

PANORAMIC

INSURANCE & REINSURANCE

Türkiye

LEXOLOGY

Insurance & Reinsurance

Contributing Editors

William D Torchiana, Marion Leydier and Nicholas F Menillo

Sullivan & Cromwell LLP

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Contributors

Türkiye

Cavus & Coskunsu Law Firm

CAVUS & COSKUNSU
LAW FIRM

Çağlar Coşkunsu

caglar@cavus-coskunsu.com

Burak Çavuş

burak@cavus-coskunsu.com

REGULATION

Regulatory agencies

Identify the regulatory agencies responsible for regulating insurance and reinsurance companies.

The Ministry of Treasury and Finance (MTF) is the main regulatory body concerning state supervision of insurance and reinsurance activities. With Presidential Decree No. 47, issued by the President of Türkiye, the Insurance and Private Pension Regulatory and Supervisory Organisation and Board were established on 18 October 2019.

MTF is acting as the supervising authority through the use of the Insurance and Private Pension Regulatory and Supervisory Organisation and Board, which are the acting regulatory authorities with the following duties:

- exercising the duties and powers in respect of insurance and private pensions arising from:
 - [the Law on Road Traffic No. 2918 of 13 October 1983](#);
 - [the Law on Individual Pension Saving and Investment System](#) No. 4632 of 28 March 2001;
 - [Agricultural Insurance Law No. 5363](#) of 14 June 2005;
 - [the Insurance Law No. 5684 of 3 January 2007](#);
 - [Turkish Commercial Code No. 6102](#) of 13 January 2011; and
 - [Catastrophe Insurance Law No. 6305](#) of 9 May 2012;
- drafting, applying and supervising the insurance and private pension legislation;
- taking measures to improve insurance and private pension practice to protect the insureds and participants, applying these measures by themselves or by ordering the relevant institutions to execute the measures and oversee the execution;
- examining, inspecting and investigating persons and institutions who practise in the insurance and private pension field;
- to contribute to the decision-making regarding insurance business, private pensions and other financial markets, preparing reports about insurance business, private pensions and other financial markets by reviewing and taking into consideration domestic and international developments, participating and providing opinions to the workshops on these subjects, and examining and evaluating the information, records and documents together with inspections and overseeing the results;
- carrying out research and other types of work regarding the legislation and application of its duties and providing opinions on the same;
- defining the organisation's strategy, performance criteria, purpose and mission, and standard quality of service, establishing human resource and working policies, and establishing the organisation's service divisions and their duties;
- discussing and deciding on the proposed budget prepared under the strategic plan, purpose and mission of the organisation;
-

approving the reports on the performance and financial standing of the organisation; and

- discussing and deciding on the proposals pertaining to buying, selling and leasing property.

Law stated - 17 Nisan 2025

Formation and licensing

What are the requirements for formation and licensing of new insurance and reinsurance companies?

Under article 3 of the Insurance Law, legal entities intending to be involved in insurance and reinsurance activities shall be incorporated under the legal structure of a joint-stock company or cooperative. Companies engaged in the intended activities are not permitted to be involved in other fields of activity. Accordingly, the requirements of the founders (either real persons or legal entities) of insurance and reinsurance companies are in general terms defined as follows:

- they must not have been bankrupted;
- they must hold financial assets and have a good reputation; and
- they must not have a criminal record concerning financial crimes.

Regarding the share certificates of insurance and reinsurance companies, certificates must be issued as a cash offer for their equity. The last paragraph of article 3 of the Insurance Law provides that the activities of foreign insurance and reinsurance companies shall be regulated by the President of Türkiye. Currently, the requirements for foreign entities aiming to enlarge their engagement of insurance and reinsurance business in Türkiye are stipulated in the Decree on Insurance Sector's International Activities (the Decree) published in Official Gazette No. 26602 on 3 August 2007. According to article 1 of the Decree, a foreign entity is permitted to carry out its business in Türkiye by forming a branch office. The foreign company must not have been banned from carrying out business in the countries where the activities are performed, and the capital to be assigned in Türkiye shall not be less than the capital determined for insurance and reinsurance companies directly established in Türkiye. Under article 2 of the Decree, the activities of foreign insurance experts are based on the principle of reciprocity. However, experts appointed by foreign reinsurance companies are exempted from this principle while carrying out their duties in Türkiye. According to article 3 of the Decree, insurance agents wishing to conduct their activities in Türkiye are subject to the same provisions stipulated for Turkish insurance agents. Additionally, a foreign insurance agent carrying out activities in person must be resident in Türkiye, whereas a branch office shall be established for the insurance agent aiming to perform the activities under the structure of a legal entity. Insurance agents are entitled to operate solely for, and on behalf of, Turkish insurance companies. [The Regulation on the Establishment and Rules of Procedures for Insurance and Reinsurance Companies published in Official Gazette No. 26623](#) on 24 August 2007 (the Regulation) contains the provisions for licence applications for foreign insurance and reinsurance companies seeking to open branch offices in Türkiye.

Law stated - 17 Nisan 2025

Other licences, authorisations and qualifications

What licences, authorisations or qualifications are required for insurance and reinsurance companies to conduct business?

Under article 5 of the Insurance Law, insurance and reinsurance companies shall obtain a licence from the MTF to conduct their business. Insurance and reinsurance companies are permitted to conduct their business in only one of the fields among the life insurance and non-life insurance groups. The companies shall be bound to increase the paid capital in the amount designated by the Insurance and Private Pension Regulatory and Supervisory Organisation and Board depending on the field so chosen provided that the same is not less than 40 million Turkish lira. Companies that do not apply to obtain the licence within one year of finalisation of company formation transactions may not use 'insurance company' or 'reinsurance company' in their company titles.

The reasons for rejecting an application for a licence are regulated in article 6 of the Insurance Law, and the reasons for annulling the licence are regulated in article 7.

The Regulation sets out the conditions to be met for obtaining and renewing licences, the documents to be procured and the conditions of assessment while considering the applications and also the announcement of annulment of licences.

The provisions stipulated in the Turkish Commercial Code (TCC) in respect of the formation of joint-stock companies and cooperatives shall be complied with during the establishment of insurance and reinsurance companies.

Law stated - 17 Nisan 2025

Officers and directors

What are the minimum qualification requirements for officers and directors of insurance and reinsurance companies?

The requirements are stipulated in both the Insurance Law and the Regulation. According to article 8 of the Regulation, officers and managers working in the accounting departments of companies must know about insurance accountancy systems and Turkish financial reporting standards. Managers are required to have a minimum of three years' professional experience. Most positions require at least a university degree.

The requirements for the directors and deputy directors of branch offices of foreign insurance and reinsurance companies are the same as those stipulated for Turkish entities. According to article 4(3) of the Insurance Law, holders of both positions must have a university degree in at least one of the following subjects: insurance, economics, management, law, public finance, mathematics, statistics, actuary studies or engineering; and must have 10 years' professional experience (directors) and seven years' professional experience (deputy directors).

Law stated - 17 Nisan 2025

Capital and surplus requirements

What are the capital and surplus requirements for insurance and reinsurance companies?

Under a circular published by the Insurance and Private Pension Regulatory and Supervisory Organisation and Board numbered 2021/24, the paid capital requirement for non-life insurance firms was initially determined to be a minimum of 36.6 million Turkish lira. However, on 3 February 2022, the Insurance and Private Pension Regulatory and Supervisory Organisation and Board later issued a second circular further increasing the minimum paid capital requirement for both life and non-life insurance firm to 40 million Turkish lira. However, note that the requirement for the minimum capital amount increases for each branch or field; therefore, a detailed list is issued by the circular with the same date to determine the minimum amount of capital for each branch of insurance and reinsurance companies.

Law stated - 17 Nisan 2025

Reserves

What are the requirements with respect to reserves maintained by insurance and reinsurance companies?

Insurance and reinsurance companies are obliged to maintain reserves. The broad principles to be complied with are described in article 16 of the Insurance Law, and the particularities are set out in a regulation published in the Official Gazette on 7 August 2007. The reserves required to be maintained by insurance and reinsurance companies consist of the following:

- unearned premium reserves;
- ongoing risks reserves;
- provisions for outstanding claims;
- mathematical reserves;
- equalisation provisions; and
- provisions for discount and bonus.

Under article 10A of the Regulation, insurance and reinsurance companies are obliged to maintain an actuarial department consisting of a sufficient number of actuaries, assistants and staff to ensure that the reserves and pricing are calculated accurately.

Law stated - 17 Nisan 2025

Product regulation

What are the regulatory requirements with respect to insurance products offered for sale? Are some products regulated by multiple agencies?

The relevant ministries publish the general provisions for each insurance product. As long as the product may be offered for sale under the licence that the insurance or reinsurance company has already obtained, no prior approval shall be required. However, if the product

falls within the ambit of another licence, the relevant licence must be obtained before being offered for sale. However, article 13 of the Insurance Law states that insurance companies may not refuse to provide compulsory insurance, such as compulsory automobile liability insurance and compulsory earthquake insurance.

Law stated - 17 Nisan 2025

Regulatory examinations

What are the frequency, types and scope of financial, market conduct or other periodic examinations of insurance and reinsurance companies?

Although the operations, assets, affiliates, receivables, equities and liabilities, and all other elements that affect the financial and administrative structure of insurance and reinsurance companies are supervised by the Insurance Supervisory Board, as per article 28 of the Insurance Law, the frequency and the periodical intervals are not stipulated by law. Under Presidential Decree No. 47 of 18 October 2019, the Insurance and Private Pension Regulatory and Supervisory Organisation will make audits when the organisation is fully functional. However, as for the market research of insurance and reinsurance companies, the companies should prepare a three-year business plan about their market share objectives, estimations and strategies, which should be reviewed periodically. However, the law and regulations do not make any reference to how to research preparing this business plan.

Law stated - 17 Nisan 2025

Investments

What are the rules on the kinds and amounts of investments that insurance and reinsurance companies may make?

Under article 3 of the Insurance Law, insurance and reinsurance companies cannot engage in businesses other than insurance activities and those directly related to insurance activities. In this connection, insurance or reinsurance companies cannot make investments unless the business in which such companies would invest is directly related to insurance activities.

Law stated - 17 Nisan 2025

Change of control

What are the regulatory requirements on a change of control of insurance and reinsurance companies? Are officers, directors and controlling persons of the acquirer subject to background investigations?

Under article 4 of the Insurance Law, directors, general managers (and their deputies) and the auditors operate under the conditions where, according to article 4(3) of the Insurance Law, holders of both positions must have a university degree in at least one of the following subjects: insurance, economics, management, law, public finance, mathematics, statistics, actuary or engineering, and to have 10 years' professional experience (directors) and seven years' professional experience (deputy directors).

Directors of the acquirer shall have no criminal record, although no special provision is stipulated for officers. The conditions applied to the directors and auditors shall also apply to any person of equal or greater authority than a director, according to the same provision.

Under article 10 of the Insurance Law, the voluntary liquidation of insurance or reinsurance companies, or the merger or transfer of the same with the assets and liabilities or the partial or whole transfer of their portfolio, is subject to the consent of the MTF. The merger or transfer of the company or the portfolio shall be announced at least twice in a newspaper that is among the top 10 in terms of national circulation.

A share acquisition exceeding 10 per cent of the company's capital or a share transfer causing the decrease of the transferee's shares to less than 10 per cent requires permission to be obtained from the MTF.

The MTF shall conclude the application within three months. Any other transaction shall be notified to the MTF within one month. These procedures should always comply with the general provisions stated in the TCC.

Law stated - 17 Nisan 2025

Financing of an acquisition

What are the requirements and restrictions regarding financing of the acquisition of an insurance or reinsurance company?

There are no specific requirements regarding the financing of the acquisition of an insurer or reinsurer in Türkiye.

Law stated - 17 Nisan 2025

Minority interest

What are the regulatory requirements and restrictions on investors acquiring a minority interest in an insurance or reinsurance company?

There are no restrictions or regulatory requirements imposed specifically on the minority interests in the company. However, it is important to refer to the share transfer requirement as set out in article 9 of the Insurance Law where the shares, directly or indirectly, reach or exceed 10, 20, 33 or 50 per cent of the capital of an insurance or a reinsurance company, as well as share transfers that will cause the shares of a shareholder to achieve or to fall below such ratios. These are subject to authorisation by the MTF, otherwise, the share transfer shall not be registered in the share book of the company. It is essential that shareholders who directly or indirectly hold 10 per cent or greater of the capital or voting rights and beneficial interest, or an interest that is lower than the said ratios but that gives the privilege of nominating members to the executive boards of the management in such a manner as to influence management and supervision, meet the same criteria that are required for the founders of the insurance or reinsurance company. Insurance and reinsurance companies shall notify shareholders who fail to meet such criteria to the MTF. Shareholders who lose these qualifications shall not benefit from shareholder rights (except dividends). In that case, shareholder rights are exercised by the trustee.

Law stated - 17 Nisan 2025

Foreign ownership

What are the regulatory requirements and restrictions concerning the investment in an insurance or reinsurance company by foreign citizens, companies or governments?

Under article 3 of Foreign Direct Investment Law No. 4875, unless otherwise stipulated by special provisions or international agreements, foreign investment in Türkiye is permissible. Therefore, there are no specific requirements or restrictions concerning foreign investors who are subject to the same requirements and restrictions defined for Turkish insurance and reinsurance companies. However, existing foreign insurance and reinsurance companies are permitted to conduct their business in Türkiye by opening branch offices, but this rule does not prevent the incorporation of a new insurance company within Türkiye through foreign capital, and accordingly, most of the insurance companies in the Turkish market have foreign capital shares.

Law stated - 17 Nisan 2025

Group supervision and capital requirements

What is the supervisory framework for groups of companies containing an insurer or reinsurer in a holding company system? What are the enterprise risk assessment and reporting requirements for an insurer or reinsurer and its holding company? What holding company or group capital requirements exist in addition to individual legal entity capital requirements for insurers and reinsurers?

According to article 21A of the Regulation published in the Official Gazette on 7 August 2007, groups of companies containing an insurer or reinsurer in the holding company should report (along with their independent audit report) the following:

- a direct or indirect relationship between the companies (including but not limited to the corporate and management structures);
- the relationship between the corporate capital and the performance capacity;
- the reinsurance policy and its correlation with the risks;
- group guarantees and securities, and potential legal liabilities;
- internal group transactions and relevant risks; and
- the reporting chain and risk management process.

The group of companies should have a solid and reliable reporting system addressed directly or indirectly (through special audit companies) to the MTF; otherwise, the MTF shall revoke the authority of these companies to issue insurance policies.

Under article 3 of the Insurance Law, in addition to the capital requirements stated above, a holding company's financial condition shall be sufficient to perform insurance activities.

Law stated - 17 Nisan 2025

Reinsurance agreements

What are the regulatory requirements with respect to reinsurance agreements between insurance and reinsurance companies domiciled in your jurisdiction?

There are several reinsurance companies, four of which are currently active: Milli Reasurans TAS, Turk Reasurans, VHV Reasurans AS and ARTI-Re. There is no substantial capacity for reinsurance in Türkiye; therefore, the leading insurance companies place their risks mainly in foreign reinsurance companies. Turk Reasurans is owned by the MTF, which aims to provide reinsurance capacity to the Turkish insurance market. Therefore, the Turkish insurance sector conducts business in line with the practice of the international reinsurance market.

Reinsurance agreements are conducted in the following forms:

- proportional reinsurance treaties;
- quota share reinsurance treaties;
- surplus reinsurance treaties;
- non-proportional reinsurance treaties;
- excess of loss treaties; and
- stop loss treaties.

Law stated - 17 Nisan 2025

Ceded reinsurance and retention of risk

What requirements and restrictions govern the amount of ceded reinsurance and retention of risk by insurers?

Under Turkish law, there are no requirements and restrictions on insurance companies when placing their risks in reinsurance companies.

Law stated - 17 Nisan 2025

Collateral

What are the collateral requirements for reinsurers in a reinsurance transaction?

Insurance companies are required to maintain collateral as determined in article 17 of the Insurance Law in exchange for the undertakings stipulated in the insurance agreement they entered into in Türkiye. The provisions concerning the collateral are stated in article 4 of the Regulation on the Financial Structure of Insurance, Reinsurance and Pension Companies. As a general principle, insurance companies are obliged to procure collateral in proportion to the undertakings they assume.

The collateral for insurance companies involved in the life insurance field consists of the remaining amount after deducting the mathematical reserve corresponding to uncollected premiums from the total of the mathematical and pending reserves, whereas in the non-life insurance field, the collateral consists of one-third of the required capital stock. Under article 17 of the Insurance Law, the MTF may decide to reserve special collateral not exceeding 10 per cent of these amounts.

Law stated - 17 Nisan 2025

Credit for reinsurance

What are the regulatory requirements for cedents to obtain credit for reinsurance on their financial statements?

According to the Regulation on the Measurement and Assessment of Capital Requirements of Insurance and Reinsurance Companies and Pensions Companies, insurance and reinsurance companies are subject to specific rules for the preservation of the equity capital; therefore, any loan or credit to be added to the equity capital is subject to the approval of the MTF and should meet further requirements as mentioned in article 5 of the above Regulation. Apart from the foregoing requirement regarding the equity capital, there is no further regulatory requirement for cedents to obtain credit for reinsurance.

Law stated - 17 Nisan 2025

Insolvent and financially troubled companies

What laws govern insolvent or financially troubled insurance and reinsurance companies?

General provisions of the TCC shall be applied to insolvent or financially troubled insurance and reinsurance companies. However, under article 9 of the Regulation on the Financial Structure of Insurance, Reinsurance and Pension Companies, in the event of insolvency, the transfer of the portfolio may be realised with the consent of the MTF without waiting for the finalisation of the insolvency procedure.

'Financial troubles' are defined in article 11 of the Regulation on the Financial Structure of Insurance, Reinsurance and Pension Companies. The principal situations named therein are as follows:

- being unable to cover own capital, failing to present a payment schedule acceptable to the MTF or failing to comply with such payment schedule;
- own capital not covering the guarantee funds;
- failing to provide the collateral so requested;
- failing to perform the commitments described in the agreements or failing to pay insurance compensation within the legal time frame without any justified reason, or making a practice of delays in payment; and
- failing to hold the necessary reinsurance guarantee to insure its undertakings, especially for high-risk insurance groups.

In such events, the MTF shall warn the companies and, if the state of financial trouble continues, necessary precautions such as cessation of allocations of profit, an amendment to the pricing policy or an invitation to the company's general assembly to hold an extraordinary meeting as defined in articles 12 and 13 of the same Regulation shall be applicable.

Law stated - 17 Nisan 2025

Claim priority in insolvency

What is the priority of claims (insurance and otherwise) against an insurance or reinsurance company in an insolvency proceeding?

According to article 10(4) of the Insurance Law, the insured shall participate in the bankrupt's estate at the third rank.

Law stated - 17 Nisan 2025

Intermediaries

What are the licensing requirements for intermediaries representing insurance and reinsurance companies?

As per article 3 of the Decree, a foreign insurance agent carrying out activities in person in Türkiye must be resident in Türkiye, and a local branch office must be established for the insurance agent aiming to perform the activities under the structure of a legal entity. In addition to these requirements, under article 23 of the Insurance Law, insurance agents should be entered in the registry kept by the Union of Chambers and Commodity Exchanges of Türkiye. The insurance agent must also obtain a certificate of compliance from the MTF.

The qualifications required for an insurance broker are defined in the Insurance Law and the Regulation on Insurance and Reinsurance Brokers. Under article 6 of the Regulation, insurance brokers shall obtain the relevant licences from the MTF for conducting their business.

Activities of foreign insurance experts that involve activities of claims adjusters are based on the principle of reciprocity under article 2 of the Decree. The qualifications required for insurance experts are defined in article 5 of the Regulation on Insurance Experts. Persons willing to conduct this business must attend special courses, and after passing the corresponding examination must obtain a licence from the relevant chambers as authorised by the Union of Chambers and Commodity Exchanges. Different kinds of licences exist for each field of insurance. Article 21 of the Regulation on Insurance Experts confers responsibilities such as impartiality, privacy and secrecy on practitioners.

Law stated - 17 Nisan 2025

INSURANCE CLAIMS AND COVERAGE

Third-party actions

Can a third party bring a direct action against an insurer for coverage?

Under article 1478 of the Turkish Commercial Code (TCC), a third party suffering loss is entitled to bring a direct action against an insurer for coverage provided that the claim amount does not exceed the insurance amount. There are also special provisions entitling the suffering third party to bring a direct action. For example, under article 97 of Highway Traffic Law No. 2918, it is legitimate to bring a direct action against the insurer for coverage of the insurance amount specified in the compulsory automobile liability insurance.

Law stated - 17 Nisan 2025

Late notice of claim

Can an insurer deny coverage based on late notice of claim without demonstrating prejudice?

In liability insurance, in general, the insurer shall be obliged to notify the insurer within 10 days of the occurrence of the incident covered by the insurance policy under article 1475 of the TCC.

As a general principle, under article 1446 of the TCC, the insured shall be responsible for notifying the insurer of the occurrence of an insured risk without any delay. However, a delay in notification does not relieve the insurer of its liability. According to article 1446(2), unless the insurer previously acknowledged the risk in any other manner, it shall be entitled to make a deduction of the compensation to be paid if the delay in notification caused the compensation amount to increase. The assessment of deduction shall be based on the degree of negligence of the insured.

Under article 1420 of the TCC, all claims arising from an insurance policy are time-barred within two years of the date the claim becomes due, and all claims arising from insurance indemnity and insurance costs are time-barred for six years after the occurrence of the risk, except that the regulation of article 1482 of the TCC indicates a time bar of 10 years for claims related to liability insurance.

Law stated - 17 Nisan 2025

Wrongful denial of claim

Is an insurer subject to extra-contractual exposure for wrongful denial of a claim?

In the event of the occurrence of the insured risk, the insurer is liable to indemnify the insured pursuant to article 1409 of the TCC. The burden of proof rests on the insurer in the event of an allegedly legitimate denial of a claim. Normally, there is no extra-contractual exposure for wrongful denial of a claim, however, if the conduct of the insurer in denying the claim is interpreted as a malicious act or done in bad faith, any damages or losses thereby shall be claimable based on the general principle of honesty as defined in article 2 of the Civil Law.

Law stated - 17 Nisan 2025

Defence of claim

What triggers a liability insurer's duty to defend a claim?

In terms of liability insurance policies, the notice of the claim triggers the insurer's obligations under the policy. After the notice of the claim, liability insurers should notify the insured within five days as to whether the insurer would defend the claim on its cost under article 1476 of the TCC.

Law stated - 17 Nisan 2025

Indemnity policies

For indemnity policies, what triggers the insurer's payment obligations?

In liability insurance agreements, unless otherwise specifically agreed, the insurer shall be obliged to indemnify the suffering party for the insured's liabilities arising out of an incident that occurred during the insurance period even if the damage occurs at a later stage according to article 1473 of the TCC.

The obligation of the insurer to pay indemnity is principally described in article 1427 of the TCC. The indemnity obligation will become due within 45 days of the occurrence of the risk and presentation of the supporting documents to the insurer, but in any event on service of notification regarding the occurrence of risk. This period is prescribed as 15 days for life insurance. Any agreement aiming to discharge the insurer from paying default interest will be regarded as null and void.

Law stated - 17 Nisan 2025

Incontestability

Is there a period beyond which a life insurer cannot contest coverage based on misrepresentation in the application?

Under article 1435 of the TCC, the insured is liable to inform the insurer about the important issues on the subject matter of insurance. Failing that, under article 1439 of the TCC, the insurer may be entitled to either renege on the insurance contract or claim the premium difference.

Concerning life insurance, according to article 1498 of the TCC, if five years have elapsed since the beginning of the insurance coverage (including renewals), the insurer will not be entitled to renege on the insurance contract but can claim the difference in premium only if the insured fails to provide accurate information. Reneging may be possible if the lack of information is a wilful breach on the part of the insured.

Law stated - 17 Nisan 2025

Punitive damages

| Are punitive damages insurable?

Under Turkish law, there is no provision preventing the parties from entering into a mutual agreement for ensuring the coverage of punitive damages; therefore, the freedom of contract is respected in this regard.

Under article 4.3 of the General Conditions on Professional Liability Insurance, all types of administrative and judicial fines and punitive damages, as well as any expenses arising therefrom, shall be interpreted as cases excluded from coverage unless there is an agreement to the contrary.

Law stated - 17 Nisan 2025

| Excess insurer obligations

What is the obligation of an excess insurer to 'drop down and defend', and pay a claim, if the primary insurer is insolvent or its coverage is otherwise unavailable without full exhaustion of primary limits?

Under Turkish insurance law, there is no specific provision for the obligation of an excess insurer to 'drop down and defend' and pay a claim. However, unless the relevant policies contain provisions to the contrary, an excess insurer's liability shall continue.

Law stated - 17 Nisan 2025

| Self-insurance default

What is an insurer's obligation if the policy provides that the insured has a self-insured retention or deductible and is insolvent and unable to pay it?

There is no specific provision in this regard under Turkish insurance law. Therefore, such obligations are subject to the policy conditions. In liability insurance, since there is a remedy of direct action against insurers, any payment under the policy may be paid against the third parties even if the insured is insolvent and unable to pay the deductible or self-retention under a direct legal action against the insurer.

Law stated - 17 Nisan 2025

| Claim priority

What is the order of priority for payment when there are multiple claims under the same policy?

Under Turkish insurance law, there is no general provision in this regard. However, special provision may be found in article 96 of the Highway Traffic Law, where it is stated that if the total indemnity to which the interested parties are entitled is more than the insurance amount, a deduction shall be made on each insurer's indemnity amount on a pro rata basis by taking into account the size of the indemnity each party is entitled to from the insurer under normal circumstances.

In this respect, Turkish law tends to distribute the payments rather than put them in order of priority. Another special provision along the same lines can be found in compulsory liability insurance for passengers' transportation by sea.

Law stated - 17 Nisan 2025

Allocation of payment

How are payments allocated among multiple policies triggered by the same claim?

In liability insurance agreements, unless there is a specific agreement to the contrary, the insurer shall be obliged to indemnify the suffering party for the insured's liabilities arising out of an incident occurring during the insurance period according to article 1473 of the TCC. In light of the foregoing, subject to any expert findings, payments may be allocated. Allocation will be based on the size of the individual policies.

Law stated - 17 Nisan 2025

Disgorgement or restitution

Are disgorgement or restitution claims insurable losses?

There is no doubt that, pursuant to the TCC, the interest that is taken under insurance cover should be measurable by money. However, the TCC does not prevent the parties to an insurance contract from determining indemnification as restitution in kind, given that article 1427 of the TCC states that insurance indemnity will be paid in cash unless the parties agree otherwise.

However, regarding disgorgement, under article 1404 of the TCC, losses arising out of any act in breach of the mandatory rules, moral values, public order or personality rights cannot be covered by insurance, as disgorgement claims are not among insurable claims.

Law stated - 17 Nisan 2025

Definition of occurrence

How do courts determine whether a single event resulting in multiple injuries or claims constitutes more than one occurrence under an insurance policy?

In these kinds of incidents, Turkish courts generally hand over the case files to experts for their determination as to whether, or which, risks covered by the insurance policy have occurred, and each incident is examined on its own merits.

Law stated - 17 Nisan 2025

Rescission based on misstatements

Under what circumstances can misstatements in the application be the basis for rescission?

Under article 1435 of the TCC, statements that are disclosed or stated insufficiently or untruthfully to the insurer, or that are not disclosed at all, shall be deemed important if they would have led to the refusal of the insurance cover or conclusion of the same with different terms. According to article 1440 of the TCC, the insurer may exercise the right of rescission within 15 days of the date the insurer became aware of the breach of duty of disclosure, or request an additional premium. If the request for an additional premium is not accepted within 10 days, the insurer shall be deemed to have rescinded from the contract.

Law stated - 17 Nisan 2025

REINSURANCE DISPUTES AND ARBITRATION

Reinsurance disputes

Are formal reinsurance disputes common, or do insurers and reinsurers tend to prefer business solutions for their disputes without formal proceedings?

Reinsurance practice is very limited in Türkiye. However, there are few cases between Turkish insurers and foreign reinsurers. Usually, disputes are settled amicably with the involvement of the brokers. Litigation is more common in disputes between insurers and reinsurers.

Law stated - 17 Nisan 2025

Common dispute issues

What are the most common issues that arise in reinsurance disputes?

Reinsurance disputes arise from coverage issues. Sometimes, Turkish insurers make prompt payments to insureds under their policies, but then reinsurers may deny the claim with a view that the claim would not have been covered under the policy.

Law stated - 17 Nisan 2025

Arbitration awards

Do reinsurance arbitration awards typically include the reasoning for the decision?

Reinsurance arbitration awards do not usually exist in domestic jurisdictions. As far as insurance disputes are concerned, article 30 of the Insurance Law, which sets out the rules to be complied with in insurance arbitration, also refers to the provisions of the Law of Civil Procedure No. 6100 (the Law of Civil Procedure) for situations for which there are no specific stipulations. Under article 297 of the Law of Civil Procedure, an arbitrator is under an obligation to include in the award the consideration of the evidence, and the findings and factual grounds on which the award is based. Also, article 141 of the Turkish Constitution

states that any judicial decision will include its reasoning. Therefore, the reasoning will be included in arbitral awards.

Law stated - 17 Nisan 2025

Power of arbitrators

What powers do reinsurance arbitrators have over non-parties to the arbitration agreement?

Although there are no special reinsurance arbitrators in Türkiye, arbitrators can exercise some powers that are limited under the Turkish Civil Procedure Code through the courts; otherwise, they do not have powers that may be exercised directly upon non-parties to the arbitration.

Law stated - 17 Nisan 2025

Appeal of arbitration awards

Can parties to reinsurance arbitrations seek to vacate, modify or confirm arbitration awards through the judicial system? What level of deference does the judiciary give to arbitral awards?

Although there is no special reinsurance arbitration in Türkiye, an arbitration award may be challenged by way of a cancellation action before the Regional Court of Appeal, and may be further appealed before the Supreme Court of Appeal.

Law stated - 17 Nisan 2025

REINSURANCE PRINCIPLES AND PRACTICES

Obligation to follow cedent

Does a reinsurer have an obligation to follow its cedent's underwriting fortunes and claims payments or settlements in the absence of an express contractual provision? Where such an obligation exists, what is the scope of the obligation, and what defences are available to a reinsurer?

There is no practice in this regard.

Law stated - 17 Nisan 2025

Good faith

Is a duty of utmost good faith implied in reinsurance agreements? If so, please describe that duty in comparison to the duty of good faith applicable to other commercial agreements.

Article 32 of the Insurance Law puts insurers, reinsurers, brokers and experts under the obligation to act in good faith while conducting their activities. In this respect, it is explicit that the duty of utmost good faith is implied in reinsurance agreements.

The duty of good faith in other commercial agreements relies on the general principles of law, where good faith is defined as a fundamental principle in article 3 of Civil Law No. 4271. The particularities of the same duty in reinsurance agreements are described in a more specific manner where the insurers, reinsurers, brokers and experts are under the obligation to avoid any action that might infringe the rights and interests of the insured. Any misconduct in this respect is defined as a ground for cancellation of the insurer's insurance licence under article 7 of the Insurance Law. Therefore, the duty of good faith in insurance activities is interpreted in a very strict manner in comparison with other commercial agreements.

Law stated - 17 Nisan 2025

Facultative reinsurance and treaty reinsurance

Is there a different set of laws for facultative reinsurance and treaty reinsurance?

No, there are no different sets of laws for facultative reinsurance and treaty reinsurance.

Law stated - 17 Nisan 2025

Third-party action

Can a policyholder or non-signatory to a reinsurance agreement bring a direct action against a reinsurer for coverage?

Under article 1403 of the Turkish Commercial Code (TCC), as a general principle, a policyholder or non-signatory to a reinsurance agreement cannot bring a direct action against a reinsurer for coverage. However, as this principle is not mandatory under article 1452 of the TCC, the parties may agree otherwise, thereby enabling a policyholder or non-signatory to a reinsurance agreement to bring a direct action.

Law stated - 17 Nisan 2025

Insolvent insurer

What is the obligation of a reinsurer to pay a policyholder's claim where the insurer is insolvent and cannot pay?

The reinsurer shall pay the policyholders' claim to the bankrupt's estate. This payment shall reflect the reinsurer's obligation under the reinsurance policy.

Law stated - 17 Nisan 2025

Notice and information

What type of notice and information must a cedent typically provide its reinsurer with respect to an underlying claim? If the cedent fails to provide timely or sufficient notice, what remedies are available to a reinsurer and how does the language of a reinsurance contract affect the availability of such remedies?

Unless the reinsurance contract provides specific wording about the form of notice and the information to be contained therein, the interpretation of the conditions to be met shall be in line with the general provisions. In this respect, article 18 of the TCC states that any notice to put the other party in default, terminating the contract or reneging on a contract shall be made by one of the following means:

- through a notary public;
- by registered mail;
- by telegraph; or
- by registered secure email.

In the event of failure of timely or sufficient notice, unless the reinsurance contract provides specific remedies, article 1446 of the TCC may be taken into account in interpreting the remedies available to a reinsurer. In this respect, if the reinsurer previously did not acknowledge the risk in any other manner, it shall be entitled to reduce the compensation to be paid if the time delay caused the compensation amount to increase.

Law stated - 17 Nisan 2025

Allocation of underlying claim payments or settlements

Where an underlying loss or claim provides for payment under multiple underlying reinsured policies, how does the reinsured allocate its claims or settlement payments among those policies? Do the reinsured's allocations to the underlying policies have to be mirrored in its allocations to the applicable reinsurance agreements?

As far as Turkish law is concerned, there is no practice in this matter given the limited reinsurance practice.

Law stated - 17 Nisan 2025

Review

What type of review does the governing law afford reinsurers with respect to a cedent's claims handling, and settlement and allocation decisions?

There are no special rules for reinsurance, but the provisions of the TCC are valid and applicable for reinsurance where reinsurers may have the same rights as between insurers and insureds. Accordingly, reinsurers may have the right to deny a claim if the handling or the settlement of the claim was not in line with the TCC. However, due to limited reinsurance practice in Türkiye, Turkish insurers reinsure their risks in foreign markets where there are mostly claim control clauses that give reinsurers broad rights in claim settlements.

Law stated - 17 Nisan 2025

Reimbursement of commutation payments

What type of obligation does a reinsurer have to reimburse a cedent for commutation payments made to the cedent's policyholders? Must a reinsurer indemnify its cedent for 'incurred but not reported' claims?

There are no clear provisions regarding the strict obligation of the reinsurer to reimburse its cedent for commutation payments. Therefore, such obligation may be freely defined in the reinsurance contract to ensure a binding effect on the reinsurer.

Law stated - 17 Nisan 2025

Extracontractual obligations (ECOs)

What is the obligation of a reinsurer to reimburse a cedent for ECOs?

Turkish insurance legislation does not stipulate a specific rule regarding reimbursement of the cedent for ECOs. However, if there is conduct by the reinsurer that may amount to an act in bad faith or a malicious act, then damages or losses may be claimable based on the general principle of honesty as defined in article 2 of the Civil Law.

Law stated - 17 Nisan 2025

UPDATES & TRENDS

Key developments

Are there any emerging trends or hot topics in insurance and reinsurance regulation in your jurisdiction?

Some cases in relation to marine liability insurance caused concerns in 2024, where some foreign liability insurers whose financial standings were not known did not respond to damage to third party and wreck removal claims. In this respect, there were discussions in the Turkish insurance market and administrative bodies whether there should be compulsory insurance for vessels calling port of Türkiye for certain claims like wreck removal, death and injury claims. There is already a mandatory requirement for certain types and tonnages of ships in accordance with the Regulation on the Insurance and Inspection of Ships Regarding Maritime Claims, which was published in the Official Gazette No. 27759 on 14 November 2010 and entered into force, all ships flying the Turkish flag, as well as all ships of 300 gross tonnage and above, regardless of their flag, that enter or depart from port facilities within Turkish maritime jurisdiction, are required to have insurance coverage against maritime claims, which include all damages and losses arising from the operation of the vessel, including environmental damage. However, the recent discussions were about whether there should be additional insurance cover against the risk of which existing liability cover would not respond to claims. But later, this new compulsory insurance initiative was waived, and it is decided that ships arriving at or departing from Turkish ports are required to obtain their

insurance policy from one of the insurance companies registered in the Port Single Window System and the Port Management Information System, as per the relevant regulations. Therefore, the administration issued a list of acceptable liability insurers and ships that do not have insurance from these acceptable insurers will not be allowed to enter Turkish ports. Since the list of acceptable liability insurers may be subject to changes, we are not including names of insurers here but the list can be accessed [here](#) with updated date.

Law stated - 17 Nisan 2025