

COUNTRY REPORT: TURKEY

Turkey's Climate Change Dilemma

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Introduction: Turkey's Global Climate Change Position

Turkey has a special position in the global climate change regime, which in turn influences Turkey's climate change law and policy. This country report begins by considering Turkey's position in the global climate change regime.

When the *United Nations Framework Convention on Climate Change*¹ (UNFCCC) was established, Turkey was included in Annex I and Annex II. Annex I lists developed countries and economies in transition (EIT). Annex II lists the 24 Organisation for Economic Co-operation and Development (OECD) countries required to provide financial and technical support to economies in transition (EIT) and developing countries. Developing countries are not listed and are referred to as non-Annex I parties. Turkey objected to being listed as an Annex I or II party. It refused to sign the treaty and failed in its attempts to be removed from both Annexes. One of Turkey's main arguments in relation to the listings was that Turkey was neither a fully developed country nor a country in economic transition.²

In 2000, Turkey changed its policy and sought to be removed from Annex II while remaining on Annex I (with special circumstances). The Conference of the Parties (COP) accepted this approach in 2001³ but the term 'special circumstances' remains undefined.⁴ Although Turkey

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¹ 1771 UNTS 107.

² See the Statement of Nursel Berberoglu Head of Department, Permanent Mission of Turkey to the UN, New York, 1 August 2007: <http://www.un.org/ga/president/61/follow-up/climatechange/statements/statementTurkey.pdf>.

³ The COP is the supreme decision-making body of the Convention. All States that are Parties to the Convention are represented at the COP: <http://unfccc.int/bodies/items/6241.php>; UNFCCC, Report of the Conference of the Parties on its Seventh Session, held in Marrakesh from 29 October to 10 November 2001, FCCC/CP/2001/13, 26/CP.7.

became a party to the UNFCCC in 2004 it maintains an expectation that the Annexes will be re-categorised on the basis of state social and economic levels.⁵ Turkey became a party to the Kyoto Protocol⁶ in 2009, but is not yet subject to emission reduction or limitation obligations.

The above provides a brief outline of Turkey's problematic position in the global climate change regime. The following section considers the domestic legal framework for climate change actions in Turkey.

Turkish Climate Change Legal Framework

Turkish Climate Change Administration

In Turkey, the Ministry of Environment and Urbanization is responsible for climate change action at the administrative level. In 2011, the Cabinet adopted a new Decree on the organization and functions of the Ministry.⁷ According to the Decree, the Ministry should take measures to combat global climate change and implement climate change plans and policies.⁸ The Decree requires the General Directorate of Environmental Management, a division of the Ministry, to coordinate with other institutions in the implementation of climate change and ozone depletion plans and strategies.⁹

The Turkish government established the Climate Change Coordination Committee in 2010 for the purpose of enabling the wider participation of government agencies in the development and implementation of climate change measures.¹⁰ In 2013, the Committee was reorganized and rebranded as the Climate Change and Air Management Cooperation Committee.¹¹ Most importantly, the 2013 restructure opened Committee participation to private organizations in addition to government agencies such as the Union of Chambers and Commodity Exchanges and the Industry and Business Association.¹² The Committee meets at least once a year. Its main purpose is to coordinate the implementation of climate

⁴ Even though the term is undefined, it may be interpreted that Turkey is in a position different from the other Annex I countries and follows the typical pattern of developing countries. For further information: UNFCCC, Technical Paper, FCCC/TP/2013/3, 30 May 2013.

⁵ UNFCCC, Submission by Turkey on Work Stream 1 of ADP, 29 August 2013.

⁶ 2303 UNTS 148.

⁷ Decree no. 644, 29 June 2011, Official Gazette, n. 27984, 4 July 2011.

⁸ Ibid Article 2.

⁹ Ibid Article 8.

¹⁰ Circular 2010/18, Official Gazette, n. 27676, 18 August 2010.

¹¹ Circular 2013/11, Official Gazette, n. 28788, 7 October 2013.

¹² Ibid.

change actions. The Committee may invite universities and other public entities to participate in meetings.

Turkish Climate Change Laws

Unfortunately, Turkish law contains no clear references to climate change. However, some existing laws can be interpreted in support of climate change actions. First of all, the *Constitution of Turkey* states that ‘everyone has the right to live in a healthy, balanced environment’. It further provides that it is the duty of the State and citizens to improve the natural environment and prevent environmental pollution.¹³

Turkey’s *Environment Law* is the nation’s most important tool in terms of environmental protection.¹⁴ The *Environment Law* was adopted in 1983 and amended in 2006. Despite the law being the most important in regards to environmental protection, only one provision refers directly to climate change. The provision concerns the State’s right to approve climate change action budgets.¹⁵ It is possible to apply other provisions to climate change actions. For example, article 3 states that sustainable development is a principle of Turkish law and that decision-makers should take environmental protection into account when making environmental decisions. Article 9 provides for biodiversity, wetland, and natural resource protection. While it does not specifically mention climate change, conservation measures might double as climate change actions. Although the *Environment Law* was amended in 2006 when Turkey was not a party to the Kyoto Protocol, it is clear that necessary references to climate change should be included in the *Environment Law*.

Climate Change and Energy

A 2007 UNFCCC report noted that Turkey had the lowest per capita primary energy consumption and the lowest per capita greenhouse gas emission rate of all Annex I countries.¹⁶ In 2013, Turkey reported one of the highest global increases in greenhouse gas emissions. Recent data shows an increase of 118 percent in greenhouse gas emissions since 1990.¹⁷ This reflects the 171 percent increase in Turkey’s Gross Domestic Product

¹³ Constitution of Turkey, Article 56.

¹⁴ *Turkish Environment Law*, Law n. 2886, 11 August 1983.

¹⁵ Ibid Article 17.

¹⁶ UNFCCC, Report of the In-Depth Review of the First National Communication of Turkey, 3 December 2009, FCCC/IDR.1/TUR, para. 89.

¹⁷ See, http://unfccc.int/files/inc/graphics/jpeg/total_incl_2013.jpg.

since 1990.¹⁸ The increased emissions associated with economic growth would make it almost impossible for Turkey to meet Kyoto Protocol emission reduction obligations as measured against 1990 levels.

Energy is the main contributor to greenhouse gas emissions in Turkey.¹⁹ The energy sector produces 71 percent of all of Turkish greenhouse gas emissions.²⁰ The demand for energy in Turkey has steadily increased in over the last 10 years with energy consumption during this time nearly doubling.²¹ To cope with the demand, Turkey has become a huge importer of energy from neighboring countries. Indeed, more than half of all Turkish energy consumption is based on imported energy, the main import being natural gas.²² Turkey's search for alternative sources of energy has led to investments in both nuclear and renewable energy.

Turkey began to liberalize the energy industry in the early 2000s with the introduction of the *Electricity Market Law* 2001. This law promoted private entities in the electricity market.²³ The 2013 amendments²⁴ allow private entities or persons to establish limited renewable energy facilities without a license if the power generation is less than one megawatt or production does not exceed consumption in a particular project.²⁵

The *Law on Renewable Energy* 2005, as amended in 2011,²⁶ seeks to support the expansion of renewable energy sources for the purpose of providing safe and economical electricity and reducing greenhouse gas emissions. Specified renewable sources include hydraulic, wind, solar, geothermal, biomass, biomass gas, wave, tidal stream and other non-fossil energy sources.²⁷ The 2011 amendments raise the guaranteed prices of renewable energy for certificated holders and private companies'.²⁸ In addition, the amendments create incentives for renewable energy providers such as license, tax and manufacturing discounts

¹⁸ See, <http://stats.oecd.org/index.aspx?queryid=558#>.

¹⁹ International Energy Agency, IEA Energy Statistics, Share of Total Primary Energy Supply in 2009, See, http://www.iea.org/stats/pdf_graphs/TRTPESPI.pdf.

²⁰ Turkish Statistical Institute Greenhouse Gas Emissions Inventory, 1990-2011. Available at: <http://www.turkstat.gov.tr/PreHaberBultenleri.do?id=13482> .

²¹ See http://www.eie.gov.tr/document/elektrik_uretim_kaynaklar_2002_2012.pdf.

²² International Energy Agency, 2011 Energy Indicators for Turkey, See: <http://www.iea.org/statistics/statisticssearch/report/?&country=TURKEY&year=2011&product=Indicators>.

²³ *Electricity Market Law*, Law n. 4628, 20 February 2001.

²⁴ *Electricity Market Law*, Law n. 6446, 14 March 2013.

²⁵ Ibid Article 14(1).

²⁶ Law on the Use of Renewable Energy Resources in Order to Generate Electricity, Law n. 5346, 18 May 2005, Amendments made in 8 January 2011.

²⁷ Ibid Article 2.

²⁸ Ibid Annex I.

and exemptions.²⁹ However, the *Law on Renewable Energy* limits the production of solar power to a total of 600 megawatts until 31 December 2013.³⁰

The effectiveness of these laws is debatable. A matter of contention is that the increase in renewable energies is mostly due to an increase in hydroelectricity power.³¹ The hydroelectricity controversy is discussed below.

Renewable Energy Projects and Environmental Impact Assessments in Turkey

Environmental Impact Assessments (EIAs) are directly linked to renewable energy production in Turkey. *Environment Law* article 10 states that 'institutions, agencies and establishments that can lead to environmental issues due to their planned activities will prepare an EIA'. EIAs must consider 'all impacts on the environment and the methods for eliminating...harmful impacts...'.³²

Turkey adopted the *EIA Regulation* in 1993.³³ The *Regulation* has been revised five times with the last revision taking effect in October 2013.³⁴ The *Regulation* specifies projects as EIA required or not required, and then either EIA positive or negative.³⁵ Certain projects are listed as EIA required.³⁶ After an EIA is conducted the project documents are examined by the Ministry of Environment and Urbanization. The project is then deemed allowed (EIA positive) or not (EIA negative). For projects, the requirement for an EIA is determined on a case-by-case basis.³⁷ The case-by-case approach has caused much controversy over the last decade, particularly with regards to hydroelectric power plants. This is because the *Regulation* does not automatically require an EIA for hydroelectric power plants with less than 25 megawatt capacity.³⁸ Further, the case-by-case approach fails to take into account the cumulative impact of other projects in the same river basin and thus fails to consider the total harm that may be caused to ecosystems by many small-sized power plants.

²⁹ Ibid Article 6 (B).

³⁰ Ibid Article 6 (C).

³¹ Turkish Electricity Transmission Corporation, Annual Report: 2012, p. 13. Available at: <http://www.teias.gov.tr/FaaliyetRaporlari/Faaliyet2012/TEIASfaayilet2012INGLIZCE.pdf>

³² Turkish Environment Law, Article 10.

³³ Official Gazette, Regulation n. 21489, 7 February 1993.

³⁴ Official Gazette, Regulation n. 28784, 3 October 2013.

³⁵ Ibid Article 5.

³⁶ Ibid Annex I.

³⁷ Ibid Annex II.

³⁸ Ibid Annex II (46).

Since the first *Regulation* came into force, the EIA process has been heavily criticized by the public due to its apparent ineffectiveness. According to Ministry of Environment and Urbanization data, only 32 EIA reports were rejected between 1993 and 2012. Just as concerning is the fact that 39,649 projects out of 42,994 were not required to undertake an EIA.³⁹ One reason for the latter fact may be that the *Regulation* exempts projects started before production or operation before 1993 from the EIA requirement.⁴⁰ Similar exemptions apply to public projects that entered the tender, production or operation phase before 1997.⁴¹ Many developers attempt to use these provisions to avoid EIA requirements. However, this has created controversy in national courts and many judicial decisions contradict the Ministry's pro-development approach.⁴²

Climate Change Policy

Turkey's *National Climate Action Plan*⁴³ sets different targets for different sectors such as energy, transportation, industry, waste, agriculture and forestry. The Plan does not stipulate any national emission reduction goals and all targets are non-binding. Some of the most noted targets include:

- increased use of renewables in the energy sector
- adoption of new laws regarding energy efficiency
- promotion of recycling
- establishment of a Turkish Carbon Market by 2015
- 100 percent increase in energy efficiency incentives by 2015
- decrease the increase rate of GHG emissions originating from vegetal and animal production
- integration of adaptation to climate change into national development plans, programs and policies
- making legal arrangements and building capacity to increase use of alternative fuels and clean vehicles until 2023
- 18 percent reduction in highway passenger transport by 2023

³⁹ See, <http://www.csb.gov.tr/db/ced/webicerik/webicerik557.pdf>.

⁴⁰ Supra n 29, Provisional Article 3.

⁴¹ Ibid Provisional Article 2.

⁴² Some examples: Council of State; Plenary Session of the Administrative Chamber, Case n. 2008/1393, 7 May 2009 and Case n. 2008/1490, 7 May 2009, Tenth Chamber, Case n. 2002/2180, Fourteenth Chamber, Case n. 2011/15596, Sixth Chamber, Case n. 2010/3901.

⁴³ Ministry of Environment and Urbanization, *National Climate Action Plan*, 2011-2023. For further information, See: http://www.iklim.cob.gov.tr/iklim/Files/İDEP/İDEP_ENG.pdf.

- 20 percent decrease in deforestation by 2023
- 15 percent increase in carbon stocks by reforestation by 2023⁴⁴

Conclusion

Turkey's climate change framework is problematic, both globally and domestically. A major concern is that Turkey does not have any national reduction targets. Although reduction targets based on 1990 levels would be difficult to achieve, any target would be better than none. Another concern is the lack of specific climate change legislation. The increasing demand for energy in Turkey requires a sustainable energy management strategy. Such a strategy is thwarted by the limit on solar energy production and an irrational focus on hydroelectricity. The controversy surrounding hydroelectricity production in Turkey might be somewhat alleviated by the adoption of more transparent and accountable EIA decision-making procedure.

⁴⁴ Ibid pp.15-19.