

## **TURKEY’S LEGISLATIVE CONFORMITY WITH EUROPEAN UNION ENVIRONMENTAL IMPACT ASSESSMENT(EIA) DIRECTIVE: An Investigation on Amendments in the Regulations About Projects Subject to EIA**

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### **ABSTRACT**

The main purpose of this study is to determine the amendments of Environmental Impact Assessment(EIA) regulations both in Turkey and in the European Union(EU) to analyze the conformity of regulations and to reveal the differences between projects and project capacities that subject to EIA by the laws. In this context, the study will examine the entire regulations enacted at both legal systems and will determine the quantity and features of the amendment made in regulations in Turkey. After the amendments made in the regulations in Turkey are determined, the study will analyze how many of them are in conformity with the EU Directive and will try to strategize the steps that should be taken by Turkey in EIA which is one of the horizontal topics of the environmental issues covered by negotiations.

**Keywords:** EIA, Environmental Impact Assessment, European Union, Turkey

### **1. INTRODUCTION**

The industrialization process has gained momentum with major developments in technology over the 20<sup>th</sup> century and has become the most important economic activity for countries to rank high in the global competition. In addition to the increase in population of urban areas during the period of transition from agricultural society to industrial society, this competition has led to unplanned and rapid development in order to provide the raw materials, labor and market needs of the industry in the most

efficient and easiest way. On the other hand, in the middle of the 20<sup>th</sup> century, developed countries have suggested that unplanned development has polluted and consumed natural resources as well as it has harmed their sustainability. This idea was the basis for the transition from the “react and cure” approach to the “anticipate and prevent” approach and EIA studies have become one of the most important tools for sustainable development.

The first environment-based legislations have emerged in economically developed countries. With the enactment of the National Environmental Policy Act (NEPA) in 1970, the United States became the first country that enacts the EIA. Since the entry into force of the NEPA, various EIA laws and policies have been adopted but the regime established by NEPA is one of the most comprehensive ones in addition to being the most compatible system of implementation principles defined by the International Agency for the Evaluation of Impact (IAIA)<sup>[1]</sup>. This first regulation enforced a wealth of experience that other countries could benefit from. However, the adoption process of these legislations prepared by the countries who have concentrated their economic activities on the service sector has not been equally easy for developing countries that are industry-oriented. In that sense, environment and natural resources have been treated as easily sacrificeable for development in these countries for a long time.

EIA became mandatory for European countries with the adoption of the Directive (85/337/EEC) in 1985. With the experience gained on the global level, legislations have inevitably changed in time. The Directive issued by European Union was amended three, was codified in 2011 and was amended again in 2014. All of these directives include two lists that determine whether or not the activity is subject to EIA process: Annex-I and Annex-II. All projects listed in Annex-I require an EIA due to their significant effects on the environment. This annex is mandatory. Annex-II lists the projects that are left to member states' discretion. In this screening process the national authorities decide whether or not EIA is need for these projects on the basis of thresholds, capacities, criteria or a case by case examination <sup>[2]</sup>.

In Turkey, the practice has been frequently exposed to political repression. On the other hand, environmental issues and EIA that need to be re-regulated in the EU membership process has been at the forefront of country agenda of Turkey. With the need of re-regulation, the existing regulation enacted in 1993 has been amended 6 times and changed 11 times. While a great majority of these revisions have been made to conform with EU legislations, the efforts to provide great convenience and flexibility to investors have led to taking step backs as well as positive developments on related legislation.

This study aims to determine how many of the arrangements were made in order to provide conformity with the EU Directive (hereinafter referred to the Directive) by examining all of the EIA regulations in Turkey (hereinafter referred to regulation). The study will reveal the characteristics of the arrangements made via examining articles added, arrangements on existing articles, extracted articles and changes to the

lists of articles included for each regulations and amendments. The positive and negative sides of each regulation will be revealed and a strategy for the future will be established.

## **2. CONFORMITY ANALYZES OF ENVIRONMENTAL IMPACT ASSESSMENT REGULATIONS IN TURKEY WITH EUROPEAN UNION DIRECTIVE**

### ***2.1. EIA Regulation dated 07.02.1993<sup>[3]</sup>***

This regulation which is the first legal regulation regards EIA in Turkey entered into force in 1993, ten years later the enactment of the Environmental Law which first discusses EIA. It is important in terms of forming a basis for the EIA legislation which is up to date in Turkey. The regulation comprehensively defines the environment and discuss it in an integrated manner. This regulation which contains fewer articles compared to others has a simple process and a narrow scope.

This regulation has two different EIA processes: EIA preliminary process and EIA. Activities are divided by sectors via “listing” method to determine what process the projects will be involved in. Although it is seen in some project types, the method of classifying activities according to capacities is not yet actively used in this regulation. Annex-I includes 31 articles, Annex-III contains 8 articles and both are detailed with sub-articles. For preliminary research studies a checklist and an evaluation chart are prepared for the activities listed in Annex-III. This list can be made by the owners as well as by the institutions that received “certificate of competency”. As a result of preliminary survey decision of “environmental impacts are important” or “environmental impacts are insignificant” is given for the activity/project. While it is mandatory to prepare the EIA report for the first group, there is no requirement for the EIA report unless decision of “environmental impacts are important” is given for the second group.

The regulation for the activities subject to Annex-III and for the capacity expansion of existing facilities in this context was enacted on 1 January 1994. In other words, despite the legislation for the facilities to be built in these types of activities, exemption has been provided for 11 months.

Although the Regulation issued in 1993 is quite similar with the Directive 85/337/EC<sup>[4]</sup>, it does not fully conform with it. All 9 activities subject to the EIA by the Directive were subjected to EIA by the Annex-I list of the Regulation. In addition to this, 16 articles of Annex-II of the Directive that include mineral extraction,

industrial zones, installations for the manufacture of cement, dams, installations designed for the production or processing of nuclear fuel, manufacture and assembly of motor vehicles and manufacture of motor-vehicle engines, production of paper, reclamation of land from the sea, petroleum and natural gas pipelines and storage facilities, sugar factories, installations for the construction and repair of aircraft, installations for the slaughter of animals and rubber industry were included in the list of Annex-I by this regulation and were subjected to EIA. Thresholds have been added for some of these activities and as in the case of installations for the slaughter of animals, while activities that exceed these capacities are added to Annex-I the ones with lower capacity are added to Annex-III via these thresholds. In addition to these, activities that are not included in both Annexes of the Directive but which are on the agenda of the country such as fertilizer factories, ship dismantling facilities and cigarette factories have also been integrated to Annex-I and subjected to EIA by this regulation.

## ***2.2. EIA Regulation dated 23.06.1997<sup>[5]</sup>***

After the implementation of the first EIA regulation, it has become necessary to make some amendments to the regulation due to both influences of amendments in the EU EIA Directive dated March 3, 1997<sup>[6]</sup> and experiences of EIA in Turkey. With this new regulation a number of changes have been made in both the EIA process and to the lists of the activities. The definition of the “impact area” has been made and the preparation of a preliminary survey report has been made mandatory for the activities in Annex-2 by the regulation. A more detailed format for the report has been prepared and presented in this regulation while a simple evaluation form which also can be prepared by the project owner has been prepared in the previous periods. Also the “Preliminary Examining&Evaluation Commission” was established to examine and evaluate these reports. Another innovation brought by the regulation is the implementation of a specific format that will be prepared according to the type of activity and location. Thus, each activity can be evaluated at the individual level depending on its own characteristics. According to this regulation, public participation meeting that is previously determined by the activity owner in agreement with the Ministry will now be held in a place that is suitable for the people affected. Although many positive developments have been made, the most important features of the previous regulation, "sensitive locality" and "alternative evaluation" concepts, have been excluded by this regulation.

The stages of screening and scoping have become more detailed by this regulation. The regulation includes two lists as “Activities to which EIA shall be implemented (Annex-I)” and “Activities to which EIA preliminary survey shall be implemented (Annex-II). For the projects listed in Annex-II if the EIA preliminary survey results in a “environmental impacts are important” decision, the EIA report shall be prepared. The major difference of these lists from the previous regulations is the change from the sectorial classification to the classification according to the category of activity and the increase in the number of articles as a result of this elaboration. This regulation includes 38 articles in Annex-I list and 18 articles in Annex-II list and some articles are elaborated with sub-articles.

**Table 1.** Arrangements made by the regulation dated 1997

	New Articles				Added		Changed		Excluded	
	With threshold		Without threshold		Threshold		Threshold		Articles	
<b>Annex-I</b>	11	2	8	2	4	1	2	0	6	3
<b>Annex-II</b>	0	0	6	4	2	0	2	0	6	6
<b>Total</b>	13		20		7		4		21	

Legend: [ ] Articles included by EU Directive [ ] Articles not included by EU Directive

With this regulation, as outlined in the Table-1, the scope of the regulation has been expanded by adding new articles. Although there are differences in the definition of activities or in the activity thresholds determined, many articles contain amendments to ensure conformity with the EU Directive. 35 of the 44 amendments to the Regulation are related to the provisions included by EU Directive. However, although the contents of the arrangements made with these articles are same as the directive, it is seen that the thresholds don't conform with the directive at a high level. While 5 of the 11 new articles added with the threshold values for the types of activities are included by the Directive are same with the Directive, it is seen that there is an unconformity with the value and unit of the threshold determined for harbors and port installations. For 5 types of activity, it is seen that the regulation only includes the ones exceed the determined threshold value in the list while the Directive includes the entire in the list without regarding to a threshold. While only 1 of the capacity thresholds which are added to 6 articles that are also included by the Directive conforms with the EU Directive, 3 of them have different values from the Directive and 1 of them doesn't include any capacity in the Directive.

When the changes made in the threshold values of the previous regulation are analyzed, it is seen that 3 articles whose threshold has been changed don't have any capacity in the Directive. While the threshold changes made by the regulation tend to increase the thresholds in general, it seems that these activities are the ones that have a strong place in Turkey's economy such as animal slaughtering installations and tourism facilities. The only activity whose threshold has been reduced is thermal power plant. The threshold value which is determined as 300MW in the Directive and the previous Regulation has been reduced to 150MW by this regulation.

More than half of the activities which are included by previous regulation but are excluded by this regulation are the ones included by EU Directive. Excluding important types of activities such as railway lines, reclamation of land from the sea, reprocessing of irradiated nuclear fuels, irrigation, land reclamation, flood prevention and drainage and shifting 3 articles from Annex-I list to Annex-II are some of the most negative aspects of this regulation.

Amendments made on **13.08.1998**, **14.04.2000** and **29.09.2000** don't include provisions about types and thresholds of activities.

### ***2.3. Regulation on the Amendment of the Regulation on Environmental Impact Assessment dated 26.10.2000<sup>[7]</sup>***

“Petroleum exploration” and “mineral exploration” activities are excluded from the articles related to exploration and extraction of petroleum activities and mining activities listed in Annex-II. Thus, the relevant articles were made to include only petroleum and mining extractions.

### ***2.4. EIA Regulation dated 06.06.2002<sup>[8]</sup>***

Turkey that gains the “official candidate status” for the European Union in 1999 adopted the Accession Partnership Document in 2000 to provide conformity with the Community’s legislation. Conformity with EIA Legislation is addressed in the scope of “short-term priorities” in this document which contains long and short term priorities for the integration process. Therefore, from starting this regulation, conformity with the EU has begun to be felt too much in the following regulations. This effort is also evident in the 8th Five Year Development Plan (2000-2004): "Previous EIA regulations have not achieved the desired success in the implementation process, therefore amendments should be made to make this process more effective"<sup>[9]</sup>.

This regulation is important in terms of encompassing the training activities for strengthening the practice within the scope of the regulation. Also, the stage of public participation has been strengthened by initiating the process at an earlier stage that is before institutions report their views.

The definition of “sensitive localities” which is included by the 1993 regulation but is abolished by the 1997 regulation has been added again. Areas that need to be protected in accordance with national and international legislations, one of the most important steps in the integration process with the EU, are defined in the Annex-V of the regulation and are included in the sections of the preliminary survey report. However, there is no information on how to implement the process in these areas within the regulation.

The projects to be subject to EIA are elaborated in Annex-I and Annex-II with the sub-articles identified under the sectoral headings. Such an arrangement has been a positive approach in terms of intelligibility. This regulation includes 30 articles in Annex-I list and 42 articles in Annex-II list and some articles are elaborated with sub-

articles.

**Table 2.** Arrangements made by the regulation dated 2002

	New Articles		Added		Changed		Excluded			
	With threshold	Without threshold	Threshold	Threshold	Threshold	Threshold	Articles	Articles		
<b>Annex-I</b>	7	0	5	26	4	0	5	0	0	3
<b>Annex-II</b>	10	0	1	6	2	0	1	1	2	3
<b>Total</b>	17		38		6		7		8	

Legend: [ ] Articles included by EU Directive [ ] Articles not included by EU Directive

This Regulation which entered into force in 2002, clearly reflects efforts to provide conformity with the EU Directive. Comprehensive changes have been made as understood from the Table-2 above. 60 of the 68 amendments (include adding new articles, adding thresholds to existing articles and changing threshold values) are related to the provisions included by EU Directive. When the arrangements on the activity thresholds are examined, it is seen that in addition to the fact that the conformity rate is higher than the previous regulation, activities that are included in the lists without determining any thresholds by the Directive have been only subject to EIA if they exceed the determined threshold values of the lists of regulation. 6 of the 17 articles added with threshold are in conformity with the directive thresholds and 10 articles which have no threshold value in the Directive are added with threshold. For example, for the groundwater abstraction, the Directive includes the activities are equivalent to or exceed 10million m<sup>3</sup> in Annex-I and Annex-II contains only the statement “not included in Annex-I” without giving a threshold for this activity. However, the regulation has completely excluded the projects under this capacity from the EIA process by including 1 million m<sup>3</sup> and above capacities in the Annex-II while keeping the threshold value same for Annex-I. On the other hand, there are values below the capacity thresholds set by the Directive in this regulation. For example, for the realignment and/or widening of an existing road, the regulation reduces the threshold to 5km and above while the threshold determined by the Directive is 10km or more in a continuous length. This is seen as a positive step for Turkey where road transport is predominant.

When the changes made in the threshold values of the previous regulation are examined, it is seen that the majority of the changes are made in the articles related to the EU Directive. These changes were usually made for increasing the threshold values. On the other hand, for installations for the production of asbestos-cement, the threshold determined as 20.000tons/year by the Directive and previous regulation has been reduced to 10.000tons/year.

Also, the previously excluded railway constructions have been added to the list again and the regulation has brought the threshold unit for ports into conformity with the EU Directive. Mining activities and animal slaughtering installations that have an

important place in the economic activities of Turkey have been very elaborated by the sub-articles.

The effort to provide conformity with the EU Directive in this Regulation is remarkable. In this context, changes made generally appear to be the completion of missing articles in the regulation. However, although they are included by the Directive and previous regulations, there are activities which are excluded from this regulation and lists, even if not as much as in the previous regulation. Also, a total of 13 activities that are included in Annex-I by the previous regulation despite they are included in the list of Annex-II of the Directive have been shifted to Annex-II from Annex-I. This 13 articles include activities such as manufacture of motor vehicles and motor-vehicle engines, manufacture of railway equipment, rubber industry, ceramic and porcelain production facilities.

Amendment made on **08.10.2002** doesn't include provisions about types and thresholds of activities.

### ***2.5. EIA Regulation dated 16.12.2003<sup>[10]</sup>***

In the National Programme for the Adoption of the Acquis(NPAA) of Turkey that is enacted on 24.07.2003 by the official journal has a priority about EIA process: the priority 22.6."Enforcement and strengthening of the EIA process and adoption to the SEA Directive"<sup>[11]</sup>. As can be understood from this priority, this is a period that makes effort to make EIA process stronger and to make legislations compatible with the EU Directives. In this context, it is possible to say that many important changes have been made to provide conformity by this regulation. Although the regulation enacted in 2002 is largely compatible with the Directive, this regulation has been enacted in order to include issues which the EU finds lacking in the regular progress report such as the Aarhus Convention and the Espoo Convention and to add the arrangements made in Directive in 2003 to the regulation.

The Directive 2003/35/EC that is enacted on 26.05.2003 has made arrangements on public participation and has brought this process into conformity with Aarhus Convention. In line with this development, this regulation that was enacted about 6 months after amendment on Directive also has spread the public participation to the process instead of a single meeting. However, a public participation process has not been established for project introduction files.

The preliminary report has been abolished and the project introduction file with narrower scope has been replaced, the EIA process has been abbreviated, even in the form of consultation military areas has been associated with EIA for the first time by this directive. The most significant change seen in this regulation is the Environmental Incident Assessment Reports which can be regarded as amnesty for the existing activities that haven't fulfill the obligations even though they are subject

to EIA by the previous EIA regulations. However, the Regulation provides neither format nor information about how the process will work for these reports. This regulation includes 40 articles in Annex-I list and 43 articles in Annex-II list and some articles are elaborated with sub-articles.

**Table 3.** Arrangements made by the regulation dated 2003

	New Articles				Added		Changed		Excluded	
	With threshold		Without threshold		Threshold		Threshold		Articles	
<b>Annex-I</b>	7	1	0	0	1	0	1	0	0	1
<b>Annex-II</b>	6	0	0	4	1	0	1	0	1	0
<b>Total</b>	14		4		2		2		2	
<b>Legend:</b>	[ ] Articles included by EU Directive				[ ] Articles not included by EU Directive					

As mentioned before, the regulation enacted in 2002 contains a large number of arrangements that will provide conformity with EU Directive. Therefore, it is seen that quite a few changes made about the projects subject to EIA and their thresholds by this regulation which comes out quite soon after the previous one. 17 of the 22 amendments (include adding new articles, adding thresholds to existing articles and changing threshold values) are related to the provisions included by EU Directive. The arrangements made by this regulation are mostly the addition of the types of activities included by the Directive with thresholds. However, when the Directive is examined, it is seen that none of these 13 articles that are added with threshold value include threshold in the Directive. Each of the 2 existing articles that threshold values are added to belong to the types of activities that are embraced without capacity in the Directive. It is also seen that some of these additions are derived from dividing activities which the Directive includes them in only one list and without capacity into two lists via determining threshold values.

When the changes made in the threshold values of the previous regulation are examined, it is seen that all of the changes are made in the articles related to the EU Directive. These changes have reduced the threshold values for some types of activities. For example; while the Directive subjects waste water treatment plants with a capacity exceeding 150.000 population equivalent to the EIA process, this regulation reduced the threshold to 50.000 population and above. However, with the reduction of the threshold value, the water treatment plants listed in Annex-I of the Directive have been taken to Annex-II. Therefore, this change also means that even areas above 150.000 population can be exempted from the EIA process. As a matter of fact, although the number of articles added is less, the lists of 14 activities have been shifted by this regulation. 12 types of activities were transferred from Annex 2 to Annex 1, while 2 types of activities were transferred from Annex 1 to Annex 2. A total of 2 articles that one of them is included by the Directive have been excluded from lists by this regulation.

**2.6. Regulation on the Amendment of the Regulation on Environmental Impact Assessment dated 16.12.2004<sup>[12]</sup>**

2 Articles included by the EU Directive are excluded from the lists by this regulation: raw material extraction from the quarries and drillings.

**2.7. EIA Regulation dated 17.07.2008<sup>[13]</sup>**

Although the regulation enacted in 2003 is quite compatible with the EU Directive, this regulation has been enacted due to the necessity of reflecting the “transboundary effects” in the national legislation in order to provide full conformity <sup>[14]</sup>. The definition of “the public concerned” has been made and it has been decided that projects can not be tendered without the decision of “EIA is positive” or “No Environmental Impact Assessment is Required”. One of the most important innovations brought by this regulation is the decision of opening Final EIA Reports to receive the opinions and recommendations of the public for ten working days.

This regulation includes 44 articles in Annex-I list and 47 articles in Annex-II list and some articles are elaborated with sub-articles.

**Table 4.** Arrangements made by the regulation dated 2008

	New Articles				Added		Changed		Excluded	
	With threshold		Without threshold		Threshold		Threshold		Articles	
<b>Annex-I</b>	3	0	0	2	2	1	10	2	0	4
<b>Annex-II</b>	4	1	2	3	7	1	4	1	3	1
<b>Total</b>	8		7		11		17		8	

Legend: [ ] Articles included by EU Directive [ ] Articles not included by EU Directive

32 of the 43 amendments (include adding new articles, adding thresholds to existing articles and changing threshold values) are related to the provisions included by the EU Directive. Most of the arrangements made on threshold values as before due to conformity with the Directive was provided to a large extent by previous regulations. However, only 1 of the new articles that are added with threshold conforms with the Directive. All the activities which threshold values are added to are embraced by Directive without threshold.

When the changes made in the threshold values in the previous regulation are examined, it is seen that 8 of them are embraced by the Directive without threshold while 3 of them conform with the Directive. Half of these changes increase threshold values while the threshold values are decreased for some types of activities such as water storage facilities, river type power plants, petroleum, natural gas, petro-chemical and chemical substance storage facilities and bovine and/or ovine animal husbandry facilities.

The lists of 11 activities have been shifted by this regulation. These changes have been both from Annex-I to Annex-II as in the case of cellulose processing installations, manufacture of motor-vehicle engines, installations for the repair of aircraft and from Annex-II to Annex-I as in the case of rubber industries and realignment and/or widening of an existing road.

A total of 8 articles that 3 of them are included by the Directive have been excluded from lists by this regulation.

#### **2.8. Regulation on the Amendment of the Regulation on Environmental Impact Assessment dated 19.12.2009<sup>[15]</sup>**

Mineral exploration activities which were excluded from the lists by the regulation enacted in 2000 are included again in the list of Annex-II with threshold.

#### **2.9. Regulation on the Amendment of the Regulation on Environmental Impact Assessment dated 30.06.2011<sup>[16]</sup>**

This regulation includes 49 articles in Annex-I list and 54 articles in Annex-II list. 17 of the changes are related to the articles in the EU Directive.

**Table 5.** Arrangements made by the regulation dated 2011

	New Articles				Added		Changed		Excluded	
	With threshold		Without threshold		Threshold		Threshold		Articles	
<b>Annex-I</b>	1	3	0	1	3	0	2	1	2	0
<b>Annex-II</b>	1	7	2	4	4	2	4	0	1	1
<b>Total</b>	12		7		9		7		4	

Legend: [ ] Articles included by EU Directive [ ] Articles not included by EU Directive

17 of the 35 amendments (include adding new articles, adding thresholds to existing articles and changing threshold values) are related to the provisions included by EU Directive. The arrangements made by the regulation are mainly based on adding activity types not included in the Directive to the lists, division of the activities (such as wind power plants and solar power plants) that are embraced without threshold in the Directive via adding thresholds and increase threshold values in this context. When the articles that threshold values are added by this regulation, it is seen that both the new articles added with threshold and the existing article threshold values added to are embraced by Directive without capacity.

The only article shifted from the Annex-I to list of Annex-II is the chemical installations for the production of simple or compound phosphorous-, nitrogen- and potassium-based fertilizers. The threshold of 1.000 tons per year is added while the article is shifted to the list of Annex-II. As a result of this, for this type of activity which is subject to EIA process regardless of its capacity before, the ones that have 1000 tons or less capacity are completely excluded from EIA process and it has also opened the way for exempting the ones with capacity above this threshold.

Expression of "except for municipal wastes" has been added to the article on the processing and regular storage of wastes having a daily capacity of 100 tons or more in Annex-I by this regulation. The facilities to be built for municipal waste are included in the list of Annex 2 with a new article added to the regulation. However, this article can lead to the problem of processing or storage of almost all city wastes in ways and places that may have negative consequences for the environment. Moreover, capacity additions and expansions for the regular storage facilities of municipal wastes are excluded from the provisions of this regulation. Even this provision by itself is enough to raise doubts about the process to be followed for municipal waste. One of the most important articles added to Annex-II by this regulation is the construction of shopping centers.

A total of 4 articles that 1 of them is included by the Directive have been excluded from lists by this regulation.

### ***2.10. EIA Regulation dated 03.10.2013<sup>[17]</sup>***

EIA transactions are started to be done electronically with this regulation. The activities to be exempted from the EIA process have been expanded and some major projects have been exempted from the EIA. This regulation includes 52 articles in Annex-I list and 62 articles in Annex-II list and some articles are elaborated with sub-articles.

**Table 6.** Arrangements made by the regulation dated 2013

	New Articles		Added		Changed		Excluded			
	With threshold	Without threshold	Threshold	Threshold	Threshold	Threshold	Articles	Articles		
<b>Annex-I</b>	4	3	1	0	2	1	16	4	1	1
<b>Annex-II</b>	3	7	0	9	2	6	10	2	2	1
<b>Total</b>	17		10		11		32		5	
Legend: [ ] Articles included by EU Directive [ ]Articles not included by EU Directive										

38 of the 70 amendments (include adding new articles, adding thresholds to existing articles and changing threshold values) are related to the provisions included by the EU Directive. Approximately half of the arrangements made are changes in the thresholds of the existing articles. This is the highest rate of capacity change in all regulations. However, when the activities whose threshold has been changed are examined, it is seen that 22 of them are embraced without threshold by the Directive. Likewise, more than half of these arrangements have been made to increase threshold values and their increase rates are quite high. For example, threshold values increased from 50.000tons/year to 250.000tons/year for metal industry, from 25.000tons/year to 250.000tons/year for rolling installations for non-ferrous crude metals, from 50tons/year to 100 tons/year for milk products processing facilities and from 1.000tons/year to 10.000tons/year for manufacture of motor-vehicle.

List of 2 activities have been shifted and a total of 4 articles have been excluded from lists by this regulation. 2 of these articles such as cellulose processing installations for transferring of water resources, other than piped drinking water, between river basins are included by the Directive. In addition to these articles excluded, adding the expression of construction and excavation wastes to the article which exemption to the municipal wastes provides an important exemption for the investors. This change is very important in this period when urban renewal policies have a very important place in the country's agenda.

### **2.11. Regulation dated 25.11.2014<sup>[18]</sup>**

This regulation includes 46 articles in Annex-I list and 56 articles in Annex-II list and some articles are elaborated with sub-articles. 13 of these changes are related to the articles in the EU Directive.

**Table 7.** Arrangements made by the regulation dated 2014

	New Articles				Added		Changed		Excluded	
	With threshold		Without threshold		Threshold		Threshold		Articles	
<b>Annex-I</b>	0	0	0	0	1	0	4	2	1	1
<b>Annex-II</b>	0	3	1	1	0	0	7	7	5	8
<b>Total</b>	3		2		1		20		15	

Legend: [ ] Articles included by EU Directive [ ] Articles not included by EU Directive

13 of the 26 amendments (include adding new articles, adding thresholds to existing articles and changing threshold values) are related to the provisions included by the EU Directive. A great majority of arrangements made are on changing the thresholds of existing articles in the Regulation. Half of these threshold changes, as before, are made on the activities that don't have the threshold values in the Directive. These include increasing thresholds as in the case of transferring of water resources between river basins, ceramic and porcelain production facilities and installations for surface treatment of metals as well as decreasing thresholds as in the case of industrial plants for the production of paper and hydroelectric power plants. Lists of 4 activities that two of them is included by the Directive have been shifted by the regulation.

A total of 15 articles that 6 of them are included by the Directive have been excluded from lists by this regulation. 4 articles about projects aimed at changing land use characteristics are quite important for environment. Projects that restructuring rural/agricultural lands, aimed at the use of untreated or semi-processed areas for agriculture and forestry purposes, aimed at using forest lands for other purposes and agricultural water management projects are excluded from EIA process by excluding these 4 articles.

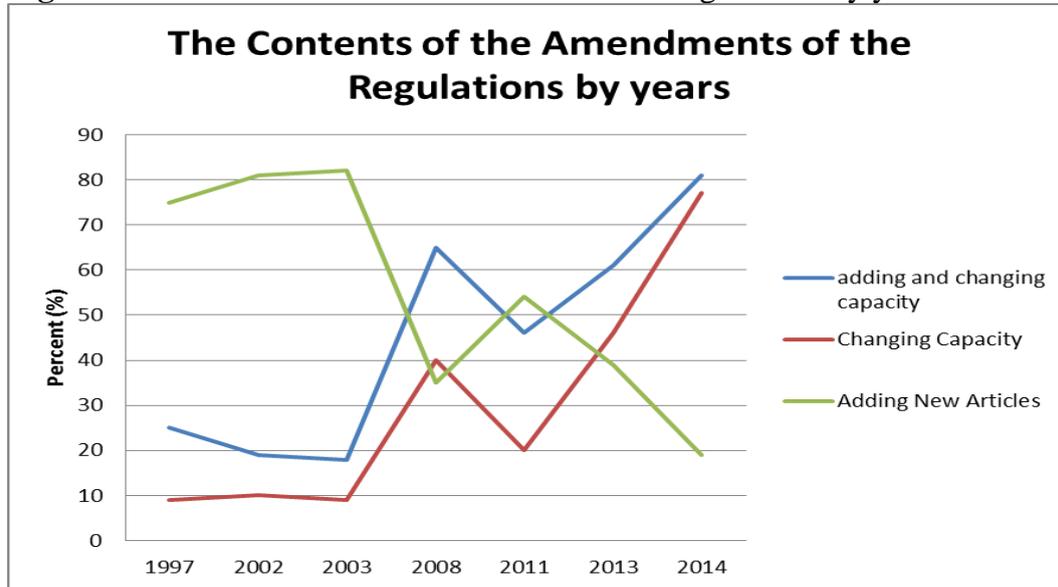
Amendment made on **09.02.2016** doesn't include provisions about types and thresholds of activities.

### **3. CONCLUSION**

Although Turkey has embraced EIA process before many countries, practice hasn't been successful due to the late enactment of the relevant directive, the inadequacy of education and information and the fact that development strategies are built on industry. When the development process of EIA regulations is examined, it is clear that while the EIA applications demonstrate positive development under favour of EU integration process and the requirements of international institutions provide loans for investments on the other hand decisions have been made that could have adverse impacts on the environment in order to provide advantages to investors for economic development. On the one hand Turkey wants to take the advantage of the international financial supports created to protect the environment; on the other hand wants to

avoid environmental measures should be taken with arguing that Turkey is a developing country so should use pollutants for the development.

**Figure 1.** The contents of the amendments of the regulations by years



It is seen that, obligations that Turkey undertakes in the EU integration process play a dominant role in the development of the EIA system. This influence is evident in the arrangements made in the EIA process especially after Turkey became a candidate country in 1999. Amendments made during these periods were mostly made by adding missing activity types to the lists in order to complete the deficiencies mentioned in the EU Regular Progress Reports. Conformity with the Directive was provided to a large extent and addition of new articles was considerably reduced. According to the results of the study, especially after these years, the changes were made by changing the threshold values of the articles which are compatible with the Directive. While new article additions account for about 80% of all changes made, this rate reduced to 40% first and then to 20% by the last regulation enacted (Figure 1). On the other hand, capacity changes which were 10% up to these years rose to 77%. However, the fact that the great majority of capacity changes are aimed at increasing the threshold value is seen as a negative change from the environment point of view. Because a change in the direction of increase means that there will be fewer environmental impact assessments for projects in that type of activity.

When the decisions made for EIA reports that prepared from the first EIA regulation in Turkey up to the present are examined, it is seen that 91% of them are the decisions of “no EIA is required”. Decision of “EIA is required” for the activities listed in Annex-II is 1%. However, while close to half of these decisions are constituted by the petroleum and mining sector, it is followed by the activities that could have significant effects on the environment such as industry, waste-chemistry and energy. This issue is one of the most criticized points of the EIA system in Turkey and therefore each threshold increase seen as a convenience to the investor. To overcome this problem, public participation and control mechanisms should be strengthened and

measures should be taken to increase the quality of the reports. A similar problem is seen in the activities included in Annex-II with arrangements even though they are listed in Annex-I by the Directive and previous regulations and the activities that are divided into both lists with the determined threshold value while they are included in Annex-I by the previous regulation. All these amendments will lead to the problem of exemption some projects-which were subject to EIA process due to being Annex-I before- from the EIA process. In addition, it is seen that some projects are implemented with a capacity just below these threshold values in order to avoid preparing EIA report in Turkey. Another criticism in this regard is that there is no scientific method used to determine these thresholds. Thus, every change made in thresholds, especially the threshold value increase, is seen as skeptical.

The integration of the EIA process with the planning activities as soon as possible is seen as one of the most fundamental solutions to this problem. It is possible to provide a holistic evaluation by determining the carrying capacities for the regions with threshold synthesis made in physical planning process. Such an improvement will help to prevent ideas such as project capacities just below the threshold while allowing the cumulative evaluation of the environmental impact of all activities in the region. Also it is possible to make the most environmentally place selection among the alternatives for the activities planned in the region with such a process. By this way, a solution can be provided for the criticism suggests that the current EIA system legitimizes the investments given instead of choosing the most suitable alternative in terms of environment.

It is seen that, conformity with the lists of the Directive(especially for the Annex-I) have provided by the arrangements in regulations in a large extent. However, the findings of the study show that although the types of activities conform with the amendments, there are great difficulties in conformity of capacities. As mentioned before, in order to provide convenience to the investor, the threshold values are increased in the system of Turkey. Another problem identified in this regard is the difference between the units of capacities. While the EU defines the capacity thresholds through the harmful materials that will product or store, as in the case of storage facilities for petroleum, petrochemical and chemical products, Turkey defines the capacity thresholds through the area of the facilities. It is clear that this issue needs to amendment. Another important problem identified in EIA process is that some of the activities included by the Directive and previous regulations have been excluded from the EIA process by the amendments.

While Turkey is conforming with the EU Directive, regulations also include the activities that are not included by the Directive but are on the agenda of the country and may harm the environment. This is one of the most positive features seen in the EIA system of Turkey. Analyzes made in study show that these added articles are more in all regulations than the article additions of the activities included by the Directive.

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