

New presidential government system brings changes to Patent and Trademark Office's legal framework Turkey - Gün + Partners

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- Decree-Law No 703 revoked most articles of Law No 5,000 on Establishment and Functions of Patent and Trademark Office
- This created some ambiguity as to legal basis for office's existence
- Presidential Decree No 4 re-established Patent and Trademark Office

Most of the articles of Law No 5,000 on the Establishment and Functions of the Turkish Patent and Trademark Office were revoked by Decree-Law No 703, which was published in the *Official Gazette* (No 30473 3rd *bis*) on 9 July 2018 within the framework of the adaptation to the new presidential government system.

With the aim of harmonising the structure of some administrative institutions, including the Turkish Patent and Trademark Office, with the Constitution, Article 86 of Decree-Law No 703 revoked all the provisions of Law No 5,000 concerning the establishment, purpose, structure, legal personality and budget of the office, other than the articles regulating the patent and trademark attorney profession and a few other provisions. Article 86 also amended the name of Law No 5000 to read "Law on Patent and Trademark Attorneyship and Miscellaneous Provisions".

This development created some ambiguity concerning the legal basis for the existence of the Patent and Trademark Office. However, such ambiguity did not last long since Presidential Decree No 1 on the Organisation of the Presidency, which was published the next day (10 July 2018) in the *Official Gazette* (No 30474), stated that the revoked provisions would continue to be in full force until new regulations are issued by presidential decree.

The awaited Presidential Decree No 4 was published in the *Official Gazette* (No 30479) on 15 July 2018. The decree re-establishes the Patent and Trademark Office, and the office's legal personality and private budget remain the same. Accordingly, the name of the office remains unchanged ('Turkish Patent and Trademark Office'), with the formal abbreviation 'TÜRKPATENT', and the office is still a separate legal entity.

Presidential Decree No 4 also introduced a few amendments, the most important of which can be summarised as follows:

- The duties of the board of directors are described as covering other duties provided for by the relevant regulations. The former rule referred to relevant 'codes', rather than 'regulations'. Therefore, the main purpose of this amendment seems to be the inclusion of presidential decrees within the term 'regulations'.
- All the units of the office that render services have been regulated as a single service unit by abolishing the division between main services, ancillary services and consultancy.

The main reason for these changes is to adapt the Patent and Trademark Office to the new presidential governmental system. It is predicted that the single service unit structure might bring practical advantages to the administration of the office. It is not anticipated that there will be any other changes in the duties and functions of the office.

Uğur Aktekin and Can Tabak, Gün + Partners, Istanbul

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