

The Licenses and Permits Required to Operate a Catering Company in Turkey

by Bahar Vicdan & Yiğit Can Yüksel

The rapidly expanding Turkish economy has been increasingly drawing the attention of foreign investment funds and multinational companies. The amount of acquisitions expected to be realized by investment funds and multinational companies in Turkey in 2012 is approximately 2.5-3 billion USD. One of the sectors that these funds and companies are interested in is the catering industry, by which directly 400 thousand and indirectly 1 million persons are employed. According to the İstanbul Catering Industry Association, the main reason for foreign investor interest in this area is its potential: even though 5-6 million persons are currently served every day, the potential is 28 million persons.

Investors who wish to operate a catering company in Turkey have to comply with certain procedures and obtain certain permits, licenses, and certificates under Turkish Law. The purpose of this article is to provide a summary of such requirements.

Under Turkish Law, production, sale, purchase, export and import of food and food products and provision of catering services are subject to the Food and Feed Law¹ (the “**Food Law**”) and the regulations issued based on such Law. The purpose of the Food Law is to provide food safety and public health, and to take in to account consumer rights and environmental protections.² The Food Law covers provisions regarding all stages of the production, processing and distribution of foods, and food contact substances and materials.

Registration or Approval of the Food Premises

According to the Food Law and the Regulation on the Registration and Approval Procedures of the Food Premises³ (the “**Food Premises Regulation**”), whilst certain food premises are subject to the approval of the Ministry of Food, Agriculture and Livestock (the “Ministry”), certain food premises are subject to registration with the said Ministry before starting their activities.

According to the Food Premises Regulation, the

premises that provide catering services are subject to the registration and do not need to obtain approval of the Ministry. Such businesses shall register their premises with the Ministry and obtain the required registration certificate and number before starting to operate. Alternatively, if they are currently operating under the certificates obtained prior to the effective date of the Food Premises Regulation, they should change such certificates with the registration certificate set out under the Food Premises Regulation, as mentioned in (3) below.

¹ Veterinary Services, Plant Health, Food and Feed Law, No 5996 published in the Official Gazette dated June 13, 2010 and numbered 27610.

² This law also covers plant and animal health, and animal breeding and welfare.

³ Published in the Official Gazette dated December 17, 2011 and numbered 28145.

Required Licenses and Permits

Operation Permit

The Regulation on Operation Permits (the “**Operation Permit Regulation**”) regulates the procedures and principals to be followed in granting operation permits. As per Article 78 of the Turkish Labor Law and Article 2 of the Operation Permit Regulation, the workplaces that are subject to subsection “A” titled “Industrial Works” of Annex I of the Regulation on Industrial, Commercial, Agricultural and Forestry Works and that have 50 (fifty) or more employees shall obtain the operation permit.

Production activities of food factories are considered industrial works under subsection A-20 of Annex I of the Regulation on Industrial, Commercial, Agricultural and Forestry Works, and such premises shall obtain an operation permit if they employ 50 or more employees.

As per Article 5/1 of the Operation Permit Regulation, the operation permit has to be obtained from the regional directorate stated in Article 4/ (b) of the Operation Permit Regulation before the business and operation license mentioned in (2) below is issued.

If the workplace moves to another address or the subject matter of its production or activities changes, the operation permit becomes invalid and a new operation permit must be obtained. As per Article 8 of the Operation Permit Regulation, if any change in the owner and/or business name of the workplace is determined during the inspection of the workplace or the said changes are notified to the regional directorate by the representatives of the workplace, such changes shall be entered in the operation permit.

Business and Operation License

The Business and Operation License Regulation regulates the procedures and principles to be followed in granting business and operation licenses. Pursuant to Article 6 of the Business and Operation License Regulation, workplaces cannot become operative without duly obtaining a business and operation license from the authorized administrations outlined under Article 4/(a) of the said Regulation.

As per the Business and Operation License Regulation, only 1 (one) license shall be issued for the workplaces which are operated by the same operator and located at the same address and which have more than one business activity, taking the main

business activity into consideration. Ancillary business activities of the respective workplaces shall be indicated under the license granted. However, for the workplaces operated by different operators or having different business activities, separate licenses shall be issued, even if the said workplaces are located at the same address.

Under the Business and Operation License Regulation, workplaces have been divided into various classes, such as Sanitary and Non-Sanitary Enterprises, and various obligations have been brought within the context of the aforementioned classifications. The concept of “Non-Sanitary Enterprise” defined under Article 4/(b) of the Business and Operation License Regulation refers to the enterprises which cause or may cause biological, chemical, physical, psychological and social harm to their surroundings, or may cause pollution of natural resources.

Catering premises producing over 500 foods in number/person are included in the list of the second class Non-Sanitary Enterprises under the Business and Operation License Regulation.

The real and legal persons aiming to open Non-Sanitary Enterprises shall apply to the authorized administration in compliance with the application procedure set out under Article 17 of the Business and Operation License Regulation.

With regard to the second and third class Non-Sanitary Enterprises, once the authorized administration determines that the application was made, satisfying the conditions for the prevention of hazards to human health, environmental pollution, fire, explosion, protection of general safety, workplace safety, worker health, traffic, highways, zoning, common holdings and nature, the business and operation license shall be granted within 5 (five) days and be delivered to the relevant individual. Furthermore, workplaces holding second and third class business and operation licenses are inspected within 1 (one) month following the grant of the business and operation license by the authorized authority. If such inspection is not conducted within the said period, the applicant shall be deemed to have obtained the business and operation license.

If, during the inspections and controls to be conducted after the grant of the business and operation license, it is determined that the abovementioned conditions are not fulfilled by the workplace, an extension of 15 (fifteen) days will be given to such workplace. If the said conditions are not ful-

filled within the extended period either, the granted license will be cancelled by the authorized authority and the workplace shall be closed. Additionally, legal actions will be initiated against the concerned persons of the workplace by the authorized authorities.

Furthermore, in order to obtain a business and operation license, the enterprises shall complete the forms attached to the Business and Operation License Regulation. The enterprise shall also obtain the permits included in the said forms for each business and operation such as (i) EIA report, (ii) environmental permit, (iii) emission permit, (iv) occupancy permit, (v) fire authority report, and (vi) license for hazardous waste, if necessary in terms of the workplace activity.

If any change occurs in the operation area of the Non-Sanitary Enterprises, the business and operation license will have to be re-obtained. In case the operator of the Non-Sanitary Enterprise changes, the license is re-issued in the name of the new operator.

Food Premises Registration Certificate

As stated above, according to the Food Premises Regulation, the premises that provide catering services shall register their premises with the Ministry by applying to the Provincial Directorate or the District Directorate of the Ministry, as the case may be, and obtain the required registration certificate and number within three (3) months after obtaining the above-mentioned business and operation license.

Moreover, the premises that are currently operating under a work permit and food registry certificate

or registration certificate or equivalent certificates, which were obtained before the effective date of the Food Premises Regulation, have to change the said certificates with the registration certificate required by the Food Premises Regulation by December 31, 2013.

According to the Food Premises Regulation, application for such registration is made, together with the documents set out in Annex 3 and the premises registration certificate declaration set out in Annex 4 of the Food Premises Regulation. The relevant authority reviews the application file within 15 (fifteen) days. If the documents and information included in such file are complete and accurate, the said authority issues the registration certificate set out in Annex 5 of the Food Premises Regulation by also indicating the field of operation. If the documents and information included in the application file are incomplete and inaccurate, the file is returned to the applicant by an official letter indicating such incompleteness and inaccuracies.

Such registration certificate is valid only for the trade title, real or legal person, operation's address and field of activity stated in the certificate. In case of any change in any of such information, the registration certificate loses its validity and the food operator needs to apply to the relevant authority together with the necessary information and the original certificate within 3 (three) months of such change for the certificate to be re-issued by the relevant authority. Furthermore, the food premises also need to apply to the relevant authority in case the registration certificate is lost or becomes illegible.