

## Registrability – Merely Descriptive Term

### SAFMAYA SANAYİ A.Ş. + TRADITIONAL COOK DEVICE vs TURKISH PATENT INSTITUTE.

(\*) **Decision of 1<sup>st</sup> Administrative Court of Ankara**

**No. E: 2000/1485 – K: 2000/1521**

**22 December 2000.**

(\*\*) **Decision of the High Administrative Court of Appeal**

**No. E: 2001/581 – K: 2003/1040**

**20 March 2003 (Notified 15 July 2003)**

An action (\*) was instituted against the Turkish Patent Institute for the withdrawal of the refusal decision of the trademark SAFMAYA SANAYI A.S.+TRADITIONAL COOK DEVICE on grounds that the word SAFMAYA (PUREYEAST) is descriptive for the goods “yeast” according to the Article 6/a of the former Trademarks Act. No. 551 reading “Trademarks whose principal element consist of signs and inscriptions indicating exclusively the kind, type, characteristics/quality, quantity, (geographical) origin intended purpose (of use) and time (of production) ... shall not be registered as trademark” and that the trademark is confusingly similar to the trademark SAF registered for identical goods in the name of another registrant.

The plaintiff claimed that the trademark composed of the words SAFMAYA and SANAYI A.S. and a traditional cook device, is not descriptive for the goods “yeast”, when evaluated as a whole.

The first instance court accepted the plaintiff’s claims and ruled the cancellation of the refusal decision of the T.P.I.

Upon defendant’s appeal the State Council (High Administrative Court of Cassation) uphold (\*\*) the decision of the decision of the first instance court on grounds that the conditions for the overturning of the first instance court stated in the Article 49 of Administrative Procedural Law have not been met and that the decision of the first instance court is justified.