

Arbitration - Turkey

Court of Appeals annuls arbitral award rendered after arbitration term expired

Contributed by **Cerrahoglu Law Firm**

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In a decision dated March 24 2008 the Court of Appeals annulled an arbitral award for having been rendered after the expiration of the term of arbitration.⁽¹⁾

In the arbitration in question, the dispute between the parties arose out of a work contract. The contractor requested that the arbitral tribunal declare a particular job requested by the principal as non-mandatory. The arbitral tribunal ruled in favour of the contractor and the principal appealed the award to the Court of Appeals.

The Court of Appeals found *ex officio* that the arbitral tribunal had rendered the award after the expiration of the term for arbitration provided for under Article 529 of the Code of Civil Procedure. According to this article, arbitrators must render their award within six months of the date of their first meeting; otherwise, any transactions carried out by the arbitrators shall be null and void, and the dispute shall be resolved by the domestic courts. According to Article 529 of the code, the term for arbitration shall be extended only by way of an explicit written agreement between the parties or a court decision.⁽²⁾

The Court of Appeals determined that in the case at hand, the arbitral tribunal had held its first meeting on February 14 2005 and had rendered the award on March 1 2006, which was after the expiration of the six-month term. Given that there was no explicit written agreement between the parties or court decision in the case file extending the term of arbitration pursuant to Article 529, the court annulled the award.

This decision is significant for a number of reasons. It maintains that:

- disputes arising out of work contracts are arbitrable under Turkish law;
- the term for arbitration begins on the date of the arbitral tribunal's first meeting;
- any award rendered after the expiration of the term of arbitration is null and void; and
- the term for arbitration can be extended only by an explicit written agreement between the parties or a court decision.

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Endnotes

(1) Decision E 2008/188, K 2006/1871 of the 15th Civil Chamber of the Court of Appeals, March 24 2008.

(2) A new Code of Civil Procedure will come into effect on October 1 2011. Pursuant to Article 427 of the new code, the term for arbitration is one year from the date of the arbitrators' first meeting. The term can be extended only by mutual agreement between the parties or by a court decision upon request by one of the parties. The new code follows the Turkish International Act of Arbitration (4686/2001), Article 10b of which provides for a one-year term of arbitration.