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**NOTION OF INDEPENDENT CONSUMER
IN THE LAW OF NATURAL GAS MARKET**

Selim DüNDAR

Attorney-at-Law, LL.M.

DÜNDAR · SIR | LAW OFFICE

Kasap Sokak Eser-A Blok No:16 Kat:7 34394, Esentepe/İstanbul
T: +90 212 211 7878 F: +90 212 211 78 80 W: www.dundarsir.com

One of the primary purposes of the Law of Natural Gas Market (Law No. 4646, published in the Official Gazette dated May 2, 2001 and numbered 24390) (the “**Law**”) is the improvement of the competition through constitution of a free market structure. With this view, the Law and certain regulations remove the obligation for some consumers to buy the natural gas from the distribution company active in their region and grant them the right to choose their own supplier (and negotiate the supply price). With this, the way is paved for free competition. Such consumers are defined as independent consumers in the legal framework.

Independent consumer as per the Law, the Regulation on Distribution and Customer Services in Natural Gas Market (published in the Official Gazette dated November 3, 2002 and numbered 24925) and the Regulation on Natural Gas Market Licenses (published in the Official Gazette dated September 7, 2002 and numbered 23869) is indicated as: a real person or a legal entity who has the freedom to execute a natural gas sale-purchase agreement in Turkey with any production, import, distribution or wholesale company. Meanwhile, as per the Law and regulations, the non-independent consumers (subscribers) have to buy the natural gas from the distribution companies who have a distribution license in the region they are located.

The consumers with the status of an independent consumer is divided into 4 (four) main groups:

- **Domestic (i.e. House) Consumers With More Consumption Than the Amount Set Forth by the Energy Market Regulatory Council (the “Council”)**

For a subscriber consuming natural gas for domestic (i.e. house) purposes to gain the status of an independent consumer, his/her/its level consumption should be over 75.000 m³ per year. It is observed that the Law actually gives this limit as 1,000,000 m³ per year; however, the Council (with the Council Decision dated December 18, 2014 and numbered 5362) has decreased the limit down to 75.000 m³. The Council, with this decision, has taken into account the fact that only very few numbers of subscribers consuming natural gas with domestic purposes gained the status of independent consumer from among a number of almost ten million subscribers and wanted to increase this ratio. In the long run, it is expected for this limit to be nullified by the Council with a view to have free competition all over the natural gas market and in accordance with the laws for harmonization with the *acquis* of the European Union.

- **Production Companies Producing Natural Gas in Turkey for Use in Manufacturing Activities**
- **Companies Buying Gas for Electrical Energy Generation**

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Such facilities which are under the class of thermal plants and which are also known as natural gas cycle plants, are the facilities which produce electrical energy from natural gas. When it is considered that these facilities use natural gas as raw material for electricity generation, it is a sectoral necessity for them to be classified as independent consumers. T

- **Cogeneration Facilities Generating Electrical and Thermal Energy**

Cogeneration facilities are the facilities where the electrical and thermal energy are generated together through burning of fuels such as diesel, LPG, natural gas, bio-gas, landfill gas in an engine or turbine. For this reason, they are accepted as independent consumers just like the cycle plants notwithstanding their consumption levels.

The Law includes provisions promoting and protecting the rights of the consumers (apart from the above-mentioned rights to choose the supplier and negotiate the natural gas price per m³) who qualify as independent consumers. For example, the legal entities who are involved in natural gas market activity are obliged to assess the applications by the independent consumers who requests for entry into their system. It is impossible for such entities to reject the consumer in an arbitrary manner. For rejection to take place, it is necessary for these entities to have situations such as not having sufficient capacity or not being able to execute their obligations in case of entry into system by an independent consumer or having the possibility of facing serious financial and economic compensation burdens due to their actual agreements.

Security deposit exception provided to the independent consumers is another example. As a matter of fact, the distribution companies may ask for security deposit from the subscribers using mechanical counters, at the time of execution of the subscription agreement, in order to guarantee their receivables. Whether a security deposit would be taken from independent consumers or not and its conditions would be freely determined within the agreements executed with the independent consumers. By this, an independent consumer may be paying less security deposit comparing to the subscribers or even none.

As a result and at this point, only the consumers having the conditions set forth by Law can procure natural gas for cheaper through creating price advance via mutual agreements to be executed with the supplier of their own choice and they would assess the performance of the supplier at the end of the agreement duration. Accordingly, it would be possible for the consumer to determine the most appropriate agreement and supplier for himself/herself/itself. With the nullification of the above-referred consumption limit, this right will be valid for all consumers.