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CASE QUESTION 1

(E), who is engaged in the purchase and sale of electronic goods, authorised (A) to represent and conduct all kinds of business of the store he opened in Fatih. It was also stated that the representation authority of (A) was limited to 1.000.000-TL, and this authorisation was registered and announced in the trade registry. (A) verbally agreed with (K) Joint Stock Company [(K) AŞ] for the sale of electronic goods worth 1. 500.000-TL worth of electronic goods and the goods subject to sale were delivered together with the invoice on 03.04.2025. (K) AŞ, when it examined the invoice, realised that the price was shown as 2.000.000-TL and objected to the invoice price by e-mail on 10.04.2025. In addition, it was determined that there were scratches on the screens of some televisions subject to the sale, and upon this, (K) AŞ telephoned (A) on 13.04.2025 and notified (A) of the defect. Upon not resolving with the matter amicably (E) filed a lawsuit against (K)

1) Explain whether (E) and (K) are merchant. (20 Points)

Under the Turkish Commercial Code (TCC), the status of "merchant" (tacir) is regulated in Articles 12-16. A merchant is a person who operates a commercial enterprise in their own name, and joint-stock companies (anonim şirketler) are inherently merchants by virtue of their corporate form.

1. Merchant Status of (E):

(E) engages in the purchase and sale of electronic goods and operates a store opened in Fatih. According to TCC Article 12/1:

"Any person operating, even partially, a commercial enterprise on their own behalf is considered a merchant."

(E)'s activities (buying and selling electronic goods for profit) constitute the operation of a commercial enterprise.

Commercial enterprise is defined broadly as an undertaking organized to generate profit through commercial transactions.

Thus, clearly, (E) is considered a merchant under TCC Article 12.

2. Merchant Status of (K) Joint Stock Company (K AŞ):

According to TCC Article 16/1:

"Commercial companies (including joint stock companies) are deemed merchants, regardless of whether their activities are commercial or not."

Joint Stock Companies (AŞ) automatically gain merchant status upon their establishment, regardless of the type or extent of their activities.

(K) AŞ, by virtue of its legal form as a joint stock company, is therefore inherently considered a merchant.

Conclusion:

(E) is a merchant under TCC Article 12 due to conducting commercial enterprise activities (purchase and sale of electronic goods).

(K) AŞ is inherently a merchant under TCC Article 16 by the very nature of its joint stock company form.

Hence, both (E) and (K) AŞ are merchants according to Turkish Commercial Law.

2) Determine the legal nature of the relationship between (E) and (A). (20 Points)

Definition of Commercial Representation:

According to Article 547/1 of the Turkish Commercial Code:

"A commercial representative is a person who is expressly or implicitly authorized by the business owner (merchant) to manage the commercial enterprise and to represent the business under its trade name in matters relating to the business."

In the case given, (E) explicitly authorized (A) to represent the business concerning "all kinds of business" conducted at the store located in Fatih. Therefore, the explicit authorization provided clearly meets the definition of a commercial representative under Turkish law.

Scope and Limitations of Authority:

As per TCC Article 548:

A commercial representative's powers can be explicitly limited by the merchant. Here, (A)'s representation authority was explicitly limited to 1,000,000 TL, and this limitation was duly registered and publicly announced in the trade registry.

Since the limitation was registered, third parties are legally presumed to be aware of this limitation, which binds third parties and the commercial representative.

Effect of Registration:

According to TCC Article 547/2, the registration of representation authority serves primarily an explanatory (declaratory) rather than a constitutive function. Even without registration, the merchant would remain liable for the acts of the

representative within the given authority scope. However, in this specific scenario, the explicit limitation was registered, making third parties bound by and aware of this limitation.

Assessment of Acts Beyond Authority:

In the present scenario:

(A) entered into a contract verbally with (K) AŞ for goods priced at 1,500,000 TL, exceeding the explicitly registered authority limit of 1,000,000 TL.

Despite the registered limitation, (K) AŞ accepted delivery of goods. Turkish law indicates that merchants might still be bound by transactions beyond the authorized limits if they implicitly ratify or accept such transactions after their conclusion, especially if they benefit from these transactions (TCC Article 40, 550).

However, disputes over invoice amounts and defective goods introduce complications. Since the goods were delivered, and an invoice was issued, the central question revolves around whether (E) implicitly ratified or approved (A)'s actions exceeding the registered authority. This would depend significantly on further behavior by (E) after the transaction.

Conclusion (Legal Nature Determination):

The legal nature of the relationship between (E) and (A) is Commercial Representation (ticari mümessillik) under TCC Article 547.

Authority limits imposed and registered by (E) are binding on third parties.

The issue of exceeding this limit and the related liability will depend on factors such as implicit ratification, acceptance, or the merchant's conduct following the transaction.

This clearly establishes that the core legal relationship in this scenario is Commercial Representation, with registered authority limits having significant practical and legal implications.

3) Evaluate (K) AŞ's objection to the invoice and the defect notification separately in terms of a) duration, b) form and c) consequences. (20 Points)

1. Objection to the Invoice:

a) **Duration:** Under Article 21/2 of the Turkish Commercial Code (TCC), objections to invoices must be raised within eight days of receipt; otherwise, the invoice content is presumed accepted. In this case, the invoice was delivered to (K) AŞ on 03.04.2025.

(K) AŞ objected to the invoice price via e-mail on 10.04.2025, thus complying with the eight-day objection period stipulated by TCC Article 21/2.

b) **Form:** According to TCC Article 18/3, certain notices and objections require specific formalities. However, the code does not explicitly mandate a specific form for invoice objections. Therefore, the objection via e-mail by (K) AŞ is legally valid.

c) **Consequences:** A timely objection (within the eight-day period) shifts the burden of proof to the merchant issuing the invoice—in this case, merchant (E). Consequently, (E) must demonstrate that the invoice amount of 2.000.000 TL correctly reflects the contractual terms. Without timely objection, the recipient would bear the burden of disproving the invoice's accuracy. Here, the timely objection ensures that (K) AŞ has not implicitly accepted the invoice and preserves its right to challenge the invoiced amount.

2. Notification of Defects:

a) **Duration:** According to TCC Article 23/1-(c), in commercial transactions, the buyer must inspect delivered goods within eight days and notify the seller immediately upon discovering any defects. Here, (K) AŞ received the televisions on 03.04.2025 and notified (A) of scratches on 13.04.2025. As the notification exceeds the eight-day period, (K) AŞ did not comply with the statutory inspection and notification timeline specified by TCC Article 23.

b) **Form:** As per TCC Article 18/3, no specific formality is mandated for notifying defects. Consequently, defect notification via telephone by (K) AŞ is considered valid in terms of form.

c) **Consequences:** If defects are not timely notified as stipulated in TCC Article 23/1-(c), the delivered goods are considered accepted without objection. Thus, (K) AŞ forfeits the right to exercise remedies under Turkish Code of Obligations (TBK) Article 227, including repair, replacement, price reduction, or rescission of contract. Consequently, (K) AŞ cannot claim any remedies based on the defects discovered.

4) Can (E), who is subsequently informed about the sale transaction, claim that the contract signed by (A) with (K) AŞ is not binding on him? (20 Points)

According to the Turkish Commercial Code (TCC), Article 549 regulates situations where limitations on the authority of commercial representatives are effective against third parties if duly registered and published in the commercial register. Such limitations specifically include:

Limiting authority to transactions concerning the head office or specific branches,

Requiring joint signatures (dual or multiple signatures).

In the specific scenario, the limitation placed on (A)'s authority (a financial cap of 1,000,000 TL) is not among the limitations explicitly listed in Article 549 of the TCC. Although this limitation was registered and published, registration alone is insufficient to conclusively prove that third parties, such as (K) AŞ, had actual knowledge of the

limitation. Consequently, third parties acting in good faith are not automatically bound by financial limitations not enumerated under Article 549.

Therefore, for merchant (E) to successfully assert that the contract concluded by (A) with (K) AŞ exceeding the registered financial limit (1,500,000 TL) does not bind him, (E) must affirmatively demonstrate that (K) AŞ had actual and positive knowledge of this limitation at the time the transaction was concluded.

Absent clear evidence of (K) AŞ's actual knowledge of this limitation, the general presumption of good faith protects (K) AŞ, rendering the contract legally binding upon (E).

Thus, (E) can only validly claim that the contract is non-binding if it provides proof of (K) AŞ's actual awareness of the registered limitation.

5) Discuss whether the dispute between the parties to the case is commercial business or not. (20 Points)

1. Definition of Commercial Business:

According to Article 3/1 of the TCC:

"A business transaction carried out by a merchant related to his commercial enterprise is considered a commercial transaction."

Thus, two elements determine whether a transaction is commercial:

Merchant status of the parties involved.

Relation of the transaction to the commercial enterprise.

2. Application to the Present Scenario:

In this scenario:

(E) operates as a merchant engaged in buying and selling electronic goods, clearly constituting commercial activity under TCC Article 12.

(K) AŞ is inherently a merchant by its legal form as a joint-stock company (TCC Article 16).

The dispute arises from a sale transaction involving electronic goods, which clearly constitutes a commercial activity and directly relates to the commercial enterprises of both merchants.

Thus, transactions involving the sale of goods between merchants are unequivocally classified as commercial transactions (TCC Article 3/1).

3. Consequences of the Dispute Being Commercial:

Considering the transaction is commercial, certain specific consequences follow under Turkish law

Presumptions

Transactions between merchants are presumed commercial (TCC Art. 19/1).

Legal Obligations and Rights:

Special provisions regarding notification periods (e.g., invoice objections under TCC Art. 21 and defect notifications under TCC Art. 23) and burden-of-proof rules specifically apply to merchants' commercial transactions.

Competent Jurisdiction and Procedural Aspects:

Specialized commercial courts typically handle disputes arising from commercial transactions (Law on the Establishment and Procedures of Commercial Courts).

Conclusion:

Considering both parties ((E) and (K) AŞ) are merchants and the disputed transaction directly relates to their commercial activities (sale and purchase of electronic goods), the dispute between them unquestionably constitutes a commercial business dispute under the Turkish Commercial Code.