

Turkish Court Rules that Parties Must Specifically Identify Sworn Testimony as Evidence

19 Jul 2017

The highest body within Turkey's Court of Cassation recently ruled that parties cannot present an oath as evidence if this sworn testimony was not listed as evidence. The prohibition applies even if the party's court application includes catch-all wording, such as "other evidences, any other evidence" to allow further evidence submission. The decision applies to cases filed after 4 February 2011, the enforcement date of the Civil Procedure Code numbered 6100 ("**Civil Procedure Code**").

The Civil Procedure Code requires parties to specify the facts which they rely on for their claims (Article 194). That is, parties must explicitly state their evidence, as well as identify which claims each piece of evidence supports. This rule was not included in earlier legislation (Civil Procedure Code numbered 1086).

In the case at hand, the General Assembly on the Unification of Judgements of the Court of Cassation ("**General Assembly**") considered whether legislation allows parties to submit sworn testimony as evidence if they have earlier reserved the right to submit other evidence, without explicitly referring to sworn testimony. It also considered whether judges can remind the parties of their right to submit sworn testimony within the scope of the judicial obligation to.

The General Assembly found the requirement to explicitly identify evidence was crucial. It ultimately decided by majority that parties do not have the right to tender an oath as evidence if they did not explicitly include the oath in their evidence list. The General Assembly also ruled that judges cannot remind parties of their right to submit sworn testimony.

The General Assembly's decision (Number 2015/2 E., 2017/1 K.) dated 3 March 2017 was published in Official Gazette number 30099 on 17 June 2017 and can be accessed at this [link](#) (only available in Turkish).

Related Attorneys

- [BURAK BAYDAR](#)