

October 18, 2016

Subject : Jurisdiction clause in agreements between Turkish and non-Turkish parties

11th Chamber of the Court of Appeal in its recent judgment, published very recently, has resolved that, a general reference such as “English courts or courts of England” for jurisdiction in agreements between Turkish and non-Turkish parties is null and void pursuant to Articles 17 and 18 of the Civil Procedure Code (Law No. 6100) (*published in the Official Gazette dated February 4, 2011, No. 27836*) and Article 47 of the Act on International Private Law and Procedural Law (Law No. 5718) (*published in the Official Gazette dated December 12, 2007, No. 26728*) and in order for such jurisdiction clause to be valid, binding and enforceable the name of the competent foreign court, having jurisdiction to resolve disputes, must be precisely referred to.

Although there are other judgments of the Turkish Court of Appeals contrary to this recent judgment and all these judgments are not binding before Turkish courts, however the judges give them effect as a precedent in their judgments. Therefore, in order to avoid any risk of nullity of a jurisdiction clause in agreements between Turkish and non-Turkish parties, we highly recommend to refer the name of the competent court of the foreign country in such agreements.

An English translation of the above recent judgment is available [here](#)¹.

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¹ http://www.pekin-pekin.com/images/PEKIN_DM-701040-v1-11th_Chamber_Court_Of_Appeal_Jurisdiction_Clause.pdf