Deformation on environment due mostly to human activities brings about destructive effects on all living beings. It has been recognized by the Constitution that everyone has the right to live in a healthy and stable environment, and that it is the duty of the state and citizens to develop the environment to protect the environmental and natural resources, to prevent water, soil and air pollution and to guarantee the plant and animal species and natural historical wealth of the country. With the Environmental Impact Assessment Regulations, prepared on the basis of the Law, it has been possible to determine negative and positive projects on environment and in defining the measures to be taken in order to prevent or minimize the negative effects so as not to damage the environment. In legal regulations, however, there are some provisions to relax the limitations or to be exempt from the limitations in the legislation to protect the environment.

The Environmental Impact Assessment (EIA) is legally the process of preventing negative effects of the activities which may have significant effects on the environment from planning through construction, from operation to the final part. It is also examining the scientific methods and techniques before decisions are taken about the project, taking the necessary precautions, and preventing negative effects of the project, and inspecting and monitoring of these impacts and measures.

The requirements to carry out an EIA directive had hardly come into force 10 years after the law's enactment with the regulations made under the Article 10 of the Environmental Law (law no. 2872) as per 1983. The EIA Directive which came into force in 1993 has been amended many times until today. The decrees of nullity given by the courts underlie on the basis of these changes. Each regulation issued in order to be more perfect, however, it caused more problems than the previous one in practice, and came into force as regulations that have negative outcomes for the environment. The EIA process in Turkey has gone through important stages in the application over the past 20 years. By means of the most recent updates of EIA Directive which made in 2014, the EIA Directive is significantly in accord with the Directive 85/337/EEC of the European Parliament stated that "effects on the environment should be taken into account at the earliest possible stage in all the technical planning and decision-making processes". However, hospitals and dialysis centers have been excluded from the scope of the EIA Directive with the new regulation. The subject matter relating to the mining, oil and gas exploration projects has been excluded from the regulation. The projects which are taken into public investment program prior to June 23, 1997 and started its production or operation as of the date of May 29, 2013 and facilities that are necessary for their implementation have been also excluded from the scope of EIA Directive.

The constitutional state serves for stability by limiting the political power with the law and creating the legal infrastructure which required for the regular maintenance of state activities. The essence of this stability is legal security and predictability. Among general requirements of being a constitutional state, the legislative, executive and judicial procedures and actions should be in accordance with the law. The international agreements to which Turkey is a party does not conduct any judicial review in the Turkish domestic law regulations. The legislature has the primary authority to regulate in Turkey. The Grand National Assembly of Turkey has the authority to issue regulations for the first time even there is no regulation on an issue. In accordance with the framework which designated in the Constitution, the legislation is made by the Parliament. However, on the basis of authority given by the parliament, the executive branch has also the authority to make regulations that have a power to change laws. These regulations are known as "Decree Laws". Both the laws issued by the legislative body and supervisory authorities of the decree law are the Constitutional Court. In addition, in accordance with the laws, rules and regulations that are the nature of general regulatory can be come into force by the executive body. These arrangements cannot be contrary to the law, and have a lower level in the hierarchy of norms. The last instance for supervising the legality of regulations is the Council of State. As a result, on the one hand, the Constitutional Court has the authority for the control of the overall regulatory procedures in force in Turkey; on the other hand, the control mechanism is implemented by the State Council.

Legal regulations for the protection of the environment are frequently subject to amendments. It is quite burdensome, and even impossible in some cases, to restore the environment after it has been polluted and disrupted. For this reason, instead of environmental clean-up and renewing the disrupted environment, methods to prevent the negative effects on environment are sought after from the outset and the correct operational frame for the administration is defined by the courts. However, the grounds for amendment specified in court orders are ignored by the administration and provisions allowing activities that damage the environment are intended to be enforced again with the new regulations. There are both the decree of amendments by the Constitutional Court related to the legal regulations that can have negative effects especially on environment and the positive contributions of State Council’s grounds for amendment through the determination of unsatisfactory or general regulatory processes that are accepted by the executive body on the protection of the environment.

REFERENCES