



Bu Proje Avrupa Birliđi tarafından finanse edilmektedir.
This project is funded by the European Union.



**YEREL YÖNETİM REFORMU
PROJESİ (YR III)**
LOCAL ADMINISTRATION REFORM
PROJECT (LAR III)

Comparative Assessment and Recommendations Report for Strengthening the Municipal Business License System of Municipalities in Turkey

June 2020

Local Short Term Senior Expert: Zekeriya ŞARBAK
International Short Term Senior Expert: Liridon SHURDHANI
Key Expert of the Activity: Prof. Dr. Hakkı Hakan YILMAZ

Component	C.1. Effective Provision of Local Services
Activity	A.1.1.4. Developing Recommendations Concerning the Re-regulation of the Provisions of the Law No. 3572 on Business and Operating Licenses and the Respective By-Law
Output	Comparative Assessment and Recommendations Report for Strengthening the Municipal Business License System of Municipalities in Turkey

Table of Content

1	<i>Introduction</i>	18
2	<i>Comparative Assessment of Business License Systems in Selected EU Countries</i>	20
2.1	General Outlook of Business License in EU	20
2.2	Country Studies	25
2.2.1	Hungary	25
2.2.2	Austria	28
2.2.3	Estonia	30
2.2.4	The Netherlands	31
2.2.5	Poland	34
2.2.6	Latvia	38
2.2.7	Spain	40
2.2.8	Croatia	42
2.2.9	Belgium	45
2.2.10	Portugal	48
2.2.11	Turkey	51
2.3	Comparative Assessment of Country Studies	52
2.3.1	Municipality Requirements for Business Registration	52
2.3.2	Types of Licenses and Government Involvement	53
2.3.3	Information Technology Solutions in Business Regulation	55
3	<i>Municipal Business License System in Turkey: Current Situation Analysis</i>	57
3.1	Legal Framework	57
3.1.1	Law on Business and Operating Licenses	57
3.1.2	Exceptions in the Law No. 3572 on Business and Operating Licenses	57
	<i>_Toc688756563.1.3Exceptions</i>	
	Introduced by Other Laws	
	60	
3.1.4	Outcomes of Exceptions	62
3.1.5	General Criteria	63
3.1.6	Statement-Based Licensing	63
3.2	The By-Law	64
3.2.1	Sanitary Businesses	64
3.2.2	Non-Sanitary Businesses	66
3.2.3	Public Recreational and Entertainment Places	69
3.2.4	Inspection of Businesses	71
3.2.5	Businesses Opened Without a License	71
3.3	Licensing Procedures in Metropolitan Areas	72
3.3.1	Businesses to be Licensed by the Metropolitan Municipality	73
3.3.2	Businesses to be Licensed by the District Municipality	73
3.4	Licensing Procedures in Non-Metropolitan Areas	74
3.4.1	Businesses Licensed by Special Provincial Administrations	74
3.4.2	Businesses Licensed by City Municipality	74
3.4.3	Businesses Licensed by Other Municipalities	74
3.5	Provisions to Expedite Licensing Procedures	74
3.6	Municipal Revenues from Fees Charged	76

3.7	How Municipalities Conduct Business Licensing Procedures _____	78
3.8	Evaluation _____	79
3.8.1	Evaluation of Exemptions _____	79
3.8.2	Evaluation of Conditions Required for Starting a Business _____	80
3.8.3	Evaluations on the Authority of Municipalities _____	81
3.8.4	Evaluations on business start-up fees _____	82
3.8.5	Evaluations regarding the Law on the Regulation of Retail Trade _____	84
3.8.6	Evaluation on Boosting Local Economic Development _____	86

4 Recommendations for Strengthening the Municipal Business License System in Turkey_ Error!
Bookmark not defined.

4.1	Recommendations on the Law No. 3572 on Business and Operating Licenses ____	Error! Bookmark not defined.
4.2	Recommendations concerning the By-Law _____	Error! Bookmark not defined.
4.3	Recommendations regarding Business Start-Up Permit Fees	Error! Bookmark not defined.
4.4	Other Recommendations _____	Error! Bookmark not defined.

List of Figures / Tables

Table 1: Agencies Authorized to Issue a License in Turkey

Table 2: Licenses issued and business start-up fee revenues

Table 3: Share of business start-up permit fees within total tax revenues and total revenues (2018)

Chart 1: Share of Business Start-Up Fees within Total Municipal Revenues and Total Municipal Tax Revenues (2014-2018)

List of Boxes

Box 1 – Simplification of procedures, Article 5 of the EU Services Directive

Box 2 – Points of Single Contact, Article 6 of the EU Services Directive

Box 3 – Right to Information, Article 7 of the EU Services Directive

Box 4 – Procedures by Electronic Means, Article 8 of the EU Services Directive

Box 5 – The list of some commercial products subject to operating licenses (Hungary)

Box 6 – Business Licences in Hungary issued by national authorities (examples)

Box 7 – Professions subject to licenses (The Netherlands)

Box 8 – List of economic areas requiring registration or licensing (Latvia)

Box 9 – Licensing of businesses (Turkey)

List of Acronyms

ATO – Ankara Chamber of Commerce (Ankara Ticaret Odasi)

CGLA – Consultative Group of Local Authorities

EMTAK – Estonian Classification of Economic Activities

HZMO – Croatian Institute for Pension Insurance

HZZO – Croatian Institute for Health Insurance

IP, AMA – Agency for Administrative Modernization

LAR III – Local Administration Reform Project Phase III

MoEU – Ministry of Environment and Urbanization

Mol – Ministry of Interior

PSC – Points of Single Contact

PT – Project Team

RIK – Center of Registers and Information Systems

SBA – Small Business Act

TBB – Union of Municipalities of Turkey (Türkiye Belediyeler Birliği - TBB)

TESK – Confederation of Turkish Tradesmen and Craftsmen (Türkiye Esnaf ve Sanatkârları Konfederasyonu),

ToR – Terms of Reference

UNDP – United Nations Development Programme

Executive Summary

This section provides an executive summary of the report. The first part of the executive summary focuses on Comparative Assessment of Business License Systems in ten EU Countries. The second part of the executive summary provides a legal analysis and presents findings concerning the business licensing system in Turkey. The report was drafted by international and local experts. The first part of the report was drafted by the international consultant, while the second part of the report was drafted by the local consultant. The report starts with a short executive summary, to give the reader a quick overview of the findings and recommendations of the report. Initially the report focuses on the introduction and the scope of the report followed by the methodology and the project background. The first chapter provides a comparative assessment of business license systems in ten EU countries, namely on Hungary, Austria, Estonia, the Netherlands, Poland, Latvia, Spain, Croatia, Belgium and Portugal. The second chapter focuses on the local perspective by providing an overall review of legislation and practices concerning the licensing of businesses by municipalities in Turkey. The last section provides general and specific recommendations.

EU perspective

The word “license” is used in general to describe a set of procedures. This part of the report focused specifically on the permissions businesses must obtain for their core business activities. Licensing is related to, but differs from procedures such as business registration, permitting, and inspections. In good business licensing administration examples, licensing is a means to fulfil legitimate regulatory purposes. These include protection of public health and safety, environmental protection, and national security.

Initially, the research focused on **a general outlook of business Licensing in the EU**, starting from the most important commitments of the European Union known as the “May 2011 Commitment.” The May 2011 Commitment derives from conclusions of the European Council on the review of the “Small Business Act”¹ for Europe and it includes the commitment to reduce the overall regulatory burden at both European and national levels. Before the May 2011 Commitments, the European Union approved Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.² The directive aims at enabling a free market which compels the Member States to eliminate restrictions on cross-border provision of services while at the same time increasing transparency and information for consumers and providing better services at lower prices.

In 2000, Lisbon European Council concluded on 23-24 March 2000 during its presidency to set out a strategy for the removal of barriers to services. The EU Directive on Services is a central element of the renewed Lisbon Strategy of 2005, which requires member states to improve regulatory climate. The aim of the Directive is to remove barriers to the freedom of establishment for providers in member States and barriers to the free movement of services as between Members States and to guarantee recipients and providers the legal certainty necessary for the exercise in practice of the two fundamental freedoms of the treaty.

¹ <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52008DC0394>

² <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex%3A32006L0123>

One of the most important aspect of the Directive, relevant to this study and potential recommendations about Turkey, concerns administrative procedures. According to the Directive, the rules relating to administrative procedures should not aim at harmonising administrative procedures but at removing overly burdensome authorization schemes, procedures and formalities that hinder freedom of establishment and the creation of new service undertakings. Furthermore, the Directive recognises that one of the fundamental difficulties faced by private sector in accessing service activities and exercising them is the a) complexity, b) length and c) legal uncertainty of administrative procedures.

The Directive states that in order to enable administrative simplification, general formal requirements such as presentation of original documents, certified copies or a certified translation, should not be imposed, except where objectively justified by an overriding reason relating to the public interest, such as the protection of workers, public health, the protection of the environment or the protection of consumers. In a more practical aspect, the directive has obliged Member States to establish Points of Single Contact (PSCs) through which businesses can complete all the procedures and formalities.

Points of Single Contact are e-government portals that allow service providers to get the information they need and complete administrative procedures online. They are managed by the 'EUGO network' of national coordinators. They aim to support private sector to: explore business opportunities or expand services to another EU country, set up a new business abroad, find out about the rules and formalities that apply and complete the administrative procedures online.

The EU Services Directive establishes PSCs for entrepreneurs active in the service sector. Since December 2009 it is a legal requirement to have a PSC in every EU country. All national PSCs are part of the European 'EUGO network'. Iceland, Liechtenstein and Norway participate on a voluntary basis. The aim of the PSCs is to help the European service sector reap the benefits of the Single Market by making national information on rules and formalities, and national procedures available online. Since 2014, the PSC charter encourages EU countries to make their PSCs more business-friendly by introducing guidelines on quality and availability of information provided, completion of electronic procedures, accessibility for cross-border users and usability.

Furthermore, the report analyses the **common points and differences in ten EU countries in a comparative way**. As a general note, EU countries assessed in this report vary between those countries that regulate less the way business activities are conducted (during the process of registration) and the countries which regulate business activity procedures more (screening of businesses before they registered). The focus of analysis in each country has focused on three areas of business regulation, namely: municipality tax requirements, types of licences (government involvement) and information technology solutions in business regulation.

Municipality requirement for business registration – the countries that were analysed differ from each other in two ways: countries that impose municipality registration requirements for businesses and countries that do not impose municipality registration requirements for businesses. Those which impose municipality registration are Hungary, Austria, the Netherlands, and Spain.

In **Hungary**, the municipality imposes Registration for Municipal Business Tax. In practice, it means that 15 days after registration, companies are required to register at the municipality for the

Municipal Business Tax. After registration, the company receives a receipt for online registration. Alternatively, if the company is registered by using paper-based registration, the municipality issues a stamped certification of receipt. A good practice observed in Hungary consists of the fact that authorities can forward the details of company to the municipal tax authority. By sharing information, authorities decrease the burden imposed on companies to share the same information with various authorities. Such practice contributes to decreasing the time and costs needed to start and operate a business. According to the Hungarian Government Decree 210/2009. (IX. 29.) on the Conditions of Performing Commercial Activities,³ only operating license (known otherwise as Business License for shops) for a specific range of products subject to trade are issued at local level. The procedure is as follows: business owners should apply for license to the notary of the place of commercial activity which could be: a) the notary of the district self-government in Budapest, or b) the chief notary of the capital in respect of the area directly managed by the Metropolitan Self-Government.⁴ In both cases, notaries are elected by mayors.

In **Austria**, private sector is required to register businesses with local authorities. The companies, after they are registered at the Economic Chamber, are required to check with municipalities to understand which taxes apply to the companies. The competent authority in Austria for business licence applications is the respective district administrative authority. In cities with their own statute (statutory cities) this is the magistrate, in cities without their own statute or municipalities it is the district government. In Austria, local government plays a role in starting a business, while concrete competences of each local authority vary in cities and municipalities.

In the **Netherlands**, most business activities can be performed without any permits, licenses or professional qualifications. In business activities, which might impact the environment, business operator might be required to apply for the environmental permit. One such example is the use of public land. If a business needs to use public land, it will be required to pay municipal land tax.

In **Spain**, during the business registration process, businesses are required to pay municipal tax for urban services. In addition, they are also required to issue a notification of start of operations to the town council of the area in which the company will carry out its activities.

The examples in Hungary, Austria, the Netherlands and Spain present cases where local authorities have greater responsibilities and competence in business regulation. The advantages of such approach could include the increase of local revenues which can contribute to potential local economic development. Local government authorities seem to be more involved in business regulation in states where communication between central and local authorities is fully operational through electronic databases.

Types of licenses and government involvement – analysed countries show that national authorities organise licencing procedures in various ways that can be divided in two clusters, a) countries that impose licenses for specific activities and b) countries with pedantic regulation of business activities.

³ 210/2009. (IX. 29.) Government Decree on the conditions for the pursuit of commercial activities: <https://net.jogtar.hu/jogszabaly?dbnum=1&docid=A0900210.KOR&cel=P%282%29p%28b%29&mahu=1&got o=7#xcel>

a) Countries that impose licenses for specific activities are Hungary, the Netherlands, Latvia and Spain.

In **Hungary**, companies require government approval only if they conduct a specific business activity. Some of the business activities subject to licencing from national authorities are: pharmaceutical manufacturing (licence issued by the National Pharmaceutical and Nutrition Institute), employment and temporary work agencies (licence issued by various responsible government offices) and financial activities and insurance companies (licence issued by the National Hungarian Bank).

Likewise, in the **Netherlands**, the most important business sectors that require licenses and permits are retail trade, wholesale trade, craft industry, hospitality, recreation and catering, childcare, animal care, art culture, media, construction industry, livestock farming and fishery.

Most business activities can be performed without any permits, licenses or professional qualifications. In business activities, which might impact the environment, business operator might be required to apply for the environmental permit. An environmental permit may be required if products or business operations negatively affect the environment. For permits and licences, an application can be made to the municipality or to the provincial authorities.⁵

Some sectors require registration with an industry board or a product board. Registration is a statutory requirement, based on the Act on Business Organizations. An industry board is a kind of interest group for a specific sector. The same applies to a product board, which includes all enterprises in a production chain, from producers of raw materials to manufacturers of end products. Business owners are not required to present a separate diploma or permit in order to establish a business in the Netherlands. Nevertheless, business owners are only allowed to practice certain professions if they meet specific requirements. Even if a business owner is planning, for instance, to import or export goods, there is no import license or export license required (although in the case of particular products, certification is required).⁶

Latvia is characterised by the lack of a unified register for all economic activities. It has separate registers for specific types of economic activities which are regulated by different laws. Such a complex approach might impact the business sector because those planning to start a business might find it difficult to figure out licencing procedures for each specific activity. Some of these economic activities are: financial services (including activities relating to credit institutions) securities market, insurance activities, tourism services, energy related activities, special aviation activities, trade, catering, marketplaces, communication, etc.

In **Spain**, for specific activities, businesses are required to apply for a licence, depending on the type of the activity. The difference from other countries lies in the role of the municipality before a business starts operating. More concretely, during registration procedures, the entrepreneur should apply for licence at the town hall of the municipality where he/she intends to set up the business. There are business activities that are exempted from licencing such as professional, artisanal and artistic activities carried out at home, as long as there is no sale or direct attention to the public and no inconvenience is caused to the neighbours.

⁵ EntryPoint NL - <https://www.entrypoint.nl/updates/netherlands-license-permit-requirements-operating-dutch-companies-business-netherlands/>

⁶ INCO Business Group: <https://www.incobusinessgroup.com/apply-for-dutch-business-licence>

The organisation of business licensing in abovementioned countries could potentially create uncertainty in starting and operating a business. That is because owners and other operational staff could find it difficult to understand complex legal and procedural requirements be it at municipal or national level. Another risk to such model could be the limited resources under which municipalities operate. They often do not have the quantitative and qualitative capacity to deal with the flux of requests coming from businesses, as they need sector-specific knowledge and professionalism.

b) Countries with pedantic regulation of business activities – countries that regulate business activities in a more organised way and by clustering different licences in groups are Austria, Estonia, Poland, Croatia, Belgium and Portugal.

In **Austria**, whether one is operating as an individual or a company, a requirement for a trade license is applicable, with very few exceptions. Business licenses are issued by the Austrian Trade Regulations. There are two types of businesses in Austria: business activities which only have to be notified with the relevant authorities (*free trades* or the so called "*freie Gewerbe*") and those for which a permission is required (*regulated trades* or the so called "*reglementierte Gewerbe*").

In **Estonia**, license regulation is clustered in three categories, namely: a) companies that need special licences, b) companies that are only required to send notification for their economic activity and c) companies that do not require anything other than registering. In order for companies to understand to which cluster they belong and what legal and procedural requirements are needed, they can use the database of economic activity known as "EMTAK".

Poland has a similar way of organising business activity. Depending on the type of business activity they want to carry out, businesses might need **a) Licence** - the strictest permit for economic activity, which concerns projects of particular importance for the security of the state or citizens or important public interest. The requirement to obtain a licence may apply only to those types of business activity which cannot be carried out as a free activity (i.e. on the basis of an entry in the CEIDG or the National Court Register) or after obtaining a permit or an entry in the register of regulated activities. **b) Permit** - A form of regulating business activity other than a licence. Permits are issued after checking whether the entrepreneur is able and has technical or organizational capabilities to perform a specific business activity. The entrepreneur must fulfil the conditions laid down by law for carrying out that activity. The law specifies whether an activity requires a permit and which authority, or ministry issues the permit. The permit takes the form of an administrative decision and is issued in the course of administrative proceedings. It may contain special conditions that must be met. **c) Regulated activity** - the simplest form of regulation of business activity in Poland. It only requires the entrepreneur to meet, apart from submitting an application, the conditions set out in the regulations for its operation and to be entered in the register of regulated activities. These registers are kept by different offices, depending on the type of activity and are open to public inspection. In line with the legislation on the protection of personal data, the registry system provides company-related data, NIP (Tax Identification Number) and other data upon the request of the authority.

In **Croatia**, as part of business registration process, individuals starting a business are required to apply for statistical registration number at Croatian Bureau of Statistics. That means, during the registration process, businesses will understand what type of procedure they will have to follow depending on the business activities they will perform. Business regulation procedures in Croatia are clustered depending on the sectors such as; construction, tourism, catering and accommodation, retail trade, professional and business services, environmental protection, intellectual property,

cultural and other sectors. In addition, procedurally speaking, business regulation is clustered as follows: businesses that need: a) special certificate, b) approval, c) consent, d) licence or other documents issued by relevant government bodies or institutions.

In **Belgium**, to become operational a business is required to apply either for a special permit/authorisation or for a license. For example, taxi operators and travel agencies are among the economic activities that require special authorisations. In addition, companies that operate in activities related to foodstuffs are required to apply for a licence.

In **Portugal**, similar to other EU countries mentioned above, certain business activities might require a licence or some other form of authorisation that must be issued by the authorities. Depending on the type of business, the business representative has to obtain a licence or authorisation. There are four main types of licenses that may be required: a) industrial licensing, b) commercial licensing, c) touristic licensing and d) environmental licensing.

In these countries, individuals planning to start a business might find it easier to identify the types of activities that require licences (including what type of licences) and respective competent authorities and procedures. In addition, information about procedures and competent authorities are easily accessible online, as required by the EU Service Directive. Furthermore, this approach could also help entrepreneurs to reduce time and costs in starting and operating their business activities.

Information technology solutions in business regulation – information technology solutions in business regulation contribute to enhancing organisational capacity and improving the process to ensure that services are delivered to people more efficiently. If implemented adequately, they enable citizens, enterprises and organisations to carry out their business with the government more easily, more quickly and at lower costs. For this reason, governments across the European Union are increasingly using information technology solutions in business regulations. The information technology can play an important role in improving business regulation and making it more accessible to those interested in starting a business. In this study, most of the countries under research have integrated information technology solutions in their business regulation systems. Furthermore, the EU Service Directive obliges member states to create Points of Single Contact, online portals run by the government that brings together information on how to open and operate a business.

In **Hungary**, one of the examples of information technology being used in business regulation including business registration, is the e-government portal known as ügyfélkapu that allows online transactions and operations (<https://regi.ugyfelkapu.magyarorszag.hu/>). As part of the registration process in Hungary, those planning to open a business can apply online for registration for municipal tax. In **Austria**, the Service Platform for Business provides over 50 e-government services for companies (<https://www.usp.gv.at>).

Estonia is known to use information technology-based solutions to advance businesses. In fact, it is possible in Estonia to register a company (with all procedures) online without needing to appear physically before authorities, including opening a bank account (<https://www.eesti.ee/en/>). Furthermore, Estonia has the Centre of Registers and Information Systems (RIK), an agency in the jurisdiction of the Ministry of Justice, which provides good integrated e-services for a more efficient implementation of state administration, legal and criminal policies.

In the **Netherlands**, business.gov.nl is the Point of Single Contact (PSC) for resident and foreign entrepreneurs who want to establish a business or do business in the Netherlands. Business.gov.nl collaborates with the Dutch government and semi-governmental organisations to provide information about laws, rules and regulations, subsidies and more. It offers a single unified solution from the Dutch public sector for doing business in the Netherlands (<https://www.biznes.gov.pl/en>).

In **Poland**, Biznes.gov.pl is an online service dedicated to being used by people who actively conduct and plan to pursue economic activities in the country. The aim of the portal is to provide assistance in the implementation of procedures for the conduct of economic activities through electronic tools in an easy and intuitive way and to simplify the formalities required for starting and conducting business. Through the portal, entrepreneurs have access to necessary forms and descriptions regarding official services (<https://www.biznes.gov.pl/en>).

The **ePortugal** is an online portal which aims to facilitate interactions between citizens and companies and the State, making them clearer and simpler. The portal is under the responsibility of the Agency for Administrative Modernization. The ePortugal portal provides: information on more than 1,000 public services for citizens and businesses, access to digital services that eliminate the need for travelling to stores or service points, addresses and operating hours of public administration locations and service points as well as the public administration website directory among others (<https://eportugal.gov.pt/>).

Business Licensing System - Turkey

Law No. 3572 on Business and Operating Licenses which authorizes local administrations on matters related to the issuance of licenses to start and operate businesses and other laws in place provide for many exceptions. Also, the legislation on starting a business has become quite fragmented. On many matters, central government bodies have been authorized. As a result, the “principle of decentralization” as prescribed in Article 127 of the Constitution has been significantly undermined on matters related to licensing of businesses.

As such, the amount of fees charged upon the provision of services in relation with the licensing and inspecting businesses which is one of the first and foremost duties of municipalities, has been reduced to the symbolical level of a mere 0.1% within the bulk of municipal revenues.

Although the Law seeks to simplify the process of starting a business and lay down basic criteria, the By-Law has become detached from such principles. Hence, the legal framework has begun to lose its coherence.

The By-Law, which is quite detailed, does not allow much initiative for municipalities, leading to problems in practice, confusion for municipal staff and differences in interpretation resulting in divergent decisions on similar issues.

Public recreational and entertainment places have been regulated within the scope of the Law on the Police Duties and Powers. This leads to excessive limitations and sanctions on such places as a result of the predominant security perspective. In other words, as a result of such regulations, such businesses have to face sanctions incommensurate with their nature.

Recommendations for Strengthening the Municipal Business License System in Turkey

Recommendations on the Law No. 3572 on Business and Operating Licenses

A Comprehensive Legal Regulation

The legislation on business licensing should be harmonized with the principles set out in the Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market and with the good practices in the EU.

The Law on Business and Operating Licenses should be re-regulated to ensure the incorporation of the provisions on public businesses laid down in the Law No. 2559 on Police Duties and Powers, to review the exceptions provided in other pieces of legislation, and to include the licensing conditions and sanctions for businesses that are not regulated in any law and that are exempted from Law No. 3572 such as non-sanitary businesses and hazardous businesses and fuel stations.

Heavy fines and other sanctions

Law No. 2559 on Police Duties and Powers has introduced severe sanctions regarding public businesses. The fine enforced as per Article 6 of the Law is between 2233 TRY and 4488 TRY. Furthermore, in the event of recidivism of the offense, the fine shall double. The fact that fines increase exponentially makes it impossible for municipalities to collect the issued fines. Similarly, there are severe sanctions which are imposed upon businesses and which call for suspending operations and revoking the business license. These sanctions should be regulated within the general framework of the Law on Business and Operating Licenses.

Exemptions from the business and operating license and from the permit fee

Businesses that will be exempted from the business and operating license issued by municipalities and businesses that will be exempted from the business start-up permit fee for licenses issued by other authorities should be explicitly stated in the Law.

Classification of businesses

In the Law, the classification of businesses should be based on their impact on the environment, public health and safety and not based on the classification of public vs. non-public or sanitary vs. non-sanitary; and licensing conditions and sanctions should be structured according to their impact. As is the case in certain EU countries, the practice of exempting businesses considered as an office or new or small enterprises with no impact on the environment, public health and safety should be evaluated and arrangements should be made to give initiative to municipal councils in these matters.

Business and operating licenses for existing buildings

With an amendment made to Article 184 of the Turkish Penal Code through the Law No. 5377 dated 29/6/2005, a provision was added, which reads "Any person who allows the exercise of any sanitary activity in buildings for which a building use permit is not obtained shall be charged with a prison sentence of two to five years. This provision shall not apply for structures constructed before the date of 12 October 2004." Although Provisional Article 16 of the Zoning Law No. 3194 stipulates the issuance of a building registration document for unlicensed buildings or buildings in breach of license requirements, there is no regulation for issuing a business and operating license to these buildings. Even though in the By-Law amended with the Presidential Decree numbered 2626 dated 08.06.2020

it is stated that a building use permit is not required for these buildings used as workplaces, the case of buildings with a building registration document vis-à-vis the provisions of Article 184 of the Turkish Penal Code and the issuance of business and operating licenses to these buildings should be explicitly regulated in the Law.

Harmonization and rationalization of other provisions

Law No. 2559 on Police Duties and Powers, Decree Law No. 644 on the Organization and Duties of the Ministry of Environment and Urbanization, Law No. 5996 on Veterinary Services, Phytosanitary, Food-stuff and Animal Feed, Law No. 6585 on the Regulation of Retail Trade and many other pieces of legislation have brought different provisions on business and operating licenses. The re-regulated Law should harmonize and rationalize all provisions regarding business licenses and relevant sanctions. In this context, the relevant articles should be reviewed.

Intermunicipal delegation of duties for licensing and inspection of businesses

The delegation of authority among municipalities when it comes to issuing business and operating licenses in metropolitan cities should be reviewed. District municipalities should be authorized to license all businesses except for Category I non-sanitary businesses.

Recommendations concerning the By-Law

Revision of the By-Law in line with the new law

The By-Law on Business and Operating Licenses was issued in 2005. The last revision of the By-Law was with the Presidential Decree numbered 2626 dated 08.06.2020. The By-Law should be revised taking into account the 15-years of practice and other changes in the legislation.

Classification in line with the criteria stipulated in the Law

The amendments made in the By-Law with the Presidential Decree numbered 2626 dated 08.06.2020 (published in the Official Gazette of 09.06.2020) were aimed at resolving the issues and addressing the needs encountered in procedures.

The By-Law is far from serving the objective sought by Law No. 3572 on Business and Operating Licenses “to simplify and facilitate the process of granting business and operating licenses to industrial, agricultural and any other type of business or enterprise”.

The By-Law has steered away from the criteria stipulated in the Law. The By-Law was prepared by making a distinction between sanitary, non-sanitary and public recreational and entertainment places. In the new By-Law, the licensing procedures and criteria should be revised taking into account the “impacts on human health, the environment and general safety” as prescribed in Law No. 3572 on Business and Operating Licenses.

Building use permit and penal sanctions

A “building use permit” is sought for businesses which require special construction (cinemas, theatres, wedding halls, hotels, spas, saunas, bakeries and liquefied petroleum gas, liquefied natural gas and compressed natural gas stations). However, even though many buildings in our country have building permits, they lack a building use permit. On the other hand, with an amendment made to Article 184 of the Turkish Penal Code through the Law No. 5377 dated 29/6/2005, a provision was added, which reads “Any person who allows the exercise of any sanitary activity in buildings for which a building use permit is not obtained shall be charged with a prison sentence of two to five years.

This provision shall not apply for structures constructed before the date of 12 October 2004.” It is not specified in the By-Law that no building use permit shall be sought for such structures. This provision should be regulated with the By-Law.

Fire precautions

In issuing a business and operating license, one of the most important criteria is the fire precautions. The By-Law on Business and Operating Licenses was not revised in accordance with the regulations brought with the By-Law on the Precautions to be Taken Against Fire in Buildings. Since no regulations are present in the By-Law on fire precautions with regard to the special status of historical buildings or existing buildings, problems are faced in granting licenses to businesses located within such buildings. Such particulars need to be regulated as part of the By-Law on Business and Operating Licenses.

Businesses opened without a license

While the By-Law regulates the supervision of licensed businesses, it does not include any provisions on the sanctions to be imposed on businesses opened and operating without a license.

Public businesses

The concept of “public recreational and entertainment places” introduced in the Law No. 2559 on Police Duties and Powers was utilized as is in the By-Law. Such businesses can be grouped under three categories: 1- accommodation facilities, 2- places vending alcohol and 3- recreational and gaming facilities. Imposing the same provisions and same severe sanctions on such businesses without proper classification and differentiation may constitute an obstacle to entrepreneurship. Such particulars should be evaluated on the basis of rationality in the new Law to be prepared and in the By-Law to be drafted accordingly.

Areas where alcohol is sold

The Primary Education Law No. 222 and the Law No. 5580 on Private Education Institutions stipulate that certain public businesses need to be at a door-to-door distance of at least 100 meters from school premises and private education institutions. This is the extent of the restrictions specified in law. However, in Article 30 of the By-Law, the scope of this restriction was extended beyond school premises and private education institutions. Using the terms “proximal” or “close to” prevents the introduction of an objective measure of distance. These restrictions which are not imposed by the Law but by the Article 30 and 34 of the By-Law should be revoked.

Obligation to employ a managing director

Article 25 of the By-Law obliges first grade non-sanitary businesses to employ a managing director, and Article 35 of the same imposes an obligation on public recreational and entertainment places belonging to legal persons to employ a responsible manager. These provisions specified in the By-Law on imposing an obligation to employ personnel without defining their responsibilities should be reviewed.

Business and operating licenses for already-licensed buildings

Although business and operating licenses as well as building permits are issued by the same municipality, issues pertaining to zoning and fire safety encountered when issuing business and operating licenses take up unnecessary time from the perspective of both municipalities and business owners. The process of issuing a business license for already-licensed buildings should be simplified, which require due amendment and modification of zoning By-Laws.

Ambiguities in the By-Law

In the By-Law, there are unclear and ambiguous expressions often employed, for example "...measures prescribed in legislation be ensured," or "ensuring a distance as provided in the legislation." Such provisions in the By-Law lead to bifurcations and confusion in practice. Accordingly, such nebulous expressions and provisions have to be redressed so as not to cause further confusion.

Certificate of Proficiency

Article 30 of the Vocational Education and Training Law No. 3308 provides that municipalities and other institutions and bodies authorized to issue start-up permits must request a proficiency certificate or at least an associate diploma from traders, artisans and merchants themselves or from at least one of the employees thereof for each different profession. However, this obligation was rendered void through the exceptions introduced in laws on professional chambers.

With the last amendment of the By-Law, the matter was clarified, and it was established that proficiency certificates or equivalent documents shall not be required while registering at the chamber of commerce or at the chamber of trades- and craftspeople but have become a requirement during the application for business and operating license.

Recommendations regarding Business Start-up Permit Fees

Setting the fee tariff

As is the case with other fixed municipal taxes and fees, the authority to set the business start-up permit fee is delegated to multiple bodies in the Law No. 2464 on Municipal Revenues. It is near impossible for municipal councils, ministries and the Presidency of the Republic to make a synchronized decision for each municipality and set the rates for fixed taxes and fees. For this reason, the tariffs for certain fixed fees including the business start-up permit fee have not been updated since 2005. The last update on fixed tariffs by the Council of Ministers within the pre-set upper and lower limits was in 2013. Therefore, the fixed amount for the business start-up permit fee was set in 2005 and has not increased since. In the line with the resolutions of the Constitutional Court, once the upper and lower limits for business start-up permit fees are set by Law along with other fixed municipal taxes and fees, the start-up fee should be determined by the municipal council within the set limitations.

Criteria in determining the fee amount

Determination of fees in view only of the size of the business would neither be adequate nor fair. The fee should be determined in observance of such distinctions as: sanitary vs. non-sanitary, inspection required vs. inspection not required, hazardous vs. non-hazardous businesses.

Extending fee exceptions or deductions to small or new businesses

Small and sanitary businesses that do not require continuous supervision can be exempted from such fee or the fee can be one-off only during start-up while other businesses can be charged an annual fee. In order to boost economy and commerce in the city, the municipal council can be vested with the authority to extend fee exceptions or deductions for businesses to be newly opened or for businesses to be supported.

Penalty fee

In the event that business opened without a permit is a sanitary business which is of a quality to be granted a license, the sanction of closure may be heavy. Instead of this, a regulation to the effect of

charging 50 percent more or double on the business start-up permit fee can be brought. That is because a similar practice is envisaged for the brokerage fee under Article 68 of the Law No. 2462 on Municipal Revenues.

Collection of fees outside of municipal boundaries

Business start-up license fee (along with other fees) can only be collected by municipalities. No legal arrangement, similar to the Law on Municipal Revenues, regulating the own source revenues of special provincial administrations exists. A regulation which enables the Law on Municipal Revenues to be implemented outside of municipal boundaries and authorizes special provincial administrations to collect the business start-up license fee (along with other taxes and fees) should be introduced in the Law.

Other Recommendations

Performing licensing duties

The legislation on services concerning business and operating licenses have become extremely complex. It may not be possible for small municipalities to set up separate units for each service. However, in municipalities of a certain size, business start-up licenses and inspections should be carried out by those units tasked with such duties only.

Simplifying licensing procedures

Considering the complexity of the legislation on business and operating licenses, it is obvious that there are certain areas that can be improved. Within the framework of the strategy to improve investment climate, local authorities (municipalities) should coordinate and share information with central authorities in order to improve regulation of business licensing and to facilitate the operation of businesses. Information technology-based solutions should be put in place to achieve this objective. The model proposed by the Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market is the **Point of Single Contact** model. Good examples of using online platforms to facilitate coordination between central and local authorities can be found in Croatia and Portugal.

1 Introduction

This study has been prepared within the scope of the LAR III (Local Administration Reform Project – Phase III). This project is an extension of Phases I and II of the same project, which has been implemented between 2003-2013. Endeavouring to ensure that local administrations-related projects in Turkey are on par with international principles and standards, this project seeks to assist respective bodies in the provision of active, effective, efficient, inclusive, transparent, accountable and participatory local services, befitting local governance.

The specific objective of the project is to ensure that the local administration model resulting from structural reforms and transformations that have been carried out in Turkey in recent years, can be put in practice effectively and line with principles of democratic governance. Within this framework, the project also seeks to improve respective administrative capacities of the Ministry of Interior, the Ministry of Environment and Urbanization and local administrations as well as to strengthen cooperation between them.

The project, which qualifies as a program, is composed of three components. The first component is titled “Effective and Quality Provision of Local Services”. The second component is titled “Building Capacity in Metropolitan Cities and Increasing Local Participation” while the third and last component is titled “Establishing and Updating the Infrastructure for the Management Information System of Local Administrations.” Within this framework, the objective is to strengthen the local database. The third component is supplementary in nature and is aimed at developing the software necessary for the first two components (e.g., Performance Management System, Reform and Legislation Tracking System etc.).

The first component titled “Effective Provision of Local Services” seeks to support the Ministry of Interior and the Ministry of Environment and Urbanization in legislative processes. In addition, the component aims to support various managers from different levels in local administrations in the effective provision of local services. This report has been prepared as an output of the Activity A.1.1.4. “Developing Recommendations Concerning the Re-regulation of the Provisions of the Law No. 3572 on Business and Operating Licenses and the Respective By-Law” within the scope of Component One. Within the framework of LAR III, the report deals with the functioning of the business licensing system and other tools promoting the role of municipalities in economic development by comparing the experiences in EU member states. It includes:

- a) a comparative assessment of ten EU countries that would be beneficial to understand the scope of the business license regulations in relation to the above argument
- b) a review of legislation and practices concerning the licensing of businesses by municipalities as well as advice regarding the improvement of services provided in view of the Activity A.1.1.4. “Developing Recommendations Concerning the Re-regulation of the Provisions of the Law No. 3572 on Business and Operating Licenses and the Respective By-Law.” The research aims to contribute to two directions to improve the legislation that lay ahead. First direction is deregulation where legislation is simplified to enlarge the discretion of municipalities, second direction is to detail every possible case based on the accumulated experience.

The objective of this study is to provide a comparative assessment with EU countries on the business licensing procedures. The Comparative Assessment and Recommendations Report is a draft proposal for a legislative amendment regarding the Law No. 3572 on Business and Operating Licenses and the Respective By-Law and will be submitted to higher authorities for the initiation of the legislative process if deemed appropriate upon evaluations by the co-beneficiaries of the project i.e., the Ministry of Interior and the Ministry of Environment and Urbanization.

Methodology

The report was drafted by international and local experts. The first part of the report was drafted by the international consultant, while the second part of the report was drafted by the local consultant. The report starts with a short executive summary, to give the reader a quick overview of the findings and recommendations of the report. Initially the report focuses on the introduction and the scope of the report followed by the methodology and the project background. The first chapter provides a comparative assessment of business license systems in ten EU countries, namely on Hungary, Austria, Estonia, the Netherlands, Poland, Latvia, Spain, Croatia, Belgium and Portugal. The second chapter focuses on the local perspective by providing an overall review of legislation and practices concerning the licensing of businesses by municipalities in Turkey. The last section provides general and specific recommendations.

At the beginning of the assignment, the international consultant together with the local consultant took part in a number of meetings in Ankara on 25-27 February 2020. The consultants met with the representatives of selected municipalities to assess and identify the main challenges faced by municipalities in business licensing operations as well as their role in promoting local economic development and entrepreneurship. This report has been prepared availing of information obtained during meetings held in the following municipalities: Ankara Metropolitan Municipality, Çankaya, Yenimahalle, Altındağ District Municipalities, Union of Municipalities of Turkey (Türkiye Belediyeler Birliği - TBB), Confederation of Turkish Tradesmen and Craftsmen (Türkiye Esnaf ve Sanatkarları Konfederasyonu - TESK), Ankara Chamber of Commerce (Ankara Ticaret Odası - ATO). As well as through reviewing reports and annual reports on the matter prepared by the Union of Municipalities of Turkey, by some individual municipalities, special provincial administrations and other institutions along with the legislation.

The IC prepared the first draft of the Comparative Assessment and Recommendations Report based on desk research, while the local consultant engaged in collecting cases and insights from municipalities to enrich the recommendations and prepared the overview of legislation. The structure of the report was prepared by UNDP and was part of ToR. The IC merged both reports. Once the report is submitted, the IC will also participate in two 2-day consultation meetings with the participation of the project team and other relevant institutions in order to discuss the results of the Comparative Assessment and Recommendations Report. The consultation meetings will be held in Ankara if the COVID-19 circumstances allow. The IC remains available to conduct the consultation meetings via online platforms.

2 Comparative Assessment of Business License Systems in Selected EU Countries

2.1 General Outlook of Business License in EU

This section provides an overview of how business licences are regulated in the European Union countries. It focusses on the obligations and principles set out by the EU, and such principles could contribute to the development of private sector. One of the most important commitments of the European Union is what is known as the "May 2011 Commitment." The May 2011 Commitment derives from conclusions of the European Council on the review of the "Small Business Act" for Europe and it includes, inter alia, the following commitments:⁷

- to reduce the overall regulatory burden at both European and national levels, in particular for SMEs, welcoming the Commission's intention to propose ways of exempting micro-enterprises from certain future regulations;
- to focus on a simplified, lighter, clear and consistent regulatory and administrative environment where SMEs operate on the basis of smart regulation principles and in which the overall regulatory burden, in particular for SMEs, should be reduced at both European and national levels;
- to promote across the EU the application of the "**only once**" principle and to systematically apply the "only once" principle in order to avoid SMEs providing the same information several times, including when they operate cross-border; promises to reduce the time required for an enterprise to obtain a license and permit to take up and perform a specific activity to three months by the end of 2013.⁸

Before the May 2011 Commitments, the European Union approved Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market.⁹ The directive aims at enabling a free market which compels the Member States to eliminate restrictions on cross-border provision of services while at the same time increasing transparency and information for consumers would give consumers wider choice and better services at lower prices. Before the directive was drafted, an old report from the Commission on 'The State of the Internal Market for Services'¹⁰ drew up an inventory of a large number of barriers which were preventing or slowing down the development of services between Member States, in particular those provided by SMEs, which are predominant in the field of services.¹¹ The report concluded that a decade after the

⁷ European Council 24/25 March 2011 Conclusions, available at:

https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/120296.pdf

⁸ Conclusions on the review of the "Small Business Act" for Europe, available at:

https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/intm/122326.pdf

⁹ Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, available at:

<https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0123&from=EN>

¹⁰ <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52002DC0441&from=en>

¹¹ Report from the Commission to the Council and the European Parliament on the state of the internal market for services presented under the first stage of the Internal Market Strategy for Services, 2002, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52002DC0441&from=en>

envisaged completion of the internal market, there was still a huge gap between the vision of an integrated European Union economy and the reality as experienced by European citizens and service providers.¹²

In 2000, Lisbon European Council concluded on 23 and 24 March 2000 during its presidency to set out a strategy for the removal of barriers to services.¹³ The EU Directive on Services is a central element of the renewed Lisbon Strategy of 2005, which requires member states to improve regulatory climate.¹⁴

The aim of the Directive is to remove barriers to the freedom of establishment for providers in member States and barriers to the free movement of services as between Member States and to guarantee recipients and providers the legal certainty necessary for the exercise in practice of the two fundamental freedoms of the treaty.

One of the most important aspect of the Directive, relevant to this study and potential recommendations about Turkey, concerns administrative procedures. According to the Directive, the rules relating to administrative procedures should not aim at harmonising administrative procedures (meaning, it is not required that all countries have identical procedures in place) but at removing overly burdensome authorization schemes, procedures and formalities that hinder freedom of establishment and the creation of new service undertakings. Furthermore, the Directive recognises that one of the fundamental difficulties faced by private sector in accessing service activities and exercising them is the a) complexity, b) length and c) legal uncertainty of administrative procedures.

The Directive states that in order to enable administrative simplification, general formal requirements such as presentation of original documents, certified copies or a certified translation, should not be imposed, except where objectively justified by an overriding reason relating to the public interest, such as the protection of workers, public health, the protection of the environment or the protection of consumers. In a more practical aspect, the directive has obliged Member States to establish Points of Single Contact through which businesses can complete all the procedures and formalities.

Points of Single Contact (PSCs) are e-government portals that allow service providers to get the information they need and complete administrative procedures online. They are managed by the 'EUGO network' of national coordinators.¹⁵

These portals aim to support private sector to:

- explore business opportunities or expand their services to another EU country,
- set up a new business abroad,
- find out about the rules and formalities that apply, and
- complete the administrative procedures online.

¹² Ibid.

¹³ Lisbon European Council 23 and 24 March 2000 Presidency conclusions, 2000, available at: https://www.europarl.europa.eu/summits/lis1_en.htm

¹⁴ Working together for growth and jobs A new start for the Lisbon Strategy, 2005, available at: <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2005:0024:FIN:EN:PDF>

¹⁵ Points of Single Contact, https://ec.europa.eu/growth/single-market/services/services-directive/in-practice/contact_en

The EU Services Directive establishes PSCs for entrepreneurs active in the service sector. Since December 2009 it is a legal requirement to have a PSC in every EU country. All national PSCs are part of the European 'EUGO network'. Iceland, Liechtenstein and Norway participate on a voluntary basis. The aim of the PSCs is to help the European service sector reap the benefits of the Single Market by making national information on rules and formalities, and national procedures available online. Since 2014, the PSC charter encourages EU countries to make their PSCs more business-friendly by introducing guidelines on quality and availability of information provided, completion of electronic procedures, accessibility for cross-border users and usability.¹⁶ The performance of the PSCs is measured annually in the Single Market Scoreboard.¹⁷

Content of the Directive

Article 5(1) of the Directive requires examination of procedures and formalities applicable to access to a service activity and to exercise them. If these procedures and formalities are not sufficiently simple, they should be simplified. In practical terms, this paragraph requires member states to undertake real efforts toward administrative simplification.¹⁸ According to Article 5(2), the Commission may introduce harmonised forms to serve as "equivalent to certificates, attestations and any other document required of a provider". Harmonised forms may be introduced for specific certificates or similar documents, when divergences between national documents designed to serve similar purposes make it difficult for competent authorities to ascertain the content or the meaning of the certificate, and service providers, as a result, are faced with a multiplicity of different forms.¹⁹ Member States will also have to assess whether it is justified to require that certain evidence is produced in a specific form, for example in its original form, as a certified copy or with a certified translation, or whether it would be sufficient to provide a non-certified copy or a non-certified translation.²⁰ Please see text of the Article 5 in Box No 1.

Box No 1

Article 5

Simplification of procedures

1. Member States shall examine the procedures and formalities applicable to access to a service activity and to the exercise thereof. Where procedures and formalities examined under this paragraph are not sufficiently simple, Member States shall simplify them.
2. The Commission may introduce harmonised forms at Community level, in accordance with the procedure referred to in Article 40(2). These forms shall be equivalent to certificates, attestations and any other documents required of a provider.
3. Where Member States require a provider or recipient to supply a certificate, attestation or any other document proving that a requirement has been satisfied, they shall accept any document from

¹⁶ The Points of Single Contact Charter, available at: <https://ec.europa.eu/docsroom/documents/32701>

¹⁷ Single Market Scoreboard, available at: https://ec.europa.eu/internal_market/scoreboard/

¹⁸ Handbook on implementation of the Services Directive, 2008, p.17, available at: <https://op.europa.eu/en/publication-detail/-/publication/a4987fe6-d74b-4f4f-8539-b80297d29715>

¹⁹ Ibid.

²⁰ Ibid.

another Member State which serves an equivalent purpose or from which it is clear that the requirement in question has been satisfied. They may not require a document from another Member State to be produced in its original form, or as a certified copy or as a certified translation, save in the cases provided for in other Community instruments or where such a requirement is justified by an overriding reason relating to the public interest, including public order and security.

Article 6(1)(a) and Article 6(1)(b) oblige all EU states to make sure that all procedures and formalities or applications for any authorization from the authorities, including applications for inclusion to a register, database or with a professional body or association and any applications for authorisation needed to exercise his service activities go through Points of Single Contact.

The Points of Single Contact are meant to be the **single institutional window** from the perspective of the business, so that they do not need to contact several competent authorities or bodies to collect all relevant information and to complete all necessary steps relating to their service activities. These points of single contact are available for all businesses whether established in their territory or in the territory of another Member State.

The idea of having points of single contact within member states was initiated by the European Council in the “integrated guidelines for growth and jobs 2005-2008” (guideline No 15), adopted by the Council in June 2005.²¹ The obligation contained in the Services Directive is therefore in line with, and complementary to, the aims of previous community initiatives. However, the legal obligation contained in the Services Directive is broader and comprises all kinds of businesses (not only start-ups), service recipients (for information purposes) and all types of procedures (not only start-up procedures).²² (Please see text of the Article 6 in Box No 2.)

Box No 2

Article 6
Points of Single Contact

1. Member States shall ensure that it is possible for providers to complete the following procedures and formalities through points of single contact:

(a) all procedures and formalities needed for access to his service activities, in particular, all declarations, notifications or applications necessary for authorisation from the competent authorities, including applications for inclusion in a register, a roll or a database, or for registration with a professional body or association...

According to Article 7, there is a list of essential information which Member States must make easily accessible through the “points of single contact” to business and citizens. This information needs to be accessible at a distance and by electronic means. “Points of Single Contact” need to reply as quickly as possible to any request for information and shall, in case the request is unclear or

²¹ Council Recommendation of 12 July 2005 on the broad guidelines for the economic policies of the Member States and the Community (2005 to 2008) (2005/601/EC) <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0123&from=EN>

²² Handbook on implementation of the Services Directive, 2008, p.18, available at: <https://op.europa.eu/en/publication-detail/-/publication/a4987fe6-d74b-4f4f-8539-b80297d29715>

incomplete, inform the applicant accordingly without delay. Please see text of the Article 7 in Box No 3.

Box No 3

Article 7
Right to Information

1. Member States shall ensure that the following information is easily accessible to providers and recipients through the points of single contact:

(a) requirements applicable to providers established in their territory, in particular those requirements concerning the procedures and formalities to be completed in order to access and to exercise service activities;

(b) the contact details of the competent authorities enabling the latter to be contacted directly, including the details of those authorities responsible for matters concerning the exercise of service activities;

(c) the means of, and conditions for, accessing public registers and databases on providers and services;

(d) the means of redress which are generally available in the event of dispute between the competent authorities and the provider or the recipient, or between a provider and a recipient or between providers;

(e) the contact details of the associations or organisations, other than the competent authorities, from which providers or recipients may obtain practical assistance.

2. Member States shall ensure that it is possible for providers and recipients to receive, at their request, assistance from the competent authorities, consisting in information on the way in which the requirements referred to in point (a) of paragraph 1 are generally interpreted and applied. Where appropriate, such advice shall include a simple step-by-step guide. The information shall be provided in plain and intelligible language.

3. Member States shall ensure that the information and assistance referred to in paragraphs 1 and 2 are provided in a clear and unambiguous manner, that they are easily accessible at a distance and by electronic means and that they are kept up to date...

Article 8 establishes an obligation for Member States to “ensure that all procedures and formalities relating to access to a service activity and to the exercise thereof may be easily completed, at a distance and by electronic means, through the relevant point of single contact and with the relevant competent authorities”. This article covers procedures and formalities required for establishment as well as any procedure and formality which might be necessary in the case of cross-border provision of services. Electronic procedures have to be available not only for businesses and citizens resident or established in the Member State of the administration but also for businesses and citizens resident or established in other Member States. This means that businesses and citizens should be able to complete procedures and formalities by electronic means across borders. (Please see text of the Article 8 in Box No 4.)

Article 8

Procedures by electronic means

1. Member States shall ensure that all procedures and formalities relating to access to a service activity and to the exercise thereof may be easily completed, at a distance and by electronic means, through the relevant point of single contact and with the relevant competent authorities.

In 2013, The European Commission introduced Entrepreneurship 2020 Action Plan, on improving and minimizing regulatory burden and imposing clearer and simpler rules. The Commission stated that regulatory obligations of businesses should be clear and simple.²³

2.2 Country Studies

2.2.1 Hungary

Hungary is a unitary state composed of municipalities (települések), towns (városok), towns with county rank (megyei jogú városok), capital town districts (fővárosi kerületek), the city of Budapest and counties (megyék). The body of representatives (képviselő-testület) is the municipality's legislative body. It is composed of members elected by direct universal suffrage for five years, responsible for the management and control of the municipality. Its decisions are presented in the form of resolutions and decrees.²⁴

The mayor's office (Polgármesteri hivatal) is the municipality's executive body and the mayor presides over the body of representatives. The mayor is a member of the body of representatives and is elected by direct universal suffrage for a five-year term. The body of representatives is obliged to elect deputy mayors from within its ranks or may also elect external persons to this post, on the basis of a secret ballot.

The notary (jegyző) is appointed by the mayor, usually for an unlimited mandate. The notary is the head of the local administration and is the head of the mayor's office. She/he prepares and assists the work of the body of representatives and of the mayor and executes their decisions.

Competences:

- Local development
- Urban planning
- Protection of the environment
- Housing
- Public transport
- Social services
- Maintenance of roads, public areas, cemeteries and sewage
- Water resources
- Fire services
- Culture

²³ Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2013, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0795:FIN:EN:PDF>

²⁴ Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 37 https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structures_and_competences_2016_EN.pdf

In Hungary, in order to register a start-up (to start a new business), a six-step procedure is in place, which takes seven days in total to be fully operational.²⁵ The fifth step includes regulation of the procedure concerning Registration for Municipal Business Tax.²⁶ Initially, the newly incorporated companies should register at the company registrar. Company registration in Hungary means that the Court of Registration obtains the company's tax number and statistical code using the electronic system created for this purpose. Within fifteen days after registration, companies are obliged to register with the municipality for business tax (known in Hungarian as helyi iparűzési adó).

The process could last more than 15 days if the tax authority needs more than one day to provide the court with the tax identification number.

In order to register with the municipality for the Registration for Municipal Business Tax, companies are required to provide the following information: company name, address, tax number, etc. For example, in Budapest companies can download and print the registration form from the municipality's homepage and submit the filled out form by registered e-mail or can provide information *in personam* at the municipal Tax Office. If they have access, companies could also fill out the registration form electronically via the e-government system (ügyfélkapu).

When the start-up registers online, the municipality issues a certificate of receipt for the online registration. If the company is registered by using paper-based registration, the municipality issues a stamped certification of receipt. Once the tax authorities prepare the tax number, the municipality issues a local taxpayer-number to the company, which is sent by mail to the company address. After the reforms in Hungary, starting from 1st of January 2018, the state tax authority can electronically forward the details of a company received via the court of registry to the municipal tax authority where the company's registered office is located.

Generally speaking, companies do not need governmental approval for pursuing a business activity in Hungary.²⁷ However, according to the Hungarian Government Decree 210/2009. (IX. 29.) on the Conditions of Performing Commercial Activities,²⁸ only operating license (known otherwise as Business License for shops) for a specific range of products subject to trade is issued at local level. The procedure is as follows: business owners should apply for license to the notary of the place of commercial activity which could be: a) the notary of the district self-government in Budapest, or b) the chief notary of the capital in respect of the area directly managed by the Metropolitan Self-Government.²⁹ In both cases, notaries are heads of administration at the municipalities elected by mayors.

²⁵ Ease of Doing Business in Hungary, World Bank, Doing Business – Measuring Business Regulations, available at: https://www.doingbusiness.org/en/data/exploreconomies/hungary#DB_sb

²⁶ Ibid. Five other steps include: hire a lawyer who will represent the company; create the company deed and prepare any other necessary legal document, open a bank account and deposit the capital, apply for registration at the Registration Court (simplified electronic registration), register with the National Office for Health Insurance and register with the Hungarian Chamber of Commerce and Industry.

²⁷ Guide to Doing Business, Hungary, Lex Mundi, available at: [https://www.lexmundi.com/lexmundi/Guides To Doing Business.asp](https://www.lexmundi.com/lexmundi/Guides%20To%20Doing%20Business.asp)

²⁸ 210/2009. (IX. 29.) Government Decree on the conditions for the pursuit of commercial activities: https://net.jogtar.hu/jogszabaly?dbnum=1&docid=A0900210.KOR&cel=P%282%29p%28b%29&mahu=1&got_o=7#xcel

Of the products subject to trade, only the products specified in the operating license may be marketed in the store. Therefore, companies must only apply for the so-called “operating license” if they are engaged in the distribution of commercial products (see Box no. 5 the list of some commercial products subject to operating license)

Box No 5
The List of Some Commercial Products Subject to Operating License
<ol style="list-style-type: none">1. Hazardous substances and mixtures according to the Chemical Safety Act, except Jet fuel oil, propane or propane-butane gas and fuel;2. Products covered by the Government Decree on the regulation of the organic solvent content of certain paints, varnishes and vehicle refinishing products;3. Veterinary preparations and their active ingredients;4. Weapons, ammunition, explosives, gas sprays, pyrotechnic articles and products belonging to pyrotechnic classes 1, 2 and 3 in accordance with the Government Decree on Pyrotechnic Activities for Civil Use, with the exceptions specified therein;5. Plant protection products and their active ingredients;6. Non-hazardous waste;7. Material belonging to the explosive class according to the National Fire Protection Regulations, except Jet fuel oil, propane or propane-butane gas and fuel.

Companies engaged in certain activities are required to apply for licensing with the national authorities. The type of the activity must be specified in the deed of incorporation and the company can only operate if it is licensed. See Box 6 for some examples of the Business Licenses that are issued by National Authorities in Hungary.

Box No 6
Business Licenses in Hungary Issued by National Authorities Examples
<p>I. Pharmaceutical manufacturing activity³⁰ In Hungary, the National Pharmaceutical and Nutrition Institute is in charge to issue the necessary license for performing pharmaceutical manufacturing activity.</p>
<p>II. Employment and Temporary Work Agencies Employment and Temporary Work Agencies need licenses, which can be obtained from the competent government office. The criteria for issuing the license requires the applicant to have an office, to hire employees with appropriate degree or qualification and to deposit a certain amount of financial collateral.</p>
<p>III. Financial Activities Companies engaged in financial activities or/and insurance companies are obliged to obtain a license from the National Hungarian Bank.</p>

³⁰ https://company-formation-hungary.com/incorporation_process/activities_subject_to_licensing

Point of Single Contact

The Ministry of Interior is responsible for setting the general principles of eGovernment in Hungary, shaping the Government's policies related to public administration, IT development and service development, as well as coordinating the legislation related to electronic administration. As part of its duties the Ministry is responsible for the establishment of the Hungarian PSC and has become a member of the EUGO network on behalf of Hungary. The aim of the PSC is to assist entrepreneurs and enterprises who wish to set up a business or provide cross-border services in Hungary.³¹

2.2.2 Austria

Austria is a federal state composed of municipalities (Gemeinden) and regions (Länder). The municipal council (Gemeinderat) is the deliberative body of the municipality. Its members are elected by direct universal suffrage based on the proportional representation system for a five or six-year term depending on the region. The municipal council appoints the members of the local administrative board.³²

The local administrative board (Gemeindevorstand) is the municipality's executive body. It is composed of the mayor, his deputies and members from different political parties, represented in direct proportion to the electoral results of each party.

The mayor (Bürgermeister) is elected either by the municipal council or by direct universal suffrage, depending on the region, although the latter method is the most common. The mayor chairs the local administrative board and the municipal council.

Competences:

- Social services
- Public order
- Urban planning and land development
- Water
- Sewage
- Roads and household refuse
- Urban transport
- Safety
- Culture
- Health

In Austria, in order to register a new company, an eight-step procedure is in place, which takes approximately 21 days in total.³³ The eighth-step includes regulation of the procedure concerning registration of the business with local authorities.³⁴ Initially, newly created companies should obtain the confirmation from the Economic Chamber that the start-up company is indeed a new enterprise

³¹ The link for the PSC in Hungary: <http://eugo.gov.hu/>

³² Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 8-9
https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structuresandcompetences_2016_EN.pdf

³³ Ease of Doing Business in Austria, World Bank, Doing Business – Measuring Business Regulations, available at: https://www.doingbusiness.org/en/data/exploreeconomies/austria#DB_sb

³⁴ Ibid. Seven other steps include: obtain the confirmation from the Economic Chamber that the start-up company is indeed a new enterprise, notarize the statutes/articles of association or the declaration of establishment, deposit the minimum capital requirement, register the company at the local court (Handelsgericht), tax Office registration (obtain a VAT number), register trade (Gewerbeanmeldung) with the trade authority (Bezirksverwaltungsbehörde) and register employees for social security.

and follow other steps. The final step to establish a new company includes checking with municipalities which taxes apply to the companies.

With very few exceptions, anyone conducting regular business in Austria, either as an individual or a company, will need a trade license (Gewerbeberechtigung). The Austrian Trade Regulations (*Gewerbeordnung*) is in charge of issuing licences for businesses.³⁵ There are two types of businesses in Austria: business activities which only have to be notified with the relevant authorities (*free trades* or the so called "*freie Gewerbe*") and those for which a permission is required (*regulated trades* or the so called "*reglementierte Gewerbe*"). In case of the "freie Gewerbe", a notification has to be filed with the relevant authorities and several documents have to be submitted in support of the application (i.e. certain statements, personal documents).

The competent authority for the application for the business license is the respective district administrative authority. In cities with their own statute (statutory cities) this is the magistrate, in cities without their own statute or in municipalities the district government.³⁶ The business licence is granted upon registration of the notification in the relevant register. In case of a "reglementierte Gewerbe" for products subject to certain regulations, a formal application has to be filed. Licence is granted only if all requirements of the trade regulations are met. For instance, at Vienna Chamber of Commerce (Wirtschaftskammer Wien) portal has all the necessary information about registration and requirements for registering or applying for business license.³⁷

In order to establish a foreign-owned company in Austria there is no need for governmental authorization or permission. There are no financing restrictions on foreign owned companies and there is no difference concerning legal provisions for an Austrian-owned corporation and a corporation controlled by a foreign individual or corporation.

Most of the self-employed activities are subject to the trade code and require the acquisition of a business license. At the same time, there are also activities that are exempt from the trade regulations for which no business license is required. Some of these activities include but are not limited to sworn experts, secondary employment at home (private room rental), publication of periodical printing works by media companies, literary translations, independent trainers etc.

Points of Single Contact

In Austria, Points of Single Contact are under the responsibility of the Federal Ministry for Digitization and Economic Affairs. The portal covers the Point of Single Contact of each Austrian "Land" where those interested to start a business can electronically obtain information on the procedures that are necessary to complete all administrative formalities (with no need to contact each authority separately). There are nine PCS in Austria, namely: PSC Burgenland, PSC Kärnten, PSC Niederösterreich, PSC Oberösterreich, PSC Salzburg, PSC Steiermark, PSC Tirol, PSC Vorarlberg and PSC Wien. This is the link for PSC in Austria: <https://www.eap.gv.at/>

³⁵ Guide to Doing Business, Austria, Lex Mundi, available at: [https://www.lexmundi.com/lexmundi/Guides To Doing Business.asp](https://www.lexmundi.com/lexmundi/Guides%20To%20Doing%20Business.asp)

³⁶ Website of government of Austria, available at: <https://www.oesterreich.gv.at/lexicon/G/Seite.990069.html>

³⁷ WKO - <https://www.wko.at/service/wirtschaftsrecht-gewerberecht/gewerbeschein.html#>

2.2.3 Estonia

Estonia is a unitary state composed of rural municipalities (vald) and cities (linn). The municipal council (volikogu) is the municipality's legislative body and is composed of members, whose number varies according to the demographic size of the local authority, elected by direct universal suffrage for four years. The municipal council appoints and may dismiss the council chair as well as the mayor. The municipal council is assisted in its work by sector-based commissions.³⁸

The local government (valitsus) is the municipality's executive body. It is composed of the mayor and of members appointed by the mayor, following the council's approval. Members of the local government cannot sit on the municipal council.

The mayor (vallavanem in rural municipalities and linnapea in cities) is appointed by the municipal council for a four-year term. He/she is the representative of the local government but cannot be the municipal council chair.

Competences:

- Municipal budget
- Education
- Social welfare
- Health services
- Culture, leisure and sports
- Social housing
- Urban and rural planning
- Tourism
- Public transport
- Water supply, sewage, public lighting and central heating
- Environment
- Waste collection and disposal
- Road and cemetery maintenance
- Local taxes

In Estonia, in order to register a company, a three-step procedure is in place, which takes 3.5 days to complete. The first step requires new companies to check company name, submit the registration application to the Commercial Register and deposit initial capital. The second step concerns registration for VAT at the Estonian National Tax Board. The third step includes registering employees with the Employment Register.³⁹

In a more general note, doing business in Estonia can roughly be put into three categories: a) some companies need a special license, b) some companies need a notification of economic activity and c) most do not require anything other than establishing the company. The most common form is a private limited company (in Estonian "osaühing") that works in most cases.⁴⁰ *Companies that need a special license* - as a post registration requirement, companies must take into consideration the fact that there are areas of activity subject to special requirements for which companies need to apply for an activity license or submit a notice of economic activity. Companies are obliged to check if their

³⁸ Avrupa'daki Yapılar ve Yetki Alanlarına göre Yerel ve Bölgesel Yönetimler, Avrupa Belediyeler ve Bölgeler Konseyi (CEMR), 2016, sf. 25

https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structuresand_competences_2016_EN.pdf

³⁹ Estonya'da İş Yapma Kolaylığı, Dünya Bankası, İş Yapma – İş yerleri ile ilgili Düzenlemelerin Ölçülmesi, bağlantı adresi: <https://www.doingbusiness.org/en/data/exploreconomies/estonia>

⁴⁰ Estonya Expat Legal sitesi, bağlantı adresi: <https://www.expatlegalestonia.com/single-post/2019/02/07/Does-your-business-in-Estonia-need-a-license-notification-of-economic-activity-or-just-a-company-registration>

area of activity belongs to the areas of activity subject to special requirements using the database of Economic Activities (EMTAK).⁴¹ *Companies that need a notification of economic activity*: some companies need only to notify the Estonian authorities for their economic activity without the need to apply for a license. Such companies include those conducting the following activities: wholesale and retail trade, catering services, operation of market places, fairs, accommodation services, employment mediation services, tourism (operating as a travel agency), building sector (construction, designing, geotechnical and geodetic surveys, expert assessments of a building design's documentation, expert assessments of construction works, project management, owner supervision, energy performance labels of building, energy audits), financial services, including currency exchange, alternative payment methods, loans, leasing, warranty services, consultancy, industry (electrical works, pressure equipment works, gas works, construction of gas installations, installation of lifts, lifting equipment works, engineering works, technical inspection of electrical installations, assessment and attestation of compliance of staff) and liquid fuel (export, import, sale, storage).⁴² Most of companies do not require anything other than establishing a company.

Point of Single Contact

In 2003, the Department of State Information Systems (RISO) of the Ministry of Economic Affairs and Communications launched an information portal for citizens which serves as a Point of Single Contact. The information portal gives people information about their rights and obligations in Estonia. In addition, the portal provides practical advice on how to deal with state institutions. The content of the information portal is updated constantly. This is the link for PSC in Estonia: <https://www.eesti.ee/en/>

2.2.4 The Netherlands

The Kingdom of the Netherlands is a constitutional monarchy. The state of the Netherlands is a decentralised unitary state composed of municipalities (gemeenten), provinces (provincies) and water boards (waterschappen).⁴³

The local council (gemeenteraad) is the municipality's deliberative body. Its members are councillors elected for a period of four years via the proportional representation system. The local council is in charge of the college of mayor and aldermen, makes all main municipal decisions and has the power to pass by-laws. It is chaired by the mayor, who cannot take part in any of the council votes.

The college of mayor and aldermen (burgemeester en wethouders) is the municipality's executive body. The college prepares and implements local council decisions and is responsible for executing

⁴¹ Guide to Doing Business, Estonia, Lex Mundi, available at: [https://www.lexmundi.com/lexmundi/Guides To Doing Business.asp](https://www.lexmundi.com/lexmundi/Guides%20To%20Doing%20Business.asp)

⁴² Ibid.

⁴³ Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 59 - 60 https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structures_and_competences_2016_EN.pdf

national policies at the local level (medebewind). Aldermen, whose number varies depending on the municipality, are elected by the council for a four-year mandate.

The mayor (burgemeester) chairs the local council and the college of mayor and aldermen. He/she is formally appointed for a six-year mandate by the national government at the proposal of the local council. The mayor has the power to vote within the college of mayor and aldermen and his/her vote can be decisive.

Competences:

- Public safety and order
 - Employment
 - Local and regional economy
 - Childcare
 - Culture and sports
 - Leisure, Recreation and Tourism
 - Local media and broadcasting
- Local level Competences shared with the national or provincial government.
- Urban planning
 - (Social) Housing
 - Civil engineering
 - Public Health and Youth Care: prevention and education
 - Disaster management
 - Social services and welfare
 - Primary and secondary education: school buildings
- Regional level Competences mostly shared with the national government.
- Transport: local roads, city transport and public transport

In the Netherlands, in order to register a new business, a four-step procedure is in place, which takes 3.5 days in total. Initially, it is required to check the company name for appropriateness and validity. As of July 2011, the Chamber of Commerce no longer carries out trade names searches. However, parties themselves can carry out a check on trade names online on the Chamber of Commerce website for free.⁴⁴ As a second step, companies are obliged to draft and sign the company's deed of incorporation that is executed by a civil law notary. Thirdly, the company should register at the local Chamber of Commerce and obtain the VAT registration number and fourthly the employer should register with the local tax authorities and social security authorities.⁴⁵ The employer registration has to be completed directly at the Tax Authority in order to hire employees. It has to be done by the company itself.

Most business activities can be performed without any permits, licenses or professional qualifications.

For business activities which might impact the environment, business operator might be required to apply for the environmental permit. An environmental permit may be required if products or business operations negatively affect the environment. Permits and licenses can be applied for at the municipality or at the provincial authorities.⁴⁶

Some sectors require registration with an industry board or a product board. Registration is a statutory requirement, based on the Act on Business Organizations. An industry board is a kind of

⁴⁴ Ease of Doing Business in Netherlands, World Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreconomies/netherlands>

⁴⁵ Ibid.

⁴⁶ EntryPoint NL - <https://www.entrypoint.nl/updates/netherlands-license-permit-requirements-operating-dutch-companies-business-netherlands/>

interest group for a specific sector. The same applies to a product board, which includes all enterprises in a production chain, from producers of raw materials to manufacturers of end products. One does not need a separate diploma or permit in order to establish a business in the Netherlands. Nevertheless, one is only allowed to practice certain professions if she/he meets specific requirements. Even if a business owner is planning to import or export goods, there is no import license or export license required (although in the case of particular products, certification is required).⁴⁷

In most cases a municipal tax is owed for the use of public land.⁴⁸ Anyone who uses a plot of municipal land, for instance by installing an object on it, suspending an object above it or anchoring an object in the ground, has to pay this tax. The 'object' could be an outdoor cafe, a projecting roof, a billboard, scaffolding or a container. This tax is also obligatory if one plans to display articles for sale in the street. The amount owed depends on how the municipal land is used.

The most important business sectors in the Netherlands that require licenses and permits include but are not limited to: retail trade, wholesale trade and craft industry, hospitality, recreation and catering, childcare, animal care, art, culture and media, business services and personal services, construction, industry, transport, agriculture, livestock farming and fishery and private education.

Background Information on the Netherlands Licensing Reform

In the 1990s, starting a business in the Netherlands was difficult, time consuming, and costly, with the 1954 Establishment of Businesses Act being a major source of many difficulties faced by businessmen.⁴⁹ This Act required more than 80 types of businesses to acquire licenses prior to start-up. Until 1993, businesses faced criminal prosecution if they failed to obtain the necessary licenses. The Netherlands reformed the Establishment Act, to include following provisions: "Free" professions did not require business licenses. These professions included law, accountancy, architecture, and consultancy services. Later, the government evaluated the practice and came to the conclusion that the reformed law was not effective and was in fact a barrier to entry for potential new businesses. Furthermore, the evaluation found that start-ups had increased by 30 percent in sectors where licensing regulations had been relaxed but had dropped by 50 percent in sectors where the regulations had become more stringent.⁵⁰ (Please see Box no 7 for the grouping of Professions that require licenses).

⁴⁷ INCO Business Group: <https://www.incobusinessgroup.com/apply-for-dutch-business-licence>

⁴⁸ Government website on doing business in Netherlands, available at: <https://business.gov.nl/regulation/advertising-tax/>

⁴⁹ Business Licensing Reform: A Toolkit for Development Practitioners, Small and Medium Enterprise Department, The World Bank Group, November 2006, pg. 39-42, available at: <http://documents.worldbank.org/curated/en/664561468779400537/pdf/391130LicensingBook01PUBLIC1.pdf>

⁵⁰ Ibid.

Professions subject to licenses were grouped in three tiers

- Tier 1: Entrepreneurs in most retail areas. These entrepreneurs had to acquire a diploma of proficiency in general business skills, known as the AOV (Algemene Ondernemers Vaardigheden).
- Tier 2: Entrepreneurs in the construction, electromechanical installation, transport, and food and drink sectors. These entrepreneurs had to acquire both the AOV and certification of more specialized business management skills (the bedrijfstechniek, or BT).
- Tier 3: Bakers, butchers, and electricians. In addition to the AOV and BT requirements, these entrepreneurs had to meet technical skills requirements (vaktechniek, or VT).⁵¹

Point of Single Contact

Business.gov.nl is the Dutch Point of Single Contact website, a business portal that is part of the EU ambition to improve the internal market. As a PSC, *Business.gov.nl* offers EU citizens centralized access to business information, procedures and assistance in the Netherlands in a non-discriminatory way. It also links to online business. All PSCs together form the EUGO network. *Business.gov.nl* collaborates with Dutch government and semi-governmental organizations to provide information about laws, rules and regulations, subsidies and more. *Business.gov.nl* is the English-language counterpart of *Ondernemersplein*. The website was launched in August 2017 and is an initiative of the Ministry of the Interior and Kingdom Relations.⁵²

2.2.5 Poland

Poland is a unitary state composed of municipalities (*gminy*), counties (*powiaty*) and regions (*voivodship-województwo*).⁵³

The municipal council (*rada gminy*) is composed of councillors elected by direct universal suffrage for a four-year term. In addition to its legislative powers, the council approves the municipal budget and determines local taxes. The council is sub-divided into commissions responsible for the preparation and execution of decisions taken by the municipal council. Members of the commissions are elected by and from among the municipal councillors.

The mayor (*wójt* in rural municipalities, *burmistrz* in urban areas and *prezydent miasta* in cities of more than 100,000 inhabitants) is the local authority's single executive body. He/she is elected by direct universal suffrage for a four-year term and officially represents the municipality.

The head of the municipal administration (*sekretarz gminy*) is appointed by the mayor. He/she can act on the mayor's behalf, particularly when it comes to the organization of the city hall's work and

⁵¹ Ibid.

⁵² The link for the PSC in the Netherlands: <https://business.gov.nl/>

⁵³ Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 63-64
https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structuresand_competences_2016_EN.pdf

to the management of human resources. In Poland, 66 urban municipalities have a special status whereby they are responsible for competences usually exercised by counties. The capital city of Warsaw, which is divided into 18 districts, also has this special status and thus exercises the competences of both a municipality and a county.

Competences:

- Public transport
- Social services
- Housing
- Environment
- Culture
- Pre-school and primary education

380 intermediate level counties (powiaty) include the 66 municipalities with special status. The county council (rada powiatu) is composed of members elected by direct universal suffrage for a four-year term. This deliberative assembly appoints members of the executive committee as well as the head of the county.

The executive board (zarząd powiatu) is composed of the head of the county and deputies elected by and from within the county council for a period of four years. This body is in charge of implementing council decisions.

The head of the county (starosta) is elected for a four-year term by the county council. He/she officially represents the county and is assisted by his/her deputies.

Competences:

- Road building and maintenance
- Secondary education
- Civil protection
- Environment
- Employment
- Health

There are 16 regions (voivodship-województwo) at the regional level. The regional council (sejmik województwa) is composed of members elected by direct universal suffrage for a four-year term. This deliberative assembly elects the marshal.

The regional executive board (zarząd województwa) is composed of members and the marshal, elected by the regional council for a period of four years. The board implements decisions made by the regional council.

The marshal (marszałek) is elected by the regional council for a period of four years. He/she officially represents the region at the national and international levels.

The governor (wojewoda) represents the prime minister as well as the national Polish government at the regional level. He/she is appointed by the country's prime minister upon proposal by the minister responsible for public administration. The governor is responsible for the implementation of national government policy in the region.

Competences:

- Economic development
- Higher education
- Environment
- Employment
- Social policy
- Regional road management

In Poland, in order to register a company, a five-step procedure is in place, which takes 37 days to complete.⁵⁴ The first step requires new companies to notarize their agreement. The second step obliges them to deposit paid-in capital at the bank. The third step includes filing for company registration at the National Court Register. While registering for taxes and VAT is considered as the fourth step, registering employees with the Social Security Agency (Zakład Ubezpieczeń Społecznych - ZUS) is the fifth and final step that concludes the registration process in Poland.

Before starting a business, individuals must determine the type of company they want to establish. More concretely, they need to check whether they need a) a license, b) permit or c) entry in the register of regulated activity. The conditions to be fulfilled by the entrepreneur are normally linked to the specific type of activity and its subject matter. In order to run a business, it is required to have special rights, e.g. to practice an occupation or hire people with specific professional qualifications, to meet premise-related and technical conditions, to have appropriate equipment or a vehicle.⁵⁵ In the Central Register and Information on Economic Activity (CEIDG), the portal of the Polish government,⁵⁶ the grouped activities are described in detail. On this portal, the nature of the activity, specific conditions for carrying out the activity, procedures of the regulatory body and grounds for refusal of the permit/licence by the competent body are explained.

Licence - the strictest permit for economic activity, which concerns projects of particular importance for the security of the state or citizens or important public interest. The requirement to obtain a licence may apply only to those types of business activity which cannot be carried out as a free activity (i.e. on the basis of an entry in the CEIDG or the National Court Register) or after obtaining a permit or an entry in the register of regulated activities.

The following are examples of activities that require a licence:

- exploration,
- prospecting for and extraction of minerals from deposits,
- underground storage of substances,
- underground storage of waste and carbon dioxide,
- production and trade of explosives, arms, ammunition, products for military and police purposes (granted by the minister in charge of internal affairs),
- production, processing, storage, transport and sale of fuels and energy (granted by the President of the Energy Regulatory Office),
- transmission of carbon dioxide for the purpose of its underground storage (granted by the minister in charge of the environment),
- protection of persons and property, i.e. the activity of the so-called security agencies (granted by the minister in charge of internal affairs),
- air services (granted by the President of the Civil Aviation Authority),

⁵⁴ Ease of Doing Business in Poland, Word Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreconomies/poland>

⁵⁵ Business in Poland, available at: <https://www.biznes.gov.pl/en/firma/doing-business-in-poland/permits-to-operate-in-certain-industries/activities-requiring-licences-permits-and-entries-in-registers>

⁵⁶ Central Register and Information on Economic Activity <https://www.biznes.gov.pl/en/firma/doing-business-in-poland/permits-to-operate-in-certain-industries/activities-requiring-licences-permits-and-entries-in-registers>

- broadcasting of radio and television programmes (granted by the Chairman of the National Broadcasting Council),
- operation of casinos (granted by the Minister of Finance) etc.

Permit - A permit is a form of regulating business activity other than a licence. Permits are issued after checking whether the entrepreneur is able and has technical or organizational capabilities to perform a specific business activity. The entrepreneur must fulfil the conditions laid down by law for carrying out that activity. The law specifies whether an activity requires a permit and which authority, or ministry issues the permit. The permit takes the form of an administrative decision and is issued in the course of administrative proceedings. It may contain special conditions that must be met.

The following are examples of practices that require a permit:

- wholesale and retail sale of alcoholic beverages,
- gambling activities,
- collection of municipal waste from property owners,
- emptying of tailings ponds and transport of liquid waste,
- protection against homeless animals,
- running shelters for homeless animals,
- manufacturing and marketing authorisation of pharmaceutical products,
- operation of pharmacies open to the public,
- pharmaceutical wholesalers,
- operation of a tax warehouse,
- sea-fishing,
- carrying out a number of financial activities (such as brokerage activities or securities accounts),
- running a pension fund or running a bank and credit institution and operation of a commodity exchange.

Regulated activity - the simplest form of regulation of business activity in Poland. It only requires the entrepreneur to meet, apart from submitting an application, the conditions set out in the regulations for its operation and to be entered in the register of regulated activities.⁵⁷ These registers are kept by different offices, depending on the type of activity. They are open to inspection by authorized administrations and persons on behalf of the public. The register discloses data concerning the company, NIP number and other data disclosed at the request of the authority, but only those that comply with the regulations on personal data protection.

Point of Single Contact

In Poland, the portal serving as Point of Single Contact is supervised by Ministry of Economic Development of Poland. The Portal is a service dedicated for people planning and conducting economic activity. The aim of the portal is to help in the implementation of issues connected with setting up and conducting economic activity by electronic means in a way that is easy and intuitive and to simplify the formalities required for the establishment and conduct of company.

⁵⁷ Ibid.

The portal also provides descriptions of the official services and forms for entrepreneurs. The service also fulfils the role of a search engine for contact details of all institutions that support entrepreneurs. It gives practical instructions on how to manage a business and allows the implementation of administrative matters by electronic means.

This is the link for PSC in Poland: <https://www.biznes.gov.pl/en>

2.2.6 Latvia

Latvia is a unitary state composed of municipalities (novads) and cities (pilsēta). The creation of new regional governments has been postponed and the elements of regional governments are fulfilled by 5 planning regions.⁵⁸

The council (dome) is the local authority's legislative body. Its members are councillors elected by direct universal suffrage for a period of four years. The council elects the chairperson of the council and members of the standing committees from among its councillors. The existence of both the Finance committee and Social, Education and Culture committee are mandatory. However, local authorities are free to set up other standing committees, all of them are composed of politicians and local experts. Standing committees prepare draft decisions for the council. The chairperson of the council (priekšsēdētājs) is elected by and from within the council for a four-year term. He/she chairs the council and the Finance committee. The competences of local authorities can either be autonomous (determined by law or voluntary) or delegated by the state or central government.

Competences:

The competences listed below are autonomous, determined by law:

- Water and heating supply
- Waste management
- Public services and infrastructure
- Public management of forests and water
- Primary and secondary education
- Culture
- Public health
- Social services
- Child welfare
- Social housing
- Licencing for commercial activities
- Public order and civil protection
- Urban development
- Collection of statistical information
- Public transport
- On-going training for teachers

5 regional-level planning regions

The regional development council (Plānošanas reģiona attīstības padome) is elected by representatives of all local governments, whose administrative territories compose the territory of the respective planning region. Its members are local councillors, who are involved directly. The regional development council elects the chair and executive director (head of the administration of the planning region). The administration of the planning region is responsible to the regional development council. Planning regions have their own property, legislative and administrative rights and responsibilities.

Autonomous competences of the 5 regional-level planning regions

- Development planning and spatial planning, including legislative elements
- Organisation of public transport with competences delegated by the central government

⁵⁸ Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 49-50
https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structuresand_competences_2016_EN.pdf

- Coordination of the replacement of deinstitutionalisation of social care
- Coordination of the regional-level public investment policy

In Latvia, in order to register a company, a four-step procedure is in place, which takes 5.5 days to complete.⁵⁹ The first step requires companies to complete signatories' cards and company's deeds at the Register of Enterprises (certify cards by an official). The second step obliges them to open a bank account and get a receipt of reference from the bank. The third step obliges companies to register at the Register of Enterprises and with the State Revenue Service (tax authority) for VAT. The fourth and the last step requires companies to register employees for mandatory state social insurance contribution with the State Revenue Services and that concludes the registration process in Latvia.⁶⁰

After the registration procedure, in order to start operations, companies are required to file registration applications with competent state or municipal institutions to acquire a certificate, license or permit granting them the right to pursue a specific economic activity.⁶¹ The state fee for the review of such application ranges from a couple of Euros to several thousand Euros, depending on the field of activity.

In Latvia, there is no unified register for all economic activities. Instead, there are separate registers for each type of specific economic activity. Special registration for the respective economic activity is required by different laws and regulations.

The procedure for obtaining licenses and registrations differs depending on the particular area of activity. All companies are registered with the Company Register of the Republic of Latvia. This general registration is required prior to commencement of any business activity. However, this registration alone does not grant the right to pursue any economic activity which by law is subject to special, additional registration, certification, licensing or other permitting procedure. (Please see in the Box no 8 the list of the Economic Areas requiring registration or licensing in Latvia)

Box No 8

List of Economic Areas Requiring Registration or Licensing in Latvia

The most common types of activities requiring activity license include but are not limited to: financial services, including activities relating to credit institutions, fund management, investment activities, securities market; Insurance activities; tourism Services; utility services; postal services; energy-related (electricity, gas, heating) activities; transport, including commercial cargo; passenger transportation; freight forwarding; professional competence of passenger transporters; airline transport; private aviation enterprises; railroad transportation; environmental impact assessment, including polluting activities, usage of water, fisheries, ionizing radiation sources; mining, extraction and exploration of natural resources, geodesic works; gambling; trade (wholesale and retail, alcoholic beverages, beer retail), catering, market places; communication, including broadcasting;

⁵⁹ Ease of Doing Business in Poland, Word Bank, Doing Business – Measuring Business Regulations, available at:

<https://www.doingbusiness.org/en/data/exploreconomies/latvia>

⁶⁰ Insert

⁶¹ Guide to Doing Business, Latvia, Lex Mundi, available at: https://www.lexmundi.com/lexmundi/Guides_To_Doing_Business.asp

cable TV; cable radio (radio translation); retranslation; excise goods related activities; warehousing; strategic goods; pharmaceuticals (also veterinary pharmaceuticals; pharmacies; veterinary pharmacies; security and detective operations.

Point of Single Contact

The portal which serves as the Point of Single Contact is maintained by the State Regional Development Agency. The aim of the portal is to ensure quick and convenient access to the services provided by Latvian State institutions and municipalities. The Portal, which is part of the EUGO network, provides simple information on how to set up and run a business in Latvia.⁶²

2.2.7 Spain

Spain is a unitary state composed of municipalities (municipios), county councils (diputaciones), Canary Island county councils (cabildos), Balearic Island county councils (consejos insulares), autonomous cities (ciudades autónomas) and autonomous communities (comunidades autónomas).⁶³

The local council (pleno) is the local authority's deliberative body and is composed of councillors elected by direct universal suffrage for a four-year term. This council approves the local budget, urban planning activities, by-laws and municipal rules.

The government council (junta de gobierno) is the local authority's executive body. It is composed of local councillors appointed by the mayor to assist him in his work and to exercise a number of executive functions.

The mayor (alcalde) or president (presidente) is the head of the executive body. He/she is appointed by and from within the local council and is assisted by a number of councillors which he/she nominates and can dismiss. The mayor also chairs the local council.

Competences of every local authority

- Water supply
- Street lighting
- Urban traffic
- Food security
- Road maintenance
- Sewage and waste management

In local authorities of over 5, 000 inhabitants - in addition to the aforementioned

- Public libraries
- Green areas
- Local police

In local authorities of over 20, 000 inhabitants - in addition to the aforementioned

- Social services
- Fire prevention
- Sporting facilities

⁶² The link for the PSC in Latvia: <https://www.latvija.lv/en/ParPortalu>

⁶³ Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 75-76
https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structures_and_competences_2016_EN.pdf

In local authorities of over 50, 000 inhabitants - in addition to the aforementioned

- Public transport
- Protection of the environment

The regional assembly (asamblea regional) is the autonomous community's deliberative body. Its members are elected by direct universal suffrage for a four-year term. It exercises the legislative power delegated by the central government.

The regional government council (consejo de gobierno) is the autonomous community's executive body and is headed by the president who appoints its members. It initiates and regulates legislation.

The president is elected by the regional assembly for a four-year mandate. The president manages and coordinates the work of the regional government council and represents the autonomous community vis-à-vis the national government.

The autonomous communities can create their own police force. The two autonomous cities (Ceuta and Melilla) are special administrative units, halfway between a municipality and an autonomous community. Unlike the independent communities, they do not have their own legislative assembly but do have deliberative powers.

In Spain, in order to register a company, a seven-step procedure is in place, which takes 12.5 days to complete.⁶⁴ The first step requires companies to go to the Central Commercial Registry (The Central Mercantile Register) to obtain a certificate of availability for the company name or to select a name from a list of approved names (Bolsa de denominaciones). The second step is opening a bank account for the company and depositing the capital in this account. The third step requires companies to file the Single Electronic Document (Documento Único Electrónico - DUE) and make an appointment with a notary for the preparation of the public deed of incorporation. The fourth step is obtaining through a notary the registered public deed of incorporation and the fiscal identification number (Código de identificación fiscal - CIF) and it takes approximately seven days. Step five and six are undertaken at same time where businesses are required to pay the municipal tax for urban services (tasa por prestación de servicios urbanísticos) and submit a notification of start of operations (declaración responsable) to the Town Council. The seventh and last step is to notify the Ministry of Labour and Industry of the start of operations.

Step five and six concern the payment of the municipal tax and the submission of notification to start operation to the town council, which are amongst key procedures to start and operate a business in Spain. According to the Ministry of Industry, Commerce and Tourism of Spain, one of the necessary procedures for the company to start its operations is to apply for the relevant license depending on the type of activity of the company. These requests must be made at the town hall of the municipality in which the company will carry out its operations.⁶⁵ The most common types of licenses include:

⁶⁴ Ease of Doing Business in Spain, Word Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreconomies/spain>

⁶⁵ Website of government of Spain, <http://www.paeelectronico.es/es-ES/CreaEmpresa/Paginas/PuestaMarcha.aspx>

- **Activities and facilities and work license**

For the start of activity in a certain location (whether it is a commercial premise, a warehouse, an office, a house, etc.) it will be necessary to obtain the corresponding municipal urban planning license, approved by the city council where the establishment is located.

- **Operating license**

The purpose of the operating license is to put the buildings, premises or facilities into use, after verifying that they comply with the conditions regarding activities and facilities license and that they have duly completed the urban, environmental and safety-related conditions specific to the location.

Conducting activities that are considered to be "qualified" (annoying, unhealthy, harmful and / or dangerous activities that require the adoption of corrective measures regarding sanitation, safety and / or environment) and starting operations at a licensed facility is subject to an operating license.

There are different procedures to request such licenses:

- **Ordinary Procedure:** Executing the necessary works for the implementation or modification of the activity. Depending on the type of technical project, the ordinary procedure may be common - if you have a building project.
- **Implementation or Modification of Activities (IMA):** for activities that require a technical document required by sector regulations or which are included in the Catalogue of the Law on Public Shows and Recreational Activities or have some type of environmental impact.
- **Prior Communication:** for activities that do not require any technical document as per sector regulations and that involve small-scale operations.⁶⁶
- **Responsible Declaration:** A document signed by the owner of the activity by which she/he declares his/her commitment to the urban and sectoral requirements, set out in the current regulations, in the implementation, modification or exercise of the activity and she/he makes a commitment to continue to comply with these legal requirements for as long as he continues to carry out the activity.

Activities exempted from licences: professional, artisanal and artistic activities carried out at home, as long as there is no sale or direct attention to the public and no inconvenience is caused to the neighbours.

Points of Single Contact

In Spain, the Point of Single Contact is run by the Ministry of Tourism and Industry. The Portal, (*Punto de Atención al Emprendedor PAE*), is responsible for facilitating the creation of new companies, the effective start of their activity and their development, through the provision of information services, documentation processing, advice, training and support to business financing. This is the link for PSC in Spain: <http://www.paeelectronico.es>

2.2.8 Croatia

Croatia is a unitary state composed of municipalities, towns and cities (*grad*), and counties (*županija*). Municipalities in Croatia are units of local self-government with less than 10,000 inhabitants. The

⁶⁶ Ibid.

municipal council (općinsko vijeće) is the municipality's representative body. Members of the municipal council are elected by direct universal suffrage for a period of four years.⁶⁷

The mayor (načelnik) is the municipality's executive body. He/she notably directs the activities of the administrative bodies and ensures that existing legislation is enforced.

Competences of municipalities and towns

- Localities and housing
- Regional and town planning
- Childcare
- Social welfare
- Primary Health care
- Education
- Culture
- Sports
- Consumer protection
- Fire prevention
- Civil protection
- Regional traffic

Towns are units of local self-government with more than 10,000 inhabitants and cities are units of local self-government with more than 35,000 inhabitants. In exceptional cases, when there are some special reasons (historic, economic, and geographic), a place may be defined as being a town /city even though it has fewer than 10,000 inhabitants.

The town/city assembly (gradska skupština) is the town/city representative body. Members of the town/city assembly are elected by direct universal suffrage for a period of four years.

The mayor (gradonačelnik) is the town/city's executive body. He/she notably directs the activities of the administrative bodies that ensure that existing legislation and laws are enforced. The city of Zagreb, the capital of Croatia, has the status of both a city and a county, which means its competencies cover those of both local and regional authorities.

Competence of cities (on top of those also held by municipalities)

- Maintenance of public roads
- Building and renting permits

21 Regional-level Counties (Županija)

There are a total of 21 counties, including the city of Zagreb, which doubles as a county and as a city. Counties are the primary territorial subdivision of Croatia. These regional self-government units have a large degree of autonomy. Croatia is currently undergoing a process of decentralisation of power from the national level to the regional level. Thus, many administrative tasks are gradually being devolved to the counties.

The county assembly (županijska skupština) is the county's representative body. The assembly is composed of members elected by direct universal suffrage for a four-year term. The county assembly elects the county's executive leadership and decides on the yearly budget.

⁶⁷ Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 17-18
https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structuresand_competences_2016_EN.pdf

The county prefect (župan) is the county's executive body. He/she represents the county in external affairs and presides over its executive government.

Competences:

- Education
- Health services
- Regional and urban planning
- Economic development
- Traffic and traffic infrastructure
- Maintenance of public roads

In Croatia, in order to register a company, a seven-step procedure is in place, which takes 5 days to complete.⁶⁸ The first step requires the partner to go to a public notary that prepares the memorandum of association. The second step is registering the company with the Commercial Court.

Ordering a seal is not legally mandatory, but it is done in practice in most cases, making an official seal is the third step. The fourth step is applying for statistical registration number at the Croatian Bureau of Statistics (cro. Državni zavod za statistiku). Opening a bank account is the fifth step. Step six is registering for VAT and employee income tax withdrawals at Tax Authority (Porezna Uprava). Registering with the Croatian Institute for Pension Insurance (HZMO) and Croatian Institute for Health Insurance (HZZO) is seventh step that concludes the procedure of business registration in Croatia.⁶⁹

Certain business activities in Croatia may only be performed with a special certificate, approval, consent, license or other document issued by the relevant governmental body or institution. Without such document, it is impossible to register a company and, consequently, to commence operations.

The activities concerned include: banking, insurance, production of and trade in tobacco and tobacco products, production of and trade in explosives, energy, protection and preservation of cultural heritage, production of and trade in drugs and medical products, production of and trade in veterinary drugs and veterinary medical products, production of and trade in arms and ammunition, auditing, mine clearance, telecommunication services, veterinary services, employment agency services, security services and airline transport.⁷⁰

Point of Single Contact

The Point of Single Contact for services provides businesses with information and administrative access to the Croatian market, market conditions and services all in one place. Establishment of companies, the freedom to provide services, sectorial requirements and e-registration are among the services offered by the Point of Single Contact in Croatia. The Point of Single Contact in Croatia has been established within the framework of the free market, which is horizontally regulated under Croatian Services Act. PSC in Croatia is run by the Ministry of Economy, Entrepreneurship and Crafts and the Croatian Chamber of Commerce.⁷¹

⁶⁸ Ease of Doing Business in Spain, Word Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreconomies/croatia>

⁶⁹ Insert

⁷⁰ Guide to Doing Business, Croatia, Lex Mundi, available at: https://www.lexmundi.com/lexmundi/Guides_To_Doing_Business.asp

⁷¹ The link for the PSC in Croatia: <http://TBN.hr/en/>

2.2.9 Belgium

Belgium is a federal state composed of municipalities (gemeenten in Dutch and communes in French), provinces (provincies/provinces), regions (gewesten/regions) and communities (gemeenschappen/ communautés).⁷²

The municipal council (conseil communal in French and gemeenteraad in Dutch) is elected by direct universal suffrage for a six-year term (last local elections took place in 2018). It is the municipality's legislative body and it decides on local policy.

The college of mayor and alderman (collège des bourgmestre et échevins/ college van burgemeester en schepenen) is composed of the mayor, his/her aldermen and the president of the public centre for social welfare*. The mayor and aldermen are elected by and from within the municipal council and also sit in the council. The college is the municipality's executive body. It implements the decisions taken by the municipal council and is in charge of the day-to-day management of the municipality.

The mayor (bourgmestre/ burgemeester) chairs the college of mayor and aldermen. He or she can be nominated by the municipal council to chair it. In Flanders and in Brussels, the mayor is appointed by the regional government after a nomination by the municipal council for a six-year mandate. In Wallonia, the mayor is elected by direct universal suffrage (by «earmarking»: the best score on the list with the largest municipal majority), after which he/ she is also appointed by the regional government. The mayor is in charge of the municipal administration and heads the municipal police.

Competences:

- Public order
- Registry office
- Spatial and urban planning
- Housing
- Culture, sports and youth
- Social policy
- Local economy
- Water and sanitation
- Environment
- Waste management
- Road management and mobility
- Employment
- Education
- Local finance and taxation

10 Intermediate-level Provinces

The provincial council (conseil provincial/ provincieraad) is the deliberative body of the province. It is composed of councillors elected by direct universal suffrage for a six-year term, via the proportional representation system (last provincial elections took place in 2018).

The provincial authority (députation provinciale in French, except in Wallonia where it is called collège provincial, and deputatie in Dutch) is the province's governmental body and holds legislative, executive and judicial powers. It is also responsible for managing the province's daily administration.

⁷² Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 10-12
https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structuresand_competences_2016_EN.pdf

The governor of the province (gouverneur de la province/ provinciegouverneur) is the federal government's commissioner (public order, civil security, emergency planning) as well as the regional and community commissioner. He/she is a civil servant assigned by the regional government. The governor participates in provincial authority and council sessions during which he/she has the right to speak.

Competences

- Cultural infrastructure
- Social infrastructures and policies
- Environment
- Economy
- Transport
- Housing

There is no hierarchy between the federal, regional and community governments: they each have their own specific competences allocated to them by the Belgian Constitution. The regions' competences are linked to the land (housing, agriculture, spatial planning, etc.), the communities' competencies are more linked to the individual (education, health, culture, etc.), and the competences of the federal government are those not explicitly attributed to regions or communities by the Constitution. The regional parliament (Parlement régional or Parlement wallon et Parlement bruxellois/Vlaams Parlement) is the region's legislative body. Its members are elected by direct universal suffrage for five years (last regional elections took place in 2019). The parliament holds legislative powers, votes on the regional budget and monitors the regional government's actions. The regional government (Gouvernement régional or Gouvernement wallon / bruxellois / Vlaamse regering) is the executive body and is composed of regional ministers elected by the regional parliament for a five-year mandate. The regional government also has legislative power (right of initiative). The minister-president (Ministre-Président du Gouvernement régional or Ministre-Président du Gouvernement wallon/bruxellois/Minister-president van de Vlaamse regering) is appointed from among members of the regional government for a period of five years. He/she is responsible for the coordination of policies led by the regional government, over which he/ she presides.

Competences

- Spatial and urban planning
- Housing
- Agriculture
- Employment
- Environment
- International relations
- External trade
- Scientific research
- Energy
- Transport
- Local authorities

3 Community-level Communities (Flemish-, French- and German-speaking)

The community parliament (Parlement de la Communauté française and Parlament der Deutschsprachigen Gemeinschaft/Vlaams Parlement) is the legislative body of the community. It is composed of members elected by direct universal suffrage for five years (last elections took place in 2019). The community parliament has legislative powers, monitors the government of the community and votes on the budget.

The government of the community (Gouvernement de la Communauté française/Regierung der Deutschsprachigen Gemeinschaft /Vlaamse regering) is the executive body composed of ministers appointed by the parliament for five years. It also has legislative powers (right of initiative).

The minister-president (Ministre-Président de la Communauté française/ Ministerpräsident der Regierung der Deutschsprachigen Gemeinschaft/ Minister-president van de Vlaamse regering) is

appointed for a five-year term from among members of the government of the community over which he/she presides. He/she is responsible for the coordination of community policies led by the government of the community. The Flemish community and the Flanders region have merged. Flanders has thus one parliament (Vlaams parlement) and one government (Vlaamse regering), presided over by the minister-president, all of which are competent for both community and regional matters. For Brussels Region, the community competences are exercised by, on the one hand, the French and Flemish communities and, on the other hand, by the three community commissions (GGC/COCOM, COCOF and VGC). The common community commission (GCC/COCOM) regulates and manages matters common to the two communities in the Brussels-Capital region and has recently been assigned a large number of competences for matters such as health and assistance to citizens, following the sixth State reform. Depending on the community, it is the COCOF (Commission communautaire francophone for the French speaking community) and the VGC (Vlaamse gemeenschapscommissie for the Dutch speaking community) which are competent for the community level. COCOF and VGC can form and fund institutions or take initiatives within the scope of community responsibilities.

Competences

- Education
- Culture
- Social affairs
- Tourism
- Sports
- International relations
- Health
- Assistance to citizens

In Belgium, in order to register a company, a five-step procedure is in place, which takes 5 days to complete.⁷³ The first step requires the partner to deposit a financial plan with the notary and to sign the deed of incorporation and the by-laws in the presence of a notary, who authenticates the documents and registers the deed of incorporation. The second step is to register with the Register of Legal Entities and VAT at a centralized company docket (guichet-entreprises / ondernemingsloket) and obtain a company number. The third step is to register ultimate beneficial owners in the UBO register. (“UBO” stands for “Ultimate Beneficial Owner”). The fourth step is filing at Social Security Agency the "Dimona In"(Déclaration Immédiate/ Onmiddellijke Aangifte) statements and registering employees. Simultaneously with fourth step, the company needs to subscribe to an insurance company and undersign an insurance for accidents at work as the fifth step, which concludes the procedure of business registration in Belgium.⁷⁴

To become operational, some businesses in Belgium are required to apply for a special permit or license. This applies to a number of activities and such authorizations for doing business in Belgium can be obtained from the relevant authorities, after submitting a request. Taxi operators and travel agencies in Belgium are among the occupations that require special authorizations. In addition, companies aiming to develop activities related to foodstuffs need to apply for a license from the Foodstuffs Inspection Department belonging to the Federal Agency for the Safety of the Food Chain. This applies to restaurants, cafes, and hotels, school cafeterias, company canteens and other establishments that commercialize foodstuffs, like bookstores and services stations. Furthermore, private employment agencies, as well as any business operating in the social economy sector, are obliged to obtain a license and/or an accreditation. Businesses operating in fields such as urban

⁷³ Ease of Doing Business in Belgium, Word Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreconomies/belgium>

⁷⁴ Ibid

planning and environment also need permits. Any construction work, demolition, renovation, conversion or change of use of a building or house in Belgium requires a planning permit. A new company in Belgium will have to comply with special environmental regulations and will have to obtain an environmental permit. Any export or import activities for arms and dual-use goods and technologies need a special approval.

Points of Single Contact

There are numerous portals used as a Point of Single Contact in Belgium. As part of the effort to have all websites be under the “.be” domain, more than 1200 official administrative websites have been created. These websites represent many institutions and bodies from various administrative levels. The content consists of information on rules of procedure, transactions, downloadable publications, points of contact and videos of different kinds. In Belgium, different institutions with different levels of competency share the authority related to economic activities, foreign trade, employment and administrative simplification.

The EU Services Directive entered into force in member states as of 1 January 2010. The directive, which addresses the freedom of establishment for providers and the free movement of services in the internal market, aims to facilitate business and transactions for businesses that provide or utilize services in the European Union. “business.belgium.be” was launched within this framework. In addition to the function of central information repository for all business-related topics, the website also has a search engine to identify the necessary administrative procedures for establishing or developing a business in the country.

Institutions and bodies from different administrative levels work in close cooperation to publish and update the information provided on the website. In addition to providing information on administrative procedures, business.belgium.be also presents general data on Belgian economy, investment opportunities and prominent features of the three regions that make up the country.

business.belgium.be provides businesses with an easy, fast and user-friendly access to information on various public services. The aim of this website is to help business actors in Belgium and in other parts of Europe find useful information on administrative procedures to establish or develop their businesses.⁷⁵

2.2.10 Portugal

Portugal is a unitary state composed of parishes (freguesias), municipalities (municípios) and autonomous regions. The parish assembly (Assembleia de Freguesia) is the deliberative body of the parish and is composed of councillors elected by direct universal suffrage for a four-year period via a system of proportional representation.⁷⁶

The executive committee (Junta de Freguesia) is the parish's executive body and its members are elected for a period of four years by and from within the parish assembly's members. The executive committee has responsibility for the preparation and implementation of parish assembly decisions.

⁷⁵ The link for the PSC in Belgium: <https://business.belgium.be/en>

⁷⁶ Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 65-66
https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structuresand_competences_2016_EN.pdf

The president (Presidente da junta de Freguesia) is elected for a four-year mandate and is selected as the electoral candidate as a result of being head of the list with the most votes. He/she chairs the executive committee.

Competences

- Maintenance of roads and parks
- Culture and sports
- Environment
- Issuing of pet licences

Municipalities

The municipal assembly (Assembleia Municipal) is composed of the presidents of the parishes located within each municipality's jurisdiction and of members elected by direct universal suffrage for a four-year term. It is the municipality's deliberative body and monitors the activities of the executive council.

The executive council (Câmara Municipal) is the municipality's executive branch and is composed of members elected by direct universal suffrage for a four-year period. Its members can sit in the municipal assembly however they cannot vote. The executive council organises and implements municipal services, more specifically in the fields of municipal planning and public works.

The mayor (Presidente da Câmara Municipal) is elected for a four-year mandate and is selected as the electoral candidate as a result of having been head of the list with the most votes during the election of the executive council. He/she presides over the work of executive council.

Alongside the municipalities and parishes, Portuguese local self-government units include other types of authorities, such as intermunicipal communities, associations of municipalities, big metropolitan areas and urban communities. The role of these authorities is principally aimed at coordinating the municipal investments in a way that preserves intermunicipal interests. Their areas of competence also include strategic, economic, social and territorial management.

Competences

- Education
- Energy
- Maintenance of roads and parks
- Social facilities for children, youth and seniors
- Culture and sports
- Environment
- Housing and urban planning
- Health Care (PHC)
- Procurement Contracts
- Civil engineering
- Community protection (municipal fire departments for example)
- Municipal police
- Town Twinning
- Local residence permits
- Infrastructure (water, waste etc.)

The legislative assembly (Assembleia Legislativa) is composed of members elected by direct universal suffrage. The president (Presidente do Governo Regional) co-presides over the regional government for a period of four years.

In Portugal, in order to register a company, a six-step procedure is in place, which takes 6,5 days to complete.⁷⁷ The first step requires the company to go and register at the one-stop shop (Empresa na Hora). The second step is to open a bank account and obtain a Bank Identification Number (IBAN).

⁷⁷ Ease of Doing Business in Portugal, World Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreconomies/portugal>

Filing the declaration of commencement of activity with the Tax Authority and registering for VAT is the third step. The fourth step is registering with Social Security Agency. Registering for the workers' accident insurance with a private insurer is the fifth step. Simultaneously with the fifth step, the company needs to apply to the Labor Compensation Funds (Fundo de Compensação do Trabalho - FCT and Fundo de Garantia de Compensação do Trabalho - FGCT) to register employees and this concludes the procedure of business registration in Portugal.

Licenses and Permits

In Portugal, there is no central government approval required for starting a business. However, certain and specific activities may require a license or some other form of authorization that must be issued by the authorities. In most cases, the business representatives present an application to the authorities, requesting a specific license or permit, and present all the documents required by law with the application. In other cases, it is only necessary to provide a declaration or registration.⁷⁸

Depending on the type of business, the business representatives must obtain a license or an authorization. There are four main types of licenses that may be required: (a) industrial licensing; (b) commercial licensing; (c) touristic licensing; and (d) environmental licensing. There may be other licenses or authorizations that may be required.

Industrial licensing - establishes the legal regime for industrial activity and defines the licensing procedure for the installation and operation of industrial facilities listed in the diploma. There are three different types of industrial facilities: type 1 – those of the highest risk, type 2 – those of medium size and medium environmental risk and type 3 – those facilities that are not included in Types 1 and 2.

Commercial licensing Commercial licensing is generally covered by the legal regime for Construction and Land Development and therefore, it generally falls under the Municipal Council's jurisdiction to issue commercial use authorizations to the investor's premises.

Touristic licensing establishes the legal regime for the Installation, Exploration and Operation of touristic facilities. This diploma does not preclude the application of the legal regime for Construction and Land Development (RJUE). Therefore, the installation of a touristic project is also subject to a construction license or to the admission of a prior communication procedure (when the project's installation involves construction works) and/or an authorization of use for touristic purposes, all of those issued by the local municipal council pursuant to the RJUE, as well as a favourable decision issued by the Portuguese Tourism Institute (Turismo de Portugal, I.P.).

Environmental licensing includes the permit for integrated pollution prevention and control and establishes the Environmental License. It applies to different industrial activities detailed in its annexes including, among others, energy, metals, mineral, chemical and waste management industries. It also establishes different measures to prevent or reduce emissions in the air, water and soil resulting from those activities.

⁷⁸ Guide to Doing Business, Portugal, Lex Mundi, available at: <https://www.lexmundi.com/Document.asp?DocID=5684>

Point of Single Contact

The ePortugal portal (which serves as the Point of Single Contact) aims to facilitate interactions between citizens and companies and the State, making them clearer and simpler. The portal is under the responsibility of the Agency for Administrative Modernization, IP (AMA). The ePortugal portal provides: information on more than 1,000 public services for citizens and businesses, access to digital services that eliminate the need for travelling to stores or service points, addresses and operating hours of public administration locations and service points. This is the link for the PSC in Portugal: <https://eportugal.gov.pt/>

2.2.11 Turkey

In Turkey, in order to register a company, a seven-step procedure is in place, which takes seven days to complete.⁷⁹ The first step requires new companies to submit the memorandum and articles of association online and obtain a temporary tax identification number (TIN) through the Central Trade Registry System (MERSIS). The second step is to apply for registration at the Trade Registry Office (Ticaret Sicil Müdürlüğü).

The payment of the registration fees at a cashier located at the Trade Registry Office is the third step. The fourth step is obtaining at a Notary an authorized signatory list of managers (imza sirküleri), among others the authorized list of managers is required to obtain a Business and Operating License from the Municipality. The fifth step is to complete the company's tax registration at the Tax Office. The Trade Registry Office notifies the Tax Office and the Social Security Administration of the company's incorporation. The sixth step is to obtain a Business and Operating License (İşyeri Açma ve Çalışma Ruhsatı) commonly referred as Business License at municipality.

The seventh step is to register employees with the Social Security Institution (Sosyal Güvenlik Kurumu). Companies can register with the social security institution through the Trade Registry Office. In addition, this notification can be issued online at <https://uyg.sgk.gov.tr/SigortaliTescil/amp/loginIdap>.

It is important to mention that Turkey carried out a record number of business reforms in the past years, earning the country a spot in this last year's top 10 global improvers. Among reforms that were recognized include: starting a business was made easier and faster by removing the paid-in minimum capital requirement, eliminating notarization requirements and reducing registration costs. It now takes 7 days to start a business, compared with 10 days earlier. Reforms provide a significant momentum for the country's efforts to improve the business climate for domestic small and medium enterprises. As a result of these reforms, Turkey has advanced to rank 33rd in the global ease of doing business ranking.

"I am pleased to note the priority the government is placing on the important agenda of improving the business climate to boost investment and create jobs. Given the current economic environment in Turkey, it is, nevertheless, encouraging to the global business community and local entrepreneurs alike to see the process of conducting business simplified in so many Doing Business areas," said Johannes Zutt, World Bank Country Director for Turkey, in a press release in 2018, when Turkey

⁷⁹ Ease of Doing Business in Turkey, World Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreconomies/turkey>

ranked as a Top Improver for First Time, with Record Business Reforms of the World Bank and in the Doing Business 2019 Report.⁸⁰

2.3 Comparative Assessment of Country Studies

This section provides a comparative assessment of the commonalities and differences observed in country practices. As a general note, EU countries assessed in this report vary between those that regulate less (ex post) and ex ante regulation (screening of businesses before it is registered).

The focus of analysis in each country has focused on three areas of business regulation, namely: a) municipality tax requirements, b) types of licences (government involvement) and c) information technology solutions in business regulation.

States compared: Hungary, Austria, Estonia, the Netherlands, Poland, Latvia, Spain, Croatia, Belgium and Portugal.

2.3.1 Municipality Requirements for Business Registration

The countries that were analysed differ from each other in two ways: countries that impose municipality registration requirements for businesses and countries that do not impose municipality registration requirements for businesses.

Those which impose municipality registration are Hungary, Austria, the Netherlands and Spain.

In Hungary, as elaborated above, the municipality imposes Registration for Municipal Business Tax. In practice, this means that 15 days after registration, companies are required to register at the municipality for the Municipal Business Tax. After registration, the company receives a receipt of online registration. Alternately, if the company is registered by using paper-based registration, the municipality issues a stamped certification of receipt. A good practice observed in Hungary consists of the fact that authorities can forward the details of company to the municipal tax authority. By sharing information, authorities decrease the burden imposed on companies to share the same information with various authorities. Such practice contributes to decreasing the time and costs needed to start a business.

In Austria, private sector is required to register businesses with local authorities. The companies, after they are registered at the Economic Chamber, are required to check with municipalities which taxes apply to the companies. The competent authority in Austria for the application for the business licence is the respective district administrative authority. In cities with their own statute (statutory cities) this is the magistrate, in cities without their own statute or municipalities it is the district government. In Austria, local government plays a role in starting a business, while concrete competences of each local authority vary in cities and municipalities.

In the Netherlands, licence or a municipal tax at local level are required only for very sector specific activities. One such example is the use of public land. If a business needs to use public land, it will be

⁸⁰ Doing Business Report: Turkey is a Top Improver for First Time, with Record Business Reforms, press release, 31 October 2018, <https://www.worldbank.org/en/news/press-release/2018/10/31/doing-business-report-turkey-is-a-top-improver-for-first-time-with-record-business-reforms>

required to pay municipal land tax. *In Spain*, during the business registration process, businesses are required to pay municipal tax for urban services. In addition, they are also required send a notification of start of operations to the town council of the area in which the company will carry out its activities.

The examples in Hungary, Austria, the Netherlands and Spain present cases where local authorities have greater responsibilities and competence in business regulation. Advances made with this approach could increase local revenues which can contribute to potential local economic development. Local government authorities seem to be more involved in business regulation in states where communication between central and local authorities is fully operational through electronic databases (as it will be explained below).

2.3.2 Types of Licenses and Government Involvement

Analysed countries show that national authorities organise licencing procedures in various ways that can be divided in two clusters, a) countries that impose licenses for specific activities and b) countries with pedantic regulation of business activities

2.3.2.1 Countries that Impose Licenses for Specific Activities

Countries that impose licenses for specific activities are Hungary, the Netherlands, Latvia and Spain. In Hungary, companies require government approval only if they conduct a specific business activity. Some of the business activities subject to licencing from national authorities are: pharmaceutical manufacturing (licence issued by the National Pharmaceutical and Nutrition Institute), employment and temporary work agencies (licence issued by various responsible government offices) and financial activities and insurance companies (licence issued by the National Hungarian Bank). Likewise, in the Netherlands, the most important business sectors that require licenses and permits are retail trade, wholesale trade, craft industry, hospitality, recreation and catering, childcare, animal care, art culture, media, construction industry, livestock farming and fishery.

Latvia is characterised by the lack of a unified register for all economic activities. It has separate registers for specific types of economic activities which are regulated by different laws. Such a complex approach might impact the business sector because those planning to start a business might find it difficult to figure out licencing procedures for each specific activity. Some of these economic activities are: financial services (including activities relating to credit institutions) securities market, insurance activities, tourism services, energy related activities, special aviation works, trade, catering, marketplaces, communication, etc. In Spain, for specific activities, businesses are required to apply for licence, depending on the type of the activity. The difference from other countries lies in the role of the municipality before a business starts operating. More concretely, during registration procedures, the entrepreneur should apply for licence at the town hall of the municipality where he/she intends to set up the business. There are business activities that are exempted from licencing such as professional, artisanal and artistic activities carried out at home, as long as there is no sale or direct attention to the public and no inconvenience is caused to the neighbours.

The organisation of business licensing in abovementioned countries could potentially create uncertainty in starting and operating a business. That is because owners and other operational staff could find it difficult to understand complex legal and procedural requirements be it at municipal or national level. Another risk to such model could be the limited resources under which municipalities

operate. They often do not have the quantitative and qualitative capacity to deal with the flux of requests coming from businesses, as they need sector-specific knowledge and professionalism.

2.3.2.2 Countries with Pedantic Regulation of Business Activities

Countries that regulate business activities in a more organised way and by clustering different licences in groups are Austria, Estonia, Poland, Croatia, Belgium and Portugal. In Austria, whether one is operating as an individual or company, a requirement for a trade license (*gewerbeberechtigung*) is applicable, with very few exceptions. Business licensees are issued by the Austrian Trade Regulations. There are two types of businesses in Austria: business activities which only have to be notified with the relevant authorities (*free trades* or the so called "*freie Gewerbe*") and those for which a permission is required (*regulated trades* or the so called "*reglementierte Gewerbe*").

In Estonia, license regulation is clustered in three categories, namely: a) companies that need special licences, b) companies that are only required to send notification for their economic activity and c) companies that do not require anything other than registering. In order for companies to understand to which cluster they belong and what legal and procedural requirements are needed, they can use the database of economic activity known as "EMTAK" (EMTAK will be elaborated below). Poland has a similar way of organising business activity. Depending on the type of business activity they want to carry out, businesses might need a) Licence - the strictest permit for economic activity, which concerns projects of particular importance with a high risk for national security; b) Permit - A form of regulating business activity after checking whether the business is able and has technical or organizational capabilities to perform a specific business activity and c) Regulated activity - the simplest form of regulation of business activity and requires only submitting an application meeting the conditions set out in regulations and to be entered in the register of regulated activity. The latter form of registration is interesting as the register is public and anyone can register for itself.

In Croatia, as part of business registration process, individuals starting a business are required to apply for statistical registration number at Croatian Bureau of Statistics. That means, during the registration process, businesses will understand what type of procedure they will have to follow depending on the business activities they will perform. Business regulation procedures in Croatia are clustered depending on the sectors such as; construction, tourism, catering and accommodation, retail trade, professional and business services, private education and scientific research, social services, environmental protection, intellectual property, cultural and other sectors. In addition, procedurally speaking, business regulation is clustered as follows: businesses that need: a) special certificate, b) approval, c) consent, d) licence or other documents issued by relevant government bodies or institutions.

In Belgium, to become operational a business is required to apply either for a special permit/authorisation or for a license. For example, taxi operators and travel agencies are among the economic activities that require special authorisations. In addition, companies that operate in activities related to foodstuffs are required to apply for a licence. In Portugal, similar to other EU countries mentioned above, certain business activities might require a licence or some other form of authorisation that must be issued by the authorities. Depending on the type of business, the business representative has to obtain a licence or authorisation. There are four main types of licenses that may be required: a) industrial licensing, b) commercial licensing, c) touristic licensing and d) environmental licensing.

In these countries, individuals planning to start a business might find it easier to identify types of activities that require licences (including what type of licences) and respective competent authorities and procedures. In addition, information about procedures and competent authorities are easily accessible online, as required by the EU Service Directive. Furthermore, this approach could also help entrepreneurs to reduce time and costs in starting and operating their business activities.

2.3.3 Information Technology Solutions in Business Regulation

Information technology solutions in business regulation contribute to enhancing organisational capacity and improving the process to ensure that services are delivered to people more efficiently. If implemented adequately, they enable citizens, enterprises and organisations to carry out their business with the government more easily, more quickly and at lower costs. For this reason, governments across the European Union are increasingly using information technology solutions in business regulations. The information technology can play an important role in improving business regulation and making it more accessible to those interested in starting a business. In this study, most of the countries under research have integrated information technology solutions in their business regulation systems. Furthermore, the EU Service Directive obliges member states to create Points of Single Contact, online portals run by the respective government that brings together information on how to open and operate a business.

In Hungary, one of the examples of information technology being used in business regulation including business registration, is the e-government portal known as ügyfélkapu that allows online transactions and operations (<https://regi.ugyfelkapu.magyarorszag.hu/>). As part of the registration process in Hungary, those planning to open a business can apply online for registration for municipal tax. In Austria, the Service Platform for Business provides over 50 e-government services for companies (<https://www.usp.gv.at>).

Estonia is known to use information technology-based solutions to advance businesses. In fact, it is possible in Estonia to register a company (with all procedures) online without needing to appear physically before authorities, including opening a bank account (<https://www.eesti.ee/en/>). Furthermore, Estonia has the Centre of Registers and Information Systems (RIK), an agency in the jurisdiction of the Ministry of Justice, which provides good integrated e-services for a more efficient implementation of state administration, legal and criminal policies. The RIK develops and administrates registries and information systems of very high importance for the state and its citizens, for example the e-Business Register, the e-Notary system, the e-Land Register, the information system of courts, the Probation Supervision Register, the Prisoners Register, the Criminal Records Database, the e-File, the electronic State Gazette, etc. (the Estonian Classification of Economic Activities (EMTAK) - <https://www.rik.ee/en>).

In the Netherlands, [business.gov.nl](https://www.biznes.gov.pl/en) is the Point of Single Contact (PSC) for resident and foreign entrepreneurs who want to establish a business or do business in the Netherlands. Business.gov.nl collaborates with the Dutch government and semi-governmental organisations to provide information about laws, rules and regulations, subsidies and more. It offers a single unified solution from the Dutch public sector for doing business in the Netherlands (<https://www.biznes.gov.pl/en>).

In **Poland**, [Biznes.gov.pl](https://www.biznes.gov.pl) is an online service dedicated to being used by people who actively conduct and plan to pursue economic activities in the country. The aim of the portal is to provide assistance

in the implementation of procedures for the conduct of economic activities through electronic tools in an easy and intuitive way and to simplify the formalities required for starting and conducting business. Through the portal, entrepreneurs have access to necessary forms and descriptions regarding official services. Persons opening companies may electronically submit their applications to state institutions and track their procedures online. The portal brings together a number of services and functions, not only for entrepreneurs but also for public administration. The service also fulfils the role of the search engine for contact details of all institutions supporting entrepreneurs. It gives practical instructions on how to manage the business and allows the implementation of administrative matters (<https://www.biznes.gov.pl/en>).

The **ePortugal** is an online portal which aims to facilitate interactions between citizens and companies and the State, making them clearer and simpler. The portal is under the responsibility of the Agency for Administrative Modernization. The ePortugal portal provides: information on more than 1,000 public services for citizens and businesses, access to digital services that eliminate the need for travelling to stores or service points, addresses and operating hours of public administration locations and service points as well as the public administration website directory among others (<https://eportugal.gov.pt/>).

3 Municipal Business License System in Turkey: Current Situation Analysis

3.1 Legal Framework

3.1.1 Law on Business and Operating Licenses

Issues related to starting a business in Turkey are regulated in the Law No. 3572 of 14/6/1989 on Business and Operating Licenses. According to this law, starting a business within the municipal borders is subject to licensing by the municipality whereas the licensing authority outside of municipal borders falls under the responsibilities of the special provincial administration. Starting a business in areas that are essentially outside of the municipal remit but under municipal developmental supervision (villages adjacent to the municipal border) are overseen, also, by municipalities. Laws Nos. 5302 and 5393 on Special Provincial Administrations and on Municipalities, respectively, also authorize municipalities and special provincial administrations for issuing business and operating licenses. In addition, the Law No. 5216 on Metropolitan Municipalities regulates the delegation of such authority among municipalities, within the metropolitan area concerned.

Although, local administrations have general authority over matters related to the issuance of licenses to start and operate businesses, Law No. 3572 on Business and Operating Licenses and other related laws provide for many exceptions. Despite the general authority that rests with local administrations, many other laws and By-Laws are laden with diverse provisions on the licensing of businesses. Amendments made thus far have complicated both the legislation in place as well as its enforcement, with the Law No. 3572 on Business and Operating Licenses steering further away from its intended design as amendments and modifications could not be made as holistically and timely as to keep up pace with changing conditions.

3.1.2 Exceptions in the Law No. 3572 on Business and Operating Licenses

Non-sanitary businesses under Category I have been exempted from the Law No. 3572 on Business and Operating Licenses. Yet, such exemption was annulled upon Laws Nos. 5216 on Metropolitan Municipalities, 5302 on Special Provincial Administration and 5393 on Municipality. Non-sanitary businesses under Category I are licensed by local administrations, which is, however, not subject to provisions concerning licensing upon the submission of the form provided in the Law. This means that non-sanitary businesses under Category I will need to be licensed by local administrations, however licenses shall not be issued according to the declarations by business owners, unlike the sanitary businesses. There is no regulation which can constitute a legal basis for licensing non-sanitary businesses. Such businesses are therefore required to meet the environmental standards stipulated in the Law on Environment. The regulation also involves procedures which could be applied in licensing such businesses. The regulation requires that first a permit for site selection and facility establishment and then another permit for trial shall be obtained before issuing a license for first grade non-sanitary businesses. A business license which will require health related and environmental conditions to be met may be issued within the course of trial permit.

Law firms, offices of independent financial advisors and accountants, notaries, engineering and architectural offices and physicians' practices have been exempted from Law No. 3572 on Business and Operating Licenses. In EU member states, there is a general practice that regulated professions are exempted from rules applying to operating licenses at the local level. For instance, matters

pertaining to becoming a lawyer and registering to the Bar Association (Chamber of Advocates) are regulated by a national law at central level that requires candidates to pay an annual fee and be subject to bylaws of the Bar Association. This rule applies also to other regulated professions and their respective managing bodies/respective state institutions at national level overseeing the exercise of their professions. It is acceptable with EU standards for countries to reserve the right to access certain professional activities to the holders of specific qualifications (e.g. design of new buildings reserved to architects) for reasons of general interest. However, it should be noted that such restrictions make the mobility of professionals within the single market more difficult and may limit employment and competitiveness in the economic sectors concerned. For this reason, the European Commission has requested member states to review their restrictions on access to professions and to assess whether the restrictions are proportionate or not.⁸¹

Touristic facilities under the Law No. 2634 on the Promotion of Tourism, non-sanitary businesses producing foodstuff, establishments working with inflammables and dangerous substances as well as oxygen and LPG filling facilities and stores, distribution centres and retail shops in relation therewith, quarries, gas stations and similar facilities have also been exempted from the Law No. 3572 on Business and Operating Licenses. In effect, some of these businesses, as a result of other regulations in other laws are, too, licensed by local administrations however subject to other provisions similar to non-sanitary businesses under Category I. EU Members States, to mention few of them Austria, Latvia, Poland and Hungary, regulate businesses that pose high risk to environment, public safety and public health at the national level. As a result, registration, inspection and other related procedures are conducted by national public authorities. This is because the processes for assessing high-risk businesses often require special knowledge and expertise that municipalities do not possess.

The table below shows how certain selected businesses are licensed by which agency as well as the type of license and the fee that apply.

⁸¹ Evaluating national regulations on access to professions – frequently asked questions, https://ec.europa.eu/commission/presscorner/detail/en/MEMO_13_839

Table 1: Agencies Authorized to Issue a License in Turkey

Type of Business	Licensed by	Type of License	Type of Fee
Energy generation	Energy Market Regulatory Authority	Electricity generation license	Fee for electricity generation license
	Municipality	Permit for starting and operating a business	Fee for a business start-up permit
Oil exploration /production		Exploration license/ operation license	Free for exploration/operation
	Municipality	Permit for starting and operating a business	Fee for a business start-up permit
Healthcare facility	Ministry of Health	License for starting a private hospital	License fee
	Municipality	Permit for starting and operating a business	Fee for a business start-up permit
Exchange office	Ministry of Finance and Treasury	Permit for authorized establishment	Document fee
	Municipality	Permit for starting and operating a business	Fee for a business start-up permit
Educational institutions	Ministry of National Education	License for operating a private school	License fee
	Municipality	Permit for starting and operating a business	Fee for a business start-up permit
Food and feed production, processing or sale	Ministry of Agriculture and Forestry	Approval document for business operation / Registration document for business	Free for business approval /business registration
	Municipality	Permit for starting and operating a business	Fee for a business start-up permit
Law office	Bar Association	License for lawyers	License fee
Architecture /engineering	Chambers of Architects and Engineers	License for architects and engineers	License fee
Physicians	Ministry of Health	Certificate of medicine	License fee
Pharmacies	Ministry of Health	License for pharmacies	License fee
Opticianry	Ministry of Health	License for opticianries	License fee
Hotels with tourism certificates	Ministry of Culture and Tourism	Certificate for tourism enterprises	Document fee
Real estate consultancy	Municipality	Permit for starting and operating a business	Fee for a business start-up permit
Gas/LPG stations	Municipality	Permit for starting and operating a business	Fee for a business start-up permit
Restaurant	Municipality	Permit for starting and operating a business	Fee for a business start-up permit
Market	Municipality	Permit for starting and operating a business	Fee for a business start-up permit
Repair shop	Municipality	Permit for starting and operating a business	Fee for a business start-up permit
Stores	Municipality	Permit for starting and operating a business	Fee for a business start-up permit
Office	Municipality	Permit for starting and operating a business	Fee for a business start-up permit
Hotel, coffee houses, cafés	Municipality	Permit for starting and operating a business	Fee for a business start-up permit

Source: This table has been produced by the local expert of the activity, Zekeriya Şarbak, in line with the Act of Fees and other pieces of legislation.

3.1.3 Exceptions Introduced by Other Laws

Article 5 of the Law No. 6197 on Pharmacists and Pharmacies provides that such businesses be licensed as permitted by the Ministry of Health, which shall not require further licensing by or make any payment to municipalities.

Article 3 of the Law No. 4603 on Türkiye Cumhuriyeti Ziraat Bankası, Türkiye Halk Bankası A.Ş and Türkiye Emlak Bankası Anonim Şirketi (banks) also exempts these banks from both the provisions of the Law No. 3572 on Business and Operating Licenses and business license fee. Regulating the operations of banks by central authorities is also the way it is organised at EU member states, however it is not common for a piece of legislation to exempt only few banks by mentioning them by name. According to the European Central Bank⁸² and Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013 on access to the activity of credit institutions and the prudential supervision of credit institutions and investment firms, amending Directive 2002/87/EC and repealing Directives 2006/48/EC and 2006/49/EC, licensing of banks ensures that only robust banks which comply with all legal requirements can enter the market. Licensing should not hinder competition, financial innovation or technological progress. Exempting specific banks from regulation, as it is the case in Turkey, might hinder competition.

Articles 7 and 14 of Laws Nos. 5302 and 5393, respectively, exempt civil-aviation airports and any and all facilities therein from the authority of local administrations. Business and operating licenses to these businesses are issued by the General Directorate of Civil Aviation. Such businesses do not pay any fees to local administrations to start their operations. In the EU, Article 3 of the Regulation on common Rules for the operation of Air Services in the Community⁸³ regulates the procedures for issuing operating licenses at the central level. Also, with the European Union Aviation Safety Agency (EASA)⁸⁴ and the EU Regulation (on common rules in the field of civil aviation)⁸⁵ the role of Municipalities in granting any business licenses is limited.

Although with the Law No. 5393 on Municipalities, the Law No. 5216 on Metropolitan Municipalities and the Law No. 5302 on Special Provincial Administrations, local administrations have been tasked with granting business and operating licenses to businesses producing and that are in contact with foodstuff, such authority of local administrations has been revoked upon Article 48 of the Law No. 5996 and dated 11/6/2010 on Veterinary Services, Phytosanitary, Foodstuff and Animal Feed.

As a requirement of the Law No. 4562 on Organized Industry Zones and of the Law No. 3218 on Free Zones, managements of such clusters have been authorized to issue business and operating licenses

⁸² European Central Bank, <https://www.bankingsupervision.europa.eu/banking/tasks/authorisation/html/index.en.html>

⁸³ Regulation (EC) no 1008/2008 of the European Parliament and of the Council of 24 September 2008 on Common Rules for the operation of Air Services in the Community <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32008R1008>

⁸⁴ European Union Aviation Safety Agency: <https://www.easa.europa.eu/>

⁸⁵ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32018R1139>

within their remit. However, business license fees collected by the management of such clusters shall be deposited in the account of the respective municipality.

In addition, the Mining Law No. 3213 was amended in 2019, whereby the authority to issue business and operating licenses to mining facilities in metropolitan areas was given to the Department of Investment Monitoring and Coordination. However, special provincial administrations can issue business and operating licenses to mining facilities in non-metropolitan areas. Hence another exception to the overall authority of local administrations concerning the issuance of business licenses by the latter. Unlike other regulations, the authority to collect business and operating license fees was given to the Department of Investment Monitoring and Coordination. Yet, business and operating fee has been designed as a municipal revenue item in Law No. 2462 on Municipal Revenues.

As a result of other provisions in a variety of other laws, some businesses can be opened only as permitted by the respective ministry or the central authority. Those, who have not been exempted by Law from business starting fee despite being bound by another permitting authority also obtain their licenses from the municipality and pay their fee to start their businesses. Because Article 81 of the Law on Municipal Revenues stipulates that “Fee for business start-up permit shall apply to the start of a business within municipal boundaries or adjacent areas.”

Such places of business as private hospitals and outpatient clinics must first be licensed by the Ministry of Health; producers of foodstuff and feed from the Ministry of Agriculture and Forestry and private education institutions, similarly, from the Ministry of National Education. These licenses issued by central government agencies do not require a business fee to be paid as such commercial businesses also obtain business and operating licenses from the municipality and pay their fees.

On the other hand, law firms need to be licensed by the Union of Bar Associations and independent financial advisors and accountants need to be licensed by their respective professional chambers. No other permit from the local administration is needed to start such businesses. For these businesses have been exempted from the Law No. 3572 on Business and Operating Licenses, licensing only by the respective authority suffices. Such businesses do not pay the municipality or the central government any fee to start their businesses. Such businesses shall not pay business start-up fee to municipality and central government agencies. However, the fees stipulated in the Law no. 492 on Fees shall be paid to central government agencies to perform such professions as pharmacy stores, architecture, veterinary offices, chemistry practice, medical practice and financial counselling or to start a private hospital or school. The businesses started by the above-mentioned professionals are exempt from the Law no 3572 on Business and Operating Licenses, therefore no unnecessary bureaucracy is imposed on such businesses.

An annual fee is paid to central government agencies to obtain a license for oil, mineral and electricity production. This annual fee shall not replace business start-up permit fee. Such businesses shall pay business start-up permit fee for only once to the municipality depending on the physical space occupied by the business and irrespective of the produced amount, which is stipulated in Article 81 of the Law on Municipal Revenues stating that “Fee for business start-up permit shall apply to the start of a business within municipal boundaries or adjacent areas”. As the nature of fees paid to central government agencies and municipalities is different, there is no duplication of the license or the fee. However, obtaining the production permit does not allow business owner to start their businesses without the business start-up permit. Therefore, one can mention that there is bureaucratic burden in this regard. Professionals and businesses with production or operation

license should be provided with the opportunity of notification to the relevant authorities without having to pay the fee and obtain the business start-up permit. This could lessen the bureaucratic and financial burden.

Furthermore, upon the provision of Article 2/h of the Law No. 644 of 29/06/2011 on the Organization and Duties of the Ministry of Environment and Urbanization, i.e. "To carry out, as proposed by the Ministry, surveys, maps, environmental plans of any type and scale, master and execution plans, zoning plans, which are to be approved for three months despite having been prepared or the preparation of which have been outsourced by respective authorities in relation with investments to be made by the public or private sector concerning immovables that are subject to the command and disposition of the Government or which are the property of the Treasury, public bodies or real persons as well as real persons of private law and to execute or approve or commission the execution thereof commercially and to ex officio issue, commercially, the building permit and business and operating licenses in cases where such permits and licenses have not been duly issued by the office authorized thereto in two months following the date of application", the authority to issue business and operating licenses in the specified cases has been given to the Ministry. The relevant authority refers to municipalities if the area is within municipal borders and special provincial administrations in other places, which have the authority to develop a zoning plan, issue construction license and business and operating license.

This constitutes yet another exception to the Law No. 3572 on Business and Operating Licenses. Whether or not businesses that have been licensed as such by the Ministry should pay the municipality the fee for starting their operations is not yet clear. The Law no. 492 on Fees does not regulate the fees charged for construction license or business start-up permit since they are under the remit of local administrations. The law needs to be amended to charge a fee for licenses issued by Ministry of Environment and Urbanization which is a central government agency. In addition, the municipality has to first provide the service of issuing a construction license or business start-up permit before it can charge fees for them. Therefore, this issue constitutes a significant problem.

3.1.4 Outcomes of Exceptions

The Law No. 3572 on Business and Operating Licenses, in general terms, regulates the modality of issuance of licenses and by which authority. However, this rule prescribed under Law No. 3572 on Business and Operating Licenses has been amended in time and in tandem with other arrangements under other laws, as a result of which non-municipal authorities have started issuing licenses to a significant portion of businesses.

Ümraniye Municipality in İstanbul has conducted a study on this matter. In line with the information provided in the said municipality's Performance Program for 2020, 14.331 of the total of 19.689 businesses located within the remit of this municipality have been licensed by the municipality whereas 5358 businesses have been licensed by other authorities. Of those businesses, 685 have been licensed by the Ministry of Health; 322 by the Ministry of National Education; 953 by the Union of Bar Associations; 688 by the Chamber of Independent Financial Advisors and Accountants; 2650 by Organized Industry Zones and 60 by the Metropolitan Municipality of İstanbul.

Ümraniye Municipality could obtain data as to which institutions have licensed other businesses in its remit only through the conduct of a special study. That is, municipalities do not know which authorities issue licenses other than those issued by themselves. Not only is there no sharing of information among such authorities, each authority has its own rules of licensing to follow. Over time, the number of businesses licensed by other authorities has surpassed 25%. Licensing of

businesses by other bodies translates into less municipal supervision over these businesses as well as faltering revenues. Considering the fees paid to central government agencies as per the Law on Fees, requiring such businesses to obtain business start-up and operation license from the municipalities on top of that will impose both bureaucratic and financial burden on businesses. Requiring a business to obtain a license from more than one public agency and pay fees to start up would undermine entrepreneurship.

3.1.5 General Criteria

The objective sought by Law No. 3572 on Business and Operating Licenses is 'to simplify the process of granting business and operating licenses.' The Law does not provide a list of conditions to be satisfied by such businesses. Businesses have to be regulated as per the By-Law to be issued abiding by the principles laid down in which local administrations shall carry out their inspections before licensing. According to the Law, the By-Law has to take into consideration the following three criteria:

1. Not to harm human health
2. Not to cause environmental pollution
3. Not to breach any regulations concerning cases of fire, explosion, general security, occupational safety, occupational health, traffic and road safety, zoning and flat ownership and the protection of nature.

Accordingly, any business to be licensed by the municipality shall incur no harm on human health, not pollute the environment and not be in breach of other regulations pertaining to fire, explosion, general security, occupational health and safety, traffic and road safety, zoning, flat ownership and those in relation with nature-protection. However, such criteria have not been determined in view of other licensing authorities.

3.1.6 Statement-Based Licensing

Persons wishing to start a business, once they arrange their businesses as per the criteria laid down in the By-Law, have to fill in the application form and submit it to respective local administration. Then, such local administration shall establish that the application form has been duly filled-in and issue the business and operating license without requiring further action. At this stage, there is no mandate to carry out an on-site inspection. This procedure is also applied in different EU countries such as Austria and Estonia and it is known, in practise, as notification, where businesses only notify the authorities about their economic activities.

3.1.6.1 Exceptions to Statement-Based Licensing

In view of their specific features, certain businesses have been excluded from statement-based licensing. These businesses are as follows:

1. Non-sanitary businesses under Category I,
2. Businesses working with inflammable and dangerous substances, oxygen and LPG filling stations and storage areas, distribution centres and retail vending points,
3. Quarries,
4. Gas stations and similar businesses,
5. Touristic establishments covered in the Law on the Promotion of Tourism
6. Non-sanitary businesses under Categories I, II and III producing foodstuff.

There are also other conditions introduced in the By-Law on the enforcement of Law No. 3572 on Business and Operating Licenses as well as other laws. For instance, licensing of some businesses requires an EIA (Environmental Impact Analysis). Regarding the start-up of such businesses, the EIA Law and its By-Law provide for detailed arrangements.

3.1.6.2 Business Inspections

Following the issuance of the business and operating license, the municipality or the special provincial administration carries out an inspection within one month. In cases, where any statements or circumstances in breach of the criteria specified in the By-Law have been identified, the license shall be revoked, and the business shut down. A criminal complaint shall then be filed to judicial authorities regarding such businesses which make false statements. In the event that licensed businesses have not been inspected within one month from the issuance of the license, the latter becomes permanent. Legal action shall be taken regarding the officials of the local administration concerned, who have failed to perform their inspection duty.

3.2 The By-Law

The Law No. 3572 on Business and Operating Licenses seeks to ensure smooth start-up of businesses other than those exempted. Businesses can start-up based on a statement to be made once the application form has been completed and submitted to the respective local administration. The Law seeks to ensure compliance of businesses with such criteria as conformance with human and environmental health, general security, occupational health and safety as well as with the zoning law. Yet, how to meet such criteria shall be determined by the By-Law. In view of such criteria, the By-Law introduces various arrangements regarding sanitary businesses and others. The By-Law, above all, provides for highly detailed arrangements, especially for non-sanitary businesses under Category I as well as for public recreational and entertainment businesses.

Exemptions from the Law No. 3572 and the criteria used to process granting of business licenses are mostly regulated with by-laws, instead of being regulated with primary legislation. By laws cannot foresee more exemptions than foreseen by the primary law. A strong reason in favour of regulating business operations with primary laws is that it will give legal certainty because amending primary laws requires engagement of the National Parliament, while by-laws can be amended at government level.

3.2.1 Sanitary Businesses

Article 4 of the By-Law defines sanitary businesses as all businesses other than those that are non-sanitary. Since non-sanitary businesses are defined as businesses with environmental impact, one can assume that sanitary businesses are considered to be those without a significant environmental impact. However, some of these businesses are important for public health and safety despite not having any environmental impact. There is no such distinction and definition in the By-Law. Although the By-Law specifies some conditions to be met depending on the type of businesses, there is a need to make a distinction in terms of licensing procedures and fees to be paid between businesses which are not significant for public health or safety such as restaurants and hairdresser's and other businesses.

Table 1 annexed to the By-Law classifies sanitary businesses under ten specific categories, where the qualities such businesses shall purport have been provided for each category. The categories are:

1. Businesses where meat and fish products are sold,
2. General stores, markets, charcuteries and butchers, vendors of dried nuts and fruits, kiosks, groceries, canteens and bakeries,
3. Restaurants, fast food restaurants, cafeterias, vendors of packed-meals and similar businesses,
4. Indoor and outdoor tea and coffee-houses, penny arcades, internet cafes, tea and coffee shops and similar businesses,
5. Patisseries
6. Theatres, movie theatres, wedding halls, circuses, fairgrounds and performance halls,
7. Hotels and hostels,
8. Taxi-cab stops and offices, indoor or outdoor parking lots and automotive dealers,
9. Barber shops and hair parlours,
10. Turkish baths, saunas and similar businesses.

3.2.1.1 General Conditions Sought in Sanitary Businesses

General conditions sought in sanitary businesses are as follows:

1. The business concerned shall be designed in accordance with the purpose of use, clean and well-lit.
2. The business shall be fitted with adequate ventilation, where heating and ventilation requirements shall be met via stove, radiators or A/C systems, as appropriate.
3. In businesses that carry out multiple functions under a single license, other conditions sought for each respective category shall be sought at once.
4. Independent businesses with more than 10 employees shall be fitted with resting areas and separate restrooms and lockers for ladies and gentlemen. However, such criteria concerning restrooms and washing facilities shall not be sought separately for businesses located in such facilities as office blocks, business centres, arcades, and train and bus stations already fitted with such amenities.
5. Measures regarding the collection and storage of wastes and similar garbage generated in the business shall be in place as well as adequate connections for due discharge of waste waters.
6. In businesses, where food and beverage items are sold, stored and served, the floors of quarters where food is prepared as well as the food-contact walls and surfaces shall be of such materials as tiles, marble or stainless-steel that can be easily washed, cleaned and disinfected; ceilings shall prevent the formation of vapor, moulding and accumulation of dirt; doors shall be easy-to-clean and disinfect as required. Shafts/chimneys to evacuate vapor, smell, smoke and similar pollutants shall be installed. Glasses and plates shall be of glass or porcelain and cutlery of stainless-steel.
7. In businesses not requiring Fire Department clearance, firefighting measures shall be in place as required so as to ensure protection for both the staff and clients.
8. In public recreational and entertainment facilities and in other places of work with dense circulation of persons, entrances and exits shall be through separate doors; separate fire exits shall be provided, including illuminated escape route/exit signage.
9. Public recreational and entertainment as well as accommodation facilities, restaurants and patisseries shall have utility water connection and smoking and no-smoking spaces shall be separated with a wall or with glass.

10. The floors and walls of toilet facilities in public recreational and entertainment places, accommodation facilities, wedding venues, restaurants and similar businesses shall be of such easy-to-clean materials as marble, tiles and mosaic, which shall also be easy to wash and disinfect. Restrooms shall not be adjacent to kitchens.

Considering the general conditions, the stipulation in the first article which says “designed in accordance with the purpose of use, clean and well-lit” is prone to subjective assessment. Similarly, the firefighting measures to be taken to ensure protection for both the staff and clients in businesses not requiring Fire Department clearance are not specified. It is possible to see different and arbitrary practices unless municipalities adopt a regulation and identify standards regarding how to implement such provisions.

3.2.1.2 Specific Conditions Sought in Sanitary Businesses

For each group of business placed under ten categories in the By-Law, other conditions have also been determined based on their specific characteristics. For instance, Category II restaurants shall seek to satisfy the following conditions:

1. Availability of at least one certified master chef,
2. The kitchen shall be composed of three sections for preparation, cooking and dish washing, both hot and cold water shall be provided in the kitchen for purposes of dish-washing,
3. The kitchen, entrance and the main salon floors shall be of easy-to-clean, easy-to-disinfect, washable and hard materials such as floor tiles or marble,
4. There shall be adequate heating, cooling and ventilation installations,
5. There shall be table-clothes and napkins on tables,
6. The kitchen shall be located separately from the main hall and kitchen doors and windows facing outside shall be fitted with insect screens,
7. There shall be separate restrooms for ladies and gentlemen, equipped with basins, mirrors, liquid soap and adequate number of cabinets.

3.2.2 Non-Sanitary Businesses

Non-sanitary business is defined as 'businesses that, during their activities, can possibly harm bystanders biologically, chemically, physically, psychologically and socially at varying degrees or that can cause pollution of natural resources.' In view of their environmental impacts and size, non-sanitary businesses are classified under three categories, i.e. Category I, II and III.

In the By-Law, such businesses have been classified under 9 categories on a sectoral basis:

1. Energy sector
2. Metallurgy and mechanical sector
3. Mining
4. Chemical sector
5. Petrochemicals
6. Food-stuff, beverages, animal feed and agricultural products
7. Industries in relation with the recycling and disposal of waste products
8. Textile sector
9. Other

Similar to Turkey, EU Members States also regulate businesses that pose high risks to environment, public safety and public health such as chemical sector, mining etc. at national level by professional and specific agencies or bodies.

3.2.2.1 Category I Non-Sanitary Businesses

Category I non-sanitary businesses in the By-Law are defined as 'businesses that must definitely be located far from residential areas and other human settlements.' For instance, nuclear power plants, cement factories, ceramic and porcelain factories, production and storage facilities for explosives, production facilities of batteries, cell batteries and power supplies, sugar factories, solid waste storage facilities are classified as first grade non-sanitary businesses.

Industrial facilities for the recycling and disposal of waste products have not been considered as Category III facilities and have been placed under Categories I and II of non-sanitary businesses.

Although, businesses producing food-stuff (List-item 6) have been regulated as Category I, II and III non-sanitary businesses depending on their size, Law No. 5996 on Veterinary Services, Phytosanitary, Food-stuff and Animal Feed revoked the authority vested in municipalities regarding granting business licenses and Ministry of Forestry and Agriculture is authorized to issue licences to such businesses for production/processing and sale. However, municipalities provide such businesses with an additional business and operating license as well.

3.2.2.1.1 Health Protection Strip in Category I Non-Sanitary Businesses

Health protection strips shall be set-up around the perimeter of industrial zones, organized industry zones and other Category I businesses apart from such zones. Non-sanitary businesses located inside industrial zones that can incur damages on other places of work can be requested to set-up health protection strips (the by-law, article 26), which shall be set-up within the borders of the property of such businesses. Inside such areas, residential or housing facilities for humans shall not be licensed (the by-law, article 16). Setting up health protection strips around Category II and III businesses can also be decided as and if required by the activities thereof. The health protection strip shall be determined by the supervisory board and with a consideration for the harmful and polluting effects on environmental and public health of the activities of such businesses.

3.2.2.1.2 Site-Selection Supervisory Board

The supervisory board for Category I businesses shall be set up by the governor in special provincial administrations or by the mayor in municipalities and be composed of at least 5 members. The board shall be composed of officials in environmental, health, legal, zoning and licensing departments as well as representatives from the Provincial Directorate of Industry and Commerce, respective professional chambers and other bodies, as applicable.

3.2.2.1.3 Site-Selection and Facility Set-up Permit

The supervisory board for Category I non-sanitary businesses shall carry out its inspection at the locality where the facility will be established in 7 days and submit its view. The authorized administration (special provincial administration or the municipality), then, shall issue the permit for site-selection and set-up in 3 days. These provisions are also applicable to any and all stations dealing with fuel, LPG, LNG and CNG stations other than those in organized industry zones, industrial zones and industrial sites.

EIA acceptance certificates and EIA reports issued for facilities subject to EIA shall also substitute for site selection and facility set-up reports. Site selection and facility set-up permit shall be valid for 5 years under the condition that the facility concerned is fit for zoning. In the event of failure to obtain

the facility start-up permit within the specified time frame, this duration is subject to an extension of 2 more years upon request.

3.2.2.1.4 Probation Period

Having received their site selection and facility set-up permits, non-sanitary businesses concerned can also be eligible for a probation period upon completion of the project and under the condition that such period shall not be in excess of one year. Probation period can be extended for up to two years upon due decision of the supervisory board. The probation permit during this time shall be accepted as the business and operating license.

3.2.2.1.5 Business License

At the end of the probation permit and upon the application made regarding the business and operating permit, the supervisory board shall perform an on-site inspection in 7 days to determine any concerns regarding operations concerned. The business and operating license is issued in 3 days from the report, which shall be prepared taking into consideration discharge and emissions license or analysis as well as other information and documents.

The business concerned shall be inspected within 1 month regarding any non-compliance with issues that have been declared. Time for remedial action in cases, where such non-compliance does not lead to any public or environmental health problems, shall not be in excess of one year. Otherwise, operations shall be suspended until such faults or non-compliance have been redressed.

3.2.2.1.6 Managing Director

A managing director with the required professional qualifications must be employed at Category I non-sanitary businesses.

3.2.2.2 Category II and III Non-Sanitary Businesses

The By-Law defines Category II businesses as those that '...shall operate at a certain distance from residential and human settlement areas, as required and as proposed by the supervisory body and as deemed appropriate by the authorized administration.'

Accordingly, Category III non-sanitary businesses are defined in the By-Law as those that '...can be established proximally to residential and human settlement areas, which shall still be subject to sanitary supervision.'

For instance, wind power plants, geothermal power plants, ready mixed concrete facilities, mines, fuel oil and/or auto-gas stations, tea factories, ginneries, tobacco processing and cigarette factories, breeding facilities with a capacity of 500 and more cattle and 1000 and more sheep and goat are classified as second grade non-sanitary businesses.

Businesses where construction materials are stored and sold, dry cleaning businesses, flour and cracked wheat mills, salt grinding businesses, milk storage and cooling businesses, car wash facilities, car tire repair workshops, furniture and vehicle upholstery workshops, breeding facilities with a capacity of 20-500 cattle and 100-1000 sheep and goat are classified as third grade non-sanitary businesses.

The permit for site selection and facility set-up shall not be sought for Category II and III businesses. The supervisory board shall examine the application for business and operating license and produce a report in 7 days. The supervisory board to inspect Category II and III businesses shall be composed of at least 3 representatives in cases handled by special provincial administrations and of at most 5 representatives in the case of municipalities. Respective authority shall determine whether or not to issue a business and operating license in 3 days. In the event of a decision in-favour, the license shall be issued on the same day.

Activities of businesses that have been found during such inspection to have detrimental impacts on the public health as well as on environmental health shall be suspended until such shortcomings have been rectified.

3.2.3 Public Recreational and Entertainment Places

Article 7 of the Law No. 2559 of 4/7/1934 on Police Duties and Powers lays down such provisions as follows:

Places such as 'hotels, motels, boarding houses, camping sites and similar accommodation places; music halls, night clubs, pubs, bars, beer houses, alcohol licensed restaurants, taverns and similar alcohol serving places; cinemas and coffee houses; electronic game places which operate electronic game devices and machines, video and television games of any name that are meant to enhance knowledge, skills and intelligence with no purpose of gambling or games of chance; Internet halls, and similar places for the individual and collective entertainment, leisure and accommodation of persons,' are defined as public recreational and entertainment places. Also, '...in cases, where activities specified in Paragraph 1 are carried out in on-land, maritime, airborne and on-board any and all vehicles of transportation, such places shall also be considered as public recreational and entertainment places.'

'Licenses of public recreational and entertainment places shall be issued, upon the opinion by the respective law enforcement authority responsible for such place, by municipalities in municipal areas and areas adjacent to municipal remit, and by the special provincial administration in cases other than such areas. The law enforcement authority shall submit its opinion in 7 days. Requests for licenses shall be concluded in one month. Public recreational and entertainment places to start operations without a license shall be shut down.

Municipalities shall be authorized to determine areas, where such businesses shall operate or to cluster public recreational and entertainment places in areas allocated for such purposes in municipal areas or in those that are adjacent to municipal area of responsibility whereby the same authority shall rest with special provincial administrations in areas other than those specified above.

Procedures and principles concerning issues pertaining to the determination of areas, where public recreational and entertainment places are located shall be regulated through a By-Law to be issued by the Ministry of Interior. A copy of business and operating licenses issued for such places of business shall be forwarded to the respective law enforcement authority. Such businesses are inspected by general law enforcement from an overall perspective on security and public order, and 'The provisions of Articles 5 and 6 of the Law concerning the amendment and enactment of the Decree No. 3572 dated 14.6.1989 on Business and Operating Licenses shall not be applied.'

The type of public recreational and entertainment places, information regarding the authorities to license them, where these places can be opened as well as relations with law enforcement have been regulated in the Law. Not the provisions of Law No. 3572 on Business and Operating Licences but

those of Law No. 2559 on Police Duties and Powers shall apply in relation with starting such businesses.

In addition to the highly detailed provisions in Law No. 2559 on Police Duties and Powers regarding public recreational and entertainment places, further details have been prescribed in the By-Law.

3.2.3.1 Areas where alcohol is sold

As per the By-Law, facilities vending alcohol are defined as night clubs, bars, taverns, restaurants selling alcohol, pubs and similar places. Under the Law No. 2559 on Police Duties and Powers and the By-Law, alcohol licensed restaurants and bars are covered by the same provisions. Yet, the primary focus of such restaurants vending alcohol is on vending of food whereas vending of alcohol is the primary concern of bars.

Article 29 of the By-Law provides that places vending alcohol can only be opened up in areas allocated for purposes of vending alcohol, which shall be determined by municipal/city councils and by the provincial assemblies in areas outside of municipal remit.

Article 30 of the By-Law defines areas unfit for vending of alcohol as follows:

- Places within 200 meters to highways and motorways with the exception of stopovers,
- Bus and train stations,
- Places within a 100 m distance to public and private school buildings, dormitories for primary and secondary school students and kindergartens,
- Other education and training facilities, dormitories, government premises, prisons and correction facilities, any and all places of worship and other religious facilities, arts facilities, mining facilities, construction sites, places where inflammables, explosives, combustibles and similar dangerous substances are produced, sold and stored, gas filling facilities within a distance to be determined by city councils or provincial assemblies with a consideration for local conditions.

3.2.3.2 Opinion of Law Enforcement

From the perspective of public order and safety, opinion of the authorized law enforcement unit(s) shall be sought before opening-up of public recreational and entertainment places.

3.2.3.3 Sanctions Applicable for Public Recreational and Entertainment Places

Article 6 of the Law No. 2559 on Police Duties and Powers provides for strict sanctions regarding such businesses. Accordingly, minors (younger than the age of 18) shall not be employed at the following:

- a) Places opened prematurely despite a temporary ban on operations,
- b) Places not abiding by opening and closing hours,
- c) Places that are found to be in breach of restrictions specified in Article 12 of this Law (under the condition that legal exceptions remain valid, places the opening-up of which requires permission for purposes of entertainment, game, vending of alcohol, etc. Also, entry of minors, even in the company of their parents and/or guardians, to such places as bars, night clubs and taverns where alcohol is sold is banned by the Police); and
- d) Places that are operated in defiance of legislative provisions,

According to Article 6 of this Law, the above-mentioned acts shall entail an administrative fine from 500 TRY to 1000 TRY upon the operators thereof. Administrative fines provided for in this Article shall be sanctioned, inside the municipal remit, by the municipal/city council and by the provincial assembly in places that are outside of municipal boundaries. In the event of recurrence of the same acts in a period of one year, the last fine imposed shall be applied with exponential increase.

For the year 2020, such administrative fine shall be applied as 2.233 to 4.488 TRY. Where the business and operating license fee for a coffee-shop of 100 square-meters in the most high-end district in Turkey's most developed city is at most 100 TRY, the fine applicable in the same shop for employment of minors is a minimum of 2333 TRY, which is doubled for second offenders, multiplied by four in case of revealing the same crime by same offenders for the third time and multiplied by 8 (i.e. 18.660 TRY) for fourth time offenders. For multiple offences, fines increase exponentially. Considering the severity of sanctions concerning the closure of public recreational and entertainment places as well as the gravity of fines, it is recommended to review the regulations in view of the severe burdens imposed upon businesses.

3.2.4 Inspection of Businesses

Businesses with final business and operating licenses can be inspected by the issuing authority at any time. In line with Article 13 of the By-Law, in the event of establishment of issues contrary to legislation and other shortcomings during inspections following the issuance of the business and operating license, the business concerned is allowed fifteen days to remedy such incompliance and shortcomings. The license shall be revoked and the workplace shall be shut down upon failure to remedy such incompliance and shortcomings. Furthermore, false, incorrect and misleading statements by those concerned shall entail legal action.

Within this framework, Çankaya Municipality, for instance, carried out a total of 20.062 inspections in 2018, of which 7153 businesses were found compliant, 6449 were given a warning and 5296 were processed per Misdemeanours Law and a total of 2.763.010 TRY of fines were issued. 586 businesses have been shut down upon the decision by the municipal council. A significant finding here is the compliance of only one thirds of the inspected business, and non-compliance of the majority thereof. That such violation of the rules is so wide-spread suggests either that the rules are far from applicable or sanctions are inadequate. Even more so, these businesses have been inspected within one month from licensing, with no findings to suggest any shortcomings regarding the issuance of their licenses. Such significant non-compliance by businesses with the rules based on legislation requires scrutiny.

3.2.5 Businesses Opened Without a License

Article 6 of the By-Law provides as follows: 'Businesses without proper business and operating licenses shall not commence operations.' Then, according to Article 32; 'Public recreational and entertainment places opened without proper licensing shall be closed by respective authorities of administrations concerned, requiring that the reasons for such violation be reported.' However, the Law provides no sanctions for businesses operating without a business and operating license other than public recreational and entertainment places.

This is also the case for the By-Law, where no sanctions for sanitary businesses operating without a business and operating license other than public recreational and entertainment places have been

provided. In view of these facts, the restriction in Article 6 of the By-Law has no sanctioning power. Yet, the court of venue has not found the closure of businesses operating without due license by respective authorities against the law (Resolution No. 2012/1461 of 02.04.2012 by the 8th Chamber of the Council of State).

Businesses opened without a license can only be fined in line with the provision of Article 32/1 of the Misdemeanours Law No. 5326, entitled 'Demeanour Against Instructions,' which is as follows: 'Persons acting in violation of the general instructions legally issued by authorities as a result of judicial procedures or with the aim to protect public safety, public order or general health shall receive an administrative fine of 100 TRY (392 TRY, in 2020).' Such fine specified shall also apply to public recreational and entertainment places operating without a license.

The Law does not provide for any sanctions regarding sanitary businesses without a license, which prevents municipalities from closing such businesses upon identification. As such, many businesses can be opened without a license as some municipalities do not impose the fine specified in the Misdemeanours Law on such businesses. Audit Reports by the Supreme Court of Accounts are also critical of municipalities in this regard (<https://www.sayistay.gov.tr/tr/?p=2&CategoryId=103>). Generally speaking, municipalities are unwilling to impose coercive measures to collect the municipal receivables for political reasons. This policy can be said to be influential in the decreasing ratios of equity in the overall municipal revenues.

Opening-up of businesses without ascertaining their compliance with the criteria envisaged in the Law (i.e. not to harm human health, not to cause environmental pollution, not to act in breach of regulations concerning fire, explosion, general safety and security, occupational health and safety, traffic and road safety, zoning, flat ownership and the protection of nature) constitutes yet another aspect of the matter that requires scrutiny in terms of effectiveness of the public authority and in terms of public health. This situation indicates that municipalities need to improve their public authority and their capacity in the use of public power.

3.3 Licensing Procedures in Metropolitan Areas

Metropolitan municipalities for metropolitan areas emerged in 1984, in Ankara, İstanbul and İzmir. Turkey, today, has 81 provinces. In other words, Turkey in recent physical and administrative maps, is divided into 81 provinces, with 30 provinces having metropolitan status in 2014. Local administration structures in such metropolitan areas have been restructured, whereby, special provincial administrations as superior authorities to municipalities have been abolished together with sub-district and village administrations. Provincial borders have been included in the metropolitan remit and villages and towns have been reorganized under district municipalities, leaving municipalities as the only local administration unit in metropolitan areas. However, this created a bi-level municipal system, where metropolitan municipalities with authorities and responsibilities for the entire province and district municipalities provide services in the same place. Regarding business and operating licenses, the authorities of metropolitan and district municipalities have been laid down in both the Law No. 5372 on Business and Operating Licenses and the Law No. 5216 on Metropolitan Municipalities. When compared with other provinces, the metropolitan structure introduces certain variations with regard to business and operating licenses.

3.3.1 Businesses to be Licensed by the Metropolitan Municipality

Law No. 5372 on Business and Operating Licenses exempts Category I non-sanitary businesses. Opening up of Category I non-sanitary businesses, on the date of enactment of the Law, required the approval of the central government. The Law regulates the licensing of Category II and III non-sanitary businesses by metropolitan municipalities and the licensing of sanitary and other businesses by municipalities other than the metropolitan municipality. However, issues pertaining to the licensing of businesses have also been regulated in Laws Nos. 5393 on Municipalities and 5216 on Metropolitan Municipalities.

The list of businesses the business and operating licenses of which shall be issued by metropolitan municipalities in the Law No. 5216 on Metropolitan Municipalities (Article 7) is as follows:

- Category I non-sanitary businesses (except for producers of foodstuff),
- Fuel, LPG and LNG stations that are among Category II non-sanitary businesses (Law No. 5393, Art. 80),
- Businesses in areas built or operated by metropolitan municipalities,
- Businesses to operate in the responsibility area of metropolitan municipalities (sanitary, non-sanitary, public),
- Indoor and outdoor parking lots,
- Shopping malls (Article 5 of Law No. 6585 of 14/1/2015 on the Regulation of Retail Commerce).

A total of 131 business and operating licenses have been issued by Ankara Metropolitan Municipality in 2018, of which 84 are for sanitary and 47 are for non-sanitary (category I) businesses (http://www.ankara.bel.tr/files/4615/5842/4943/2018faaliyet_raporu.pdf).

A total of 148 business start-up and operating permits have been issued in 2018 by Eskişehir Metropolitan Municipality of which 123 were for sanitary, 3 for public recreational and entertainment places, 1 for Category I non-sanitary, 17 for Category II non-sanitary and 4 for Category III non-sanitary businesses (https://www.eskisehir.bel.tr/dosyalar/faaliyet_raporlari/2018.pdf).

3.3.2 Businesses to be Licensed by the District Municipality

In Turkey, there are 519 district municipalities located under 30 metropolitan municipalities. Business and operating licenses to businesses other than those licensed by metropolitan municipalities are issued by district municipalities. These include sanitary businesses, Category II and III non-sanitary businesses and public recreational and entertainment places.

Accordingly, a total of 3183 business and operating licenses were issued by Çankaya Municipality in 2018 for sanitary businesses together with 294 for Category II and III non-sanitary businesses as well as 206 licenses for public recreational and entertainment places (http://www.cankaya.bel.tr/uploads/files/2018_faaliyetraporu.pdf). Out of the total of 3683 businesses licensed for business and operations, only 8% are non-sanitary. Despite differences

between licensing procedures, public recreational and entertainment places are also considered as sanitary businesses.

In 2010, Ümraniye Municipality has launched a special study concerning the issuance of business and operating licenses for businesses. In 2018, a total of 5116 business and operating licenses have been issued; 2540 licenses for sanitary businesses, 2375 licenses for Category II and III non-sanitary businesses and a total of 201 licenses for public recreational and entertainment places were issued (<https://www.umraniye.bel.tr/tr/main/pages/faaliyet-raporlari/15>). 46% of all business and operating licenses issued in this district in 2018 were for non-sanitary businesses, which is also indicative of the density of industrial facilities in Ümraniye district.

3.4 Licensing Procedures in Non-Metropolitan Areas

3.4.1 Businesses Licensed by Special Provincial Administrations

Special provincial administrations serve 51 non-metropolitan provinces. Businesses listed below are licensed by special provincial administrations: Sanitary and non-sanitary businesses outside of municipal remit, with the exception of those exempt by Law, Category I non-sanitary businesses in places outside the remit of central provincial municipalities (Art. 15, Law No. 5393), all mining facilities inside provincial borders.

Afyon Special Provincial Administration was studied as an example, where the total of 155 licenses have been issued for both sanitary and non-sanitary businesses in 2018. Special provincial administrations are not authorized to collect start-up license fees, however they can fine businesses operating without a license. Similarly, a total of 17.290 TRY in fines have been sanctioned for 10 businesses operating without a license in the very same year (<http://www.afyonzelidare.gov.tr/>).

3.4.2 Businesses Licensed by City Municipality

In Turkey, there are 51 city or provincial municipalities. Afyon Municipality the authority of which is limited only to the city of Afyon (central Afyon) has issued 67 non-sanitary, 230 sanitary licenses as well as another 20 licenses for public recreational and entertainment places in 2018. The percentage of non-sanitary businesses licensed is 21% (<https://www.afyon.bel.tr/upload/tr/dosya/dokumanyonetimi/534/30042019143731-1.pdf>).

3.4.3 Businesses Licensed by Other Municipalities

In 51 non-metropolitan cities in Turkey there are 403 district and 396 smaller local municipalities. The authority of these municipalities is limited to the confines of their respective remit. The District Municipality of Sandıklı in Afyon Province was studied as an example in this regard. Activity Report for 2018 by the Sandıklı Municipality confirms the issuance of a total of 101 business and operating licenses in 2018 (<https://sandikli.bel.tr/yillik-faaliyet-raporu/>).

3.5 Provisions to Expedite Licensing Procedures

With the insertion of another Article in the By-Law upon the Council of Ministers' Decree No. 2012/2958 of 12/3/2012, certain arrangements have been made in favour of business owners to facilitate the process of licensing, to reduce red tape as well as document costs during the issuance of business and operating licenses (Additional Art. 1). Accordingly;

1. In cases, where, during the licensing of public recreational and entertainment places and sanitary as well as non-sanitary businesses, the applicant produces the original copy of any document the submission of which is mandated by legislation, a copy of such document shall be approved by the official of the respective administration following authenticity control requiring mere inscription of name and title of such official. Applicants are not further requested to submit the originals or notarized copies of such documents.
2. The authorized administration shall not request from the applicants any information or documents that are already in their files and which the applicant has stated as unamended.
3. ID information of real persons applying for a business and operating license shall be confirmed with reliance on the Turkish National ID numbers thereof, as declared in the application form. Authorized administration shall access the ID information of applicants through the ID Sharing System. Apart from a statement of their Turkish National ID numbers, applicants shall not be requested to submit any other documents such as a copy of the national ID card, a copy of civil registration, residence certificate, photographs or ID information.
4. Taxpayer registration information of those applying for business and operating license shall be confirmed through a cross-check of the taxpayer's registration number and the name of the respective Tax Office stated in the application via the e-tax registration system. No other documents such as the copy of the tax registration certificate or other documentation concerning taxpayer's status shall be requested from the applicants during the application for business and operating licenses.
5. As regards the trade registration of real and legal persons in the trade registry applying for a business and operating license, trade registry number and the name of the trade registry directorate concerned as stated in the application forms shall be relied upon. Chamber of Commerce registration certificate or the copy of the Trade Registry Gazette shall not be requested from applicants during the application of business and operating license. Trade Registry Gazette-information of the applicant shall be confirmed via Trade Registry Query on the corporate website of the Trade Registry Gazette of Turkey. However, in cases where trade registry records of the applicant have been published in the Trade Registry Gazette before the date of 1/10/2003, the applicant shall be requested to submit, also, the copy of the respective Gazette.
6. In cases where the applicant is at the same time the proprietor and where it is possible for the administration to access to land registry data as such, the copy of the land registry certificate shall not be requested from the applicants, but just the information required to enable access to land registry data. Authorities shall confirm the accuracy of property statements through the Land Registry Data Base (TAKBİS).
7. Applicants shall not be requested to produce receipts of license fees paid during applications, where personal statements shall suffice. Respective authorities shall confirm the payment of such fees through their own records.
8. Information pertaining to the current or previously-issued business and operating licenses shall be recorded electronically and made available for sharing with other public bodies, as required.

Applicants shall be requested to provide information required for access to the building use permit through the ID Sharing System, which is needed during the application for a business and operating

license. In cases, where the authorized administration fails to access such applicant information on the building use permit via the ID Sharing System, the applicants can be requested to provide the copies of such permit or other copies approved by the respective authority.

Upon the amendment of the By-Law, the rule to observe is not to request from business owners any documents regarding information that is already accessible by the administration during licensing. That the By-Law has been published upon the Council of Ministers' Decree requires other institutions such as the Land Registry Directorate, Tax Office and the Trade Registry to adapt themselves to this process. Despite current setbacks in the sharing of information with other institutions involved in the process, business owners shall as such be relieved of a significant paper-pushing burden, which shall, again significantly, facilitate the licensing process. This requires the municipalities to transition to the use of the Single Window system, whereby other institutions shall make their information accessible for municipalities. A similar procedure has been put into practice by the Ankara Chamber of Commerce for establishment of corporations. Presently, there is a single desk to handle establishment of a corporation.

3.6 Municipal Revenues from Fees Charged

Municipalities issuing business and operating licenses collect a 'business start-up and operating fee' for such services. Such fee charged has been regulated as 'Business Start-up Permit Fee' in Article 81 of the Law No. 2464 of 25/5/1981 on Municipal Revenues. For the Law has no provisions in relation with businesses that have been opened up outside of the municipal remit, which have been licensed by special provincial administrations such fee cannot be collected from such businesses, which ends up in two identical businesses operating, one inside and the other outside of the municipal area of responsibility (e.g. in a village), with only one of them (i.e. the one inside the municipal area) having to pay such fee. There was no obligation to pay any tax and fee outside the boundaries of municipalities before the boundaries of metropolitan municipalities were extended and defined as the boundaries of the whole city, this could be a reason why industrial facilities started to be clustered in those places adjacent to metropolitan cities and outside the municipal boundaries. As the industrial and commercial activities developed in an uncontrolled manner in these areas, many small-town municipalities had to be established in the vicinity of metropolitan cities. The business start-up permit fee has been determined in Article 84 of the Law on Municipal Revenues as a min. of 0,10 TRY to a max. of 1 TRY per square-meter based on the 2005 amendment. In the event that the size of business concerned is in excess of 5.000 m², the fee shall apply only for 5.000 m². Municipalities, as per Council of Ministers' Decree within the scope of Article 95 of the same law, shall be classified in 5 categories depending on population and the level of economic and social development, which shall be reviewed -the categorization- every three years. The fee tariff shall be determined by the Council of Ministers for such groups of municipalities and in view of social and economic variations among different neighbourhoods and within maximum and minimum limits as well as upon the decision of the municipal council, the opinion of the Ministry of Interior, and the proposal of the Ministry of Finance. The Council of Ministers shall be authorized to increase the maximum and minimum limits of the fee specified in the Law by ten-fold. For the Council of Ministers was abolished upon the amendment of the Constitution in 2017, such authority has been transferred to the President of the Republic.

Upon its decision No. 2014/5896 of 10/2/2014 (published in the Official Gazette No. 28917 of 18.2.2014), the Council of Ministers, within the max. and min. levels provided in the Law no. 2464 on Municipal Revenues, has determined permit fee tariff per groups of municipalities in addition to

other fixed taxes and charges. However, the determined amounts are still at the lower and upper levels of 2005.

As municipalities were grouped into 5 categories upon the said decree, so were businesses (grouped in 5 categories) depending on their size. Accordingly, each municipal council has to determine business start-up permit fees, similar to other fixed taxes and charges, and submit to the approval of the Council of Ministers. For instance, a Group 5 municipality shall, for businesses smaller than 25 square-meters, determine tariffs with a consideration for the economic and social level of development of neighbourhoods whereby this shall not be in excess of 0,16 TRY/m². In view of the difficulty of finalizing 1389 municipal council decisions at the Council of Ministers, the Provisional Article 7 was inserted in the Law No. 2464 on Municipal Revenues with the Law No. 6527 of 26/2/2014, whereby the amounts payable determined upon municipal council decisions in 2013 shall remain valid until a new decision has been made by the Council of Ministers.

The same business start-up permit fee has been applied since 2004. Yet, central government taxes and tax thresholds increase annually depending on revaluation rates in view of inflation. The revaluation rate in 2018 was determined as 23,73% and as 22,58% in 2019. In short, business start-up permit fee, in just a matter of the last two years, has lost more than half of its real value. Inflation has stumped the business start-up permit fee to such an extent in time that such a merely-symbolic fee today is far, even from equating municipalities' collection costs. However, in addition to the business license fee, some municipalities also charge other fees such as for service inspection and supervision or as document fees. Such unlawful practices should be replaced with the practice of making municipal revenue indexed to price increase as it is the case for other public revenues.

Business and operating licenses and revenues from business start-up permit fees for selected municipalities are shown in the table below.

Table 2: Licenses issued and business start-up fee revenues

	Number of Licensed Businesses	Business permit fees collected (TRY)	Average fee per business (TRY)
İstanbul MM	543	932,335	1,717
Ankara MM	131	450,641	3,440
Ümraniye	5,116	5,057,115	988
Çankaya	3,683	1,210,304	329
Yenimahalle	1,440	898,276	624
Keçiören	1,120	146,333	130
Mamak	606	125,914	208
Afyon	317	94,020	297
Sandıklı	101	13,480	133

Source: The table was prepared based on the activity reports issued by municipalities.

As the Table 2 suggests, average fee per business is higher in Ankara Metropolitan Municipality. The reason for this is that Category I non-sanitary businesses, which are big industrial facilities, are licensed by metropolitan municipalities and the fee that is charged is in commensurate with the size of the business (up to 5000 square-meters max.).

The reason, also, why the average amount of fees is higher in Ümraniye and Yenimahalle districts is the high number of non-sanitary businesses (Categories II and III) licensed in these districts.

In non-metropolitan areas such as Afyon and Sandıklı which are not metropolitan municipality areas or other places like Mamak and Keçiören which are at a lower level in terms of economic and social development, the average business start-up permit fee is considerably less. This is because, within the band of 0,10 TRY to 1 TRY chargeable per square-meter, the amount these municipalities can charge is below that of more developed areas.

The share of business start-up permit fees within total tax revenues and total municipal revenues is shown in Table 3.

Table 3: Share of business start-up permit fees within total tax revenues and total revenues (2018)

	Revenues from business start-up fees (TL)	Total tax revenues (TL)	Total municipal revenues (TL)	Business start-up permit fees/tax revenues ratio (%)	Business start-up permit fees/total revenues ratio (%)
Istanbul MM	932,335	132,239,794	19,673,564,303	0.71	0.005
Ankara MM	450,641	117,085,039	5,530,691,888	0.38	0.008
Ümraniye	5,057,115	176,066,288	406,466,721	2.87	1.244
Çankaya	1,210,304	420,280,747	2,015,275,217	0.29	0.060
Yenimahalle	898,276	250,326,294	485,535,755	0.36	0.185
Keçiören	146,333	121,300,008	388,735,153	0.12	0.038
Mamak	125,914	99,988,653	328,152,183	0.13	0.038
Afyon	94,020	31,719,331	259,882,336	0.30	0.036
Sandıklı	13,480	4,940,162	61,679,027	0.27	0.022

Source: The table was prepared based on the activity reports issued by municipalities.

As the Table 3 suggests the share of business start-up permit fees within tax and as part of total municipal revenues is quite low. The fact that this ratio is so low for metropolitan municipalities is because these municipalities issue licenses only for a limited number of businesses. For in metropolitan areas, business licenses are issued by district municipalities with the exception of exemptions, revenues from licenses are relatively higher for these municipalities. The ratio of business start-up fees to total tax revenues is below 1% with the exception of Ümraniye Municipality. The share of business start-up fee among total municipal revenues is above 1% only in Ümraniye Municipality; lower than 1% in two metropolitan municipalities; close to 2 per thousand in Yenimahalle Municipality and even far lower than one per thousand for other municipalities.

3.7 How Municipalities Conduct Business Licensing Procedures

Licensing of businesses is a public service provided by municipalities as public authorities. That is to say that it is, in this sense, different than such other services as cleaning, collection of wastes or tending parks. This is because municipal oversight over such activities entails significant outcomes for both businesses concerned as well as for those who procure services and goods from such businesses. Businesses must observe the rules pertaining to health, safety and security as much as

within legislative limitations. Then, clients also have to make sure that municipalities inspect such businesses to understand if they act in due observance of such applicable rules. Licensing, for municipalities, is but one dimension of the task at hand. The other dimension is supervision.

In some municipalities, business licensing procedures are carried out by municipal police teams or in some, by licensing and supervision departments as well as by environment protection and control departments in metropolitan municipalities. For instance, in Ankara Metropolitan Municipality, licensing and supervision of businesses is carried out by the Municipal Police Department while it is carried out by the Directorate of Licensing and Supervision in Çankaya Municipality. Yet, in any and all cases, the municipal police carry out business inspections.

In line with the 2018 Activity Report by Ümraniye Municipality, a total of 5116 business licenses (2540 for sanitary, 2375 for non-sanitary and 201 for public places of work) were granted and a total of 12.807 business inspections were carried out (7768 for sanitary, 4671 for non-sanitary and 368 for public places of work). The municipal police department of the same municipality on the other hand, carried out a total of 8565 business inspections (6182 for sanitary, 1856 for non-sanitary and 527 for public places of work). Accordingly, it is understood that the same municipality follows two separate supervisory tracts.

In the case of municipalities, where business licensing procedures are handled within the Municipal Police Department, it is not possible to calculate cost-efficiency of this service. In line with activity reports for 2018, there is a staff of 31 and 22 employed at licensing and supervision directorates of Çankaya and Yenimahalle Municipalities, respectively. For these municipalities, comparing the annual costs of licensing and supervision directorates with annual revenue from business start-up permit fees or alternatively, calculating the amount of fees collected per staff can give a picture of cost-efficiency. In 2018, Çankaya Municipality collected a total of 38,895 TRY and Yenimahalle Municipality a total of 40,838 TRY in business start-up fees per staff.

However, it is not possible to provide an overview of cost-efficiency in municipalities, where these services are provided by the municipal police, which performs other duties in addition to business and operating fees.

3.8 Evaluation

3.8.1 Evaluation of Exemptions

In time, many exceptions were introduced in Law No. 3572 on Business and Operating Licenses, i.e. the regulatory basis concerning the licensing of businesses by local administrations.

- 1- Upon additions to the Law No. 3572 on Business and Operating Licenses, such professions as law offices, independent financial advisors and accountants, notaries, engineering and architectural offices and medical practices have either been exempted or placed under the supervisory authority of other public authorities. These businesses exempted from Law No. 3572 are not licensed by local administrations, nor the latter can collect fees from such businesses.
- 2- Also, pharmacies were exempted upon an amendment of the Law no. 6197 on Pharmacies and Pharmacists, in 2012.

- 3- With the Law no. 5996 on Veterinary Services, Plant Health, Food and Feed enacted in 2010, businesses dealing or in contact with foodstuff were also exempted.
- 4- Another Law enacted in 2000 introduced exceptions for such banks as the Ziraat Bankası, Halk Bankası and Emlak Bankası.
- 5- Also, the Mining Law was amended in 2019, whereby the authority to issue business and operating licenses to mining facilities in metropolitan areas was given to the Department of Investment Monitoring and Coordination.
- 6- In 2011, the Ministry of Environment and Urbanization was given the authority to issue building permits and building use permits as well as business and operating licenses to public or private sector investments that have not been approved in a period of three months by respective administrations.
- 7- There are many other exceptions introduced by other laws.

Accordingly, many businesses have drifted afar from the supervision of local administrations, which also damages the principle of equality before Law. While one business is obliged to ensure that fire-safety measures and other precautions are in place and while such precautions are subject to municipal inspection for licensing, exempted businesses are not bound by such liabilities. In addition, the fact that these businesses are also exempted from payment of start-up fees financially disrupts the principle of equality. It is evident that the extent of exceptions in the Law No. 3572 on Business and Operating Licenses enacted in 1989, which authorizes local administrations regarding business licensing has reached such a point where, now businesses starting their operations upon licensing by local administrations have become an exception itself, which weakens the administrative and financial hand of local administrations. In addition, apart from certain exceptions, granting such power to central government agencies or other institutions makes municipalities unable to take an active role in competition against other cities and to make use of incentives to promote economic development.

The Ministry of Environment and Urbanization enjoys an administrative supervisory authority over municipalities. Giving the Ministry the authority to issue business licenses and similarly, giving the authority to issue mining licenses to investment supervision and coordination departments, which report to central government, might undermine the principle of decentralization as expressed in Article 127 of the Constitution.

3.8.2 Evaluation of Conditions Required for Starting a Business

The Law envisages that with the exception of certain places of work, sanitary businesses could be licensed the very same day with reliance upon statement. However, it is not easy for business owners to familiarize themselves with and implement such inherent conditions concerning occupational health and safety, road safety, fire precautions and waste management within the complex nature of the existing legislation. All such conditions have been regulated as part of a variety of Laws and By-Laws.

The Law seeks to facilitate starting a business. However, the quite-detailed By-Law provides for many abstract conditions (Article 5). For example, the condition that 'ensuring that occupational health and safety measures are in place as prescribed in the legislation' is already one that has been regulated in Labor Law. Seeking such conditions even at the licensing stage would prove to be troubling for both business owners and the local administration. The provisions confer joint

responsibilities pertaining to business and operating licenses to officials from the local administration who regulate such issues. They require that all requirements in the legislation are known and implemented by these officials while granting the licenses. In many cases, this renders the regulation inapplicable.

Likewise, provisions such as "ensuring road safety for businesses at a roadside" or "taking the necessary precautions against fire" also make things difficult for business owners and officials from the municipality. A portion of the same conditions are also reiterated in Annex 1 to the By-Law under the heading "Minimum Common Conditions to be Sought in Businesses".

In the By-Law, businesses are classified with different conditions prescribed for each business group. In the event that a sanitary business is opened without its name and qualities being specified even though it falls within the scope of the By-Law, transactions shall be carried out in accordance with the rules prescribed for similar businesses (Article 9). However, implementors act in a reserved manner while granting licenses to businesses belonging to new sectors and ask that such businesses are included within the By-Law.

Whereas the Law prescribes that as a general rule, businesses are to be licensed upon the filling of the application form and making a statement, the By-Law is detailed and complicating in a manner that exceeds the basic criteria prescribed under the Law and mentioned under three headings. The regulation being this specific and detailed helps ensure standardization at the national level, however it undermines the principle of decentralization as it does not give any initiative to municipalities. As the central government determines the rules concerning starting and operating businesses to a great extent, municipalities do not enjoy the initiative of developing policies and practices to boost local economy.

3.8.3 Evaluations on the Authority of Municipalities

According to the By-Law, while identifying the areas where alcohol is sold, the opinion of the governor's or the district governor's office should be sought and for issuing licenses for public recreational and entertainment places, the opinion of the relevant law enforcement institution needs to be taken. Therefore, the opinion of the governor's or the district governor's office is sought for areas where alcohol is sold, and the opinion of the law enforcement institution is taken for businesses that sell alcohol. Yet, the law enforcement institution operates under the governor or the district governor. This gives way to seeking duplicate opinions from the same authority within the same framework.

The scope of businesses for which the opinion of the authorized law enforcement institution needs to be sought is so extensive that most of the places to be licensed fall within this scope. Seeking the opinion of the authorized law enforcement institution is also regulated in the same way under Article 7 of the Law No. 2559 on Police Duties and Powers. While licenses for public recreational and entertainment places used to be granted by governor's and district governor's offices, the authority was vested in local administrations with an amendment made in 2004. Even though the authority of granting licenses was vested in the local administrations on the mentioned date, the power of control remained within the law enforcement institutions.

However, the requirement for local administrations to seek the opinion of the law enforcement which is under central administration while exercising such authority seems to be in discordance

with the provision of "decentralization" under Article 127 of the Constitution and the principles concerning the "autonomy of local governments" under the European Charter of Local Self Government.

The fact that public recreational and entertainment businesses are regulated under the Law No. 2559 on Police Duties and Powers instead of the Law No. 3572, reflects the security-oriented perspective towards such businesses. These businesses are also supervised by law enforcement institutions.

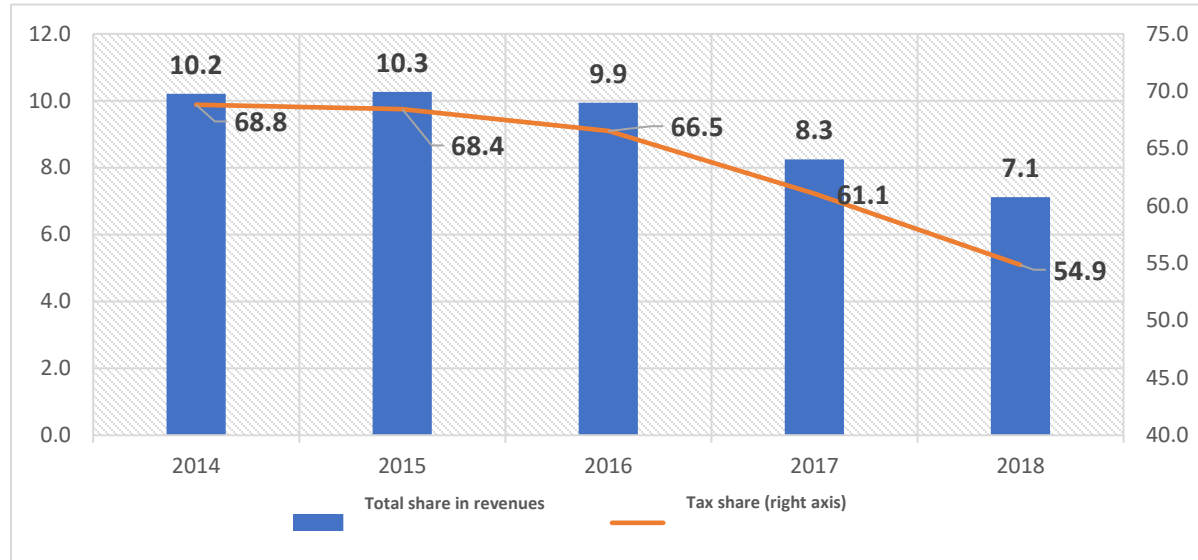
As a habit from the past, it is envisaged that certain areas within our cities are delineated as areas where alcohol is sold. However, our legislation already specifies where not to open businesses vending alcohol or public recreational and entertainment places. Moreover, delineating certain areas within the city as "areas where alcohol is sold" and seeking the opinion of the law enforcement separately after the delineation of such areas is rather burdensome both for the administration and for business owners. On top of that, treating all such businesses as entertainment venues would entail extreme restrictions. In this way, opening a coffeehouse and a pub would be subject to the same procedures, restrictions and sanctions.

3.8.4 Evaluations on business start-up fees

Business start-up fee is collected for one time only during the opening of the business. The fee collected cannot even cover the wages to be paid to the personnel who are employed by the municipality for that service. Moreover, businesses are subject to scrutiny by the municipality for the duration of their operation. For instance, 31 persons are employed under the Department of Licensing and Supervision of Çankaya Municipality. Whereas the municipality's revenues from the fees in 2018 was TRY 1,205,739, only the personnel expenditures for the same year were TRY 3,555,872. Within the municipality's total budget revenues of TRY 683,700,827 in 2018, the share of business start-up fees is only around 0.17%. Since fees are collected in return for a service, the municipality needs to be able to at least cover the expenses it makes for such service. In order for Çankaya Municipality to be able to cover its personnel expenditures, it needs to increase its fee revenues by at least threefold.

The share of municipal revenues from business start-up fees (between 2014-2018) within the municipal tax revenues and total revenues is illustrated in the chart below.

Chart 1: Share of Business Start-Up Fees within Total Municipal Revenues and Total Municipal Tax Revenues (2014-2018, per ten thousand)



Source: Ministry of Treasury and Finance, Budget of Local Administrations (March 2020)

The share of collected "Business Start-up Fees", which is among the municipal revenues from fees, within the total municipal tax revenues was 68 in ten thousand in 2014, while the share decreased down to 54.9 per ten thousand in 2018. In the same period, this share fell from 10.2 per ten thousand to 7.1 per ten thousand within the total municipal revenues. Since the amount of fee specified in the Law does not change, the rate falls back with each passing year and becomes a less cost-effective revenue item. As of 2018, the total amount of business start-up fees collected by municipalities fell below the 2016 level with TRY 79.4 million.

The main issue with business start-up license fees is that the lower and upper limits are set by Law and yet, it is actually impossible to set the fee on a municipality basis. For this, municipalities would need to be grouped every three years in terms of their social and economic development, municipal councils would need to determine the fee on a neighbourhood basis in accordance with the developmental status of their city, the relevant ministries would need to give their approval and the President would need to approve the transactions. Since it is actually impossible to determine a single fee rate through such a lengthy process with the involvement of numerous authorities, the rates set by municipal councils in 2013 with regard to the fixed tax and fee tariffs under the Law No. 2464 shall, in line with the Decree of the Council of Ministers No. 2014/5896 dated 10/2/2014, be implemented until a new Decree is issued by the Council of Ministers (Presidency). Therefore, since the level of fixed amounts was determined in 2005, the amended amounts within these amounts remained within the level amended in 2005.

The issue with the determination and updating of municipal fees stems from the provision "Taxes, fees, duties, and other such financial obligations shall be imposed, amended, or revoked by law. The President may be empowered to amend the percentages of exemption, exceptions and reductions in taxes, fees, duties and other such financial obligations, within the minimum and maximum limits prescribed by law." under Article 72 of the Constitution. In the past, the Constitutional Court uncompromisingly enforced this provision and allowed no flexibilities. However, the Court altered

its perspective upon its Resolution No 2013/55 dated 10.04.2013 whereby it stated that the determination by municipal councils of local taxes and tariffs within the limitations of the Law was consistent with the principle of a democratic government.

The process of setting the fee rate applicable for business and operating licenses is quite complicated and limitations introduced by Law are not congruous with present economic conditions. The share of business start-up permit fees collected by municipalities within the total of municipal revenues, as shown in Chart 1, is below one per thousand. This situation does not comply with taxation economy.

The current regulations do not take into consideration the quality of the businesses, whether they are sanitary in nature or if they require continued inspection. Also, the fee is one-off, limited only to the time of business set-up. Collection of one-off fees from places of business, which are not of significance regarding public health and safety can be reasonable. However, annual fees can be collected from businesses that have to remain under municipal scrutiny on a constant basis.

Municipal councils should be authorized to determine fees in view of the economic and social level of development of towns and districts. Also, the caps and lower thresholds introduced by Law can be annually updated in tandem with the level of inflation, which is similar to practices concerning other public revenues.

Business start-up fees can be increased up to 1.5 times or twice as much the current rate as long as there are no regulations for the closure of unlicensed sanitary businesses. Otherwise, many businesses would start-up without a license.

3.8.5 Evaluations regarding the Law on the Regulation of Retail Trade

Among the objectives of the Law No. 6585 on the Regulation of Retail Trade is the facilitation of start-up and commencement of operations of retail businesses.

According to this Law, business and operating license applications shall be submitted directly, via the PERBİS (Retail Information System), to the respective authority and business and operating licenses shall also be issued via the same system. Applications submitted directly shall be entered in the PERBİS system by the respective authority.

Applications deemed appropriate by the respective authority (municipality or the special provincial administration) during the preliminary assessment shall be forwarded in three working days and through the PERBİS system to respective authorities tasked and authorized to carry out registration and similar other functions regarding the start-up and operation of retail businesses. Once this is done, the submission of applications to respective authorities will be considered completed. Those authorities concerned shall carry out assessments as required in the respective legislation and in line with the principles laid down in the By-Law, information and documents required for the start-up and operations of the business concerned shall be entered in the PERBİS system and forwarded to respective authorities.

Business and operating licenses shall, then, be issued by respective authorities via the PERBİS system for retail businesses that satisfy conditions specified in legislation. Work regarding the replacement of licenses shall be carried out via the PERBİS system. However, the PERBİS system is yet to be established.

The By-Law Regarding the Principles and Rules Applicable to Retail Trade was published in the Official Gazette dated 6/8/2016 by the Ministry of Customs and Trade and the Law No. 6585 on Regulation of Retail Trade introduced significant amendments regarding the working hours of these businesses specified in this By-Law.

In line with Article 33 of the By-Law on Business and Operating Licenses opening and closing hours of public recreational and entertainment places shall be determined by the municipal council within municipal remit, and otherwise by the provincial assembly. The By-Law does not provide for other businesses.

However, in line with Article 13 of Law No. 6585 on Regulation of Retail Trade working hours of a part or entirety of retail businesses can be determined by the governor upon receipt of a common request by professional bodies as well as the opinion of the respective authority with a consideration for conditions specific to the profession and other conditions concerning profession, seasonality and tourism activities, etc. The Ministry shall be authorized to do the same on a regional basis or nationwide.

Working hours have also been regulated in Articles 13 and 15 of the By-Law Regarding the Principles and Rules Applicable to Retail Trade. Accordingly, while governors are authorized to determine the working hours and days for provinces and districts, the Ministry is authorized to determine the same at the national level. Giving governors or the Ministry the authority to determine the working days in the By-Law (secondary legislation) while such authority is not specified in the Law (primary legislation) may be contrary to the principle of legal certainty.

Those who act in violation of the working hours specified in Article 13 of the Law No. 6585 on Regulation of Retail Trade, an administrative fine of 1000 TRY shall be imposed, which shall double in case of recidivism within one calendar year. In cases where such offense has been committed by big shops, chain stores, dealers and authorized agencies the fine shall multiply by 20 and multiply by 50 in cases where the offender is a shopping mall (Art. 18). These fines determined by Law in 2016 shall be re-valued annually and accordingly increased, which shall be 1899 TRY for 2020. Fines shall increase exponentially upon recidivism.

Authorities tasked, such as municipalities or special provincial administrations shall also be authorized to enforce such administrative fines directly or as requested by the Ministry. Administrative fines imposed as per this Law shall be paid within one month from the date of notification (Art. 18).

Once the PERBiS system has been commissioned, this would also further expedite procedures concerning business and operating licenses, because business owners will not be required to submit applications to each respective authority separately. Following e-applications submitted to municipalities or to special provincial administrations, other authorities shall electronically forward the required documents, reducing the bureaucratic and financial burden of starting a business.

Law No. 6585 on Regulation of Retail Trade regulates issues pertaining to business (retail) start-up and operations. However, there is no link established between this Law and the Law No. 3572 on Business and Operating Licenses that provides for starting a business. Where, for instance, Law No. 3572 provides for no sanctions, whereas on the other hand, very severe sanctions have been provided for regarding retail traders. Law No. 6585 on Regulation of Retail Trade also sanctions

severe fines for such acts as misdemeanours. Fines applicable in the event of violation of working hours is one example.

3.8.6 Evaluation on Boosting Local Economic Development

License procedures can be used as a tool to promote new investment and entrepreneurship in the city. However, as evident on Table 1 on licenses, it is often necessary to obtain permits from several agencies to start a business. It is recommended to consider local licensing adequate for business operations, apart from those functional in such sectors as energy, oil and mining which need to be handled at the central level.

There are nation-wide activities conducted to improve investment climate. It is necessary to establish technical committee to work on permits for investment areas, environmental and zoning permits. However, there is no concrete activity to simplify the procedure for business licenses and merge and combine permits or licenses granted by several different agencies.

The Law No. 5996 on veterinary services, plant health, food and feed requires that a tea house or a grocery store selling food items or a restaurant has to obtain a business registration document from the Ministry of Agriculture and Forestry and they also have to obtain a business and operating license from the municipality in addition to the document from the Ministry. In addition, some further permits may need to be obtained about environmental or technical requirements depending on the size of the workplace. Each one of these licenses brings in a financial burden and causes a delay in starting a business. The rationality of requiring such licenses should be checked and unnecessary ones should be removed or merged. Some licenses issued by municipalities may be unnecessary. For instance, offices of lawyers and engineers/architects are exempt from business and operating license issued by municipalities.

Article 14 of the Law No. 5393 on Municipalities stipulates that municipalities are tasked with “developing economy and trade”, however the law does not grant them with any tool to fulfil this function. There are no details explained in the Law about how to develop economy and trade. In addition, zoning problems concerning previously constructed buildings are common in Turkey. The zoning legislation about licensing businesses in those places do not provide flexibility to municipalities. Similarly, municipalities are not granted with a power on fee for business start-up permit. This fee is charged depending on the size (m²) of businesses. The municipalities do not enjoy any power for the sectors that they want to incentivize or for new entrepreneurs. Strict regulation of such issues in the legislation ensures standardization in the country, but it undermines local initiatives.

Municipalities should be granted with the power to provide licenses to businesses to promote local economic development. The municipal council should be able to exempt businesses classified as “sanitary” which do not have any impact on public health and safety from business start-up permit fee and other relevant fees.

Reference List:

1. 210/2009. (IX. 29.) Government Decree on the conditions for the pursuit of commercial activities:
<https://net.jogtar.hu/jogszabaly?dbnum=1&docid=A0900210.KOR&cel=P%282%29p%28b%29&mahu=1&goto=7#xcel>
2. EntryPoint NL - <https://www.entrypoint.nl/updates/netherlands-license-permit-requirements-operating-dutch-companies-business-netherlands/>
3. INCO Business Group: <https://www.incobusinessgroup.com/apply-for-dutch-business-licence>
4. European Council 24/25 March 2011 Conclusions, available at:
https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/120296.pdf
5. Conclusions on the review of the "Small Business Act" for Europe, available at:
https://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/intm/122326.pdf
6. Directive 2006/123/EC of the European Parliament and of the Council of 12 December 2006 on services in the internal market, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0123&from=EN>
7. <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52002DC0441&from=en>
8. Report from the Commission to the Council and the European Parliament on the state of the internal market for services presented under the first stage of the Internal Market Strategy for Services, 2002, available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52002DC0441&from=en>
9. Lisbon European Council 23 and 24 march 2000 Presidency conclusions, 2000, available at:
https://www.europarl.europa.eu/summits/lis1_en.htm
10. Working together for growth and jobs A new start for the Lisbon Strategy, 2005, available at:
<https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2005:0024:FIN:EN:PDF>
11. Points of Single Contacts, https://ec.europa.eu/growth/single-market/services/services-directive/in-practice/contact_en
12. The Points of Single Contacts Charter, available at:
<https://ec.europa.eu/docsroom/documents/32701>
13. Single Market Scoreboard, available at: https://ec.europa.eu/internal_market/scoreboard/
14. Handbook on implementation of the Services Directive, 2008, p.17, available at:
<https://op.europa.eu/en/publication-detail/-/publication/a4987fe6-d74b-4f4f-8539-b80297d29715>

15. Council Recommendation of 12 July 2005 on the broad guidelines for the economic policies of the Member States and the Community (2005 to 2008) (2005/601/EC) <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32006L0123&from=EN>
16. Handbook on implementation of the Services Directive, 2008, p.18, available at: <https://op.europa.eu/en/publication-detail/-/publication/a4987fe6-d74b-4f4f-8539-b80297d29715>
17. Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, 2013, <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2012:0795:FIN:EN:PDF>
18. Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 37 https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structures_and_competences_2016_EN.pdf
19. Ease of Doing Business in Hungary, World Bank, Doing Business – Measuring Business Regulations, available at: https://www.doingbusiness.org/en/data/exploreconomies/hungary#DB_sb
20. Guide to Doing Business, Hungary, Lex Mundi, available at: https://www.lexmundi.com/lexmundi/Guides_To_Doing_Business.asp
21. 210/2009. (IX. 29.) Government Decree on the conditions for the pursuit of commercial activities: <https://net.jogtar.hu/jogszabaly?dbnum=1&docid=A0900210.KOR&cel=P%282%29p%28b%29&mahu=1&goto=7#xcel>
22. Company Formation, Hungary / Activities subject to licensing: https://company-formation-hungary.com/incorporation_process/activities_subject_to_licensing
23. Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 8-9 https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structures_and_competences_2016_EN.pdf
24. Ease of Doing Business in Austria, World Bank, Doing Business – Measuring Business Regulations, available at: https://www.doingbusiness.org/en/data/exploreconomies/austria#DB_sb
25. Guide to Doing Business, Austria, Lex Mundi, available at: https://www.lexmundi.com/lexmundi/Guides_To_Doing_Business.asp
26. Website of government of Austria, available at: <https://www.oesterreich.gv.at/lexicon/G/Seite.990069.html>

27. The Austrian Chamber of Commerce – WKO: <https://www.wko.at/service/wirtschaftsrecht-gewerberecht/gewerbeschein.html#>
28. Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 25
https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structures_and_competences_2016_EN.pdf
29. Ease of Doing Business in Estonia, Word Bank, Doing Business – Measuring Business Regulations, available at:
<https://www.doingbusiness.org/en/data/exploreeconomies/estonia>
30. Expat Legal Estonia, available at: <https://www.expatlegalestonia.com/single-post/2019/02/07/Does-your-business-in-Estonia-need-a-license-notification-of-economic-activity-or-just-a-company-registration>
31. Guide to Doing Business, Estonia, Lex Mundi, available at:
https://www.lexmundi.com/lexmundi/Guides_To_Doing_Business.asp
32. Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 59 - 60
https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structures_and_competences_2016_EN.pdf
33. Ease of Doing Business in Netherlands, Word Bank, Doing Business – Measuring Business Regulations, available at:
<https://www.doingbusiness.org/en/data/exploreeconomies/netherlands>
34. EntryPoint NL - <https://www.entrypoint.nl/updates/netherlands-license-permit-requirements-operating-dutch-companies-business-netherlands/>
35. INCO Business Group: <https://www.incobusinessgroup.com/apply-for-dutch-business-licence>
36. Government website on doing business in Netherlands, available at:
<https://business.gov.nl/regulation/advertising-tax/>
37. Business Licensing Reform: A Toolkit for Development Practitioners, Small and Medium Enterprise Department, The World Bank Group, November 2006, pg. 39-42, available at:
<http://documents.worldbank.org/curated/en/664561468779400537/pdf/391130LicensingBook01PUBLIC1.pdf>
38. Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 63-64
https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structures_and_competences_2016_EN.pdf

39. Ease of Doing Business in Poland, Word Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreeconomies/poland>
40. Business in Poland, available at: <https://www.biznes.gov.pl/en/firma/doing-business-in-poland/permits-to-operate-in-certain-industries/activities-requiring-licences-permits-and-entries-in-registers>
41. Central Register and Information on Economic Activity <https://www.biznes.gov.pl/en/firma/doing-business-in-poland/permits-to-operate-in-certain-industries/activities-requiring-licences-permits-and-entries-in-registers>
42. Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 49-50 https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structures_and_competences_2016_EN.pdf
43. Ease of Doing Business in Poland, Word Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreeconomies/latvia>
44. Guide to Doing Business, Latvia, Lex Mundi, available at: https://www.lexmundi.com/lexmundi/Guides_To_Doing_Business.asp
45. Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 75-76 https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structures_and_competences_2016_EN.pdf
46. Ease of Doing Business in Spain, Word Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreeconomies/spain>
47. Website of government of Spain, <http://www.paeelectronico.es/es-ES/CreaEmpresa/Paginas/PuestaMarcha.aspx>
48. Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 17-18 https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structures_and_competences_2016_EN.pdf
49. Ease of Doing Business in Spain, Word Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreeconomies/croatia>
50. Guide to Doing Business, Croatia, Lex Mundi, available at: https://www.lexmundi.com/lexmundi/Guides_To_Doing_Business.asp

51. Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 10-12 https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structures_and_competences_2016_EN.pdf
52. Ease of Doing Business in Belgium, Word Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreconomies/belgium>
53. Local and Regional Governments in Europe Structures and Competences, The Council of European Municipalities and Regions (CEMR), 2016, pg. 65-66 https://www.ccre.org/img/uploads/piecesjointe/filename/CEMR_structures_and_competences_2016_EN.pdf
54. Ease of Doing Business in Portugal, Word Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreconomies/portugal>
55. Guide to Doing Business, Portugal, Lex Mundi, available at: <https://www.lexmundi.com/Document.asp?DocID=5684>
56. Ease of Doing Business in Spain, Word Bank, Doing Business – Measuring Business Regulations, available at: <https://www.doingbusiness.org/en/data/exploreconomies/turkey>
57. Doing Business Report: Turkey is a Top Improver for First Time, with Record Business Reforms, press release, 31 October 2018, <https://www.worldbank.org/en/news/press-release/2018/10/31/doing-business-report-turkey-is-a-top-improver-for-first-time-with-record-business-reforms>
58. Evaluating national regulations on access to professions – frequently asked questions, https://ec.europa.eu/commission/presscorner/detail/en/MEMO_13_839
59. European Central Bank, <https://www.bankingsupervision.europa.eu/banking/tasks/authorisation/html/index.en.htm>
60. Regulation (EC) no 1008/2008 of the European Parliament and of the Council of 24 September 2008 on Common Rules for the operation of Air Services in the Community <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32008R1008>
61. European Union Aviation Safety Agency: <https://www.easa.europa.eu/>
62. Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:32018R1139>

Local Administration Reform Phase III (LAR Phase II) is funded by the European Union under Pre-Accession Financial Assistance. The beneficiary of the Project is the Republic of Turkey Ministry of Interior and Ministry of Environment and Urbanization. The Central Finance and Contracts Unit is the contracting authority of the Project. Technical assistance for the implementation of the Project is provided by the United Nations Development Programme. The content of this report does not reflect the official opinion of the European Union and UNDP. Responsibility for the information and views expressed in the report lies entirely with the authors.

