way of an example, in a lease agreement executed for a five-year period where the lease is in Euro, such lease shall remain fixed throughout the entire term of the agreement. This principle is also applicable for eventual extensions of the agreement term. Nevertheless, upon expiry of the agreement term, either party may file a lease determination or a lease adjustment lawsuit before the relevant court.

Sub-lease of the leased premises

Pursuant to the Law, unless otherwise provided in the lease agreement, a tenant cannot sub-lease the leased premises or assign its right of use to a third party. Failure to comply with this provision may result in the landlord filing a lawsuit and claiming both the eviction of the sub-lessee from the leased premises and termination of the lease agreement entered into with the sub-lessor (*i.e.*, tenant).

Eviction of tenant

As mentioned above, the Law has been drafted with the intent to protect tenant rights. This is why the Law exhaustively stipulates the cases where the landlord can file an eviction lawsuit or initiate an execution proceeding against the tenant. Additionally, the landlord may always claim the tenant's eviction in accordance with the provisions of the TCO, which are complementary to the Law.

The Draft TCO

The Draft TCO is currently being discussed before the Turkish Parliament. Once entered into force, it will abrogate the Law and bring ground-breaking modifications to the Turkish legislation on leases.