

CLIENT ALERT

EMPLOYMENT | TURKEY

OCTOBER 2022

AUTHORISED REPAIRER CANNOT BE QUALIFIED AS A SUB-CONTRACTOR¹

The two different chambers of the Samsun Regional Court of Appeal rendered different decisions on whether the relationship between the supplier company and the authorised repairer is a subcontractor relationship.

In order to resolve the discrepancy between the decisions rendered by the aforementioned chambers, the 9th Civil Chamber of the Court of Cassation made the following determinations and decided that the relationship between the supplier company and the authorised repairer is not a subcontractor relationship and that the supplier company is not liable for the employment debts of the authorised repairer.

DETERMINATIONS MADE BY THE 9th CIVIL CHAMBER

It is a requirement of the authorised service agreement that:

- spare parts are provided by the supplier,
- the supplier regularly inspects the authorised repairer,
- the supplier provides training to the employees of the authorised repairer,
- the diagnostic devices belong to the supplier,
- the supplier intervenes in changes in the share structure of the authorised service, and that only the maintenance and repair of vehicles belonging to the supplier are carried out at the workplace.

These are natural arrangements made to protect the brand of the supplier and to ensure its sustainability; they are not sufficient for the relationship to be considered a subcontracting relationship.

The fact that:

- the rent of the workplace operated as service is paid by the authorised repairer,
- the authorised repairer acts on its own behalf and with its own accounts (with its own profit and loss),
- the maintenance and repair services are carried out at the workplace of Authorised Repairer and within the scope of the independent business organisation of the authorised repairer,
- the supplier does not give orders and instructions to the employees of the authorised repairer,

¹ 9th Civil Chamber of the Court of Cassation E. 2022/3279 K. 2022/8091 dated 21.06.2022

prevent the relationship between the supplier and the authorised repairer from being considered as a subcontractor relationship.



In compliance with Turkish bar regulations, opinions relating to Turkish law matters that are included in this client alert have been issued by Özdirekcan Dündar Şenocak Ak Avukatlık Ortaklığı, a Turkish law firm acting as correspondent firm of Gide Loyrette Nouel in Turkey.

CONTACTS

ALİ OSMAN AK

ak@odsavukatlik.com

TUYGUN CAN ELBEK

elbek@odsavukatlik.com

SÜLEYMAN CEM UZEL

uzel@odsavukatlik.com

CANSU KOYUNCU

cansu.koyuncu@odsavukatlik.com

You can find this legal update on our website in the News & Insights section: [gide.com](https://www.gide.com)

This newsletter is a free, periodical electronic publication edited by the law firm Gide Loyrette Nouel (the "Law Firm"), and published for Gide's clients and business associates. The newsletter is strictly limited to personal use by its addressees and is intended to provide non-exhaustive, general legal information. The newsletter is not intended to be and should not be construed as providing legal advice. The addressee is solely liable for any use of the information contained herein and the Law Firm shall not be held responsible for any damages, direct, indirect or otherwise, arising from the use of the information by the addressee. You may request access to, rectification of, or deletion of your personal data processed by our Communications department (privacy@gide.com).