

Turkey Updates Procedural Rules for Pre-Trial Settlement Negotiation Mechanism

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The Turkish Bar Association has updated the rules for reconciliation negotiations. These are an alternative dispute resolution mechanism, available to parties before filing lawsuits (except those involving public order). The mechanism allows dispute parties an opportunity to voluntarily settle their conflict, relatively quickly and cheaply compared to formal court processes. Notable changes apply to lawyers' obligations during the process, as well as procedural steps for arranging, recording and concluding reconciliation meetings.

The Reconciliation Regulation ("**Regulation**") was published in Official Gazette number 30038 on 14 April 2017, entering into effect on the same date.

Reconciliation negotiations are generally used in commercial disputes and there are no specific monetary thresholds or limits for parties to take advantage of the mechanism.

Notable changes to the process include:

- Lawyers are no longer required to be impartial during reconciliation negotiations. Previously, lawyers were required to act in an impartial manner between the parties and try to reach a settlement without being impressed by either party. Lawyers must now:
 - Explain the reconciliation process to their own client, including outcomes.
 - Prepare a document outlining the information about the reconciliation process provided to their client and have the client sign this.
 - Act in an equitable manner during reconciliation negotiations and completely implement legal rules.
- The inviting lawyer is now entitled to bring personnel to reconciliation negotiations, in order to draft meeting minutes. Previously, all parties' consent was required for any other party or person to attend, besides the parties and their lawyers.
- Parties must now compromise in order to include technical personnel in reconciliation negotiations, such as an independent accountant and, financial advisor and/, or engineer to reconciliation negotiations.. Such technical personnel can only make statements regarding questions asked to them.
- Changes have been made to how reconciliation meeting are arranged:
 - Reconciliation offers must now be made in writing
 - The inviting party must now include a meeting place and date in their proposal.
 - Parties receiving a reconciliation offer must now respond within two weeks, or else the offer will be automatically deemed as rejected.
 - If parties cannot agree on a meeting place, one will now be allocated by the Turkish Bar Association.
- Written minutes must be recorded for each meeting, with documents signed by the parties' lawyers.
- If both parties agree, audio or video recordings can be made of meetings.
- The meeting outcome must be recorded in writing, regardless of whether parties reach an agreement.
- The parties and their lawyers must retain all documents drafted or submitted during the reconciliation process for at least three years from signing the reconciliation report.

- If the parties resolve their dispute during the reconciliation process:
 - If the client and lawyer have agreed on a fee, such agreement would apply.
 - If there is no fee agreement, the lawyer is only entitled to receive fees in accordance with the Legal Practitioners Act No. 1136.

Please see this link for the full text of the Regulation (only available in Turkish)

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