

CHAPTER 4 FREE MOVEMENT OF CAPITAL

Priority 4.1 Continuing to remove restrictions affecting foreign direct investments originating from the EU

1 Schedule of legislative alignment

Table 4.1.1

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
1	Articles 56-60 of the EC Treaty	Amendment to the Law No. 3984 on the Establishment of Radio and Television Enterprises and Their Broadcasts ¹	Improvement of regulations restricting the activities of foreign real or legal persons in the sector.	Radio and Television Supreme Council	2010
2	Articles 56-60 of the EC Treaty	Amendment to the Law No. 3984 on the Establishment of Radio and Television Enterprises and Their Broadcasts ²	Removal of restrictions to foreign capital.	Radio and Television Supreme Council	³
3	Articles 56-60 of the EC Treaty	Article 35 of Land Registry Law No. 2644	Regulation of the acquisition of real estate in our country by foreigners within the framework of EU principles.	Ministry of Public Works and Settlement (General Directorate of Land Registry and Cadastre)	To be considered within the framework of full membership perspective.
4	Directive 88/361/EEC	Communiqué on Assets Covering the Technical Reserves of Insurance and Reinsurance Companies	Regulation of the rules and principles regarding disclosure of real estate in foreign countries and financial assets issued by foreign countries and financial assets traded in the stock exchange of foreign country markets that are subject to rating.	Undersecretariat of Treasury	2009

¹ It is also mentioned under the “10.2 Continuing alignment of legislation in the field of audio-visual policy, in particular with regard to the Television without Frontiers directive”

² It is also mentioned under the “10.2 Continuing alignment of legislation in the field of audio-visual policy, in particular with regard to the Television without Frontiers directive”

³ Required arrangements for legislative alignment will be made two years prior to membership and enter into force upon accession.

Table 4.1.1 (Continued)

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
5	Directive 88/361/EEC	Law Amending the Insurance Law ⁴	Harmonization with rules such as the EU passport and Home Member State supervision.	Undersecretariat of Treasury	⁵
6	Directive 88/361/EEC	Implementing Regulation Amending the Implementing Regulation on the Establishment and Operation Principles of Insurance and Reinsurance Companies ⁶	Harmonization with rules such as the EU passport and Home Member State supervision.	Undersecretariat of Treasury	⁷
7	Directive 88/361/EEC	Decision of Council of Ministers on the Operation of Foreign Insurance and Reinsurance Companies in Turkey ⁸	Harmonization with rules such as the EU passport and Home Member State supervision.	Undersecretariat of Treasury	⁹
8	Directive No. 88/361/EEC	Amendment to the Electricity Market Law No. 4628	Removal of restriction imposed on foreign capital.	Ministry of Energy and Natural Resources, Privatization Administration, Undersecretariat of Treasury	¹⁰

⁴ It is also mentioned under the “Priority 9.1 Continuing alignment with the new capital requirements for credit institutions and investment firms and with the other related directives (deposit guarantee scheme, winding up and reorganisation, financial conglomerates, bank accounts)”.

⁵ Required arrangements for legislative alignment will be made two years prior to membership and enter into force upon accession.

⁶ It is also mentioned under the “Priority 9.1 Continuing alignment with the new capital requirements for credit institutions and investment firms and with the other related directives (deposit guarantee scheme, winding up and reorganisation, financial conglomerates, bank accounts)”.

⁷ Required arrangements for legislative alignment will be made two years prior to membership and enter into force upon accession.

⁸ It is also mentioned under the “Priority 9.1 Continuing alignment with the new capital requirements for credit institutions and investment firms and with the other related directives (deposit guarantee scheme, winding up and reorganisation, financial conglomerates, bank accounts)”.

⁹ Required arrangements for legislative alignment will be made two years prior to membership and enter into force upon accession.

¹⁰ Required arrangements for legislative alignment will be made two years prior to membership and enter into force upon accession.

Table 4.1.1 (Continued)

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
9	Directive No. 88/361/EEC	Implementing Regulation on Airports Ground handling (SHY-22) ¹¹	Annulment of the limitation that the majority of those who administrate and represent the ground handling service providers, which will get Group A (for providing all or compulsory ground handling services) or Group C Licenses (for providing un compulsory ground handling services), must be Turkish citizen and in the main contract of the company, majority of the votes must be held by the Turkish shareholders.	Directorate General of Civil Aviation	2009
10	Directive No. 88/361/EEC	Law Amending the Decree Law No. 91 on Stock Exchanges ¹²	Removal of restrictions to capital movements in relation to the listing of foreign securities.	Capital Markets Board	2009-2010
11	Directive No. 88/361/EEC	Amendment to the Implementing Regulation on the Establishment and Working Principles of Stock Exchanges ¹³	Removal of restrictions to foreign capital movements in relation to the listing of foreign securities.	Capital Markets Board	2010
12	Directive No. 88/361/EEC	Amendment to the Implementing Regulation on the Istanbul Stock Exchange Listing Regulation ¹⁴	Removal of restrictions to capital movements in relation to the listing of foreign securities.	Capital Markets Board	2009

¹¹ It is also mentioned under the “Priority 14.3 In the field of aviation, working towards a technical solution to ensure the necessary communication in order to guarantee the appropriate level of air safety in the South Eastern Mediterranean region. Engagement in a process towards the recognition of "Community designation" and providing a clear strategy for the progressive alignment to the acquis on the Single European Sky. Alignment with, and implement, the relevant provisions and specificities of the European Civil Aviation Conference's policy statement in the field of civil aviation security”

¹² It is also mentioned under the “Priority 9.2 Strengthening prudential and supervisory standards both in banking and in the non-bank financial sector including establishment of an independent regulatory and supervisory authority”.

¹³ It is also mentioned under the “Priority 9.2 Strengthening prudential and supervisory standards both in banking and in the non-bank financial sector including establishment of an independent regulatory and supervisory authority”.

¹⁴ It is also mentioned under the “Priority 9.2 Strengthening prudential and supervisory standards both in banking and in the non-bank financial sector including establishment of an independent regulatory and supervisory authority”.

Table 4.1.1 (Continued)

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
13	Directive No. 88/361/EEC	Amendment to the Communiqué Series III No. 20 on the Registration and Sale of Foreign Capital Market Instruments	<p>Removal of restrictions to capital movements in relation to the issue and sale of foreign capital market instruments.</p> <p>In cases where the relevant EU legislation includes provisions that can only be implemented upon full membership, such as provisions based on the single passport principle, alignment shall be achieved by taking into account reciprocity and third country rules. In cases where amendments create an undue burden on markets, programs and transition periods shall be adopted for the gradual completion of amendments. It is planned to achieve full alignment in this context one year prior to full membership with the related provisions entering into force upon full membership.</p>	Capital Markets Board	¹⁵

¹⁵ Required arrangements for legislative alignment will be made two years prior to membership and enter into force upon accession.

Table 4.1.1 (Continued)

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
14	Directive No. 88/361/EEC	Amendment to the Communiqué Series VII No. 14 on the Registration and Sale of Foreign Mutual Fund Certificates of Participation	<p>Removal of restrictions to capital movements in relation to the issue and sale of foreign investment fund shares.</p> <p>In cases where the relevant EU legislation includes provisions that can only be implemented upon full membership, such as provisions based on the single passport principle, alignment shall be achieved by taking into account reciprocity and third country rules. In cases where amendments create an undue burden on markets, programs and transition periods shall be adopted for the gradual completion of amendments. It is planned to achieve full alignment in this context one year prior to full membership with the related provisions entering into force upon full membership.</p>	Capital Markets Board	16
15	Directive No. 88/361/EEC	Amendment to the Communiqué Series V No. 46 on Regarding Principles on Intermediary Activities and Intermediary Institutions	<p>Removal of restrictions to capital movements in relation to the establishment of branches by foreign intermediary institutions.</p> <p>Amendments in relation to the removal of the limits on the number of brokerage houses shall be made by taking into account their effects on the markets. Alignment with regard to, single passport rules that allow institutions to establish branches within the Community upon the authorisation by their Home Member States, alignment shall be achieved by taking into account reciprocity and third country rules. It is planned to achieve full alignment in this context one year prior to full membership with the related provisions entering into force upon full membership.</p>	Capital Markets Board	17

¹⁶ Required arrangements for legislative alignment will be made two years prior to membership and enter into force upon accession.

¹⁷ Required arrangements for legislative alignment will be made two years prior to membership and enter into force upon accession.

2 Schedule of institutional capacity building requirements necessary for legislative approximation and implementation

No institutional capacity building requirement is envisaged under this priority at this stage.

3 Financial requirements and resources

No financial requirement is envisaged under this priority at this stage.

Priority 4.2 Starting to align payment systems legislation with the acquis

1 Schedule of legislative alignment

Table 4.2.1

No	EU legislation in force	Draft Turkish legislation	Scope	Institution in charge	Publication date
1	Regulation No. 2560/2001 Directive No. 97/5/EC and No. 2007/64/EC	Payment Systems Law ¹⁸	Providing refund guarantee in the event of non-execution of transfers by the institutions involved in the execution of a cross-border credit transfer, equalization of domestic and foreign transfer fees for cross-border Euro payments and determination of rules and procedures related to payment services and payment institutions.	Central Bank of the Republic of Turkey	2009-2011 ¹⁹
2	Regulation No. 2560/2001 Directive No. 97/5/EC and No. 2007/64/EC	Legislation on Payment Systems	Providing refund guarantee in the event of non-execution of transfers by the institutions involved in the execution of a cross-border credit transfer, equalization of domestic and foreign transfer fees for cross-border Euro payments and determination of rules and procedures related to payment services and payment institutions.	Central Bank of the Republic of Turkey	2009-2011

2 Schedule of institutional capacity building requirements necessary for legislative approximation and implementation

No institutional capacity building requirement is envisaged under this priority at this stage.

3 Financial requirements and resources

No financial requirement is envisaged under this priority at this stage.

¹⁸ It is also mentioned under the “Priority 9.1 Continuing alignment with the new capital requirements for credit institutions and investment firms and with the other related directives (deposit guarantee scheme, winding up and reorganisation, financial conglomerates, bank accounts)”.

¹⁹ Harmonization with the EU legislation will be ensured within the framework of full membership perspective and implementation will be started upon accession.