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Publication of the Decision of the Council on the Unification of Judgments of the Court of Cassation Regarding the Competent Court in Lawsuits Arising from Breach of Non-Compete Agreements.

I. Introduction

The decision numbered 2023/1 E., 2025/3 K. ("**Decision**") of the Council on the Unification of Judgments of the Court of Cassation ("**Council**") was published in the Official Gazette dated 12 September 2025 and numbered 33015. In the Decision, it was ruled that lawsuits to be filed due to breach of non-compete obligations under Articles 444 to 447 of the Turkish Code of Obligations ("**TCO**") shall fall within the jurisdiction of the commercial courts of first instance.

You may access the full text of the Decision here.

II. Legal Framework on Non-Compete Agreements and Competent Court

The non-compete agreement is regulated under Articles 444 to 447 in section six of the TCO regarding contracts of service, within the sub-section titled "General Provisions on Employment Contracts." These provisions stipulate that, for the validity of a non-compete obligation, a written agreement must be concluded, the employer must have a legitimate interest worthy of protection, and the restriction must be proportionate in terms of duration, place, and subject matter (Art. 444). The judge may narrow the scope or duration of the restriction if it excessively restricts the employee's economic future (Art. 445). If the employee breaches the restriction, the employer may claim damages and, if agreed, a contractual penalty (Art. 446). Finally, where the restriction unjustly endangers the employee's economic future, the judge may annul the non-compete, in whole or in part (Art. 447).

The procedural rules creating a conflict of jurisprudence on the determination of the competent court are found in Article 4 of the Turkish Commercial Code ("**TCC**"), as well as in Article 5 of the repealed Labour Courts Act No. 5521 and the subsequent Labour

Courts Act No. 7036. The TCC provision qualifies disputes arising from non-compete obligations under TCO Articles 444–447 as commercial disputes and assigns jurisdiction to the commercial courts of first instance, whereas the Labour Courts legislation grants jurisdiction to labour courts in disputes between employees and employers.

III. Conflicting Case Law

In light of the above provisions, the 9th Civil Chamber of the Court of Cassation considered that disputes arising from non-compete agreements fell under the jurisdiction of the labour courts. On the other hand, the General Assembly of Civil Chambers and the 11th Civil Chamber of the Court of Cassation adopted the view that the competent courts were the commercial courts of first instance. This conflict led to the issuance of the unification of judgments decision.

The General Assembly of Civil Chambers, in its opinion, stated that while there had been rulings in both directions, more recent case law began to adopt the view that commercial courts had jurisdiction. Accordingly, it emphasized that the contradiction necessitated unification.

The 9th Civil Chamber of the Court of Cassation, in its opinion, argued that since the non-compete provisions are regulated in the part of the TCO concerning contracts of service, and as all disputes arising from employment relations should be resolved by the labour courts, disputes arising from non-compete agreements should also be heard by the labour courts. However, it noted the lack of consistent case law and expressed the need for unification.

The 11th Civil Chamber of the Court of Cassation, in its opinion, argued that although the non-compete undertaking is embedded within the employment contract, it applies after the termination of the employment relationship. Moreover, pursuant to TCC Art. 4, disputes arising from TCO Articles 444–447 are classified as absolute commercial disputes. Therefore, lawsuits arising from breaches of non-compete obligations should fall under the jurisdiction of the commercial courts of first instance.

IV. The Decision and Its Legal Grounds

According to the Council, the duty of loyalty of which the employee's obligation not to compete is one of the corollaries, is an ancillary obligation of the employment contract.

The duty of loyalty and the non-compete obligation derived from it are valid only during the continuation of the employment relationship; when the employment ends, this obligation also terminates. Therefore, a non-compete agreed upon for the post-employment period cannot be regarded as a continuation of the duty of loyalty or an obligation arising from the employment contract. The prohibition of competition produces its legal consequences after the termination of the employment contract and after the parties lose their status as employee and employer.

TCC Art. 4/1(c) expressly qualifies disputes arising from non-compete obligations regulated in TCO Articles 444–447 as absolute commercial disputes. Pursuant to TCC Art. 5, commercial courts are competent to hear absolute commercial disputes.

TCC Art. 5 provides: "**Unless otherwise stipulated**, regardless of the value or amount in dispute, the commercial courts of first instance shall have jurisdiction over all commercial cases and commercial non-contentious matters."

The Council, in this context, discussed whether Art. 5 of the Labour Courts Act could be deemed an "exception clause" within the meaning of TCC Art. 5. Article 5 of the Labour Courts Act stipulates that labour courts shall have jurisdiction over any legal disputes arising from the contract or the law between employees subject to contracts of service regulated in part two, section six of the TCO and their employers or employer's representatives.

It was emphasized that while part two, section six of the TCO contains a total of 55 provisions governing employment relationships, only Articles 444–447 specifically regulate non-compete obligations, which the TCC Art. 4 expressly classifies as absolute commercial disputes. The Council assessed that the legislator, by this "targeted" provision, intended to keep all other employment-related disputes within the jurisdiction of labour courts, but to classify disputes arising from non-compete obligations as commercial disputes under the jurisdiction of commercial courts.

Accordingly, the Council concluded that, since only Articles 444–447 of the TCO are expressly defined in TCC Art. 4 as absolute commercial disputes, and this regulation remains in force, the general rule of jurisdiction in Labour Courts Act Art. 5 cannot be considered as an "exception clause" within the meaning of TCC Art. 5.

For these reasons, the Council ruled—by majority—that disputes arising from non-compete obligations under TCO Articles 444–447 shall be heard by the commercial courts of first instance.

In the dissenting opinion, it was argued that the obligation not to compete arises from the employee's duty of loyalty toward the employer and thus cannot be considered independently from the employment relationship. According to this view, Labour Courts Act Art. 5 constitutes an "exception clause" under TCC Art. 5. Therefore, disputes arising from non-compete agreements concluded within the framework of an employment relationship should fall under the jurisdiction of the labour courts.

V. Conclusion

The Council on the Unification of Judgments of the Court of Cassation ruled that disputes arising from breaches of non-compete obligations shall fall under the jurisdiction of the **commercial courts of first instance**, thereby eliminating conflicting precedents on this issue. The Decision is significant as it clarifies the competent court for disputes arising from non-compete agreements based on the employee–employer relationship.

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