

Electronic Signature in Turkey

The Turkish Electronic Signatory Law No.5070 ("**E-Signature Law**") has entered into force as of 14 October 2004 upon its publication in the Official Gazette numbered 253551.

E-Signature Law is drafted in line with the European Union ("**EU**") Directive on electronic signatory No. 99/93 ("**EU Directive**") which came into force in 1999. The EU Directive which set out a legal framework for EU member states was replaced on 1 July 2016 by The Regulation No.910/2014 on electronic identification and trust services for electronic transactions in the internal market ("**eIDAS**").

Unlike the Eidas, E-Signature Law does not make a distinction between simple, qualified and advanced electronic signatures. Pursuant to the E-Signature Law, electronic signature is defined as a signature that (i) is exclusively connected to the owner of the signature, (ii) is exclusively formed by the electronic signature-forming device that is solely used by the signature owner, (iii) allows to identify the signature's owner via qualified electronic certificates and (iv) allows to determine whether the electronically signed data is later altered or not.

Electronic signature forming devices and electronic certificates can only be provided by an electronic certificate provider certified by Turkish Information and Communication Technologies Authority ("**ICTA**"). A list of the authorized electronic certificate provider companies is available on the official website of ICTA. According to the list, E- Guven, Tubitak, Turk Trust, E-tugra, EGMSM and E-Imza TR are entitled to provide electronic certificates.

Pursuant to the article 5 of E-Signature Law; electronic data duly created with secure electronic signature are considered as legally binding. Legal limitations regarding the application of the e-signature application also set forth under the same article. According to article 5, using an electronic signature for documents and contracts subject to specific form or procedural requirements and for security agreements except bank guarantees is not possible. The Civil Procedure Law in force also sets out a provision in line with this.

The 11th Development Plan of Turkey, on the other hand, is published on the first repeating Official Gazette numbered 30840 and dated 23 July 2019; and explicitly states that the E-Signature Law will be revised. However, it is still unclear when the E-Signature Law, prepared in compliance with EU Directive, will be aligned with the eIDAS.