

# Dutch Supreme Court upholds award in which tribunal declined jurisdiction over Turkish construction dispute

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In *Güris v Bursa* (ECLI:NL:HR:2024:1024), the Dutch Supreme Court upheld an award in which the tribunal declined jurisdiction.

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The Dutch Supreme Court has confirmed the Court of Appeal in The Hague's decision to uphold an award in which the tribunal declined jurisdiction over a dispute about delay in the construction of a subway in the Turkish city of Bursa (see [Legal update, Court of Appeal in The Hague upholds award in which tribunal declined jurisdiction](#)).

First, the Supreme Court ruled that the grounds of appeal (cassation complaints) were not subject to review by the Supreme Court, as they did not concern matters of legal unity or legal development.

The Supreme Court's Attorney General had reviewed the cassation complaints. He first set out the characteristics of set-aside proceedings, which should be dealt with efficiently, with the aim of ensuring effective access to justice through arbitration. As the Supreme Court ruled in *X and others v Venezuela* (ECLI:NL:HR:2023:636) (see [Legal update, Dutch Supreme Court rules that award declining jurisdiction for lack of arbitration agreement cannot be challenged](#)), an award in which a Dutch-seated tribunal declines jurisdiction cannot be set aside by the Dutch courts, as none of the grounds for setting aside an award apply. The Attorney General also agreed with the Court of Appeal ruling that Güris's claim to appoint the Dutch courts as *forum necessitatis* (made only at the hearing) was filed too late and was entirely different from its set-aside application.

Furthermore, the Supreme Court rejected the request to appoint another body to rule on the dispute. It also rejected the claim to order Bursa to refrain from raising further jurisdiction issues. The Supreme Court ruled that these issues could not be determined in set-aside proceedings.

The decision marks the end of more than two decades of unsuccessful arbitration and litigation proceedings before the Dutch state courts for Güris. Remarkably, Güris had not filed an appeal against a 2019 judgment of the state court in Bursa, which declined jurisdiction, even though that judgment was rendered after an earlier award was set aside in 2004, reviving the jurisdiction of the state courts.

Case: *Güris v Bursa* (ECLI:NL:HR:2024:1024) (5 July 2024).

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