
THE ESTABLISHMENT OF BRANCHES OF FOREIGN- BASED COMMERCIAL ENTERPRISES IN TURKEY

General Definition of Branch under Turkish Law:

As per Turkish Law, there is no definition of *branch* under Turkish Commercial Code No. 6102 (“TCC”). However, Article 9/2 of Law No. 5174 on the Union of Chambers and Commodity Exchanges of Turkey and Chambers and Commodity Exchanges (“Law No. 5174”) stipulates that *“although connected to the registered office [headquarters], workplaces which have a separate equity and accounting or workplaces for which accounts are kept in a registered office (parent company) and have no separate equity but perform commercial activities”* shall be considered as branches. Therefore, the essential elements of a branch are; (i) to be connected to the parent company, (ii) to be independent, (iii) to operate in a different place, (iv) to have separate accounting.

The Turkish Commercial Code regulates certain obligations for the branches of commercial enterprises. First, branches must be registered with the trade registry as per Art. 40/3 of TCC and to the Chamber pursuant to Law No. 5174. Therefore, branches of commercial enterprises having their registered offices in Turkey shall be registered to the trade registries of the place where they are situated and operated. Paragraph 4 of the same article sets forth that branches of foreign-based commercial enterprises *“shall be registered similarly to domestic commercial enterprises, but provisions pertaining to the trade name of their country of origin are reserved”*. For such branches, a commercial representative should be appointed with full authorization. Moreover, as per Article 9 of Law No. 5174, branches shall also be registered in chambers of the places where they are situated and operated.

Branch’s Relations with Parent Company:

Although branch is registered with the relevant Trade Registry as though it is a separate legal entity, **it is not totally independent from its parent company**. A branch is dependent on its parent company in internal relations whereas it may act independent and trade of its own account in external relations. In other words; even though the branch may act independent in commercial relations with third parties, the rights and liabilities arising out of its activities shall bear with parent company.

Branch offices have autonomous capital and accounting to carry out commercial transactions with third parties, although they are closely associated with the parent company in respect of internal management. **This means that rights, debts, profits and losses of the branch offices are borne with the parent company**. Moreover, a branch’s obligations are not limited to the branch’s capital, but it is limited to its parent company’s assets.

A branch office can only engage in activities of its parent company. It cannot provide goods and services or engage in any commercial activities that are not specified in the parent company's articles of association. In other words; the branch's operations should be identical or similar to the parent company's operations. Thus, the scope of activity of a branch is limited to that of its founder. In conclusion; a branch, which conducts business in Turkey, does so for and on behalf of its parent company.

It should be also mentioned that it is possible to file a lawsuit in the place where the branch is situated against the registered office (parent company) pursuant to the Art. 14/1 of Civil Procedural Law No. 6100. However, this possibility of filing such a lawsuit is limited by the operations of the branch.

Turkish Branch Opening of a foreign company as per the Law on Foreign Joint Companies of which the Capital is Divided into Shares dated 30 November 1914 is subject to a permit to be obtained from the relevant public institution

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