

Turkish Legal Newsletter: Basic Series No. 2 Comparison of Joint Stock Companies (AŞ/JSC) and Limited Liability Companies (LTD/LLC) and the Latest Capital Regulations

Middle East Newsletter

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1. Introduction

In the first issue of the newsletter, we provided an overview of Turkey's investment environment and its strategic position for foreign investors. When considering an actual entry into the Turkish market, one of the most critical decisions is the selection of an appropriate business structure, as this choice has a significant impact on the long-term success and risk profile of the business.

In Turkey, foreign investors typically establish one of two types of capital companies: Joint Stock Companies (Anonim Şirket – AŞ/JSC) or Limited Liability Companies (Limited Şirket – LTD/LLC).

Although both corporate forms are based on the principle that shareholders' liability is, in principle, limited to their capital contribution, there are material differences in their regulatory frameworks, governance structures, and operational flexibility.

This article provides a practical comparison of AŞ and LTD structures, with particular focus on the minimum capital requirements revised in 2024 and other legal differences that are directly relevant to M&A transactions and corporate finance strategies.

2. Overview of Major Corporate Forms in Turkey

(1) Joint Stock Company (AŞ/JSC)

A Joint Stock Company (AŞ) is the most sophisticated corporate form under Turkish law and is generally preferred by large enterprises or companies planning a future public offering (IPO) or large-scale capital raising.

In addition, certain regulated industries—such as banking, insurance, asset management, factoring, and independent auditing—are legally required to operate in the form of an AŞ. An AŞ is governed by a Board of Directors, and its organizational and compliance requirements are more stringent than those applicable to an LTD.

(2) Limited Liability Company (LTD/LLC)

A Limited Liability Company (LTD) is suitable for small to medium-sized enterprises seeking a simpler and more flexible organizational structure.

An LTD may have up to 50 partners (equivalent to shareholders in an AŞ) and is managed by one or more Managers, rather than a board of directors. Compared to an AŞ, LTDs are generally easier to establish and maintain, with fewer formal governance requirements.

3. Latest Capital Regulations and Investor Liability (2024 Amendment)

(1) Significant Increase in Minimum Capital Requirements

Pursuant to Presidential Decision No. 7887 dated November 25, 2023, the minimum capital requirements under the Turkish Commercial Code (TCC) were substantially increased, effective as of January 1, 2024. This amendment aims to address the erosion of the real value of statutory capital thresholds that had remained unchanged since 2012.

	Joint Stock Company (AŞ)	Limited Liability Company (LTD)
New Minimum Capital	TRY 250,000 (approx. JPY 1.15 million)	TRY 50,000 (approx. JPY 230,000)
Registered Capital System	TRY 500,000 (minimum initial capital for non-public AŞ)	Not applicable
Payment Obligation	At least 25% must be paid prior to registration; the remainder within 24 months	No statutory timing specified; full amount must be paid within 24 months

Impact on Existing Companies:

Companies whose capital falls below the revised thresholds as of January 1, 2024 are required to increase their capital by December 31, 2026. Failure to do so may result in the company being deemed dissolved.

(2) Key Difference in Shareholder Liability for Public Debts

While both AŞ and LTD structures limit shareholder liability in principle, there is a crucial distinction with respect to public debts (e.g., taxes and social security premiums):

- **LTD Partner Liability:** Partners of an LTD may be held personally liable for unpaid public debts of the company, in proportion to their shareholding, if such debts cannot be collected from the company.
- **AŞ Shareholder Liability:** Shareholders of an AŞ are not personally liable for the company's public debts. However, legal representatives (i.e., board members and/or directors) may be held personally liable if the company fails to fulfill its tax obligations.

4. Operational Flexibility, Financing, and Group Regulations

(1) Share Transfer and M&A Considerations

	Joint Stock Company (AŞ)	Limited Liability Company (LTD)
Transferability Principle	Generally free; requires informing the board regarding the registered share certificates and informing the registration office for the bearer share certificates, subject to Articles of Association if regulated	Requires approval of the General Assembly of Partners; transfer agreement requires notarization
Nature of Securities	Can issue shares (negotiable securities)	Shares (interests) are not general securities

Practical Impact:

Due to higher liquidity and fewer procedural hurdles, AŞ structures are generally preferred in M&A transactions, joint ventures, and exit-oriented investments.

(2) Financing and Financial Assistance (LBO Considerations)

LTDs are not permitted to publicly trade their shares and cannot issue debt securities such as bonds. In contrast, AŞ companies may list their shares on capital markets and issue debt instruments.

From an acquisition finance perspective, Turkish law imposes a financial assistance prohibition:

- **AŞ:** An AŞ is generally prohibited from providing loans, guarantees, or collateral to finance the acquisition of its own shares.
- **LTD:** This prohibition does not apply to LTDs.

As a result, conversion of the target company into an LTD is sometimes considered in leveraged buyout (LBO) structures to mitigate regulatory constraints.

(3) Corporate Group Regulations and Governance

The TCC regulates corporate group relationships involving both AŞ and LTD structures.

- **Duty of Loyalty:** A parent company in a dominant position must not impose transactions that harm a subsidiary for the benefit of the parent or other group companies.
- **Non-Delegable Powers:** Directors and managers have statutory duties that cannot be delegated, including overall management and the establishment of risk detection mechanisms.

5. Conclusion: Strategic Considerations

When establishing a business in Turkey, investors should carefully assess the advantages and limitations of AŞ and LTD structures in light of their business scale, growth strategy, and risk tolerance.

Selection Criteria	AŞ	LTD
Scale/Growth Potential	Planning large-scale investment, future IPO, or sale via international M&A	Small to medium-scale business, or preferring a simple wholly-owned structure
Risk Management	Want to completely exclude shareholder personal liability for public debts	-
Financing	Emphasize flexibility in fundraising from external capital markets (shares, bonds)	-
Limitations on Flexibility	Financial assistance prohibition regulations regarding funding for own share acquisition apply	Notarization and General Assembly approval are required for share transfer, creating constraints on future third-party entry
Taxation on Share Transfer	Exemption for the issued shares, which can be held in hand for two years.	Notary duty shall be and income tax may be applicable

In the next issue, we will address practical considerations for company establishment and registration, including the use of MERSIS/CRRS and electronic signature requirements.

Turkish Law Web Consultation Session

We, in collaboration with the Turkish law firm, AKSAN, will be offering a complimentary online legal consultation session (approximately 30 minutes). Communication with AKSAN will be conducted in English; however, where possible, our firm will provide responses in Japanese. A preparatory meeting in Japanese with us is also available upon request.

If you wish to participate, please contact turkish_newsletter_project@eml.nishimura.com with a brief description of the matters you would like to discuss.

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