

## Turkish Court of Appeals: Arbitral Awards Based on Arbitration Agreements Entered before 1 October 2011 Cannot be Appealed to the Court of Appeals

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The Civil Procedures Law number 6100 ("**CPL**") entered into effect on 1 October 2011. Turkey's Court of Appeals recently ruled that arbitral awards which are made based on arbitration agreements that the parties entered before the CPL came into effect cannot be appealed to the Court of Appeals, as was contemplated by the (now repealed) Civil Procedures Law number 1086 ("**Former CPL**"). Rather, the court ruled that these awards can only be subject to an annulment action under Article 439 of the CPL.

The General Assembly on Unification of Judgments for the Court of Appeals ruled that according to Turkish legal doctrine and the Court of Appeals' practices, arbitration agreements are deemed to be procedural law agreements on the basis that they produce their effects directly within procedural law. In that context, arbitration agreements are subject to procedural law with regards to the results they present.

The court noted that the principle of immediate effect applies when determining the applicable law for an arbitration which was conducted within the scope of arbitration agreements and arbitral awards. The principle states that temporal jurisdiction must be considered, meaning that the most recent procedural rules, regulated by legislators based on recent circumstances, are more efficient in protecting the parties' rights.

The CPL outlines legal remedies against arbitral awards, as well as private law rules of procedure. It entered into force on 1 October 2011, abolishing the Former CPL. The CPL contains no transitional provisions which imply arbitration-related provisions under the Former CPL should continue to apply.

Therefore, the appeal procedures determined in the Former CPL do not apply to arbitral awards rendered after 1 October 2011, even though the arbitration agreements which the awards are based on were executed before this date, while the Former CPL was in force.

Even if the parties to the arbitration agreement agree the Former CPL's provisions should apply, this agreement will be void. The court stated that only annulment actions can be filed against arbitral awards, based on the reasons determined in Article 439 of the CPL.

Please see this [link](#) for full text of the decision.

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