

MINISTRY OF TRADE AMENDS THE PRINCIPLES AND PROCEDURES REGARDING THE GENERAL ASSEMBLY MEETINGS OF JOINT STOCK COMPANIES

On 9 October 2020 an extensive amendment to the Regulation on Procedures and Principles applicable to General Assembly Meetings of Joint Stock Companies and Presence of Representatives of the Ministry of Customs and Trade at such Meetings (the "Regulation") has been published in the Official Gazette numbered 31269 (the "Amendment").

While the Amendment provides a variety of minor changes in the procedure of general assembly meetings in joint stock companies (anonim şirket) ("JSCs") and the appointment of a representative of the Ministry of Commerce (the "Ministry Representative"), several notable novelties have been introduced that make the general assembly procedure simpler and more compatible with the existing online registry system ("MERSIS").

Attendance of a Ministry Representative is No Longer Required for Joint Stock Companies with Sole Shareholders

Prior to the Amendment, all JSCs that were convening general assemblies for share capital increase or decrease, merger, demerger or type change, adoption and leaving of the registered capital system, amendment of the registered capital and the field of operation of a company, in addition to those JSCs establishment and articles of association amendments of which are subject to the approval of the Ministry of Commerce, were required to have a Ministry Representative present at the relevant meeting. With the Amendment, such requirement has been removed for JSCs with sole shareholders, provided that the establishment and articles of association amendments of such JSCs are not subject to the approval of the Ministry of Commerce.

Attendance of a Shareholder to the General Assembly Meeting by Proxy

The Regulation provided that in the absence of a notarised power of attorney for a shareholder who is seeking to attend the general assembly by proxy, the proxyholder could attend the meeting with a non-notarised power of attorney provided that it was accompanied with a notarised signature declaration of the authorised signatory executing the power of attorney. The Amendment has removed such option, leaving having a notarised power of attorney as the sole method to attend a general assembly meeting by proxy.

Authorised Parties to Request a Ministry Representative to Attend a General Assembly Meeting

In the event that a JSC lacks a board of directors or the board of directors cannot meet the required quorum and the JSC is seeking to hold a general assembly meeting to elect new members to the board of directors, the entirety of the shareholders or their representatives may sign a petition to request a Ministry Representative to attend such meeting, provided that all shareholders will be represented at the meeting. Such petition is expected to be notarised. This is a notable amendment that will ease the procedure to overcome a non-functioning or non-existent organ in a JSC, as the absence of a working board of directors required JSCs to apply to courts in order to convene a general assembly to elect new board members.

Requesting a Ministry Representative through MERSIS

MERSIS system has been widely used in daily practice for over three years and the Ministry of Commerce is still seeking to unite as much registry work over the MERSIS system as possible. In this context, it is now possible to submit the request for a Ministry Representative over MERSIS, rather than filing it physically before the relevant City Commerce Directorate.

Miscellaneous

In addition to the above notable amendments, minor changes to the existing Regulation have also been provided under the Amendment, which should be reviewed by JSCs prior to holding a general assembly meeting. These minor amendments include:

- i. simplification of the documents to be included in the application to request a Ministry Representative,
- ii. removing the requirement to form a presidency and to prepare an attendance sheet at the general assembly meeting of a JSC with a sole shareholder, and
- iii. clarifications to the meeting and decision quorums of the postponed general assembly meetings.

These amendments aim to bring practical solutions to problems and difficulties faced by many JSCs, mainly special purpose vehicles ("SPVs") that usually have a sole shareholder. While not having significant activities, SPVs found themselves required to go through cumbersome procedures to hold general assemblies to meet their legal obligations.

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