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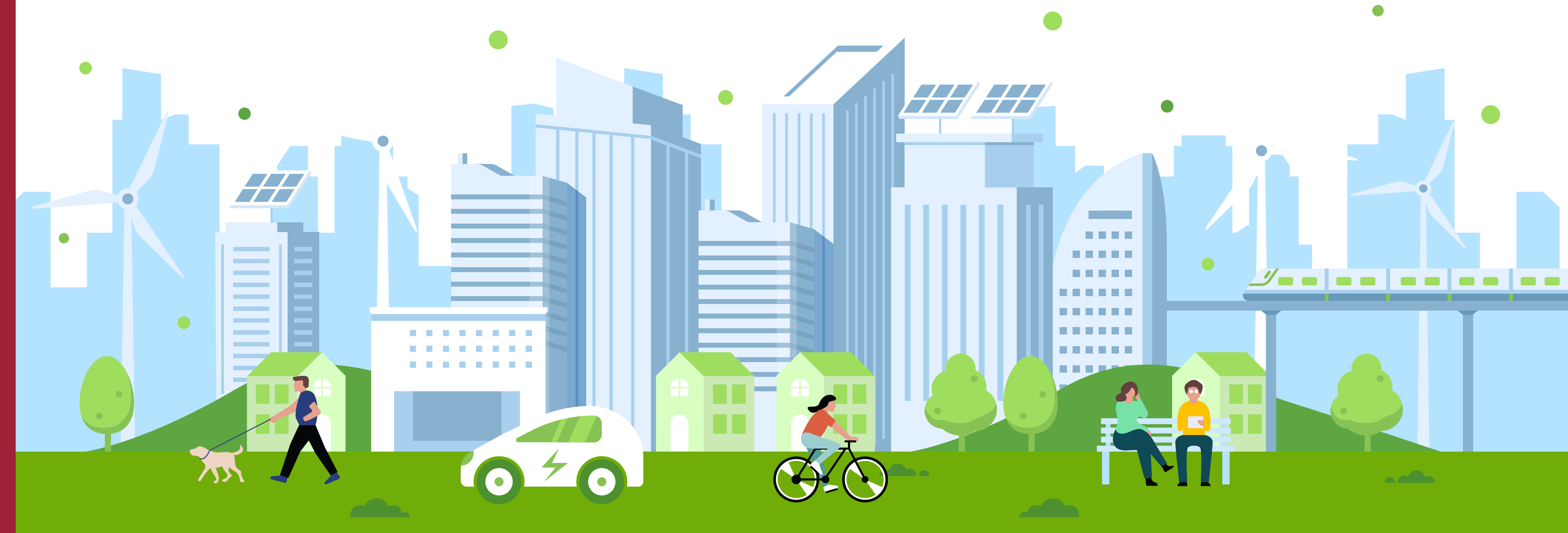

Editorial

We are pleased to deliver our Energy, Infrastructure, and Environmental, Social, Governance (ESG) quarterly publication to you, our valued network members. As today's business world has to adapt to rapid developments and emerging issues in sustainability, energy, and infrastructure, we will address issues of significance on both the local and global level in this publication. Our quarterly is a collection of articles addressing topics primarily on energy, infrastructure, and ESG, aiming to keep businesses up-to-date on rapidly-changing legal frameworks.

In this issue, we have included articles that analyze the origins of ESG and the future of ESG compliance; explore the implications of the EU's legal framework on corporate sustainability due diligence for Turkish companies; compare Türkiye and the EU's Green Deal frameworks; examine the legal framework of Türkiye's emissions trading system that is expected to become operational in the near future; and finally, present electric vehicle policy and legal developments. We hope you will enjoy our quarterly and wish you a pleasant read.

HERGÜNER BİLGEN ÜÇER

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A The Journey Of ESG: What Brought Us Here And Where Are We Headed?

Introduction

The importance of the Environmental, Social, and Governance ("**ESG**") management model is increasing because of its relevance to modern business and investment practices, emphasizing a comprehensive approach to sustainability and the importance of businesses' impact on society. ESG emerged from the growing awareness of good corporate governance in the early 2000s following the Enron and Worldcom scandals. While the goal of corporate governance was to protect shareholders' and creditors' rights in the course of maximizing company profitability, ESG's focus has expanded to encompass a wider group of stakeholders including employees, customers, subcontractors, suppliers, and more, while at the same time embracing environmental considerations. As ESG evolved, the concepts of corporate social responsibility and sustainable development became its primary goals.

The United Nations "Global Compact" initiative was a pivotal moment in the evolution of ESG in that it began the process of institutionalizing ESG frameworks by urging businesses to adopt sustainable practices on a voluntary basis. The "Global Compact" envisioned companies embracing a management approach that considered all stakeholders (not just shareholders) within a wider context and integrating the environmental considerations impacting these stakeholders and society at large. The term "ESG" gained formal recognition in the 2004 United Nations Global Compact report "*Who Cares Wins,*" which underscored the financial relevance of ESG factors.

Over the past two decades, ESG has rapidly evolved, driven by increasing regulatory requirements, investor demand for responsible investing, and growing evidence that ESG integration can enhance financial performance. The rise of global challenges such as climate change, social inequality, and corporate governance scandals has further cemented ESG as a critical lens through which companies and investors assess risk, opportunity, and long-term viability. Today, ESG considerations are being embedded in corporate strategies and decision-making as well as regulatory frameworks, overall reflecting a comprehensive approach to achieving sustainable and inclusive growth.

ESG Pillars

ESG is based on three major pillars. Among the three, governance is maybe the most familiar pillar. The "G," which stands for good governance, was in fact the starting point of discussions concerning ESG. Good governance aligns closely with the four core principles of *transparency, fairness, responsibility,* and *accountability*. That said, until the concept of ESG was introduced, the corporate governance model was a more inward-looking approach, especially with respect to responsibility and accountability. After the adoption of ESG principles, companies now need to embrace an outward-looking approach.

The second pillar of ESG is the "S," which refers to the social element. It is concerned with the social rights and welfare of a broader range of stakeholders, of which, employees tend to be the group most exposed to the impact of business practices. The UN's Guiding Principles on Business and Human Rights was an influential milestone in the development of the social pillar of ESG. The Guideline focused on shaping the relationship between companies and employees from a human rights perspective, detailing how businesses should observe these rights. The social factor kicks in within the context of a company's relationships with its employees, suppliers, customers, communities, and involves assessing aspects such as labor practices, human rights, and corporate social responsibility. The liability of companies and their executives in this respect will depend on whether they treat the wider stakeholder group in accordance with human rights. Therefore, it requires companies and executives to focus on the internal systems and controls that govern their company, including executive leadership, audits, internal controls, and stakeholder rights.

Finally, the last pillar, "E," represents the environment. Its goal is to guide companies in ways to prevent environmental harm and maintain ecological balance. The environmental pillar requires companies to consider how they manage their ecological footprint, including energy use, waste, pollution, and resource conservation efforts. To that end, the European Union (EU)'s transformative Green Deal stands out as shaping the near future of the environmental aspects of ESG. It outlines how the carbon footprint generated by corporate activities from their production and the provision of services will be zeroed out. Initially targeting a 55% reduction in carbon emissions by 2030 from the time the document entered into force, the ultimate goal is to achieve complete carbon neutrality by 2050. The EU has further bolstered this initiative with a series of directives, facilitating reporting mechanisms and actively monitoring progress. The EU aims not only to mitigate climate change within its borders, but also to have a broader impact through measures like the carbon footprint mechanism at its borders. This system governs the EU's imports and trade with trade partners, and involves an emission trading system for the domestic market. The EU backed up its carbon footprint reduction measures with a corporate governance reporting directive that took effect in January 2023, which requires companies to prepare sustainability reports.

By integrating ESG criteria into the decision-making process, companies and investors aim to enhance long-term value creation, mitigate risks, and contribute to sustainable development goals. This comprehensive management model helps identify ethical and sustainable investment opportunities and promotes transparency, accountability, and ethical behavior in the corporate world. Ultimately, ESG aims to create a balanced approach where economic growth, social equity, and environmental sustainability lead to a more resilient and inclusive global economy.

What Lies Ahead?

We will soon experience the effects of European Union ESG regulations on Türkiye and Turkish companies. Approximately 40% of Türkiye's exports are destined for the European Union, and carbon footprint regulations mandate compliance by third-party companies doing business with member countries (i.e., Turkish exporters). Several sectors, including iron, steel, aluminum, cement, fertilizer, hydrogen, and energy, are expected to contend with rising production costs. Therefore, Turkish companies will have to integrate the ESG management model more effectively into their activities over the next two years to avoid incurring financial losses.

From a global perspective, as challenges such as climate change, social inequality, and other corporate governance issues increasingly impact societies and economies, the ESG management model will inevitably become central to corporate strategies and investment decisions. The integration of advanced technologies such as artificial intelligence, blockchain, and big data analytics will enable more precise measurement and management of ESG performance, enhancing transparency and accountability. As a consequence of more stringent regulatory frameworks and mandating comprehensive ESG reporting and compliance, companies will be driven to adopt more sustainable and socially-responsible practices.

B Legal Regulations On Corporate Sustainability Reporting In The European Union And Türkiye

Introduction

With the Corporate Sustainability Reporting Directive (CSRD), Corporate Sustainability Due Diligence and Amending Directive (CSDD), and Europe Sustainability Reporting Standards (ESRS) enacted by the European Union within the scope of the European Green Deal, mandatory sustainability reporting and assurance auditing have been introduced. These requirements will be gradually applied to companies of a certain scale, whether they are based in member countries or outside the European Union (EU).

As the Republic of Türkiye is a party to the Customs Union and exports approximately 40% of its total exports to the EU, it is inevitable that Turkish companies will be affected by the abovementioned legislative provisions. In this article, the legal regulations regarding corporate sustainability reporting in the European Union and Türkiye are outlined.

1. Legal Regulations on Corporate Sustainability in the European Union

a) Corporate Sustainability Reporting Directive (CSRD) numbered 2022/2464

The CSRD was published in the Official Journal of the EU on December 16, 2022 and came into force on January 5, 2023. With the CSRD, the Non-Financial Reporting Directive (NFRD), which was previously in force in the EU and applied only to companies listed in the stock exchange, has been significantly revised and the scope of its sustainability reporting greatly expanded and strengthened. EU Member States are required to incorporate CSRD's provisions into their national laws as of July 6, 2024 (18 months from the date of ıi's entry into force).

The CSRD obliges companies that have commercial activities in the EU and meet certain criteria to identify the current and potential impacts, risks, and opportunities '*caused by their activities on the environment and people*' and '*by social and environmental issues on the activities of the companies*' to eliminate negative effects, to prevent or minimize potential negative outcomes, and to report them in accordance with ESRS standards, taking into account downstream and upstream business partners and stakeholders in the global supply and value chain and adhering to the principle of double materiality.

The CSRD applies to all large companies that are headquartered in EU member states and meet two of the following three criteria:

i. Companies with a net turnover more than €40 million per annum,

ii. Companies with a balance sheet total of more than €20 million,

iii. Companies with more than 250 employees (annual average).

The CSRD also applies to companies headquartered in non-EU 3rd party countries if they meet the following criteria:

i. Companies with net sales in the EU (in each of the last two consecutive financial years) of more than €150 million and with a large or capital market oriented subsidiary in the EU

ii. Branches of companies or groups with net sales in the EU exceeding €40 million in the previous year and headquartered outside the EU.

However, in both of the cases mentioned above, companies or groups of companies must have net sales in the EU of more than €150 million in each of the last two consecutive financial years.

For companies subject to the CSRD, the obligation to report on sustainability will start gradually, as set out below;

i. As of the 2024 financial year, companies already covered by the NFRD,

ii. Large companies as of the 2025 financial year,

iii. SMEs listed on the stock exchange as of the 2026 financial year,

iv. Non-EU companies as of the financial year 2028.

b) *Corporate Sustainability Due Diligence Directive (CSDD) numbered 2024/1760*

The CSDD was published in the Official Journal of the EU on July 5, 2024 and entered into force on July 25, 2024. EU member states are obliged to adopt the CSDD into their domestic laws by July 26, 2026.

Under the due diligence obligation, companies subject to the CSDD must regularly assess the impact of their activities and those companies contributing to their value chain on the environment and human rights in order to identify existing issues and propose solutions to address them. Companies subject to the CSDD are also required to adopt a plan to ensure that their business models and strategies are in line with the Paris Agreement's goal of limiting global warming to 1.5°C.

Starting from July 26, 2027, the CSDD will be applied gradually based on the following thresholds:

From July 26, 2027:

i. EU-based companies with more than 5,000 employees and a worldwide net turnover exceeding €1.5 billion in the last financial year preceding July 26, 2027,

ii. Non-EU-based companies with a net turnover in the EU of more than €1.5 billion in the financial year preceding the last financial year preceding July 26, 2027.

From July 26, 2028:

i. EU-based companies with more than 3,000 employees and a worldwide net turnover of more than €900 million in the last financial year preceding July 26, 2028,

ii. Non-EU-based companies with a net turnover in the EU of more than €900 million in the financial year preceding the last financial year preceding July 26, 2028.

From July 26, 2029:

i. EU-based companies or is the ultimate parent company of a group with more than 1,000 employees and a net worldwide turnover of more than €450 million in the last financial year,

ii. EU-based company which has entered to or is the ultimate parent company of a group that entered into franchising or licensing agreements in the EU in return for royalties with independent third-party companies, where those royalties amounted to more than €22.5 million in the financial year for which annual financial statements have been or should have been adopted, and provided that the company had or is the ultimate parent company of a group that had a net worldwide turnover of more than €80 million in the

financial year preceding the last financial year.

iii. A non-EU-based company generated or is the ultimate parent company of a group of companies that generated an annual net turnover in the EU of more than €450 million in the financial year preceding the last financial year.

iv. A non-EU based company which entered to or is the ultimate parent company of a group that entered into franchising or licensing agreements in the EU in return for royalties with independent third-party companies, where those royalties amounted to more than €22.5 million in the financial year preceding the last financial year and provided that the company had or is the ultimate parent company of a group that had a net worldwide turnover of more than €80 million in the financial year preceding the last financial year

The ultimate parent company may be exempted from carrying out the obligations under CSDD if its main activity is holding shares in operational subsidiaries and if it does not engage in taking management, operational or financial decisions affecting the group or one or more of its subsidiaries. This exemption requires that one of its EU subsidiaries must be designated to fulfil the obligations under the CSDD on behalf of the ultimate parent company, and this parent company must have obtained the required exemption from the competent supervisory authority.

CSDD only applies if the scope criteria is fulfilled for two consecutive financial years by both the EU and third-country companies preceding the relevant application dates established in accordance with the rules on the transposition of this Directive.

Although small and medium-sized enterprises (SMEs) are not directly within the scope of the CSDD, they will be affected by its provisions if they are suppliers or sub-suppliers of larger companies subject to the CSDD. Companies resident in Türkiye that are in the supply or value chain of companies subject to the CSDD will also be directly or indirectly affected by these regulations.

Various sanctions, such as fines (up to 5% of turnover), are envisaged to be imposed on companies that breach due diligence. It is also stated that compliance with the CSDD may be considered as a criterion for awarding public tenders and concessions. Injured parties, trade unions, and NGOs will have five years to file a lawsuit against companies violating the CSDD.

c) European Sustainability Reporting Standards (ESRS)

On July 31, 2023, the EU Commission adopted the European Sustainability Reporting Standards (ESRS) to be used by all companies subject to CSRD.

The 12 standards determined within the scope of ESRS, in line with the Global Reporting Initiative (GRI) and International Sustainability Standards Board (ISSB), cover all environmental, social, and governance issues, including climate change, biodiversity, and human rights;

- ESRS 1: General Requirements
- ESRS 2: General Disclosures (mandatory for all companies under the CSRD)
    - ESRS E1: Climate change
    - ESRS E2: Pollution
    - ESRS E3: Water and marine resources
    - ESRS E4: Biodiversity and ecosystems
    - ESRS E5: Resource use and circular economy
    - ESRS S1: Own workforce
    - ESRS S2: Workers in the value chain
    - ESRS S3: Affected communities
    - ESRS S4: Consumers and end-users
    - ESRS G1: Business conduct

ESRS 1 ("General Requirements") and ESRS 2 ("General Disclosures") contain basic information that must be disclosed regardless of which sustainability topic is addressed, while all other standards and their disclosure requirements require and assessment of "materiality." The "materiality" assessment of companies will be subject to external audit in accordance with the rules set out in the EU Accounting Directive to ensure that companies are treated objectively and fairly.

For example, if companies decide that "Climate" is not a material topic for them, they will not include this topic in their report. However, they will have to explain reasons for this decision in detail and share them transparently.

2. Legal Regulations on Corporate Sustainability Reporting in Türkiye

a) Turkish Sustainability Reporting Standards

With the amendment made to Article 88 of the Turkish Commercial Code No. 6102 ("TCC"), the Public Oversight, Accounting, and Auditing Standards Authority ("KGM") is authorized to determine and publish sustainability reporting standards and the scope of application of these standards in order to establish unity in practice and to ensure the international validity of sustainability reporting. KGM is also authorized to publish sustainability assurance audit standards to ensure the reliability of sustainability reports to be submitted by companies within the scope and to establish the mandatory assurance audit structure envisaged in the CSRD and to establish a public oversight structure over this framework.

KGM adopted the IFRS S1 and S2 standards published by the ISSB as the international basis of the Turkish Sustainability Reporting Standards ("TSRS"), and the scope of application of TSRS was published in the Official Journal dated December 29, 2023 and numbered 32414. Among the companies listed in Article 3/1 of the said Board Decision, those that exceed the threshold values of at least two of the criteria below in two consecutive reporting periods are obliged to prepare sustainability reports as of January 1, 2024:

i. Total assets of 500 million Turkish Liras;
ii. Annual net sales revenue of 1 billion Turkish Liras;
iii. 250 employees.

Banks subject to the oversight of the Banking Regulation and Supervision Agency are within the scope of mandatory reporting, regardless of any threshold. Banks under the Saving Deposit Insurance Fund are exempted from this application. However, entities outside the scope will also be able to report in accordance with TSRS on a voluntary basis.

As stated in the TSRS, the reports will consist of four sections: (i) Governance, (ii) Strategy, (iii) Risk management, and (iv) Metrics and targets.

The purpose of TSRS 1 – General Provisions on the Disclosure of Sustainability-related Financial Information is to require entities to disclose sustainability-related risks and opportunities that will aid the primary users of general-purpose financial reports in making decisions about providing resources to said entities.

The objective of TSRS 2 – Climate-related Disclosures require entities to disclose information about climate-related risks and opportunities that would be useful to primary users of general purpose financial reports in making funding decisions.

However, companies are not required to present comparative information in the first reporting period in which they apply the TSRSs. Companies are also not required to disclose Scope 3 greenhouse gas emissions in the first two annual reporting periods in which they apply the TSRSs.

b) Corporate Sustainability Reporting for Companies Subject to Capital Markets Legislation and Listed on Borsa Istanbul

With the amendment made on 02.10.2020 to the Capital Markets Board's ("CMB") Corporate Governance Communiqué numbered II-17.1 ("**Communiqué**"), the Sustainability Principles Compliance Framework" has been included in its scope. Companies other than the companies listed in Article 1/2 of the Communiqué are subject to sustainability principles, and these companies are required to include disclosures within the scope of the "Sustainability Principles Compliance Framework" in their corporate governance principles compliance reporting. The "Sustainability Principles Compliance Framework" includes the basic principles that publicly-traded companies are expected to disclose while carrying out environmental, social, and corporate governance activities.

The implementation of the sustainability principles published by the CMB is voluntary. Pursuant to Article 8/1 of the Communiqué, companies are required to disclose in their annual reports whether or not corporate governance principles are applied, if not, justified explanations as to why they were not applied, conflicts of interest arising from not fully complying with these principles, and whether there is a plan to make any changes in the management practices of the corporation in the future within the framework of these principles. Companies are also required to disclose in their annual reports whether the sustainability principles are applied or not, if not, a justified explanation for this, an explanation of the effects of not fully complying with these

principles on environmental and social risk management, and if there is a significant change in these explanations during the period, the relevant change must be included in the interim activity reports.

Companies are obliged to make sustainability reports using the Sustainability Report template published by the CMB on 23.06.2022 and publish them on the Public Disclosure Platform (PDP).

In addition, the shares of companies that meet certain criteria are included in the BIST Sustainability Index, which began to be calculated by Borsa Istanbul in 2014 in order to '*create a platform that communicates information on companies*' sustainability policies to responsible investors,' and in the BIST Sustainability 25 Index, which began to be published as of November 21, 2022, on a voluntary basis.

C The "Greening" Of The European Union And Türkiye: An Analysis Of The European Green Deal And Turkish Green Action Plan

Introduction

The European Union adopted the Green Deal to overcome climate change and environmental degradation challenges and become the first climate-neutral continent by 2050. One of the highlights of this remarkable set of proposals is to lower net greenhouse gas emission by at least 55% by 2030 and eventually achieve zero net emissions by 2050. The European Union and the European Commission underline that the key steps and initiatives set out in the Green Deal "*will transform the EU into a modern, resource-efficient and competitive economy.*" Additionally, they envision that by implementing these initiatives, economic growth will not be repressed but contrarily be "decoupled from resource use." Finally, thanks to its inclusive (and/or equitable) approach, this initiative will not lead to an increase in disruptive competition in the markets where it will be implemented. The legislation implementing the Green Deal is expanding its scope day by day with the introduction of secondary mechanisms and regulations. Following this greening project in the European Union, Türkiye has also adopted an action plan meant to complement the EU initiative and support the transformation toward a greener future. It aims for full compliance with the regulations by limiting carbon emissions, constructing a green and circular economy, and implementing green financing and safe energy supply, ensuring sustainability in agriculture and transportation, and raising awareness of the European Green Deal.

This article is the first part of a series of articles that will provide a comprehensive overview of the European Green Deal and the Turkish Action Plan, outlining their projected roadmaps and end-goals. It also delves into the legal frameworks established in the European Union and Türkiye. In this series of articles, we will be analyzing the scope and impacts of these initiatives by shedding light on the future of relevant industries, hinting at the opportunities and potential challenges that a greener future may bring.

1. The European Green Deal: Objectives and Roadmap

As climate scientists have pointed out persistently and stated in the Paris Agreement in 2015, the only effective way to reduce the risks of devastating consequences of global warming is to achieve the 1.5°C climate threshold and contain global warming within 1.5°C above pre-industrial average temperatures. Although the European Union ("**EU**") had ambitious goals prior to the European Green Deal ("**EGD**"), which was adopted in 2019 parallel to the international agenda on this topic, the roadmap and end goals were not as clearly defined. That said, with the introduction of the EGD, and the adoption of a secondary set of proposals and policies, such as the Fit for 55 package and Circular Economy Action Plan, the end goal is to become the first climate-neutral continent by 2050 with net zero or a balanced budget for emissions. In order to reach this ultimate goal, the EU aims to reduce emissions by 55%, compared to 1990 levels by 2030, as an intermediate goal.

In pursuit of these objectives, the EU prepared and endorsed a 30-year action plan centered on energy transition, boosting a circular economy, preserving biodiversity, and ending pollution. As of 2019, the EU and the European Commission provided macro-objectives and framework policies for subsequent actions. In order to meet the intermediate objectives, several action plans were made, notably regarding the financing of such a costly transition. As per the first analysis, it was estimated that €260 billion of new investment was required annually to reach the end goal. However, these estimations were severely impacted by the COVID-19 pandemic and the war in Ukraine. Consequently, the EU developed additional strategies and action plans in order to support the funding of a slowing down European economy and generate affordable, secure, and sustainable energy for Europe in response to energy crises, primarily stemming from the supply shock caused by the war in Ukraine. These initiatives also contain references to the EGD and targets to comply with the EGD's end-goal and framework. Aside from ensuring the funding of the EGD, the EU has also introduced an action plan for the Circular Economy and Zero Pollution Action Plan, adopted the Farm to Fork Strategy and 2030 Biodiversity Strategy, proposed a new regulation to curb EU-driven deforestation and forest degradation, and revised EU legislation on Packaging and Packaging Wates and the Regulation on Ecodesign for Sustainable Products.

One of the most notable commitments of the EU is the Fit for 55 package of legislation, pursuant to the European Climate Law. The Fit for 55 package, designed and introduced as a

growth and financing strategy in 2021, mainly includes items that will revitalize the green economy by developing innovative low-emission technologies, providing new employment suitable for green industries, targets to reduce emissions by 55% by 2030, and meet the intermediate goal. Fit for 55 contains three tools to achieve the green-goals of combating the irreversible devastating effects of climate change. These tools are: (i) the EU Emissions Trading System (which will be discussed in detail in the next issue of the ESG Quarterly), (ii) Carbon Border Adjustment Mechanism, and (iii) ReFuel EU, which proposes to increase the production and usage of sustainable aviation fuels. The package also includes a set of proposals for agriculture, forestry, renewable energy, transportation, maritime, and retail industries.

All these initiatives considered, the road to 2050 is still a long one and likely requires in-depth plans and binding requirements to grant implementation of the initiatives to reach the end-goal. Moreover, the studies demonstrate that the effects are worse on low-income households and countries, and thus the EGD and its supplementary legislation and policies are expected to include preventive measures and regulations in response to these concerns.

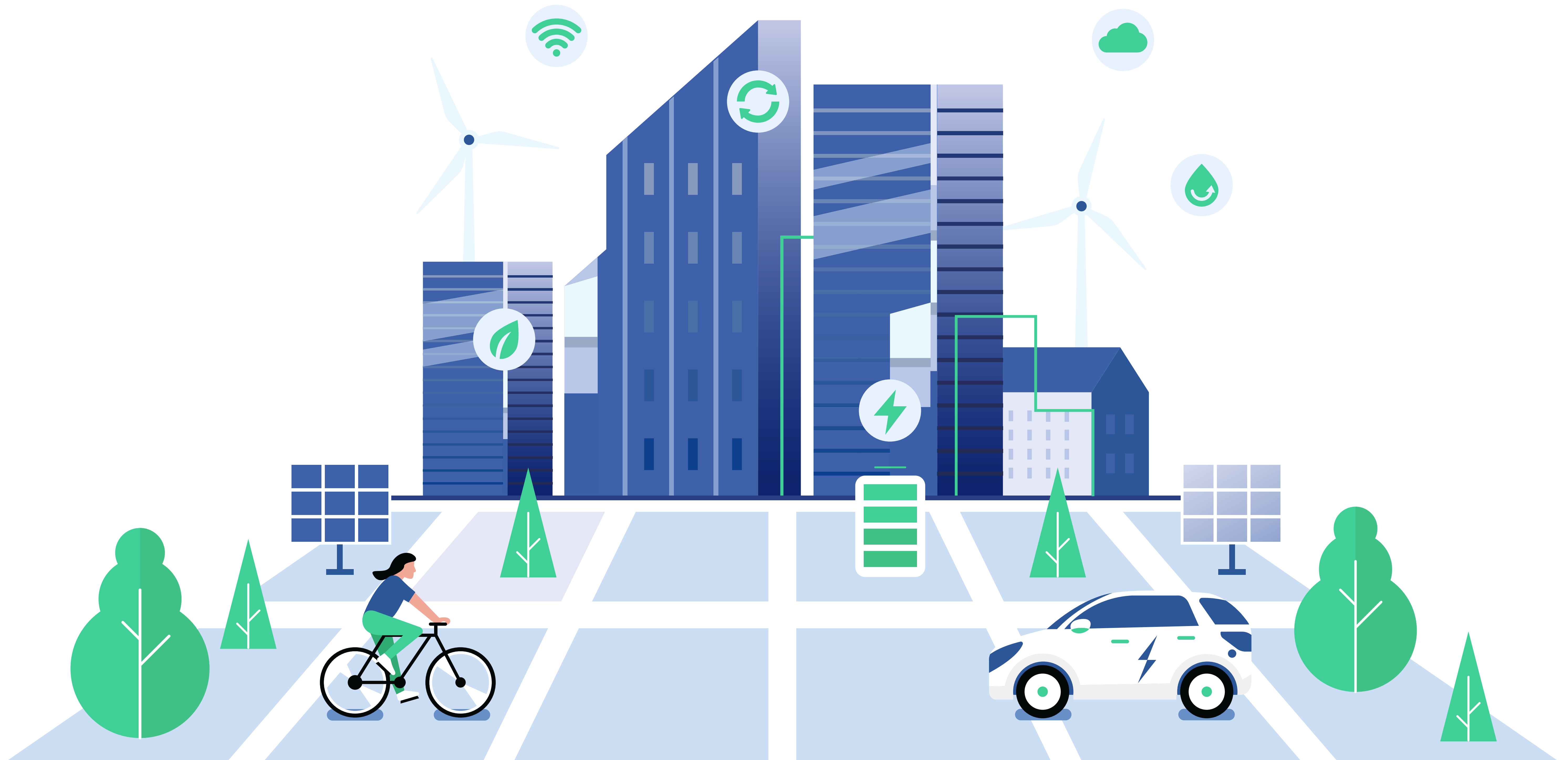
2. The Turkish Green Action Plan: Objectives and Initiatives

The Turkish Ministry of Trade has also engaged in monitoring and implementing policy instruments introduced by the EGD, as it is inevitable that the objectives set by the EU will have a direct economic impact on Türkiye due to its integration into the value chain of the EU through the customs union. Türkiye has also pledged to become net-zero in 2053 after signing the Paris Agreement. Following these developments, Türkiye established a study group to conduct research to ensure adaptation to the EGD, created an action plan by receiving contributions from many domestic institutions, and published the Turkish Green Action Plan ("**Turkish Action Plan**") in the Official Gazette in 2021.

In line with the EU's priorities and initiatives, the Turkish Action Plan includes 81 actions required to be implemented to achieve the EGD's requirements under the following headings: *(i)* Carbon Border Adjustment Mechanism, *(ii)* Green Circular Economy, *(iii)* Green Financing, *(iv)* Clean, Economic and Safe Energy Supply, *(v)* Sustainable Agriculture, *(vi)* Sustainable and Smart Transportation, *(vii)* Combating Climate Change, *(viii)* Diplomacy, and *(ix)* Education and Awareness. The study group continues to work on their agenda under the Ministry of Trade to achieve the goals and actions enumerated under the Turkish Action Plan and is in close pursuit to comply with any developments in the EU. The study group also formed sub-study groups specialized in specific EGD requirements within certain industries, including steel, aluminum, cement, textile, retail, and construction. Moreover, although it is not directly included in the Turkish Action Plan, the establishment of new sub-study groups targeted to the training needs and social impacts of the green transition is in the study group's agenda. With the draft law and regulations it has recently published, Türkiye has also signaled that an emissions trading system will be introduced to shield Turkish industry against the carbon pricing of Turkish exports through the carbon border adjustment mechanism. Moreover, with the Communiqué on Green Transformation Support Program Application Procedure and Principles, which was just published in the Official Gazette on July 26, 2024, Türkiye has revealed its intention for a greener future and determined the implementation procedures and principles of the program which will be carried out to attract investments that are compatible with a circular economy, protect natural resources, contribute to climate and sustainability goals, and aim for resource-efficient and low emission production. Türkiye is expected to implement additional legislation to meet this objective.

Climate scientists insist that Türkiye is among the countries that will be most dramatically affected by climate change. Consequently, as Türkiye is strategically an important player in international trade, due to its customs regime and geopolitical position, it is crucial for Türkiye to take the necessary steps that will force other countries to reduce global emissions by conducting effective climate diplomacy to protect itself against environmental disasters that will emerge in the near future. In order to achieve such progress, Türkiye needs to be ambitious in its net-zero carbon journey. Additionally, the fact that countries outside the EU have made net-zero commitments to combat climate change is a harbinger of new carbon regimes and other legal regulations that will fundamentally change the dynamics of international trade. This shows that Türkiye's performance towards the net-zero target is closely related to its share in international trade in the future. Therefore, all related parties should pay close attention to any developments regarding the Turkish greening project.

D Turkiye’s Own ETS Is In The Works



Introduction

Türkiye aims to achieve net zero emissions by 2053 pursuant to its First Nationally Determined Contribution under the Paris Agreement. The Ministry of Environment, Urbanization and Climate Change ("**MoE**") is working on the Draft Law on Climate Change ("**Draft Law**"), which observers in Türkiye expect will enter into force in 2024.

In this article, we will first explain the general structure of the Draft Law and then delve into the main novelty of the law: the emission trading system ("ETS") of Türkiye and compare it to its European counterpart. Finally, we will examine the relationship between the Turkish ETS and European Union's ("**EU**") Carbon Border Adjustment Mechanism ("**CBAM**").

1. An Overview of the Draft Law

The Draft Law starts by listing the general principles for combatting climate change. Among these, it is worth noting the reference to a just transition, which is defined as, "*A policy where no one is left behind and green job opportunities are provided, with priority given to vulnerable groups, in order to prevent unemployment and economic fluctuations while achieving the goals set in the battle against the climate change.*" The term "just transition" appears to derive from the EU's Green Deal policy and is clear evidence of the so-called "Brussels Effect."

The Draft Law charges the MoE and other governmental bodies with completing certain actions, such as establishing regulations for energy-efficient buildings, implementing the principles of a circular economy, and reducing greenhouse gas emissions in agriculture. However, these obligations lack precise deadlines and are not quantified. Well-defined obligations would have enabled both public institutions and civil society to more efficiently assess where public bodies stand in relation to fulfilling these legislative targets.

2. The Turkish Emission Trading System

The MoE, as part of its Partnership of Market Readiness Project conducted with the help of the World Bank, decided that the most appropriate carbon pricing mechanism for Türkiye would be an ETS. Accordingly, the Draft Law envisions the establishment of an ETS. The Turkish ETS will operate like its European counterpart. Companies in scope will have to maintain enough allowances to cover their greenhouse gas emissions. Allowances will be available through government allocations (i.e., free allowances), through auction processes, or by trading with other market players. More emissions mean more allowances will be required, which means greater costs for companies. The ETS, therefore, incentivizes companies to reduce emissions.

The Draft Law envisions a set of fines for noncompliance. Most notably:

- Entities operating without a greenhouse gas emission permit or with expired or cancelled permits will face fines based on their reporting status:
    - o Those with a verified annual emission report will be fined 10 Turkish Liras per ton of carbon dioxide equivalent emissions in their latest annual emission report, and
    - o Those without such a report will be fined from 100,000 to 5 million Turkish Liras.
- Entities failing to submit sufficient allowances to cover for their annual emission reports will be fined twice the price of the discrepancy on the last business day of the reporting year.

The Draft Law envisions a transition period during which administrative fines will be applied at a reduced rate. The Directorate of Climate Change at the MoE ("Directorate") will decide on the duration of the transition period. The Directorate will also decide on the sectors covered by the ETS. In addition, for the first three years after the Draft Law enters into force, greenhouse gas emission permits, which are a prerequisite for operating in the Turkish ETS, will not be required on a one-off basis.

A new administrative body called the Carbon Market Board that will consist of representatives from various ministries including the Ministry of Trade and the MoE will decide on emission caps and the distribution of free allowances. The Directorate will develop and regulate the Turkish ETS. The Capital Markets Board of Türkiye will supervise the Turkish ETS and implement measures against fraud and market abuse.

3. The Relationship between the Turkish ETS and CBAM

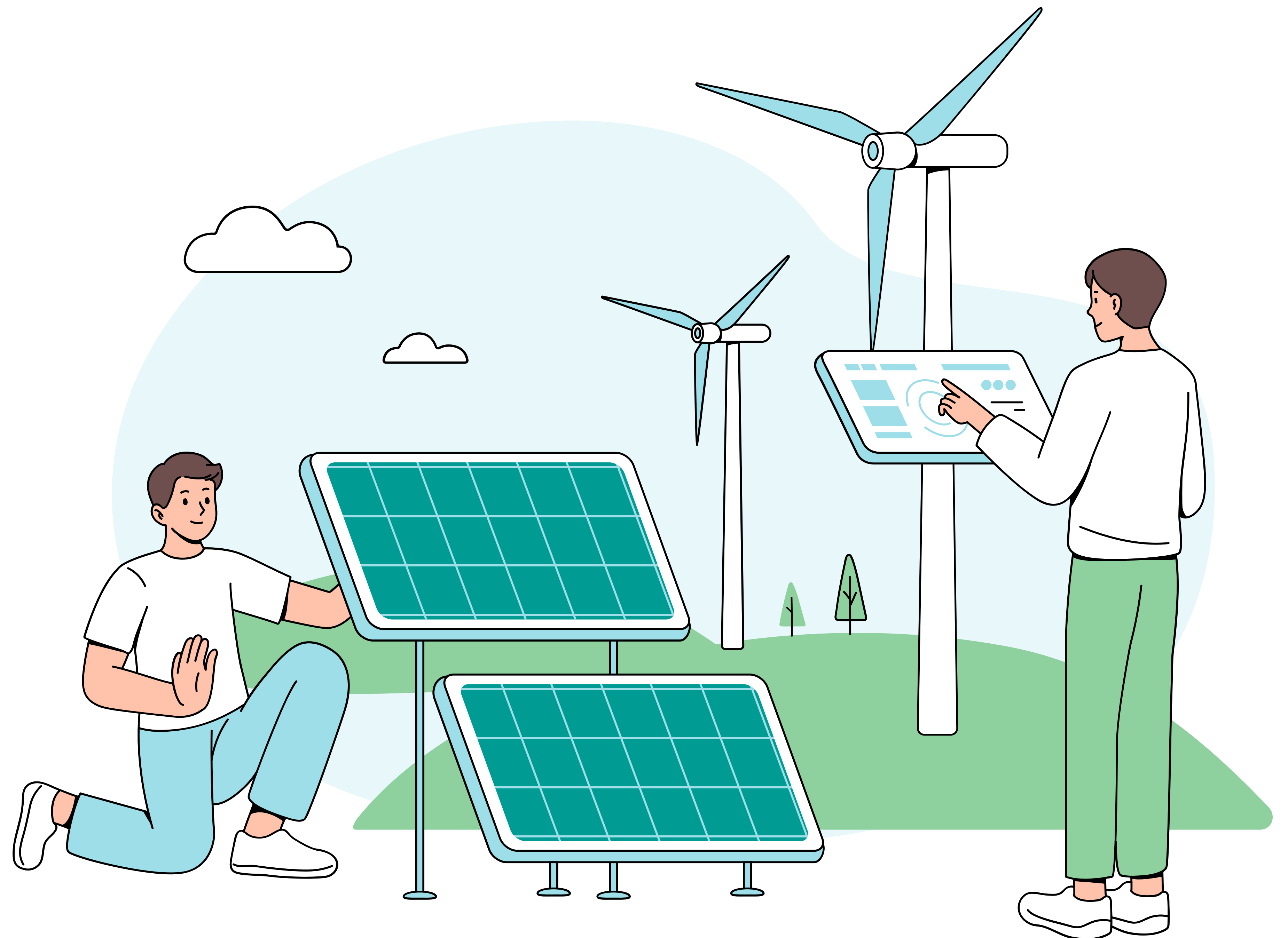
Recognizing climate change as a global problem, the EU introduced the CBAM to prevent carbon leakage. As of 2026, EU importers of cement, iron & steel, aluminum, fertilizers, electricity, and hydrogen will be obliged to purchase CBAM certificates over the weekly average auction prices of EU ETS allowances.

CBAM will deeply affect Turkish exporters because the EU is Türkiye's biggest export destination. According to a report prepared by the European Bank for Reconstruction and Development (EBRD) and the MoE, the cost of CBAM for Turkish exporters could be as high as €2.5 billion per annum by 2032. However, it is not all doom and gloom for Turkish industries. The report also examines potential solutions such as the establishment of a Turkish ETS linked or unlinked with the EU ETS, and the integration of the Turkish and EU electricity markets. The report concludes that complete exemption from CBAM is only possible if the Turkish ETS is linked with the EU ETS or if the Turkish and EU electricity markets are integrated.

However, linking attempts have historically been difficult because of the high degree of alignment required. A notable example is the linking of the Swiss ETS with EU ETS, which took approximately 10 years. At the very least, importers subject to a carbon tax or participating in a local ETS scheme are eligible for a reduced price when purchasing CBAM certificates. Therefore, even an unlinked Turkish ETS could help Turkish exporters obtain discounted CBAM certificates.

Conclusion

Türkiye's Draft Law appears to aim at mitigating the effects of CBAM on Turkish industries as much as achieving Türkiye's net zero target. The EU has successfully leveraged the power of its internal market to nudge Türkiye into establishing an ETS that is very similar to the EU version. The Brussels Effect is clearly at work, and hopefully, our planet will be better off because of it. Whether or not exporting to the EU, all Turkish companies should start preparing for the additional costs that will be generated by the Turkish ETS.

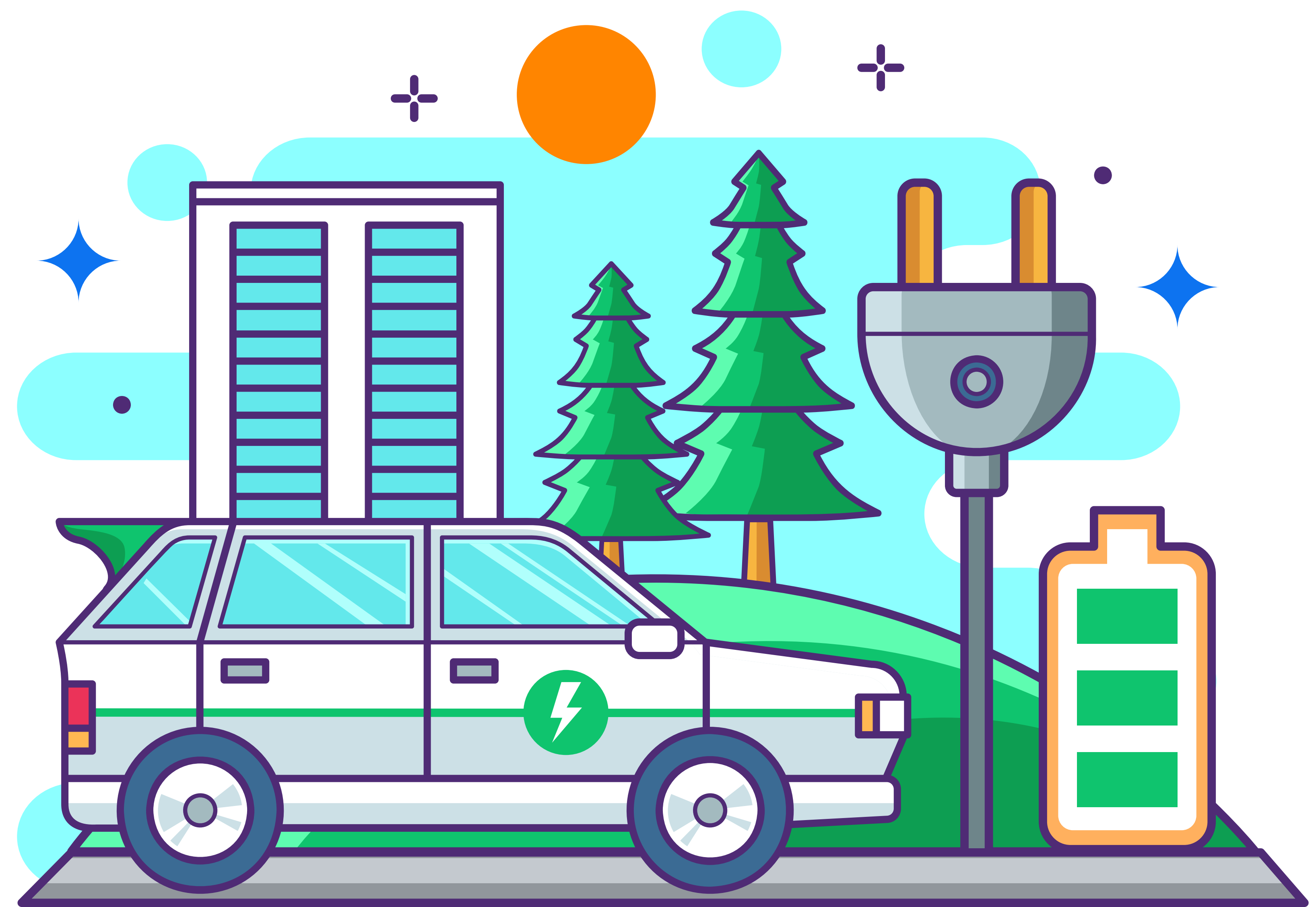


E Regulations On Electric Vehicle Charging Stations: A Comparative Analysis

Introduction

Türkiye has announced its goal of net-zero carbon emissions by 2053. This transition will necessitate the involvement of a key component of our daily lives: transportation. To this end, Türkiye has accelerated its efforts to adopt electric vehicles as the primary means of transportation. Adoption of electric vehicles necessitates proliferation of electric vehicle charging infrastructure. To enable this transition, Türkiye has adopted a number of laws and regulations, and made key revisions to existing legislation: namely the Law on Electricity Markets No. 6446, the Regulation on Charging Service published on the Official Gazette dated April 2, 2022 and numbered 31797, Parking Regulation published on the Official Gazette dated February 22, 2018 and numbered 30340, Planned Areas Zoning Regulation published on the Official Gazette dated July 3, 2017 and numbered 30113.

First, this article will briefly explain the current state of the Turkish electric vehicle market and the challenges it faces in relation to recent trade measures. Second, the article examines recent legal developments in the European Union regarding electrical vehicle charging legislation: namely the Energy Performance of Buildings Directive revised as of April 24, 2024; Alternative Fuels Infrastructure Regulation revised as of September 13, 2023; and Renewable Energy Directive II revised as of October 18, 2023. This article aims to provide a comparative analysis for electrical vehicle charging legislation in the European Union and Türkiye. This article will be the first in a two-part series.



1. Electric Vehicle Market in Türkiye: Challenges and Opportunities

Türkiye has pledged to achieve net-zero carbon emissions in its First Nationally Determined Contribution for the Paris Agreement. In accordance with this pledge, Türkiye has made electric vehicles ("**EV**") a cornerstone of climate and energy transformation. Since then, both the private and public sectors have taken a number of initiatives such as the partnership between TOGG and Farasis Energy for electric vehicle and battery manufacturing. In this article, we will first talk about EV manufacturing investments in Türkiye and the EV markets in general. Second, we will talk about the Ministry of Trade's ("**Ministry**") recent adoption of trade measures and their effects on EV markets. Thirdly, we will talk about the EV charging industry in Türkiye.

a) Electric Vehicle Investments and Markets in Türkiye

Back in 2020, Türkiye's *Türkiye'nin Otomobili Girişim Grubu* ("**TOGG**") or the Turkish Automobile Enterprise Group announced its partnership with Farasis Energy, a Chinese battery manufacturing company. This partnership garnered global attention as the International Energy Agency ("**IEA**") has shown TOGG and Farasis Energy as examples of close and mutually beneficial cooperation of electric vehicle and battery manufacturers in its Global EV Outlook 2024 Report. In this report, the IEA highlighted that electric vehicle batteries are not transferrable to another industry and can only be used in electric vehicles, therefore too much investment in this industry may cause an overcapacity problem. In this respect, this partnership is mutually beneficial because it provides Farasis Energy with an entirely barren market while giving the opportunity to develop the necessary battery technology for Türkiye in close partnership with a major domestic EV manufacturer, which is essential to ensure a strong supply chain.

An important recent development in the market came in early July, when numerous media outlets announced that the Chinese EV manufacturer BYD was planning to invest 1 billion USD to construct a new EV manufacturing factory in Türkiye. BYD overtook Tesla in late 2023 as the world's biggest seller of EVs. This significant investment decision comes after a price war between EV manufacturers in China, with only 20 achieving a domestic market share of one percent or more. This price war coupled with recent trade remedies the European Union implemented against Chinese EVs prompted Chinese manufacturers to look elsewhere for market share. Opening the planned plant in Türkiye will come with the added benefit of allowing Chinese manufacturers easier access to European markets through the customs union.

The Turkish EV market has shown exponential growth from 2021 to 2024, and this growth is projected to continue with incentives, developments in infrastructure, and new investments for domestic production. In the first half of 2024, EV sales in Türkiye were up 233.1% on an annual basis with 35,600 EVs sold. The EV's market share soared to 7.7% of all automobile sales. According to the Global EV Outlook Report 2024, Türkiye ranks as the first market for EVs outside of Asia,

followed by France, the Netherlands, Italy, and Spain. The EV market does not only consist of passenger cars but also heavy duty vehicles. Although the market share for those vehicles is still miniscule, Türkiye is a signatory to The Global Memorandum of Understanding on Zero-Emission Medium and Heavy Duty Vehicles (Global MOU). The States party to this memorandum committed to reaching 100% zero-emission sales in 2040 and 30% by 2030. This means that Türkiye has committed to increasing electric truck sales as well.

2. Trade Measures Against Electric Vehicles in Türkiye

a) Restrictions on the Import of EVs

The first blow to the import of EVs came when the Ministry adopted a restriction on the import of EVs on December 31, 2023, effective as of January 1, 2024. This restriction was adopted after the EU's crackdown on Chinese EV imports and the start of domestic sales of Türkiye's own EV manufactured by TOGG. The restriction concerned all imports of EVs, except those imported from the EU and countries with which Türkiye has a free trade agreement. The concerned imports now require an authorization certificate from the Ministry of Industry and Technology. This authorization is subject to fulfillment of five main criteria: *(i)* establishment of at least 20 authorized service stations in all seven geographic regions, *(ii)* establishment of a call center with Turkish speaking staff, *(iii)* certification of employees working in after-sales by the Turkish Standards Institute, *(iv)* having a representative seated in Türkiye, and *(v)* providing a commitment letter for tracking battery systems. The Ministry stated consumer protection as the primary reason for the restrictions. However, some importers of EVs perceived the new restrictions as a "punishment on EV importers."

b) Imposing Additional Duties on EVs.

The second blow came on June 8, 2024, when Türkiye announced additional duties of either 40% ad valorem (according to value) or $7,000 per item, whichever is higher, on internal combustion engine and hybrid passenger cars of Chinese origin. The additional duties entered into force on July 8, 2024. This measure was adopted right after the four-fold increase in Chinese imports of cars in the last year. This could seriously impact Chinese manufacturers who are in the budget hybrid passenger car market in Türkiye. However, there is an important exemption to the additional duties: companies who invest in Türkiye will not be subject to these additional duties. This exemption seems to be in line with Türkiye's goal to boost foreign direct investment into the country.

c) Electric Vehicle Charging Industry in Türkiye

Like battery manufacturing, EV charging is an essential industry that sustains the EV industry. The proliferation of EV charging stations and the establishment of a strong EV charging infrastructure are the necessary next steps to a Türkiye with net-zero carbon emissions. Expansion of EV charging infrastructure is notably important for Türkiye because the majority of the population lives in apartment buildings with no access to private charging units. Türkiye is well aware of the critical role expansion of the EV charging network will play. This is partly the reason why the regulatory framework mandates EV charging station network license holders establish a network of at least 50 charging stations within six months. According to the Energy Markets Regulation Authority (“**EMRA**”), as of April 1, 2024 there are 17,233 charging stations in Türkiye. The ratio of EVs to charging outlets in Türkiye is 1:5.4 compared to the European average of 1:13.75. This ratio shows that Türkiye is performing well in the e-mobility ecosystem in terms of charging unit availability.

Despite the rapid expansion, EV charging station operators and charging network operators are still facing problems regarding connectivity and reliability problems concerning the power grid throughout the country. That is why EV charging stations are heavily supported by incentives that incrementally increase inversely to the level of development in the region of investment such as: *(i)* customs duty exemption, *(ii)* VAT exemption, *(iii)* corporate tax deduction, *(iv)* insurance premium employer share support, *(v)* investment land allocation, (vi) interest payment support, and *(vii)* income tax withholding support.

There are also various policies facilitating the accessibility of EV charging stations in Türkiye. First of all, all charging services are priced solely based on the unit energy cost (TL/kWh), eliminating additional fees. This standardized pricing approach has contributed to market transparency and development. Secondly, the EMRA introduced the mobile application Şarj@TR, which allows users to locate and assess available charging stations, view charging station types and power levels, check service availability, and monitor real-time pricing.

Looking ahead, projections based on demographic and market growth factors suggest continued expansion of both EV adoption and charging infrastructure in the upcoming years. Türkiye is taking both regulatory and policy action to accelerate the expansion of EV charging networks throughout the country.

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