

Litigation - Turkey

Appeal court rules on workplace accidents outside Turkey

Contributed by **Cerrahoglu Law Firm**

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According to a decision of the 21st Chamber of the Court of Appeals, the jurisdiction of the Social Security Law is restricted to the sovereign jurisdiction of the republic of Turkey and thus such law does not apply outside Turkey (2007/19830 E and 2008/16293 K). Therefore, the Social Security Institution cannot be held liable for workplace accidents that take place outside Turkey.

In the case at hand, a lawsuit was initiated by the heirs of a deceased employee against his employer and the Social Security Institution. The employee had taken an aeroplane with 21 other employees from Istanbul to the company's Moscow office. The plane was hijacked and forced to land at Medina Airport in Saudi Arabia. The Saudi security forces carried out an operation on the hijacked plane, during which the employee died.

The court of appeals concluded that from the employer's perspective, it was beyond doubt that the event was a workplace accident; it dismissed all the company's objections on appeal. According to the court, the issue to be decided was whether the event should be deemed a 'workplace accident' in relation to the Social Security Law, and whether the Social Security Institution was liable to pay workplace accident allowances to the plaintiffs.

From the contents of the lawsuit file it was understood that the deceased employee had no social security insurance policy against workplace accidents and work-related illness. The court decided that unless there is a social security treaty between Turkey and the relevant foreign state which imposes liability on the Social Security Institution or a social security policy which covers short-term insurance, as a general rule, the Social Security Law applies only:

- within the borders of the republic of Turkey;
- to workplaces registered in Turkey; and
- to employees who fall within the scope of such law.

In other words, the jurisdiction is restricted to the sovereign jurisdiction of Turkey and cannot be applied outside the Turkish borders.

In its verdict, the court of appeals held that the employee had died as a result of an event that had occurred while he was travelling to his employer's Russian office. However, since there is no social security treaty between Turkey and Russia which imposes liability on the Social Security Institution, and since the employee's insurance policy did not cover workplace accidents, it was impossible to consider the event a 'workplace accident' within the context of the Social Security Law and to hold the Social Security Institution liable under such law.

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