

Projects & Procurement - Turkey

Electricity generation through waste incineration

Contributed by **Bilgiç Attorney Partnership**

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Introduction

Every year approximately 30 million tons of waste are deposited in landfill sites across Turkey, endangering environmental health and sustainability. However, the number of high-tech power plants that convert waste to electricity is increasing and this has become a more appealing option for investors.

This update outlines the regulatory framework for electricity generation through solid waste incineration by private generation companies.

Waste management and disposal

Assignment of waste management to private companies

According to the Municipalities Law and the Metropolitan Municipalities Law, municipalities and metropolitan municipalities have exclusive authority over the collection, transportation, recycling and disposal of solid waste. They may provide such services by themselves or contract them to third parties through tender. Municipalities and metropolitan municipalities are not entitled to sell solid waste outside the framework of a tender.

Such a tender may be subject to either the Public Procurement Law or the State Tender Law. Tenders regarding the purchase of services by municipalities (eg, the transportation of solid waste to transfer stations) are governed by the Public Procurement Law, whereas tenders which grant a real right (eg, an easement right for a storage facility) to operators are governed by the State Tender Law.

Under these laws, the tendering procedure involves seven stages:

- preparation;
- announcement;
- provision of tender specifications and pre-qualification documents;
- submission of tender;
- evaluation;
- conclusion; and
- invitation to sign the contract.

Methods of waste disposal

The Regulation Regarding the Main Principles of Waste Management provides for the following methods of waste disposal:

- regular storage under or above the surface;
- land improvement;
- landfill;
- regular storage requiring special engineering;
- discharge to a body of water other than the sea;
- discharge to the sea, including sea beds;
- onshore or offshore incineration;
- compacting or mixing of waste before treatment;
- re-packaging of waste before treatment; and
- storage before treatment.

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Incineration

According to the Regulation on Waste Incineration, a co-incineration facility is established for the main purpose of generating energy or manufacturing products by using waste as an alternative or supplementary combustible or disposing of waste thermally. Such a facility is comprised of elements such as:

- a waste receiving unit;
- a temporary storage unit;
- a pre-treatment unit;
- waste and air supply systems;
- a boiler;
- chimney gas treatment units;
- a temporary storage unit for the waste arising from incineration; and
- metering tools.

The incineration of waste is carried out by thermal disposal operations such as oxidation, pyrolysis, gasification and plasma treatment. However, under Article 2 of the Regulation on Waste Incineration, certain waste – such as radioactive waste or animal waste, is excluded from the scope of this regulation.

Storage

Subject to different regulations, waste may be stored either in a regular base for disposal purposes or in a temporary base. Co-incineration facilities must establish temporary storage facilities, which will be subject to the Regulation on Waste Incineration. Accordingly, temporary storage units should be designed to prevent the emission of pollutants into the ground or surface and subsurface waters.

Permits, authorisations and licences for waste disposal

Pursuant to the Environment Law and the Environment Permit Regulation, operators may need to obtain:

- an environmental impact assessment, depending on the thermal wattage and incineration amount;
- an environmental permit certificate for operational activities such as air emissions, environmental noise, wastewater discharge, hazardous wastewater discharge and deep sea discharge; and
- an environmental licence certificate for waste management and energy production.

All of these are issued by the Ministry of Environment and Urban Planning.

Operators will also need to obtain operational permits, including a workplace opening and operation licence pursuant to the Regulation on Opening and Operating Licences for Workplaces, and a construction and operation licence for solid waste treatment facilities pursuant to the Regulation on the Control of Solid Waste Management.

Electricity generation

Licence

According to the Electricity Market Law and the Electricity Market Licence Regulation, generating electricity in the Turkish market requires a licence from the Energy Market Regulatory Authority (EMRA). Private sector companies must obtain the generation licence for each facility prior to the commencement of activities.

The regulatory approval process to obtain a pre-licence and a generation licence from the EMRA is detailed in the Electricity Market Licence Regulation. During the pre-licence period, companies are obliged to obtain the required permits, approvals, licences and other similar documents required under the applicable law for investment and construction of the generation facility. In order to apply for a generation licence, the applicant must satisfy certain requirements, including:

- amending its articles of association to reflect the restrictions on share transfers and mergers in accordance with the Electricity Market Licence Regulation; and
- increasing its minimum share capital to at least 20% of the total investment amount.

Pursuant to the Electricity Market Licence Regulation, the pre-licence period cannot be more than 24 months, but may be extended to 36 months, depending on the resource and installed capacity. Generation licences can be granted for a minimum of 10 years and a maximum of 49 years.

During the pre-licence period, transactions resulting in direct or indirect changes to the shareholding structure and share transfers are prohibited, except where:

- the share transfer is limited to publicly traded shares of the pre-licence holder or its shareholder;
- the pre-licence is granted for facilities to be established under an international treaty; or
- the change in the pre-licence holder's shareholding structure occurs due to the change in the shareholding structure of foreign shareholders.

Share transfers during the licence period are subject to prior approval of the EMRA if:

- the direct or indirect acquisition of shares represents at least 10% of the share capital of the company, or 5% for publicly traded companies; or
- the share transfer results in a change of control, regardless of the shareholding percentage.

Incentives

Under the Renewable Energy Law, waste-to-energy projects will benefit from the following:

- Feed-in tariffs – generated output will be sold at \$13.3 per kilowatt hour – the highest price provided by the government for a renewable energy source, along with solar energy. Pursuant to Council of Ministers Decree 2013/5625, generation facilities which will be operational by December 31 2020 and opt into the renewable energy support mechanism will benefit from this feed-in tariff. The tariff will be valid for 10 years upon the commencement of operations of the generation facility.
- Access and use of state-owned land – an 85% reduction on permit costs, rent and other costs of gaining rights to access and use state-owned land will apply during the first ten years of investment for generation facilities which will be operational by December 31 2020..
- Grid connection priority – state-owned electricity transmission company, Türkiye Elektrik İletim AŞ, will give priority to these energy generators in grid connection.
- Purchase obligation – licensed retailers will purchase electricity from the energy generators at the prices and in the ratios determined by EMRA.
- Licence fee exemptions – the pre-licence application fee will be 10% of the regular pre-licence fee.
- Domestic component incentive – incentives will apply for generators that use certain domestically manufactured mechanical and electromechanical components in their facilities. Pursuant to the decree, these incremental price incentives apply only to projects that commence operations by December 31 2020 and opt into the renewable energy support mechanism. Incentives for using domestically manufactured components are available for five years after commencement of a project.

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