

Arbitration - Turkey

New code of obligations restricts arbitration in sales with instalment payments

Contributed by **Cerrahoglu Law Firm**

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A new code of obligations comes into force in Turkey on July 1 2012 that prohibits purchasers residing in Turkey from concluding arbitration agreements in relation to disputes arising out of sales with instalment payments (through Article 262).

The new code defines 'sales with instalment payments' as those in which the seller promises to deliver the movable on sale to the purchaser before payment of the price and the purchaser undertakes to pay the price in instalments. The code also states that the provisions regarding sales with instalment payments will apply to transactions with the same economic objective.

The new code provides certain exceptions to the restriction on arbitration and states that the restriction shall not apply when the purchaser is a merchant or the product is purchased for the needs of a commercial enterprise or professional purposes.

Article 273 of the new code also applies the arbitration restriction, as well as its exceptions, to sales with instalment payments in advance. 'Sales with instalment payments in advance' are defined in the new code as those in which the purchaser undertakes to pay the price for the movable on sale in advance in instalments and the seller undertakes to deliver the movable to the purchaser after the payment of the purchase price in full.

As stated in the justification for Article 262 of the new code, the provisions in the new code are taken from the pre-2001 Swiss Code of Obligations. It is understood that the arbitration restriction on sales with instalment payments has since been removed under Swiss law.

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