



TURKEY

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“There is an economic boom in Turkey!” This is the message we have become used to over the years the statement is based on facts.

Figures show that very many German investors want to benefit from the boom. As a result, Germany with a trade volume of 35 billion euros is one of the largest trading partners of Turkey. There are approx. 5,300 companies originating from Germany which in the meantime have established themselves in Turkey. Nevertheless, entry into the Turkish market should be well organised and planned.

In Turkey, companies with foreign capital have the same status before law as companies with domestic capital. This also means that authorisation, with a number of exceptions, is not required to found a company. The transfer of foreign exchange can be freely undertaken. There have been many changes to the law in the course of adjustment measures for EU directives. Accordingly, the commercial law which came into effect on July 1, 2012 had to be rewritten by more than 90 %. The new law is similar to German law.

There is a double taxation agreement between Turkey and Germany. The agreement gives German investors some tax advantages. The situation can, however, quickly lead to grounds that a branch office exists. The implementation of the agreement can vary in contrast to the conditions which are regulated in the agreement. For this reason the involvement of a consultant in this regard is considered to be indispensable. In the same way the report of the annual financial statement or the monthly or quarterly reports must be seen as essential items in order to have full control of the financial situation of the company. This is because the offence of negative equity can lead to liquidation of the company.

Furthermore, the registration of brands and patents is important. It is not sufficient if these enjoy protection in Europe. Prior to entry into the Turkish market the intellectual property of each product should be protected in Turkey. These formalities are processed at the Turkish patent office in Ankara.

The above-mentioned points indicate some examples where there is a possible risk in Turkey. It goes without saying that each case has to be examined on its own merits. Our consultants are available with their excellent German knowledge and qualifications in our law firm in Turkey and are happy to support German companies with legal and tax consulting and auditing. You can secure your entry into the Turkish market with us.

Practical examples

Auditing

Background facts:

The financial statements of a distribution company of a German industrial company in Turkey were audited and the audit discovered possible indications of irregularities concerning the actions of the managing director. This information was passed on to the company group in the usual reporting process and to the parent company. The parent company, however, decided not to act on this information.

In the current audit of the financial statement the indications became more apparent to the extent that it was proven that the managing director and the local financial accounting worker had made unfavourable contracts for the procurement of office equipment and IT (with closely linked individuals).

What can be done now?

Due to the immediate communication of these discoveries by the auditor of the subsidiary to the company group auditor, short-term measures are necessary from the parent company. In addition to legal measures, an investigation by an internal audit of the parent company has also to be introduced. A corresponding loss assessment has to be carried out.

What should one have done differently from the beginning?

Indications from a company group audit to the management of the parent company should generally be followed up. It can be assumed that the auditors of the subsidiary did not thoughtlessly communicate such information, but that the information is based on facts. If the parent company had immediately introduced an internal audit (possibly described as a regular examination) or required additional investigation actions by the local auditor of the annual financial statement, the damage could possibly have been reduced.

Auditing / Taxes

Background facts:

Some years ago the Saubermann GmbH founded a company in Turkey and appointed a managing director. At the beginning business went well and the control of the company management by Saubermann GmbH slackened. The Saubermann GmbH was satisfied and decided that an internal audit was unnecessary. However, high expense claims and complaints of suppliers gradually came to light. The Saubermann GmbH decided to commission Rödl & Partner to investigate. The investigation revealed a series of unpaid invoices and incorrectly paid taxes and social security contributions and other irregularities.

What can be done now?

Such a case usually calls for an internal audit with a wide frame of reference. In this case as well as the suspected irregularities already described it turned out that a part of the salaries had been paid illegally without declaration to the tax authorities and that the financial accounting had not been properly maintained. A quick decision was made to dismiss the managing director, the financial accounting was outsourced and irregular actions were corrected one after the other. The outstanding claims from suppliers were settled. All the employees received an employment contract and the salaries were paid to the full amount. It was unfortunately not possible to avoid payments for arrears and fines.

What should one have done differently from the beginning?

An internal control system and an annual financial statement report should have been established or prepared right from the start. The financial accounting should have been outsourced. Monthly or quarterly reports would have contributed to immediately determine and prevent the irregular activities. The tax consultants and auditors of Rödl & Partner are there to support you. The preparation of the annual financial statement report is made in great detail professionally in German or English.

Law

Background facts:

The Reinmach AG founds a joint stock company in Turkey. The chairman of the executive board takes over the Turkish partner. The chairman of the executive board had the authority to represent and obligate the company alone. In the audit of the annual financial statement it turned out that there were substantial credit debts of the company. Furthermore, it was established that a number of the leased cars were not used in the company. Two of the company cars were passed on to relatives of the chairman of the executive board for their private use.

What can be done now?

The holding of an extraordinary general meeting has to be quickly organised. At the general meeting the executive board is dismissed and a new one is appointed. The authority of the new board can be limited or legal transactions requiring consent can be defined.

What should one have done differently from the beginning?

Prior to the beginning of the partnership, a so-called shareholders' agreement should have been concluded with the Turkish partner. This would have listed all of the details of the partnership. The binding regulations of the articles of association of the company should not have been ignored. In addition, legal transactions which require consent should have been defined. The acceptance and granting of loans should have been defined as legal transactions which require consent.