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Assessment of the Draft ETS Regulation and Implementation Principles

January 2026

The Draft Regulation on the Emissions Trading System (the "**Draft Regulation**"), published on July 22, 2025, by the Directorate of Climate Change (the "**Directorate**") under the Republic of Türkiye's Ministry of Environment, Urbanization and Climate Change , sets out a comprehensive framework regarding the monitoring and permitting of greenhouse gas emissions, the allocation of allowances, and the operation of emissions trading markets in Türkiye. The Draft Regulation details key elements such as the categorisation of facilities within its scope, emission permit procedures, monitoring and reporting obligations, allocation mechanisms, and applicable sanctions. For corporate entities, the obligations introduced by the Draft Regulation are directly related to the integration of the permit and reporting regime, allocation planning, and market participation strategies.

The Draft Regulation and related processes have been structured around January 2026, the date on which the obligations under the European Union's Carbon Border Adjustment Mechanism (CBAM) are set to enter into force and within this framework, the process is divided into two main phases. The first stage, the Pilot Phase, covers the years 2026 through 2027; while the objective during this period is to test the system and collect data, the obligation for companies to obtain an emissions permit has been waived via a provisional article, and companies will be deemed to have the emissions permit. The Implementation Phase, which denotes the period during which the Draft Regulation will be effectively implemented and principal obligations will enter into force, commences in 2028 and continues until 2035. As of 2028, the obligation to obtain emissions permits and market-based carbon pricing will officially begin for companies falling within the scope of Categories B and C as detailed below.

Scope and Facility Categories

The Draft Regulation classifies facilities into three categories based on their annual emission:

Category	Threshold (Annual Emissions)
Category A	≤ 50.000 tonnes CO^2(eq.)
Category B	> 50.000 tonnes and ≤ 500.000 tonnes CO^2(eq.)
Category C	> 500.000 tonnes CO^2(eq.)

The Emissions Trading System ("**ETS**") is only applicable to Category B and Category C facilities, and companies that operate such facilities are required to obtain a permit from the Directorate to carry out activities which produces greenhouse gas emissions.

The greenhouse gas emissions permit is regulated as a prerequisite to conduct activities that produce emissions, for companies covered by the ETS.

Permits must be obtained separately for each facility and if there are more than one facilities at the same address, a joint permit may be obtained. Permits are valid for a period of 5 years and must be renewed at least 6 months before they expire. From a corporate planning perspective, it is advisable to align permit durations and renewal cycles with production and investment schedules.

Permit Application and Cancellation Processes

The Draft Regulation focuses on procedural provisions, and that, clear and concrete criteria for determining whether a licence application will be approved or rejected are only clarified to a limited extend. Accordingly, permit applications are submitted electronically and must be accompanied by the application fee and the required documents. The evaluation period is 60 days and in the event that incomplete or incorrect information or documents are submitted, the applicant is granted an additional period of 3 months. If the deficiencies are not rectified, the application will be rejected.

Permits can be cancelled when the specified violations take place such as submission of false/misleading documents, cancellation of the business opening and working license, termination of the facilities or failure to fulfil the allowance surrender obligation for three consecutive years. In terms of corporate compliance, integrating document management and allowance surrender performance into internal control processes constitutes a critical risk mitigation step.

Monitoring, Reporting, and Verification

Companies are obliged to prepare a monitoring methodology plan and a greenhouse gas emissions monitoring plan upon obtaining an emissions permit. These plans must be submitted to the Directorate at least 6 months prior to the date on which monitoring of emissions commences, and the plans which are deemed unsuitable must be rectified within 60 days. Emissions must be monitored annually and reported by April 30th of the following year.

Within the scope of the Draft Regulation, the reporting obligation is regulated under two headings: (i) the greenhouse gas emissions report and (ii) the annual activity level report. The annual activity level report has been prepared in parallel with the structure of the European Union Emissions Trading System and aims to measure and document the total greenhouse gas emissions resulting from the companies' activities during the period. Reporting must be conducted in accordance with the principles of data integrity, methodological consistency, and verifiability.

The monitoring methodology plan establishes the principles regarding the methods to be followed in data collection and the conduct of measurement processes; whereas the greenhouse gas monitoring plan establishes the principles regarding the implementation of the methods through which emissions will be monitored and reported. Companies are responsible for preparing both plans and ensuring their mutual consistency.

Reports are submitted to the Directorate upon verification by independent, accredited entities. The annual activity level report is also submitted together with the emissions report. For corporate teams, the standardization of measurement infrastructure and ensuring calendar alignment with third-party verifiers prevent operational delays.

Allocation and Market Mechanisms

For each system year, a cap is determined on the total emissions within the scope of the ETS and announced through the National Allocation Plan. Allowances are issued through the Transaction Registry System which can be distributed to companies in the primary market either via auctioning or as free allocations.

Free allowances are granted by considering benchmarks and activity levels. Furthermore, by enabling the trading of allowances in the secondary market, market liquidity and flexibility are ensured. For large corporations, activity level optimization and alignment with benchmarks are essential to maximize the benefit of free allowances, whereas participation in the secondary market strengthens hedging and price discovery tools.

Additional Mechanisms and Flexibility Instruments

The Draft Regulation envisages flexibility mechanisms such as banking (carrying over unused allowances to subsequent years), borrowing (early use of allowances belonging to future years), and offsetting (use of carbon credits obtained from projects realized in Türkiye up to 10%). Reserve allocation for market stability and complementary carbon price practices have also been regulated. The coordination of flexibility instruments with the corporate carbon budget and allowance strategy facilitates the management of cash flow and compliance costs, whereas complementary price signals increase predictability in investment and procurement decisions.

Sanctions

Pursuant to Article 35 of the Draft Regulation, the Climate Law No. 7552 (the "**Climate Law**") stipulates various administrative fines and measures in the event of failure to fulfil obligations:

Activity	Fines	Detail
Enterprises without a Verified Annual Greenhouse Gas Emissions Report *(Climate Law Art. 14 (4) (b) (2))*	TRY 1,254,900 – TRY 12,549,000 administrative fine	Additionally, an additional fine of TRY 6 TL per 1 tonne of CO^2 may be applied.
Failure to submit emissions report *(Climate Law Art. 14 (1))*	TRY 627,450 – TRY 6,274,500 fine	For companies within the scope of ETS, the fine amount is applied as double.
Failure to surrender allowances *(Climate Law Art. 14 (4) (c))*	Administrative fine worth 2 times the average market price of the relevant year for each unsurrendered allowance	The fine is calculated based on each unsurrendered allowance (emission unit).
Recurring non-compliance *(Climate Law Art. 14 (4) (ç))*	Cancellation of permit and non-issuance of a new permit for a period of 3–6 months	Applied in case of failure to fulfil at least 80% of the allowance surrender obligation for three consecutive years.

An administrative fine of TRY 150,588 shall be imposed on project owners who fail to register national voluntary carbon market projects within the specified period, whereas a fine of TRY 213,333 shall be imposed on those who fail to fulfil the information/data provision obligations within the scope of the Climate Law or who make misleading declarations.

Within the framework of corporate compliance and risk management, the operational and financial impacts of the fines matrix must be evaluated jointly by the internal control, legal, and finance teams. The risk of recurring non-compliance must be managed proactively through allowance surrender performance indicators and early warning mechanisms.

Conclusion

With the Draft Regulation, introducing a detailed regulatory framework regarding the functioning of the carbon market in Türkiye is envisaged; therefore, it is of great importance for business to closely monitor compliance processes and be prepared for the new obligations. While the implementation principles are expected to be clarified upon the publication of the final regulations and secondary legislation, initiating permit and reporting preparations, as well as activating allowance and market strategies and internal control mechanisms at this stage, will provide companies with an advantage in terms of competitiveness and compliance costs.

GenTemizer is a Turkish law firm based in Istanbul, Türkiye. We advise various businesses in relation to their investments, M&A, competition law/antitrust, project financing and construction projects as well as on operational and dispute resolution matters in the context of the Turkish regulatory framework. We have also advised investors in relation to government sponsored privatisation projects.

We are listed in *Legal 500, IFLR1000* and *Chambers and Partners* as one of the leading law firms in Türkiye. Each of our partners have also been recognised as one of the leading lawyers in Türkiye. We understand and can meet the demanding requirements and innovative, responsive thinking required for an investment transaction in Türkiye.

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