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Editorial

Expectations for 2026: Türkiye and the Global Legal Landscape in a New Energy Era

As 2026 approaches, the global legal environment is entering a decisive phase—one shaped by accelerating climate pressures, shifting geopolitical alliances, and the strategic repositioning of states. For energy and related sectors in Türkiye and beyond, the coming year may redefine how we think about investment, risk, and opportunity in the energy transition. Three domains stand at the center of this transformation: **nuclear power, critical minerals, and climate regulation.**

Türkiye's growing **nuclear aspiration** reflects a broader global trend: nuclear energy is regaining legitimacy as a dependable pillar of sustainable energy strategies. With the momentum around Small Modular Reactors (SMRs) worldwide, 2026 is set to bring new licensing pathways, innovative financing models, and deeper regional collaboration. For Türkiye, where long-term energy security and industrial upgrading

remain national priorities, understanding emerging legal frameworks—construction liability, cross-border technology transfer, and supply chain governance—will be essential. Globally, companies that anticipate the human capital, regulatory, and operational implications of new nuclear technologies will position themselves at the forefront of a sector poised for revival.

In parallel, the competition for **critical minerals** is intensifying in a way not seen since the early oil era. Türkiye, strategically located between producer and consumer markets, is becoming an increasingly important transit, processing, and investment hub, especially with the new fields and developing regulations. Worldwide, states are revising mining laws, inserting ESG clauses into investment treaties, and recalibrating export controls to secure their mineral futures.

Climate regulation forms the connective tissue of these developments. With the EU Carbon Border Adjustment Mechanism (CBAM) fully phasing in, Türkiye's exporters are entering a new era of competitiveness defined not only by price and quality, but by carbon performance. Internationally, carbon pricing schemes are expanding, sectoral standards are tightening, and global sustainability reporting frameworks are becoming the norm. In 2026, climate law will evolve from a compliance issue into a strategic imperative. For Turkish and international firms alike, the winners will be those capable of integrating legal foresight into corporate strategy—anticipating how regulation shapes market access, investor sentiment, and long-term viability. 2026 may not simply test regulatory adaptation, but also test global energy, mining, and related sectors to think boldly about the future of energy, industry, and sustainability in coherence.

We wish you a happy New Year, and pleasant reading.

Hergüner, Bilgen, Üçer

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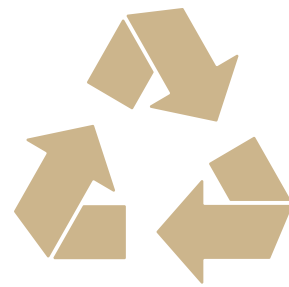
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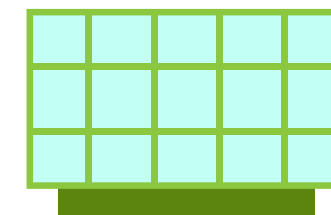
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A The International and National Legal Framework of Nuclear Energy: Türkiye's Regulatory Approach



1. Introduction

The increasing global demand for energy, the fight against climate change, and the goal of reducing dependence on fossil fuels have made nuclear energy a strategic element. Despite its high efficiency potential, nuclear energy also brings with it significant legal and regulatory debates due to safety risks, the management of radioactive waste, and transboundary impacts. Therefore, nuclear energy is not merely a technical or economic matter but is directly linked to a comprehensive legal framework. International institutions, multilateral treaties, and standards have guided countries to align their national regulations with this system. Türkiye, viewing nuclear energy as an alternative source, aims to reduce its energy dependency through nuclear power plant investments while introducing regulatory limits and safety standards through new legal frameworks.

2. Nuclear Energy in the International Legal Framework

2.a. IAEA and Regulatory Institutions

Established in 1957, the *International Atomic Energy Agency* (“[IAEA](#)”) promotes the peaceful use of nuclear energy while enforcing control mechanisms to prevent its military application. The IAEA inspects nuclear facilities, sets safety standards, and coordinates technical cooperation among member states. As of November 2024, the IAEA has 180 member states, including Türkiye, which has been a member since 1957.

The foundation of the IAEA’s duties lies in the Treaty on the *Non-Proliferation of Nuclear Weapons* (“[NPT](#)”), which entered into force in 1970 and is built [on three pillars](#): **(i)** preventing the spread of nuclear weapons, **(ii)** promoting peaceful use of nuclear energy, and **(iii)** pursuing nuclear disarmament. The IAEA supervises implementation of the first two pillars through its safeguards system.

The framework of [safeguards](#) includes on-site inspections of facilities, verification of accounting systems, and, when necessary, the use of technical surveillance methods to confirm that nuclear materials are used exclusively for peaceful purposes. Through safeguards, countries can monitor each other’s nuclear programs transparently, contributing to the preservation of international security.

Türkiye became a party to the NPT in 1980 and signed a Comprehensive Safeguards Agreement with the IAEA in 1981. With this agreement, nuclear materials and facilities in Türkiye became subject to regular IAEA inspections.

2.b. The Vienna Convention and the Liability Regime

In the event of an accident at a nuclear facility, determining liability and ensuring compensation for victims is a critical legal issue. The 1963 *Vienna Convention on Civil Liability for Nuclear Damage* (“[Vienna Convention](#)”) is one of the most prominent treaties in this area. It imposes strict liability on nuclear facility operators and requires them to maintain adequate financial security through insurance or similar instruments. This international liability regime, recognizing the cross-border nature of nuclear risks, aims to protect victims from legal uncertainty and ensures effective remedies for damage.

3. Nuclear Energy in Turkish Law

Türkiye took its first major step toward nuclear energy in 2010 with an intergovernmental agreement signed with Russia, launching the Akkuyu Nuclear Power Plant project. The signing of this agreement necessitated a new legal framework to regulate nuclear energy in Türkiye. This need was addressed with the adoption of *Law No. 7381 on Nuclear Regulation in 2022* (“[Law No. 7381](#)”).

3.a. Law No. 7381 and the Nuclear Regulatory Authority

The legal liability of nuclear facility operators in Türkiye is addressed by Law No. 7381, which has essentially established a legal framework. Unlike the Turkish Code of Obligations, which regulates general liability principles, this Law adopts a special liability regime that is consistent with the [Paris Convention](#) and its [2004 Protocol](#). In this context, there is no need to investigate whether the operator is at fault for the compensation of damages arising from nuclear “events.” This situation demonstrates that a principle

of strict liability is adopted with the Law No.7381 as in the Vienna Convention.

Three fundamental conditions must be met for liability: **(i)** a nuclear “event” must have occurred; **(ii)** damage must have resulted from this event; and **(iii)** an appropriate causal link must be established between the damage and the event. According to the legislation, operators of nuclear facilities are liable for up to €700 million for each nuclear incident that occurs. This amount must be secured through insurance or by providing collateral under the conditions specified by the NDK.

It appears that the circumstances under which the operator can be held exempt from this liability are quite limited. Operators are only exempt from general liability for nuclear incidents resulting from extraordinary circumstances such as direct war, hostile acts, internal conflict, or insurrection. Beyond this, if the injured party themselves causes the damage intentionally or through gross negligence, the operator may be partially or fully exempt from liability towards that person.

3.b. The Regulation on Nuclear Export and Import Control

The “Regulation on Nuclear Export and Import Control” ([Regulation](#)), published in the Official Gazette dated October 9, 2025, and numbered 33042, has updated Türkiye’s nuclear foreign trade regime by repealing the previous regulation dated 2020. The Regulation establishes the procedures and principles governing the import and export of nuclear-designed materials, equipment, systems, components, and technologies, with the aim of preventing the proliferation of nuclear weapons. Accordingly, users wishing to export or import such items will be required to apply to NDK for a license. Under this Regulation, export licenses will be valid for one year, while import licenses will be valid for six months.

Another matter regulated by the Regulation is the requirement to provide an undertaking that the materials subject to export or import will not be used in the production of nuclear weapons or explosives. It will be required that the recipient country have a valid safeguards agreement with the IAEA, or that the products be shipped to facilities under IAEA supervision. In addition, the export of enrichment facilities, equipment, or technologies capable of producing uranium enriched above 20% is not permitted. In the event that the exported dual-use items are transferred to another user, it must be ensured that such items will be used solely for peaceful purposes and in activities under the supervision of the IAEA. Within this scope, NDK will publish the “Nuclear Transfer Alert List,” the “Nuclear Dual-Use List,” and the “List of Goods Subject to Nuclear Import Control,” and will update these lists when necessary and make them publicly accessible.

4. Nuclear Energy from a Sustainability Perspective

Nuclear energy is increasingly recognized by international institutions as a sustainable energy source suitable for the transition period, although it is not technically classified as renewable. In 2022, the European Union (“EU”), through its “Complementary Climate Delegated Act,” formally included certain nuclear activities within the scope of the [“EU Taxonomy for Sustainable Activities.”](#) This regulation defines nuclear energy as a transitional activity that can contribute to combating climate change, yet considers it sustainable only if technical criteria relating to safety, waste management, and environmental performance are met. New-generation reactors to be constructed by 2045 and the lifetime extensions of existing plants until 2040 are included within this framework.

Similarly, the IAEA and the United Nations Economic Commission for Europe (“UNECE”) also regard nuclear energy as a low-emission and sustainable option, attributing to it a significant role in achieving net-zero emissions targets. Through these classifications, nuclear energy benefits from sustainable finance mechanisms and assumes an increasingly central role in the clean energy future.

5. Conclusion

The legal framework governing nuclear energy extends beyond technical regulations and encompasses a comprehensive system of oversight and responsibility grounded in international norms. Türkiye’s progress in this field is aimed both at ensuring energy supply security and at aligning with global sustainability objectives. Through the security inspections carried out under the IAEA and the NPT, as well as the regulatory and supervisory activities of the NDK at the national level, Türkiye has clearly demonstrated its commitment to the peaceful and safe use of nuclear energy. The Regulation that entered into force in October 2025 has further strengthened this integrated system by introducing strict control and transparency mechanisms in the foreign trade of nuclear resources.



B The Need for Energy: Easier Licensing and the Opening of Olive Groves to Mining



1. Introduction

In July 2025, the Turkish Parliament adopted substantial amendments to the Mining Law No. 3213 (“[Mining Law](#)”). Adopted through Law No. 7554 on Amendment of Certain Laws (“[Amendment](#)”), an omnibus law commonly referred to as the “super-permit” for energy, environment and mining legislation, the relevant amendments significantly reshape the rules governing mining operations as well as certain aspects of environmental, renewable energy and electricity market legislation.

Although the stated objective is to accelerate investments deemed critical for national energy security, the changes relating to licensing processes, strategic and critical minerals, tender procedures, rehabilitation and, most notably, the authorization of mining activities in olive grove areas raise important legal, environmental and public-interest considerations.

2. Key Amendments Introduced by Omnibus Law

2.a. Streamlined Permitting and Deemed Approvals

The amendment to Article 7 of the Mining Law introduces a consolidated and expedited permission mechanism for mining activities in special environmental protection areas.

Same as before, the relevant institutions for the protection of the special environmental protection areas must communicate to the General Directorate of Mining and Petroleum Affairs, (“[GDMPA](#)”) the coordinates of wetlands, forests, tourism protection and development zones, tourism centers, cultural and natural site areas and other investment areas allocated for non-mining purposes where GDMPA has deemed appropriate.

Except for forests, the GDMPA must seek authorization from the competent institution prior to granting a license. The relevant institution must respond within three months; if no response is provided, GDMPA grants an additional one-month extension. Now, if the institution remains silent, the authorization is deemed to have been granted for licensing.

For forest areas, the amendment also introduces a new model: Mining activities in the forests was previously subject to the exclusive jurisdiction of the Ministry of Forestry and Agriculture (“[MoAF](#)”) . With the Amendment, license holders may now be granted a permit to conduct their mining activities in forestry areas upon GDMPA’s request to MoAF for up to twenty-four months of free use, extendable by an additional period of twelve months. Moreover, once a license is issued, mining activities may continue even if the relevant land subsequently becomes subject to permit requirements.

In connection with the newly streamlined permitting process, if permission is not granted by the relevant institution for activities involving [Group IV mines](#) or [strategic or critical minerals](#) within the special environmental protection areas, the final decision will be made by the Inter-Ministerial Board on the basis of “superior public interest” upon application by the Ministry of Energy and Natural Resources (“[Ministry](#)”), taking into account criteria such as the reserve potential, location, type and contribution to the economy of the site. If the Board decides in favor of mining activities, the relevant institution will send the permit decision to the GDMPA within one month and a license will be issued.

2.b. Rehabilitation as a Stand-Alone Environmental Obligation

The amendments remove earlier references to the former “environmental compliance guarantee” (*çevre ile uyum teminatı* in Turkish) and introduce a more detailed rehabilitation framework. A rehabilitation fee equal to the annual license fee is deposited into a segregated, interest-bearing account. Such funds cannot be seized, pledged or used for any purpose other

than rehabilitation. GDMPA may suspend production if rehabilitation obligations are not fulfilled.

2.c. Strategic and Critical Minerals Framework

The Amendment also introduced a framework of “critical” and “strategic” minerals to the Mining Law. Under the Amendment, “critical minerals” are defined as minerals that, if disrupted or subject to substantial price increases in the market, may cause significant economic or security risks due to their essential role in industrial production and high supply vulnerability. “Strategic minerals” are defined as minerals of elevated importance for national security and economic welfare whose supply may be jeopardized by domestic or external factors.

These minerals will be identified by the Ministry following consultation with the Ministry of National Defense, the Ministry of Industry and Technology, the Ministry of Trade and other relevant public institutions. Mining activities involving such minerals may be subject to urgent expropriation procedures. Additionally, the Turkish President may decide to stock these minerals at certain rates or amounts,

not exceeding 10% of the previous year’s production amount.

3. Why Olive Groves Became the Center of the Debate?

Although several changes aiming to standardize permitting procedures raised environmental concerns, the amendment that triggered a national debate is Provisional Article 45 of the Mining Law introduced by the Amendment, which authorizes mining in specific olive grove areas under strict conditions.

This debate did not emerge overnight. To understand the significance of olive groves in Türkiye, it is necessary to consider the historical context, the judicial responses to previous attempts to permit mining in olive grove zones and the long-standing legal protections provided to these areas.

3.a. Historical and Legal Background: Protection of Olive Groves

Olive cultivation holds a unique place in Türkiye's environmental, cultural and economic life. Ecologically, olive groves form an important part of the biodiversity of the Mediterranean region. Economically, they support thousands of small-scale producers and rural supply chains. According to a [recent sector report](#), Türkiye produced approximately 3.6 million tonnes of olives in 2024, of which 750,000 tons were [table olives](#), making Türkiye the world's largest producer of table olives. Culturally, olive grove landscapes shape local identities along the Aegean and Mediterranean coasts.

Given their ecological and socio-economic importance, olive groves have long benefited from strong statutory protection under Law [No. 3573 on Law on the Improvement of Olive Cultivation and the Grafting of Wild Olive Trees](#) dated 1939. The law broadly prohibits the establishment of any industrial facility capable of generating pollution within three kilometers of olive-growing areas. For decades, this rule effectively

shielded olive groves from mining and other heavy industry activities. Turkish courts, most notably the Council of State, have consistently interpreted Law No. 3573 as a public-order environmental protection rule, rather than a simple agricultural preference.

3.b. Attempt to Change the Rules in 2022 and the Council of State's Intervention

In March 2022, a regulation change attempted to permit mining in olive grove areas under certain conditions. The amendment to the Mining Regulation would have allowed mining if no alternative field existed and if the operator relocated trees or established compensatory groves.

This attempt triggered a wave of lawsuits: Civil-society organizations, chambers, cooperatives and numerous local residents argued that the regulation violated the explicit protections in Law No. 3573. The Council of State annulled the amendment, holding that:

- a secondary regulation cannot override statutory protection,
- public-interest claims must be clearly grounded in law, and
- mining activities in olive groves could cause irreversible ecological degradation, violating environmental protection principles embedded in Turkish legislation and the Constitution.

This decision established that any attempt to permit mining in olive groves would require a legislative amendment, not merely a regulatory one.

3.c. The 2025 Amendment to the Mining Law

The 2025 amendment redefines the legal treatment of olive grove areas by introducing [Provisional Article 45](#) directly into the Mining Law. Unlike the previously annulled 2022 regulation, which attempted to permit mining in olive groves through secondary legislation, this amendment creates an explicit statutory exception at the level of the Mining Law.

In a nutshell, Provisional Article 45 introduces an exception to the general protection of olive groves under Turkish law. In cases where mining, especially coal mining, activities necessary for meeting national electricity demand overlap with areas registered as olive groves (or where olive trees are actually present) and no alternative site is available, the Ministry may, considering the public interest, authorize such mining activities and the related temporary facilities subject to the following conditions.

- **Relocation:** Olive trees must first be relocated, with preference given to areas within the same district or province as the mining site. All relocation costs are borne by the person engaging in mining activities (license holder or royalty contractor).
- **Compensatory Olive Groves:** If relocation is not feasible/possible, the relevant person must establish a new olive grove, in compliance with expert recommendations, covering an area equivalent in size to the mining site and planted with at least twice the number of affected olive trees (relocated and non-relocatable olive trees).

- **Annual Rehabilitation Fee:** For every year that mining activities are carried out in olive groves, the relevant person must pay an additional fee equal to the annual operation license fee to fund rehabilitation and must ultimately restore the site by replanting olive trees equal in number to those originally present.
- **Land Access for New Groves:** If new land is needed for the relocation or re-establishment of olive groves, suitable Treasury land or public economic enterprise land may be leased to former landowners for 20 years, renewable for 10-year periods if maintenance obligations are met.

Currently, such activities are only permitted for the areas annexed to the legislation in specific coordinates; which generally cover Muğla province.

3.d. In Favor of the Amendment: Balancing the Protection of the Environment with National Energy Needs

Although public opinion in Türkiye generally favors the preservation of olive-grove ecosystems due to their ecological and cultural significance, the issue is not without opposing views. [Several experts and politicians](#) argue that, in the specific region targeted by the amendment, nearby thermal power plants play an important role in meeting electricity demand, particularly in periods when renewable-energy sources or transmission capacity are insufficient.

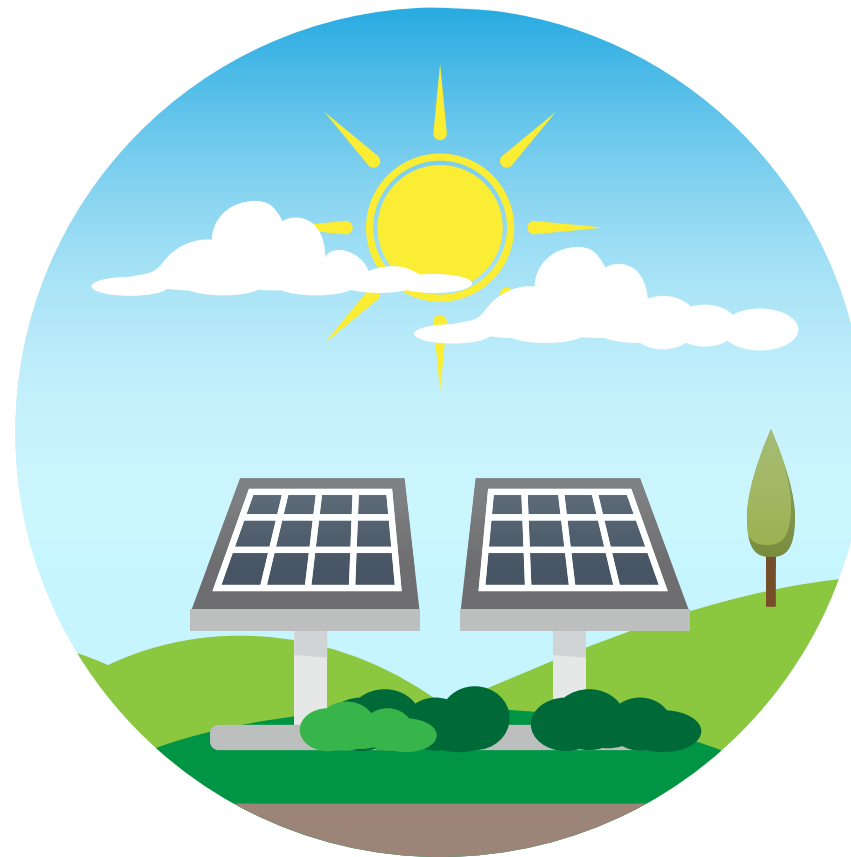
During the [parliamentary discussions](#) over the draft omnibus law which constituted the basis of the Amendment, government officials noted that although Türkiye has significantly increased its renewable-energy capacity, the country still relies on a mixed energy portfolio. According to statements made this June, approximately 60% of electricity generation is supplied by renewable and hydroelectric sources, while the remaining 40% comes from natural-gas and coal-fired thermal plants. In this context, supporters of the Amendment believe that the relevant coal reserves serve as a strategic backup for ensuring supply security.

3.e. Ongoing Legal Challenges

The Amendment, particularly the provisions concerning olive grove areas, has started a significant public debate in Türkiye. As outlined above, environmental groups and media now argue that reintroducing through the Mining Law, a measure previously attempted by regulation is unconstitutional and is tailored to benefit specific power plant operators. Critics also note that the provision could be applied to other olive grove areas in the future by expanding the coordinate list.

In response, 77 villagers from the affected region have already filed a lawsuit before the Council of State, requesting annulment of the provision and suspension of its execution, while also invoking constitutional objections and asking for referral to the Constitutional Court. The case is pending and no suspension order has yet been issued. In parallel, 260 members of

parliament have filed an annulment action before the Constitutional Court, requesting suspension and annulment of the omnibus law. As of the developments reported in October, [the Constitutional Court held its preliminary examination](#) and identified no procedural deficiencies. It will consider the merits of the annulment request at a later date, at which point it will also decide whether to suspend the operation of the provision.



4. Looking Ahead

The fate of the Amendment now depends on the lawsuit pending before the Constitutional Court. Even if not annulled, allowing mining in olive grove areas sits uneasily with the country's environmental goals and climate objectives.

The streamlined permitting model and the new statutory exemptions will also require close constitutional scrutiny. In practice, administrative bodies do not always apply environmental rules consistently and reducing procedural safeguards may increase environmental risks. Given that environmental protection is a constitutional duty of the State, how regulators and administrative authorities implement these rules, if the Amendment survives judicial review, will be closely watched by the public.

C Turkey's New Climate Regime: Climate Law, Emission Trading System, And Carbon Offsetting



1. Introduction

The Climate Law No. 7552 (“[Climate Law](#)”) was published in the Official Gazette dated 9 July 2025 and numbered 32951 and entered into force. The Climate Law sets out targets for climate change mitigation, establishes an Emissions Trading System, regulates carbon markets and permits. The Climate Law regulates **(i)** climate change mitigation, reduction and adaptation targets, **(ii)** the Emissions Trading System, **(iii)** voluntary carbon markets, **(iv)** greenhouse gas emission permits and allowances, and **(v)** supervision and sanctions.

The primary objective of the Climate Law is to ensure effective climate action through the reduction of greenhouse gas emissions, the advancement of a green growth vision, and the achievement of net-zero emission targets. The Climate Law introduces new obligations, particularly for carbon emissions intensive sectors, and creates the need for secondary legislation, including the national Emission Trading System and voluntary carbon markets, against the backdrop of rising emphasis on ESG obligations.

2. Emissions Trading System

The Climate Law envisions establishing a market-based national Emissions Trading System with a cap on greenhouse gas emissions. In this context, on 22 July 2025, the Ministry of Environment, Urbanization, and Climate Change (“[Ministry](#)”), through its Climate Change Department (“**Department**”), published the first draft of secondary regulation, the Türkiye Emission Trading System Draft Regulation (“[TR-ETS Draft Regulation](#)”). The TR-ETS Draft Regulation sets out detailed rules for monitoring, reporting, and verifying greenhouse gas emissions, as well as for the issuance, trading, and allocation of emission allowances.

The Emission Trading System covers installations with annual CO₂-equivalent emissions exceeding 50,000 tons.. A pilot period will allow gradual adaptation before full implementation. Allowances will be issued under a cap, allocated via auctions as well as through free allowances, and are tradable instruments. In other words, emission allowances allocated to companies are transferable economic assets under corporate ownership. Certain institutions, such as schools,

universities, hospitals, and defense industry facilities, are excluded from the system within the scope of their specific activities. Accordingly, the TR-ETS Draft Regulation primarily targets major emitters, aiming to reduce administrative burdens and implement the system gradually.

Under the TR-ETS Draft Regulation, installations must obtain a greenhouse gas emission permit from the Department to operate. The permit is valid for five years from the date of issuance and is particularly important for the acquiring companies in mergers, acquisitions, or business transfers.

The Emission Trading System is based on an emission cap determined according to emission intensity, with allowances issued within this cap. The cap consists of free allowances, allowances sold through primary market auctions, and additional reserve quantities, if applicable, and is announced in the Official Gazette each period via the National Allocation Plan. Allowances are issued as registered and transferable emission rights, initially distributed via primary market auctions and free allocation, and subsequently traded in secondary markets.

Within this framework, emission allowances allocated to companies constitute transferable economic assets within their corporate property. Furthermore, the sale of allowances through primary market auctions and trading in secondary markets directly impacts corporate investment planning and requires their recognition in financial statements.

The TR-ETS Draft Regulation defines a pilot implementation period for 2026 and 2027. During the pilot period, administrative fines will be applied at a reduced rate of 80%. The first operational period will cover 2028–2030, during which the pilot-period reductions will end, and full administrative fines will be applied.

3. Voluntary Carbon Markets and Offsetting

The Climate Law also establishes Voluntary Carbon Markets, where carbon credits can be traded on a voluntary basis. In addition, offsetting is allowed, enabling a portion of the Emission Trading System obligations to be met with equivalent amounts of carbon credits.

In this context, the [Türkiye Carbon Offsetting Draft Regulation](#) (“**Offsetting Draft Regulation**”) was published for public consultation on 1 August 2025. The Offsetting Draft Regulation aims to generate national carbon credits, called Turquoise Credits, from greenhouse gas reduction and removal projects outside the scope of the Emission Trading System, record them, and regulate their use in international markets.

The Türkiye Carbon Offsetting System (“**TR COS**”) covers programs/projects outside the Emission Trading System that reduce or remove greenhouse

gas emissions. One ton of CO₂-equivalent emission reduction under TR COS is defined as a Turquoise Credit.

The Offsetting Draft Regulation also allows Turquoise Credits generated under TR COS to be used as an offsetting instrument within the future Türkiye Emission Trading System, within limits on ratios and duration to be determined by the Department. Moreover, Turquoise Credits can be retired under voluntary commitments or exported to international carbon markets under appropriate conditions. In this way, the Offsetting Draft Regulation plays an important role in implementing the low-carbon development and net-zero targets envisaged by the Climate Law through market-based mechanisms.

4. Conclusion

Overall, the Climate Law provides a foundational legal framework for Türkiye's climate action and ensures a legal basis for the transition to net-zero emissions. In this framework, the Emission Trading System, carbon crediting and offsetting mechanisms, voluntary carbon markets, and related secondary regulations are essential for achieving the objectives set out in the Law.

Therefore, the Climate Law is not merely a standalone legal regulation but represents the first step of a comprehensive legal framework supporting Türkiye's climate regime, together with the TR-ETS Draft Regulation and the Offsetting Draft Regulation. In the coming period, the Climate Law and its associated secondary regulations will be decisive for Türkiye to meet its national climate targets and to maximize opportunities from international carbon markets and green financing.



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