

****

**SME Policy Index**

**Western Balkans and Turkey 2022**

**ASSESSING THE IMPLEMENTATION OF THE SMALL BUSINESS ACT FOR EUROPE**

**DIMENSION 2 - Bankruptcy and second chance for SMEs**

**Qualitative indicators government questionnaire**

# Introduction

The SME Policy Index is a benchmarking tool for emerging economies, including the Western Balkans and Turkey (WBT), to monitor and evaluate progress in policies that support small and medium-sized enterprises (SMEs). The tool is structured around the ten principles of the Small Business Act for Europe (SBA), translated into 12 policy dimensions, which provide a wide-range of pro-enterprise measures to guide the design and implementation of SME policies.

The sixth, 2022 edition of the SME Policy Index for Western Balkans and Turkey aims to:

* + independently and rigorously assess SME policy settings and reforms against international best practice,
  + allow for comparison across time and participating WBT economies and measure convergence towards EU SME policy standard,
  + support governments in setting targets for SME policy developments and strategic priorities to further improve the business environment,
  + engage governments in policy dialogue and exchange of experiences, within the region and with OECD and EU member countries,
  + facilitate the prioritisation of government and donor activities in support of SME development,
  + assess and show progress in implementation of recommendations provided in the previous editions.

The new cycle of the SME Policy Index for Western Balkans and Turkey 2022 will be conducted in extraordinary circumstances caused by the COVID-19 pandemic. Its impact on local economies will also be taken into account in order to better inform policy-making in the region.

# Assessment framework process and design

The SME Policy Index is based on the results of two parallel assessments government self-assessment, conducted by WBT economies’ governments and independent assessment, conducted by the OECD and its partner organisations and supported by the input collected from economy-based consultants with demonstrated expertise in relevant policy areas. The final scores are the result of a highly collaborative and consultative consolidation of these two assessments, enhanced by further desk research by the OECD and the partner organisations, as well as consultations with government representatives and with key stakeholders (e.g. private sector, business associations, academia & civil society) in the participating economies.

The questionnaire is structured around 12 policy dimensions each comprising up to 5 sub-dimensions that capture the critical elements of policy development. It proposes a scoring approach to transform qualitative information into numerical information and thus facilitating cross-economy comparison and allowing for systematic monitoring of policy developments. The questionnaire is intended to be used by government authorities and statistical agencies in charge of co-ordinating the SME Policy Index assessment process.

# 

# Guidance to fill out the qualitative assessment

The qualitative assessment is organised around thematic blocks each structured around a certain number of questions.

For each of these questions, please:

* Provide an answer, as fully as possible, citing all key sources in the foreseen grid,
* Assign a score, by using the scoring levels described in Table 1.

Description of score levels

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Level 1** | **Level 2** | **Level 3** | **Level 4** | **Level 5** |
| No framework (e.g. law, institution) exists to address the policy topic concerned | A draft or pilot framework exists, with some signs of government activity to address the policy area concerned | A solid framework, addressing the policy area concerned is in place and officially adopted | Level 3 plus evidence of a concrete record of effective policy implementation | Level 4 plus results of monitoring and evaluation inform policy framework design and implementation |

* Match the highest performance score level characteristics that are fully described by your question responses and assign an according score of 1 to 5. If all requirements in one score level are met and at least half the requirements are met for the next score level, assign a half number score between the two levels.
* Provide a brief justification based on matching your question responses with the best corresponding level or half-level.

This questionnaire provides links to access the responses of the previous SME Policy Index 2019 questionnaire. If relevant for a given policy dimension, this questionnaire is complemented by a Statistic sheet. The assessment framework is accompanied by the Glossary of key terms –please refer to it when answering the questionnaire.

Please **complete and return this assessment by 15 September 2021 to the OECD.**

|  |
| --- |
| Thank you for your time in completing this assessment. Your efforts are contributing towards removing barriers to SME development and unleashing their potential for driving inclusive economic growth in the Western Balkans and Turkey.  Should you have any questions regarding this assessment framework, please contact [jovana.pavlovicdjukic@oecd.org](mailto:jovana.pavlovicdjukic@oecd.org) and [marijana.petrovic@oecd.org](mailto:marijana.petrovic@oecd.org). |

**Assessor information**

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Mr. / Ms.** | **Name** | **Institution / Department** | **Title / Position** | **Email** | **Phone** | **Address** |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |

|  |  |
| --- | --- |
| **Questionnaire submission date:** | 15/09/2021 |

**Bankruptcy and second chance for SMEs**

**Bankruptcy and second chance for SMEs** dimension assesses the provision of policies that promote access to early warning tools for SMEs to avoid potential or forthcoming financial distress; existence of polices on advisory support services to mentor SMEs to resolve financial issues; legislation framework solutions for out-of-court settlement with creditors under granted moratorium on enforcement of claims with SME restructuring and stabilisation plan confirmation by court; degree of informal preventive restructuring framework, integration with formal insolvency proceedings, including: cram-down of dissenting creditors, debt discharge and second chance for honest entrepreneurs; digitalisation of restructuring and insolvency proceedings; existence of insolvency registers and publication of insolvency information and behaviour of small and medium-sized enterprises (SMEs) in the Western Balkans and Turkey.

This dimension is structured around three sub-dimensions:

* Sub-dimension 1: **Preventive measures**, which considers bankruptcy prevention policy aspects in national insolvency legislation frameworks,
* Sub-dimension 2: **Survival and Bankruptcy procedures**, which reviews the existence of various formal proceedings, institutes and options in place to support SMEs recovery and rehabilitation in their restructuring efforts.
* Sub-dimension 3: **Promoting second chance,** which considers the policies for support and promotion of failed honest entrepreneurs, to have a fresh start of sustainable business operations.

Figure 1. Assessment framework for Dimension 2: Bankruptcy and second chance for SMEs

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Outcome indicators**  Average time of insolvency proceedings  Average cost of insolvency proceedings (% of the estate)  Recovery rate (cents on the dollar) | | | | |
| **Sub-dimension 2.1: Preventive measures** | | **Sub-dimension 2.2 :** **Survival and bankruptcy procedures** | | **Sub-dimension 2.3: Second Chance** |
| **Thematic block 1:**  Design and implementation | **Thematic block 2:**  Performance, monitoring and evaluation | **Thematic block 1:**  Design and implementation | **Thematic block 2:**  Performance, monitoring and evaluation | No thematic block  Existence, design and plan |
| **Quantitative indicators:**  Average time to obtain full discharge from bankruptcy  Average time until a negative score is removed after discharge | | | | |

## Sub-dimension 1: Preventive measures

*[To access the responses of the previous SME Policy Index 2019 questionnaire click* [*here*](https://oecd-my.sharepoint.com/personal/marijana_petrovic_oecd_org/Documents/SME%20PI%202022%20Assessment/Turkey/Dimension%202/2019%20Turkey%20-%20SBA%20Questionnaire%20filled%20out%20.xlsx) *(ctrl+left click)]*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Question** | | **Response *[expand box as necessary]*** | **Source/evidence/links** |
| **Thematic block 1. Design and implementation** | | | | |
| 1.1.1. | **Is there a strategy for implementation of programmes/schemes/tools/ measures preventing SMEs financial distress and/or insolvency?** | | Yes [X]  No [ ] |  |
|  | If yes | Please provide information on all designed/planned for implementation and active programmes/schemes/tools/ measures | **KOSGEB Strategy Plan 2019 - 2023**  2.4.1. Legislation and Legal Obligations  Item E | <https://webdosya.kosgeb.gov.tr/Content/Upload/Dosya/Mevzuat/2020/KOSGEB_Stratejik_Plan%C4%B1_(2019-2023).pdf> |
| 1.1.2. | **Are there any official self-test websites available for entrepreneurs before starting a business (self-assessment questionnaires for entrepreneurs and start-ups)?** | | Yes [X]  No [ ] | KOSGEB’s online Entrepreneurial Trainings which is a prerequisite to benefit KOSGEB’s Entrepreneur Support Programme has self assessment tests at the end of each chapter (in total 20 chapters). Even the Entrepreneur doesn’t need to this support, s/he can make these tests via online.  [lms.kosgeb.gov.tr](file://Users/krassair/Library/Containers/com.microsoft.Word/Data/Library/Preferences/AutoRecovery/lms.kosgeb.gov.tr) |
|  | If yes | Please state which government strategies include SMEs self-testing as part of an overall policy for SME access to Early Warning Tools? | **KOSGEB Strategy Plan 2019 - 2023**  Performance Indicator 4.1.4  Establishment of Competency Evaluation System  Within the context of KOSGEB Strategy Plan 2019-2023, KOSGEB has prepared a report called "BUSINESS EVALUATION REPORT" by processing the data received from institutions and organizations within the scope of their legislation, in which the SME can evaluate itself.  Report Content consists of Business Tag, General Ranking, Human Resources, R&D, Innovation and Branding, Efficiency, Export and Finance sections. | Key Performance Indicators  p. xi  <https://webdosya.kosgeb.gov.tr/Content/Upload/Dosya/Mevzuat/2020/KOSGEB_Stratejik_Plan%C4%B1_(2019-2023).pdf>  https://giris.turkiye.gov.tr/Giris/gir?oauthClientId=31bcfb51-2617-4287-8bcb-da7eb31ca324&continue=https%3A%2F%2Fgiris.turkiye.gov.tr%2FOAuth2AuthorizationServer%2FAuthorizationController%3Fresponse\_type%3Dcode%26client\_id%3D31bcfb51-2617-4287-8bcb-da7eb31ca324%26state%3D6da19102-1e50-447b-a5a8-e88de6bd15f8%26scope%3DKimlik-Dogrula%253BAd-Soyad%253BTemel-Bilgileri%253BKutuk-Bilgileri%253BAdres-Bilgileri%253BIletisim-Bilgileri%26redirect\_uri%3Dhttps%253A%252F%252Fedevlet.kosgeb.gov.tr%252FOAuth |
| 1.1.3. | **Does the government or any public or private institution provide any informational or public awareness campaigns on available government support programmes for entrepreneurs experiencing administrative and/or financial difficulties?** | | Yes [x ]  No [ ] | <https://www.kosgeb.gov.tr/site/tr/genel/liste/6190/finansman-duyurulari> |
|  | If yes | Please provide evidence/examples, communication plans or strategy, scalability of campaign, information channels, targeted audience, number of repetitions in selected media channels etc. | Announcements are made online in the website of KOSGEB to inform SMEs about the latest developments | <https://www.kosgeb.gov.tr/site/tr/genel/liste/6190/finansman-duyurulari> |
| 1.1.4. | **Are there any websites/call centres providing answers or advice to entrepreneurs that fear failure[[1]](#footnote-2)?** | | Yes [x ]  No [ ] |  |
|  | If yes | Please specify them | KOSGEB | <https://www.kosgeb.gov.tr/>  KOSGEB website has an automatic reply robot whose name is KO-BOT for response SMEs’ questions (it is appeared on the bottom right corner of the website)  444 1 567 is call center of KOSGEB |
| 1.1.5 | **Are there any institutional or private support services offered by public agencies to SME’s to avoid financial distress or bankruptcy?** | | Yes [x ]  No [ ] | https://www.kosgeb.gov.tr/ |
|  | If yes | Please specify them | Supports are provided to SMEs to get services such as mentoring ve coaching in order to avoid bankruptcy and financial distress.  This support is a tool in which the business can use consultancy and mentoring services with the help of the state when needed.  In case the counselee requests, the business is supported for consultancy service from a person or company of his choice. Although it is not a subject-based support, it allows the business to receive consultancy and mentorship on the subject they want. In addition, the support is not project-based, all SMEs can apply. | <https://www.kosgeb.gov.tr/site/tr/genel/destekdetay/6798/isletme-gelistirme-destek-programi> |
| 1.1.6 | **Are there any public or private institutions that provide training courses for entrepreneurs that fear business failure or mentoring and coaching advice services that assist SMEs to overcome current issues leading to future financial distress?** | | Yes [x ]  No [ ] | https://www.kosgeb.gov.tr/ |
|  | If yes | Please specify them (e.g. under which programme are these courses conducted, what is the leading institution). | KOSGEB  Entrepreneurship Trainings | These trainings are overall course that teach and show SMEs their situation. (The course can be seen after registration)  lms.kosgeb.gov.tr |
| 1.1.7 | **Are there early-warning systems in place offered to SMEs to identify their financial status (level of financial distress) before filing for bankruptcy?** | | Yes [X ]  No [ ] | <https://www.kkb.com.tr/en> |
|  | If yes | Please specify them and state the areas that are assessed (financial, legal, sales & marketing, management, HR)? | FINANCIAL  Credit Bureau – (KKB) records  Risk Center – RC is established as a part of the Banks Association of Turkey, in order to gather risk information about customers of crediting institutions and other financial institutions to be deemed fit by the Banking Regulation and Supervision Board, and to share such information with the said institutions and with natural persons or legal entities themselves or subject to prior consent thereof, with legal entities.  HR  Circulation in the number of employees  MANAGEMENT  Non-operating private investments of partners  Share litigation, inheritance litigation, management crisis  Accounting system and staff, computer system, care in records  Tax Reviews | https://www.kkb.com.tr/  https://www.riskmerkezi.org/en/home |
|  |  | a) Provide 5 most important early-warning signals (financial indicators/ratios) that are detected and analysed, if any | Risk Center data’s indicators  Leverage ratio  Account receivable turnover rate  Return on equity  Acid test ratio |  |
|  |  | b) Is assessment followed by recommendations? If so, please provide examples. | Yes [X]  No [ ] | A document coming out from the assessment is a report that shows recent situation of entrepreneur |
|  |  | c) Are recommendations final for implementation or these redirect SME to another support service? Please explain the process and include examples. | Yes []  No [ ] |  |
| 1.1.8 | **Is there any scheme, which provides protection from creditors enforcement actions and allows time for restructuring, i.e. moratorium on creditors’ claims enforcement/automatic-stay or preventive concordat in extrajudicial proceeding (out-of-court settlement)?** | | Yes [X]  No [ ] |  |
|  | If yes | Provide a legal ground for such proceeding (law and provisions in law), main actors, responsible institutions who manage the proceedings, process-flow, final decision binding to all creditors and debtor or not? Explain process of integration with formal court proceedings. | Firms in financial distress have the option of declaring concordat and/or benefiting from Financial Restructuring | <https://www.resmigazete.gov.tr/eskiler/2018/03/20180315-28.htm>  Law on Execution, Bankruptcy and Amending Some Laws |
|  | If yes | How many SMEs have successfully been restructured under this regime (since January 2019)? | SMEs declared concordat are announced in the official website of the national press agency | <https://www.ilan.gov.tr/ilan/kategori/49/konkordato-ve-muhlet-iik-288inci-md?currentPage=0> |
| 1.1.9 | **Is there official government or institutional programme or policy that provides technical support advisory and mentoring services to SMEs in financial distress?** | | Yes [X]  No [ ] |  |
|  | If yes, | Please specify the programme and the implementing institution, scope of intervention, duration and programme budgeting. Does the programme provide financing, access to financing or guarantees to lending institutions? If yes, please explain and specify how many SMEs have successfully been restructured under this regime. | In all of the KOSGEB Programmes, mentoring and coaching services are supported | <https://www.kosgeb.gov.tr/site/tr/genel/destekler/3/destekler> |
| 1.1.10. | **Are there any bodies/authorities advocating the interests of SMEs in the preparation preventive restructuring and insolvency framework SMEs?** | | Yes [\* ]  No [ ] | BRSA |
|  | If yes | Please specify them. | BRSA  Regulation Amending The Regulation  On Restructuring of Debts Owed To Financial Sector  There is no additional legislation about debt restructuring for real sector. General provisions are apply to inter-company debts. | <https://www.tbb.org.tr/en/banking-legislation/professional-codes-/framework-agreements-on-financial-restructuring/91> |
| 1.1.11. | **Which business associations (or other channels, such as research institutes, consultants) have been active in providing support to SMEs for restructuring, turnaround and insolvency recovery plans?** | | BRSA  TBB – The Banks Association of Turkey  KOSGEB  Chambers of Commerce  FKB - Association of Financial Institutions | <https://www.bddk.org.tr/>  <https://www.tbb.org.tr/en/home>  <https://en.kosgeb.gov.tr/>  <https://www.fkb.org.tr/home-page/> |
| 1.1.12 | **Has a government strategy or budget been mobilised for financing the programmes preventing SMEs’ financial distress (i.e. early warning, extrajudicial preventive restructuring, technical support advisory and mentoring services, preventive programmes providing early restructuring for SMEs to recover from current issues leading to financial distress)?** | | Yes [X]  No [ ] |  |
|  | If yes | What is the budget dedicated to each of the SMEs’ preventive support services/programmes? | EX: Credit Guarantee Fund has SMEs via credit programs; 7.5 billion TRY loan for SMEs by state during the Covid 19 pandemic | <https://kgf.com.tr/index.php/en/> |
| 1.1.13. | **Which SME preventive measures/schemes/programmes for informal and out-of-court debt settlement proceedings have been implemented?** | |  |  |
| 1.1.14. | **What targets of the strategy have been achieved?** | | Decision on the approval of  the Eleventh Development Plan (2019-2023) | <https://www.sbb.gov.tr/wp-content/uploads/2020/03/On_BirinciPLan_ingilizce_SonBaski.pdf> |
| 1.1.15. | **Is there a specific allocation of funding for the promotion of SMEs’ technical support advisory services, and if so under what initiative?** | | Yes [X]  No [ ] | KOSGEB |
|  | If yes | Please specify the latest available annual amount and its source (national budget, donor funds, other). |  | <https://webdosya.kosgeb.gov.tr/Content/Upload/Dosya/Mevzuat/2020/KOSGEB_Stratejik_Plan%C4%B1_(2019-2023).pdf> |
| 1.1.16. | **Is there a government body responsible for providing guidance for SMEs to build back fully operational and avoid insolvency (e.g. Agency for support of SMEs or similar)?** | | Yes [\* ]  No [ ] | **KOSGEB Strategy Plan 2019 - 2023**  Key Performance Indicators  Performance Indicator 3.2.1  p. xi  <https://webdosya.kosgeb.gov.tr/Content/Upload/Dosya/Mevzuat/2020/KOSGEB_Stratejik_Plan%C4%B1_(2019-2023).pdf> |
|  | If yes | How do you ensure that the responsible body has the adequate capacity to perform its role (capacity building, trainings, mentoring)? Please list key opportunities available for capacity building/training of the government staff and whether government is engaging external technical service advice providers through public procurement process? | KOSGEB prepared an Authorization of Technical Consultants and Technical Consulting  Procedures and Principles About Services.  This service is provided under the Business Development Support Programme of KOSGEB.  The purpose of this support is to contribute to the development of the skills and abilities of enterprises in the fields of finance, internationalization, technology/innovation/digitalization and growth.  The enterprise determines the Technical Consultant for the sub-area that it wants to receive service from and performs the service procurement on the dates agreed with the Technical Consultant within the scope of the periods specified in the Technical Consultancy Service Standards Table. | <https://www.kosgeb.gov.tr/site/tr/genel/destekdetay/7523/teknik-danismanlarin-yetkilendirilmesi-ve-teknik-danismanlik-hizmetleri>  BUSINESS DEVELOPMENT SUPPORT PROGRAM IMPLEMENTATION PRINCIPLES  p.13-14  Article 17  Technical Consultancy Support  https://webdosya.kosgeb.gov.tr/Content/Upload/Dosya/%C4%B0sletme%20Gelistirme%20Destek%20Program%C4%B1/01.03.2021/1-\_I%CC%87sletme\_Gelistirme\_\_Destek\_Programc%CC%A7\_Uygulama\_Esaslarc%CC%A7.pdf |
| 1.1.17 | **Did government provide any support/compensation measures to SMEs whose operations were restrained as a result of introduced measures to fight the COVID-19 pandemic?** | | Yes [X]  No [ ] |  |
|  | If yes | a) What interim measures did the government introduce for preventing business and SMEs from becoming financially distressed or going bankrupt due to coping with COVID-19 pandemic? If any, provide a representative study on number of SMEs becoming financially distressed and facing bankruptcy. | The state has paid a certain amount to companies that are in economic distress and has provided some incentives.  Credit Guarantee Fund has SMEs via credit programs  Restricting of Credits from financial institutions (BRSA)  Support Loan And Economic Stability Shield Loan Support  Central Bank  Turkish EXİMBANK Support  KOSGEB Support  Postponement of Tax Dues (The Ministry of Treasury and Finance)  All enforcement and bankruptcy proceedings stopped  Short-time working allowance payment | For other supports,  Steps Taken in Fight Against COVID-19  <https://www.sanayi.gov.tr/covid-19/destek-ve-tesvikler#tubitak-kobi-arge-baslangic-destek-programi> |
| b) Describe measures related to moratorium of debt repayment or moratorium of initiating bankruptcy proceedings with dates of introduction and duration, if any. | Stated in the Law | <https://www.resmigazete.gov.tr/eskiler/2018/03/20180315-28.htm> |
| **Thematic block 2. Performance, monitoring and evaluation** | | | | |
| 1.2.1 | **Are preventive policies targeted towards SMEs being regularly monitored?** | | Yes [X]  No [ ] | <https://www.sbb.gov.tr/wp-content/uploads/2020/03/On_BirinciPLan_ingilizce_SonBaski.pdf> |
|  | If yes | Describe KPI (key performance indicators) being monitored in each monitored programme, scheme or support measure and provide samples of completed reports. | PG3.1.4 Number of businesses to which support payments were made within the scope of the SME Financing Support Program: 7250  PG3.2.1 Number of businesses to which support payments are made within the scope of guidance and consultancy services: 3900  PG4.1.4 Establishment of Competency Evaluation System.(%): 100 | **KOSGEB Strategy Plan 2019 - 2023**  Key Performance Indicators  p. xi, p.42-60  <https://webdosya.kosgeb.gov.tr/Content/Upload/Dosya/Mevzuat/2020/KOSGEB_Stratejik_Plan%C4%B1_(2019-2023).pdf> |
| 1.2.2. | **Did the government plan and execute impact assessment/s on the preventive insolvency policies targeted towards SMEs?** | | Yes [X]  No [ ] | Development agencies make impact assessments regularly  <https://www.kalkinmakutuphanesi.gov.tr/dokuman/2014-yili-mali-destek-programlari-etki-degerlendirmesi-raporu/1262>  <https://www.kalkinmakutuphanesi.gov.tr/search?q=etki+analizi>  It varies according to the development agency. Some of them evaluate annually, some make these evaluations on a 3-year basis. |
|  | If yes | What actions did the government undertake following the assessment results, if any? Please provide assessment reports. | For this example,  As a result of the impact assessment study carried out, changing the scope of the support programs given to the companies by giving more weight to the companies operating in the manufacturing industry and smaller in terms of the number of employees (1-49 employees) is a development policy in terms of increasing the effectiveness of the programs and the efficient distribution of resources. is thought to be. | <https://anahtar.sanayi.gov.tr/tr/news/tubitak-ve-kosgeb-ar-ge-destekleri-etki-analizi-uzerine-bir-uygulama/11072> |
| 1.2.3. | **Is there an annual report on performance of preventive measures and actions?** | | Yes [X]  No [ ] |  |
|  | If yes | Provide statistics and results from performance reports (KPIs monitored and evaluated). Have these been published entirely or just on a form of a summary? | SME Statistics Report (Turkish)  2021 SME COUNTRY FACT SHEET  2019 – 2023 Strategic Plan (KOSGEB)  2016 – 2020 Strategic Plan (KOSGEB) | <https://www.tuik.gov.tr/indir/duyuru/kobi-istatistikleri-raporu.pdf>  <https://ec.europa.eu/neighbourhood-enlargement/sites/default/files/turkey_-_sme_fact_sheet_2021.pdf>  <https://webdosya.kosgeb.gov.tr/Content/Upload/Dosya/Mevzuat/2020/KOSGEB_Stratejik_Plan%C4%B1_(2019-2023).pdf>  <https://www.kosgeb.gov.tr/Content/Upload/Dosya/Mali%20Tablolar/KOSGEBN%20Stratejik%20Plan/KOSGEB_Stratejik_Plani_(2016-2020).pdf> |
|  | a) | What is the newly business registration rate in the last 5 years? Please give the number of creation per year. | 596.000 SME established in last ten years |  |
|  | b) | What is the number of self-assessment tests on existing websites that government or private institutions have developed to provide access to early warning tools of SMEs to evaluate their current financial status, if any? | Not applicable |  |
|  | c) | What is the coverage rate of questions asked by entrepreneurs that fear a failure? | <https://webdosya.kosgeb.gov.tr/Content/Upload/Dosya/Bagimsiz/IDR_Example_2021.pdf> |  |
|  | d) | What is the recovery rate of distressed companies after the prevention phase? | Not applicable |  |
| 1.2.4. | **Does the government body or institution, in charge of providing guidance on preventive measures for SMEs to avoid insolvency, monitor effectiveness of programmes implementation (early second chance)? Please explain.** | | Yes [X]  No [ ] | All KOSGEB Supports including preventive measures for SMEs are monitored during the support phase and after the completion of the support. It differentiates by the support programme. |
| 1.2.5 | **What are the immediate steps after an early warning and/or technical advice on overcoming identified issues? Are there any financial protection or support measures for SMEs provided by the government (gov. guarantees or financing through development programmes)?** | | With the Bank Association of Turkey, distress companies are firstly restrained to prevent further debt growth by the banks.  The government bodies continue to provide supports and grants.  KGF (Credit Guarantee Fund) also supports SMEs, who normally cannot get collateral for their debts, in terms of guarantee.  In this process, businesses are also supported with LGF support, which is a colateral guarantor for businesses that do not normally have the opportunity to obtain credit. | <https://kgf.com.tr/index.php/en/>  <https://kgf.com.tr/index.php/tr/urunlerimiz/ozkaynak-kefaletlerimiz/banka-kredileri/cosme> |
| *Optional - Please provide any further information on the* ***preventive measures*** *in your economy that you deem relevant for the assessment:* | | |  |  |

|  |  |
| --- | --- |
| **Question** | **Response** |
| Self-assessed level  (1 through 5, whole and half numbers) | 4,5 |
| Brief justification | KOSGEB's work on preventive regulations helps SMEs and entrepreneurs in this regard. SMEs have been significantly supported in this area by KOSGEB's latest supports and practices such as loan interest support, collateral support through LGF and consultancy support.  With the support of state institutions such as the Credit Guarantee Fund, TÜBİTAK and the Ministry of Industry, SMEs were prevented from falling into a distressed situation. |
| Assessor name and institution | N. Pınar Işın  Director of EU Coordination Unit  KOSGEB  Beyza Kuriş  SME Expert  EU Corodination Directorate  KOSGEB  Abdullah Aktepe  SME Expert  EU Corodination Directorate  KOSGEB |

## Sub-dimension 2: Survival and bankruptcy procedures

*[To access the responses of the previous SME Policy Index 2019 questionnaire click* [*here*](https://oecd-my.sharepoint.com/personal/marijana_petrovic_oecd_org/Documents/SME%20PI%202022%20Assessment/Turkey/Dimension%202/2019%20Turkey%20-%20SBA%20Questionnaire%20filled%20out%20.xlsx) *(ctrl+left click)]*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | **Question** | | | **Response *[expand box as necessary]*** | **Source/evidence/links** |
| **Thematic block 1 Design and implementation** | | | | | |
| 2.1.1. | **Have there been any new laws or amendments to existing procedures on dealing with distressed companies, receivership and bankruptcy since the last assessment (January 2019)?** | | | Yes [X]  No [ ] | Provisions of Articles 49 and 50 of Law No. 7251 dated 22/7/2020.  <https://www.resmigazete.gov.tr/eskiler/2020/07/20200728-14.htm>  Unfortunately, there is no English version of this law |
|  | If yes | Are the laws/procedures in line with international standards and recent 2020-2021 EU trends on preventive restructuring (featuring implementation of [EU Directive 2019/1023](https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32019L1023) through national legislation of the EU member states)? | | Yes [X]  No [ ] | ARTICLE 49 – The first paragraph of Article 78 of the Law No. 2004 has been amended as follows.  “If the time in the payment order has elapsed and the debtor has objected, the creditor may request a lien without waiting for the declaration of property after the objection is lifted. However, if the creditor wishes, he can inquire about the debtor's property, rights or receivables through the information systems integrated into this system, through the National Judicial Network Information System, without requesting foreclosure. At the end of the inquiry, the National Judicial Network Information System provides information, if any, about the nature and details of the debtor's property, right or receivable, and in this case, a lien can be requested through the system. In this case, the enforcement office seizes the determined property, right or receivable in electronic environment. The information obtained at the end of the inquiry cannot be shared unlawfully. In order to carry out inquiry and foreclosure procedures, public institutions or organizations and credit institutions and financial institutions defined in Article 3 of the Banking Law dated 19/10/2005 and numbered 5411 ensure integration between the National Judicial Network Information System and their own systems. The type, scope and limit of the interrogation and other issues are determined by the regulation put into effect by the Ministry of Justice.”  ARTICLE 50 – The third paragraph of Article 258 of the Law No. 2004 has been amended as follows.  “The decision to reject the interim attachment request is given with justifications and an appeal can be made against this decision. The party against whom a precautionary lien has been issued against his/her face may also apply to the appeal procedure. The regional court of appeal first examines these applications and its decision is final.” |
|  | a) | Are the courts neutral[[2]](#footnote-3) in terms of collected fee and taxes to all participants? | | Yes [X]  No [ ] | Provisions of the Enforcement and Bankruptcy Law dated 9/6/1932 and numbered 2004,  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf>  and the Civil Procedure Law no. 6100 dated 12/1/2011.  <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=6100&MevzuatTur=1&MevzuatTertip=5> |
|  | b) | Are the laws/procedures being systematically applied in a transparent way? | | Yes [X]  No [ ] | Provisions of the Enforcement and Bankruptcy Law dated 9/6/1932 and numbered 2004,  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf>  and the Civil Procedure Law no. 6100 dated 12/1/2011.  <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=6100&MevzuatTur=1&MevzuatTertip=5> |
|  | c) | Do the laws/procedures apply to state-owned enterprises? Exemptions, State aid? | | Yes [X]  No [ ] | Provisions of the Enforcement and Bankruptcy Law dated 9/6/1932 and numbered 2004,  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf>  and the Civil Procedure Law no. 6100 dated 12/1/2011.  <https://www.mevzuat.gov.tr/mevzuat?MevzuatNo=6100&MevzuatTur=1&MevzuatTertip=5> |
|  | d) | Do you have a formal public digital bankruptcy and insolvency register accessible by cross-border international creditors? | | Yes [X]  No [ ] | Article 24 and the following provisions of the Turkish Commercial Code No. 6102  <https://www.mevzuat.gov.tr/MevzuatMetin/1.5.6102.pdf>  <https://www.ticaretsicil.gov.tr/view/hizlierisim/girisyap.php>  After a simple registration process, the information is accessible to registrants. |
| 2.1.2 | **Are there free or sponsored business advisory service provided by government or private institutions to SMEs including on financial distress and insolvency facing? Please specify.** | | | Yes [X]  No [ ] | KOSGEB Coaching and Mentoring supports which are placed into most of the KOSGEB Support Programmes are provided to SMEs  <https://www.kosgeb.gov.tr/site/tr/genel/destekler/3/destekler>  Coaching and Mentoring Supports have not a specific support programme but all KOSGEB support programmes have this type of support under its structure.  Also, Business Assessment Report provided by KOSGEB shows the current situation of SME and ensures self-assessment. |
| 2.1.3 | **Are there free or sponsored consulting/legal/accounting advice by government technical support services to SMEs?** | | | Yes [x]  No [ ] | Topics of KOSGEB Coacihng and mentoring supports can be chosen by SMEs regarding to their requirements.  <https://www.kosgeb.gov.tr/site/tr/genel/destekler/3/destekler> |
| 2.1.4 | **Based on the rule of Law, are out-of-court settlements available as less expensive alternatives to filing for bankruptcy?** | | | Yes [X]  No [] | <https://vatandas.uyap.gov.tr/main/arabulucu.jsp> |
|  | If yes | Are the courts involved in out-of-court settlements procedures (e.g. via appointing a mediator to guide the settlement procedure)? | | Yes [X]  No [ ] | Law Regulation on Mediation in Legal Disputes  Provision 1 of the article 15  <https://adb.adalet.gov.tr/Resimler/SayfaDokuman/1512021075138Hukuk%20Uyu%C5%9Fmazl%C4%B1klar%C4%B1nda%20Arabuluculuk%20Kanunu%20Y%C3%B6netmeli%C4%9Fi.pdf> |
|  | If a restructuring plan has to be written, are there IPs, advisers or independent legal experts qualified to advise on the feasibility of the plan and its negotiation by classes of creditors? | | Yes [X]  No [ ] | Department of Expertise of Ministry of Justice ensure that the expertise services are carried out effectively, regularly and efficiently  <https://bilirkisilik.adalet.gov.tr/Home/Index> |
| 2.1.5. | **Does the current insolvency law allow for filing of pre-packaged bankruptcy reorganisation plans or for hybrid proceedings agreed out-of-court and only filed for confirmation of plan by the court?** | | | Yes [ ]  No [ ] |  |
|  | If yes | How many of these reorganisation plans have been filed and approved by year for 2019, 2020 and 2021 (if the data is available for 2021)? | |  |  |
| 2.1.6. | **Are there restrictions in your legislation for managers that formally filed for bankruptcy to register new companies and perform duties as a member of board of directors or as public service servant?** | | | Yes [x]  No [ ] | The provision of the second paragraph of Article 363 of the Turkish Commercial Code No. 6102 dated 13/1/2011.  The provision of the fifth paragraph of article 48 of the Civil Servants Law No. 657.  <http://www.bddk.org.tr/Mevzuat/DokumanGetir/961>  <http://www.bddk.org.tr/Mevzuat/DokumanGetir/972>  <http://www.bddk.org.tr/Mevzuat/DokumanGetir/968>  <http://www.bddk.org.tr/Mevzuat/DokumanGetir/960>  <http://www.bddk.org.tr/Mevzuat/DokumanGetir/965> |
|  | If yes | Is there a legal option for restoration of full rights upon completion of bankruptcy reorganisation or liquidation? Explain and cite provisions of the law that allow for this. | |  | The bankrupt can register a company after bankruptcy but for the fulfillment of reputation, it varies according to the type of bankrupt.  EXECUTION AND BANKRUPTCY LAW  Fulfillment of reputation:  A – Fraudulent bankrupt:  Article 312 – Criminal Procedure to restore the reputation of fraudulent bankruptcy  It can be obtained according to the provisions in the chapter of the Law on the return of the dissatisfied rights. However, apart from the fulfillment of the conditions written in the aforementioned chapter, all creditors accepted to the table must attach their receipts or other documents showing that their receivables have been fully redeemed.  B – Negligent bankrupt:  Article 313 – After the negligent execution of the insolvent has served the necessary punishment or the penalty has been dropped for legal reasons, he may request the restoration of his reputation by requesting the court that issued the bankruptcy decision. The claim is documented with a book taken from the bankruptcy office showing the receivables of all creditors accepted to the table, receipts or other proof that these debts have been fully redeemed.  C – Ordinary bankrupt:  Article 314 – Ordinary insolvent may request the court that decided bankruptcy to restore its reputation by showing the receipts or documents showing that all creditors accepted to the table have redeemed their receivables.  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf> |
| 2.1.7 | **Does the applicable national legislation contain formal procedures for discharge of debt in bankruptcy liquidation[[3]](#footnote-4)?** | | | Yes [x]  No [ ] | Article 229, 241, 247, 250, 256 and the following provisions of the Execution and Bankruptcy Law No. 2004.  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf> |
|  | If yes | Please specify them: i.e. what is the level and terms of discharge? | | EXECUTION AND BANKRUPTCY CODE | <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf> |
|  | a) | Does the legislation specify a maximum time for full discharge? | | Yes [x]  No [ ] | Article 171 and the following provisions of the Execution and Bankruptcy Law No. 2004.  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf> |
|  | b) | If a maximum time for full discharge is specified, is it within a maximum of 3 years after final court decision? | | Yes [x]  No [ ] | Article 171 and the following provisions of the Execution and Bankruptcy Law No. 2004.  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf> |
|  | c) | Is removal from bankruptcy register automatic after full discharge or petitioner has to undertake special proceeding or apply to court for it? | | Yes [x]  No [ ] | In 2013, the Central Bank announced that 5 years after all debts are settled, the names of individuals will be automatically removed from the black list. The time required for unpaid debts to expire is 10 years. |
|  | d) | Is removal from national credit black list automatic after full discharge, i.e. automatic restoration of rights? | | Yes [X]  No [ ] |  |
| 2.1.9 | **Since the last assessment (January 2019), have there been any developments in the legal framework on secured rights? If so, please specify.** | | |  | The Law on Execution and Bankruptcy Law and Amending Some Laws  Article 5  <https://www.resmigazete.gov.tr/eskiler/2021/06/20210619-19.htm> |
| 2.1.10. | **Does the legal framework on secured rights include the following elements:** | | |  |  |
|  | a) | secured creditors are able to seize their collateral after reorganisation (no automatic stay) | | Yes [X]  No [ ] | Execution and Bankruptcy Law  Article 206  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf> |
|  | b) | restrictions such as creditor consent must be observed when a debtor files for reorganisation | | Yes [X]  No [ ] | Execution and Bankruptcy Law  Article 297  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf> |
|  | c) | secured creditors are paid first out of proceeds from sale of their security, upon deduction of all costs associated to securing, protecting and maintaining of their secured asset by the Bankruptcy Administrator? | | Yes [X]  No [ ] | Execution and Bankruptcy Law  Article 206  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf> |
|  | d) | if secured creditors will be paid in full by deferred payments in time, they are considered that have no material interest and have voted for plan? The non-payment of interest rate is not considered a substantial material violation of their rights as interest rates are negative in 2019-2021? If not explain | | Yes [ ]  No [X] | The order of the creditors whose receivables have been secured with the immovable pledge and the scope of this guarantee's interest and attachment are determined in accordance with the provisions of the Civil Code regarding the immovable pledge.  Execution and Bankruptcy Law  Article 206 <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf> |
|  | e) | Secured creditors are obliged to assess the coverage of their claim and file the reminder of their claim as general unsecured claim vs. regime allowing for unpaid part of a secured claim to be considered as unsecured claim by law which creates preferential treatment of secured creditors. | | Yes [ ]  No [ ] | Execution and Bankruptcy Law  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf> |
| 2.1.10 | **Do debt towards the state tax administration form a priority separate class?** | | | Yes [x]  No [ ] | Execution and Bankruptcy Law  Article 206  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf> |
|  | If not | Does tax administration support reorganisation plans, and if so, what type of plans (for example 100% deferred payments only) and what is the target recovery rate that Tax authorities are willing to receive by plan in %? | |  |  |
|  | If yes | Please explain and assess the degree of importance on tax administration voting the reorganization plans (on scale 1 to 100). | | Revenue Administration pays utmost attention to this issue and encourages restructuring of the debts  90  In the specified periods, the interest debt arising from the tax delay is forgiven and the remaining part can be paid in installments without interest. | <http://www.resmigazete.gov.tr/eskiler/2017/05/20170527-1.htm> (Law No 7020), <http://www.gib.gov.tr/sites/default/files/fileadmin/mevzuatek/6736.pdf> (Law No 6736) |
| 2.1.11 | **Does insolvency legislation include cross class[[4]](#footnote-5) cram-down provisions?** | | | Yes [X]  No [ ] |  |
|  | If yes, | Please specify whether a mechanism is based on a fact that a dissenting creditor, who votes against reorganisation would receive higher recovery by plan as compared to a situation when there was no plan. | |  | Execution and Bankruptcy Law  Article 240,298  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf>  Execution and Bankruptcy Law  Article 309/p, 309/r  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf>  Examination of the application by the court and legal remedies:  Article 309/p- (Annex: 12/2/2004-5092/8 art.)  At the attestation hearing, the court hears the interim auditor, the officials of the debtor enterprise and the creditors present at the hearing. If the court determines that the debtor has applied for restructuring in good faith, that the conditions in articles 309/m to 309/o are fulfilled and that the amount to be received by each creditor who has rejected the project with the project is at least equal to the amount that will be received at the end of the bankruptcy liquidation, the application shall be approved within thirty days at the latest. , otherwise it decides to reject.  The court, together with the approval decision, may appoint one or more project auditors, whose authority consists only of auditing the principles regarding the execution of the project and reporting the situation to the creditors regularly, taking into account the opinions of the debtor and creditors on this matter. If the debtor and creditors do not choose an auditor or cannot agree on an auditor, the court may appoint an auditor ex officio, whose qualifications and scope of duty will be determined by regulation.  The debtor and the creditors who have made an objection during the confirmation hearing can appeal the decision within ten days from the notification of the confirmation or rejection decision. The appeal review on this matter is made immediately and no appeal can be made against the decision to be made.  Objection and appeal of the parties are subject to a fixed fee.  Consequences of the decision:  Article 309/r- (Annex: 12/2/2004-5092/8 art.)  The restructuring project begins to bear all its provisions and results from the moment the decision regarding the approval of the application is made. The terms of the project precede any contractual terms with the creditors affected by the project.  Upon the reversal of the decision by the Supreme Court at the end of the appeal review, the execution of the decision of approval of the project automatically stops. Transactions made until the decision to reverse remain valid.  Regardless of whether the debtor is affected by the project or not, if there are provisions in the contracts to which the debtor is a party that may lead to the modification or termination of the project or that the debtor's restructuring will constitute a default or a breach of contract, these provisions shall not be applied in the event of the debtor's restructuring procedure.  In case of a court decision regarding the rejection of the request for approval of the application, the measures given by the court shall be lifted, and the pending lawsuits and proceedings shall continue. |
| 2.1.12. | **Does the insolvency framework in your economy define simplified and shortened (fast-track) proceedings for bankruptcy reorganisation and liquidation for SMEs? Does the insolvency framework envisage any reduction in administrative burden when debtor is an SME?** | | | No |  |
|  | If yes | Please explain and provide provisions of the law. | |  |  |
|  | a) | Are there special procedures for SMEs insolvency that are more flexible and quicker? If yes please describe. | |  |  |
|  | b) | Have there been any reforms in the area of corporate insolvency since January 2019? If so, please describe. | |  |  |
| 2.1.13. | **To what extent has the backlog of cases[[5]](#footnote-6) on distressed companies, receivership and bankruptcy been reduced in 2020 and 2021 as compared to pre COVID-19 years (2018 and 2019)? Please explain.** | | | Alt Text | Number of Enforcement (Main) and Bankruptcy Files in Enforcement Offices (İcra Dairelerindeki İcra (Esas) ve İflas Dosya Sayıları)  <https://istatistikler.uyap.gov.tr/> |
| 2.1.14. | **Have KPIs (on duration of proceeding, cost of proceedings and recovery rate as % of bankruptcy estate) improved since last assessment (January 2019) compared to the OECD benchmark countries as evaluated by the WB Doing Business?** | | | Yes [X]  No [] |  |
|  | If yes | | Please explain the reasons, i.e. what measures led to these improvements. | Turkey made resolving insolvency easier by introducing the possibility to obtain post-commencement credit, improving voting arrangements in reorganization and granting creditors greater participation in the proceedings. | <https://www.doingbusiness.org/content/dam/doingBusiness/country/t/turkey/TUR.pdf> |
|  | If no | | Please specify what bottlenecks exist in the current insolvency framework. |  |  |
| 2.1.15. | **Have there been any improvements on transparency regarding insolvency (e.g. providing transparent information to all economic agents by maintaining up-to-date national insolvency registers)?** | | | There is exclusive agreement between Ministry of Justice and Risk Center for the list those who declare concordat, but the system can be used only by financial institution, but | <https://www.ilan.gov.tr/ilan/kategori/49/konkordato-ve-muhlet-iik-288inci-md?ats=4&currentPage=2> |
|  | If yes | Please provide updated information on improvements of co-ordination mechanisms/policies among institutions involved in implementation of insolvency framework (both extra-judicial and judicial). | | The firm who declare concordat publish on Official Press Advertising Agency | <https://www.ilan.gov.tr/ilan/kategori/49/konkordato-ve-muhlet-iik-288inci-md?ats=4&currentPage=2> |
| 2.1.16 | **How do you maintain the capacity building of the IPs and Administrators? Provide information on national obligatory professional trainings and monitoring and evaluation procedures for 2020-2021.** | | | A national occupational standard (NOS) is the minimal norm that displays the required knowledge, skills, behavior and manners approved by VQA in order to successfully practice an occupation.  Identification of occupations: The occupations for which a standard is going to be developed are identified by taking into consideration top priority needs of the labour market and educational institutions along with suggestions of the sector committees.  https://www.myk.gov.tr/index.php/en/legislation | <https://www.myk.gov.tr/index.php/en/vocational-qualification-certificate> |
| 2.1.17 | **Since the last assessment (January 2019), what initiatives have the government developed to reduce cultural stigma surrounding entrepreneurs’ failure? Please specify if your legislation provides a clear distinction between fraudulent insolvency transactions and positive cases of insolvency recovery through bankruptcy reorganisation plan?** | | | Execution and Bankruptcy Law  Article 240,298  Fulfilling the reputation  <https://www.mevzuat.gov.tr/MevzuatMetin/1.3.2004.pdf> |  |
| **Thematic block 2 Performance, monitoring and evaluation** | | | | | |
| 2.2.1 | **Are formal bankruptcy and reorganisation (survival) policies being regularly monitored and publicly reported?** | | | Yes [X]  No [ ] |  |
|  | If yes | Describe KPI (key performance indicators) being monitored, like duration of proceedings, cost and claims recovery as % of bankruptcy estate differentiated by type of proceeding (bankruptcy or reorganisation, pre-bankruptcy reorganization plan or preventive stabilisation proceeding) | |  |  |
|  | a) | What is the number of bankruptcy and reorganizations finalised on a yearly basis for the last 5 years since 2017? | | 2017- 6.673.290  2018- 7.677.020  2019- 7.457.018  2020- 6.259.964  2021- 4.523.997 | Number of Enforcement (Main) and Bankruptcy Files in Enforcement Offices  (İcra Dairelerindeki İcra (Esas) ve İflas Dosya Sayıları)  <https://istatistikler.uyap.gov.tr/> |
|  | b) | What is the average duration of bankruptcy and insolvency proceedings for each of the last 5 years since 2017? | | 2017- 880 days  2018- 871 days  2019- 923 days  2020- 1280 days  Chart 4.1 Average Time to See in Enforcement and Bankruptcy Offices, Days and Ratio of Outgoing Files to Incoming Files, %, 2013-2020  (Grafik 4.1 İcra ve İflas Dairelerinde Ortalama Görülme Süresi, Gün ve Çıkan Dosyaların Gelen Dosyalara Oranı, %, 2013-2020) | Forensic Statistics 2020  p.223  <https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/22420211449082020H%C4%B0ZMETE%C3%96ZELK%C4%B0TAP.pdf> |
|  | c) | What is the average annual cost of bankruptcy and reorganisation procedures finalised on a yearly basis for the last 5 years since 2017? | | 2017-  2018-  2019-  2020- 14,5 % of estate  Chart 4.1 Clearance and Real Working Rate in Enforcement and Bankruptcy Offices, %, 2012-2019  (Grafik 4.1 İcra ve İflas Dairelerinde Temizlenme ve Reel Çalışma Oranı, %, 2012-2019) | p. 4  <https://www.doingbusiness.org/content/dam/doingBusiness/country/t/turkey/TUR.pdf> |
|  | d) | What is average annual rate of bankruptcy and insolvency proceedings for each of the last 5 years since 2017? | | Bankruptcy/ Insolvency Proceedings  2017- 3615/ 8647237  2018- 3808/ 9323253  2019- 4193/ 9825927  2020- 4355/ 6739856  Table 4.1 Number of Files of Enforcement and Bankruptcy Offices, TURKEY, 2013-2020  (Tablo 4.1 İcra ve İflas Daireleri Dosya Sayısı, TÜRKİYE, 2013-2020) | Forensic Statistics 2020  p.224  <https://adlisicil.adalet.gov.tr/Resimler/SayfaDokuman/22420211449082020H%C4%B0ZMETE%C3%96ZELK%C4%B0TAP.pdf> |
|  | e) | What is the survival rate of recovered companies or part of businesses in the first, second, third, fourth and fifth year of operation? (Please give the rate for each year since 2017). | |  |  |
|  | g) | What is the distribution of recovered companies in insolvency based size of business that recovered in reorganisation proceedings in terms of total assets or annual turnover and number of workers? Please draw sector conclusions. | |  |  |
| 2.2.2. | **Have any gaps assessment analyses been conducted on performance of liquidation and reorganisation proceedings with recommendations for legislative improvements to allow for more recoveries than liquidations? Alternatively, has an impact assessment on the introduced insolvency framework legislative changes been conducted since the last assessment in January 2019?** | | | Yes [ ]  No [X] |  |
|  | If yes | Provide assessment reports and explain future plans for legislation improvement. | |  |  |
| 2.2.3. | **Is there an annual report on performance of pre-bankruptcy reorganisation proceedings, formal bankruptcy reorganisation proceedings and liquidations?** | | | Yes [\* ]  No [ ] |  |
|  | If yes | Provide statistics and results from performance reports (KPIs monitored and evaluated). Have these been published entirely or just in summary? | | The Union of Chambers and Commodity Exchanges of Turkey only report monthly bases Company Establishment and Liquidation Statistics | <https://www.tobb.org.tr/BilgiErisimMudurlugu/Sayfalar/Eng/KurulanKapananSirketistatistikleri.php> |
| 2.2.4. | **Does the government body or institution in charge of providing guidance on formal court bankruptcy reorganisation and liquidation proceedings, monitor effectiveness and efficiency of legislation implementation (National Insolvency regulator and/or Agency/Ministry in charge)? If so, please specify.** | | | Yes [X]  No [ ] | Ministry of Justice  Department of Executive Affairs  <https://iidb.adalet.gov.tr/Home/SayfaDetay/gorev-ve-yetkileri> |
| *Optional - Please provide any further information on the policies targeting* ***survival and bankruptcy procedures i****n your economy that you deem relevant for the assessment:* | | | |  |  |

|  |  |
| --- | --- |
| **Question** | **Response** |
| Self-assessed level  (1 through 5, whole and half numbers) | 4.5 |
| Brief justification | With the comprehensiveness of the enforcement and bankruptcy law and the recent updates, it has been ensured that businesses can handle the process quickly and easily in bankruptcy procedures and practices.  The analyzes performed in order to see and monitor the process better and the regulations made in the law helped improvements in the new period. |
| Assessor name and institution | N. Pınar Işın  Director of EU Coordination Unit  KOSGEB  Beyza Kuriş  SME Expert  EU Corodination Directorate  KOSGEB  Abdullah Aktepe  SME Expert  EU Corodination Directorate  KOSGEB |

## Sub-dimension 3: Promoting Second Chance

*[To access the responses of the previous SME Policy Index 2019 questionnaire click* [*here*](https://oecd-my.sharepoint.com/personal/marijana_petrovic_oecd_org/Documents/SME%20PI%202022%20Assessment/Turkey/Dimension%202/2019%20Turkey%20-%20SBA%20Questionnaire%20filled%20out%20.xlsx) *(ctrl+left click)]*

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **Question** | | **Response *[expand box as necessary]*** | **Source/evidence/links** |
| **No Thematic block – Existence, Design and Plan** | | | | |
|  | **Does the government have an overall national strategy to promote second chance to entrepreneurs?** | | Yes [ ]  No [X] |  |
|  | If yes | Please explain national concept/principles on which second chance programme is based and elements it covers (that have been either discussed or adopted): |  |  |
|  |  | a) Second chance for honest entrepreneurs or SMEs upon debt discharge and restoration of rights (if the latter exists as a legal option in formal insolvency proceedings). | Yes [ ]  No [ ] |  |
|  |  | b) Second chance for SMEs upon preventive insolvency extrajudicial restructuring. | Yes [ ]  No [ ] |  |
|  |  | c) Second chance for SMEs upon early warning and by provision of technical support advisory and mentoring services avoiding formal and informal insolvency proceedings. | Yes [ ]  No [ ] |  |
|  | **Does the government have an information campaign on promoting second chance?** | | Yes [ ]  No [X] |  |
|  | If yes | Is information on second chance procedures available online through the government website or implementation agency’s website? | Yes [ ]  No [ ] |  |
|  | **Are there any disabilities that relate to restrictions imposed during the period of bankruptcy that might prevent entrepreneurs from having a fresh start?** | | Yes [ ]  No [X] |  |
|  | If yes | Are there any civic disabilities? | Yes [ ]  No [ ] |  |
|  | Are there any economic disabilities? | Yes [ ]  No [ ] |  |
|  | Are there any interference with privacy and/or liberty? | Yes [ ]  No [ ] |  |
|  | **Does national system have qualified and trained advisors to support the implementation of a Second Chance Programme?** | | Yes []  No [X] | KOSGEB |
|  | If yes | Please provide description of selection and approval criteria |  |  |
|  | **Does government implementation body of Second Chance SME programme have the capacity of trained officers to run the programme?** | | Yes [ ]  No [\*] |  |
|  | If yes | Provide information on training topics covered and implementation Operation Manual compliance |  |  |
|  | **Is there training provided to entrepreneurs on starting fresh upon successful implementation of Second Chance Programme?** | | Yes [ ]  No [\* ] |  |
|  | If yes | Please provide information on training and relation to mentoring and coaching technical support advisory assistance programmes. |  |  |
| *Optional - Please provide any further information on the policies targeting* ***Second Chance of SMEs*** *in your economy that you deem relevant for the assessment* | | |  |  |

|  |  |
| --- | --- |
| **Question** | **Response** |
| Self-assessed level  (1 through 5, whole and half numbers) | 3 |
| Brief justification | Since there is no direct second chance program and the entrepreneurship strategy and action plan carried out in 2015-2018 has not been updated, a person who re-opens a business cannot receive any extra support or grant. However, since its business is closed, it is not subject to any additional sanctions and applies procedures as if it is opening a business for the first time. |
| Assessor name and institution | N. Pınar Işın  Director of EU Coordination Unit  KOSGEB  Beyza Kuriş  SME Expert  EU Coordination Directorate  KOSGEB  Abdullah Aktepe  SME Expert  EU Coprdination Directorate  KOSGEB |

|  |  |
| --- | --- |
| **Self-assessed level (1 through 5, whole and half numbers) for the overall dimension – Bankruptcy and second chance for SMEs:** | **4** |

1. Fear of Failure -An aspect of risk: the potential loss of self-image and self-respect (Ray 1994) however, under dimension 2 fear of failure is also perceived as entrepreneurs who experience financial difficulty. [↑](#footnote-ref-2)
2. Courts are defined as not neutral if they favour either debtors or creditors. [↑](#footnote-ref-3)
3. A bankruptcy discharge releases the debtor from personal liability for certain specified types of debts. In other words, the debtor is no longer legally required to pay any debts that are discharged. The discharge is a permanent order prohibiting the creditors of the debtor from taking any form of collection action on discharged debts, including legal action and communications with the debtor, such as telephone calls, letters, and personal contacts. [↑](#footnote-ref-4)
4. Cross class cram-down: confirmation by a judicial or administrative authority of a restructuring plan over the dissent of one or several affected classes of creditors. [↑](#footnote-ref-5)
5. This refers to the backlog of unresolved legal cases relating to bankruptcy, distressed companies and receivership. [↑](#footnote-ref-6)