



ISTANBUL ARBITRATION CENTER (ISTAC)

The use of arbitration for dispute resolution in Turkey is growing rapidly. Over time, the practice has been significantly modernized by the enactment of the International Arbitration Law (the “**IAL**”), the new Civil Procedure Law (“**CPL**”) and the International Private and Procedure Law (the “**IPPL**”). When drafting the IAL, Turkish legislators were inspired by the UNCITRAL rules of arbitration and the Swiss Arbitration Law. The CPL’s provisions on arbitration are also based on the UNCITRAL rules. Considering that Turkey is a party to almost every international agreement on arbitration, it may be the ideal choice for a regional international arbitration center. The Istanbul Arbitration Center (“**ISTAC**”) was established in order to help the country compete with other reputable arbitral institutions in the region and around the world.

The ISTAC was established in accordance with the Law on Istanbul Arbitration Center (the “**LIAC**”)¹ for the purpose of resolving national and international disputes through arbitration and other alternative dispute resolution (“**ADR**”) mechanisms. The ISTAC also seeks to promote ADR methods in Turkey and throughout the region, issue ADR-related publications, encourage and support academic studies about ADR methods, and cooperate with other institutions worldwide.

Almost one year after the LIAC’s entry into force, the General Assembly finally introduced the ISTAC Rules of Arbitration and Mediation (the “**ISTAC Rules**”), and the ISTAC is now ready to operate.

ISTAC Structure

The ISTAC is comprised of seven separate bodies:

- The General Assembly, which is composed of 25 members appointed by several different unions. Each member must have least ten years of experience in his/her respective profession. The General Assembly reviews and approves major decisions adopted by the Board of Directors including, for example, determination of the ISTAC Rules.
- The Board of Directors is composed of five permanent members and four substitute members, each of whom is elected from within the General Assembly. The Board of Directors is responsible for determining the ISTAC Rules and handling fiscal matters.
- The auditors, who are primarily elected from within the General Assembly (no more than three auditors may be elected from outside the General Assembly). Auditors audit the Board of Directors’ activities and report to the General Assembly.

¹ The Law on Istanbul Arbitration Center passed the parliament on 20 November 2014 and entered into force on 1 January 2015.

KOLCUOĞLU DEMİRKAN KOÇAKLI

- The Board of Consultants is composed of 15 members, each of whom must have at least five years of experience in arbitration or other ADR methods. The Board of Directors may request an expert opinion from the Board of Consultants, if and when required.
- The National Council and the International Council are responsible for administering arbitrations under the auspices of the ISTAC arbitration rules. The chairman of the Board of Directors and the General Secretary are automatic members of both councils. Each council contains three other members appointed by the Board of Directors, each of whom must have at least ten years of experience in legal practice. Both councils are responsible for administering arbitrations under the ISTAC Rules.
- The Secretariat is comprised of the Secretary General, the Deputy Secretary General and as many administrative personnel as required. The Secretariat General assists the councils in administering arbitrations.

ISTAC Rules of Arbitration

The ISTAC Rules were introduced on 26 October 2015. When drafting the rules, the General Assembly was inspired by modern rules of arbitration adopted by well-established global arbitral institutions. Some of the key rules are as follows:

- An arbitration proceeding begins on the date the Secretariat receives a request for arbitration and the TRY 300 filing fee.
- A respondent(s) must submit his/her (their) answer to the arbitration request within 30 days of being served with the request.
- Parties can select the number of arbitrators. If the parties decide to have more than one arbitrator, there must be an odd number of arbitrators.
- If the parties agree to resolve the dispute using a single arbitrator, they should mutually nominate and agree upon this arbitrator. In the event of a panel of arbitrators, each party chooses one arbitrator, and these two arbitrators choose a third arbitrator. If the parties cannot mutually select an arbitrator, the Council will appoint one for them.
- Arbitrators must be objective and independent. If the parties doubt an arbitrator's objectivity and independence, or believe that the arbitrator is not adequately qualified, they can challenge the arbitrator within 30 days of his/her appointment.
- The rights to a fair trial, cost-effective proceedings, confidentiality and good faith are the main principles of arbitration. Arbitrators must abide by these principles while conducting the arbitration.
- The seat of arbitration is Istanbul, unless otherwise agreed by parties.
- Unless otherwise agreed by the parties, if a party requires urgent legal protection and cannot wait for the appointment of arbitrators, that party can apply to the Secretariat and request emergency arbitration in accordance with the ISTAC Emergency Arbitrator Rules.

- Arbitrators must render a decision on the merits of the case within six months of the Secretariat's confirmation of the terms of reference.
- An award must be rendered by a majority. Parties are entitled to request amendment, interpretation or completion of an award within 30 days of its service.

Accelerated Arbitration

Keeping in line with modern arbitration practices and trends, the ISTAC also offers the option of accelerated arbitration. According to the ISTAC Accelerated Arbitration Rules, unless otherwise agreed by the parties, accelerated arbitration is automatically available if the amount in dispute is less than TRY 300,000 on the date of the request for arbitration. However, even if the amount in dispute exceeds TRY 300,000, the parties are still entitled to request accelerated arbitration proceedings.

In accelerated arbitration, a party's answer must be submitted within 15 days of receiving a request for arbitration. Unless otherwise agreed by the parties, one arbitrator handles the case and renders a decision within one month following either the submission of the final petition or the hearing, whichever is later, and in any case, no later than three months after being assigned the case.

Emergency Arbitrator

The ISTAC Emergency Arbitrator Rules determine when parties can apply for an emergency arbitrator. Accordingly, if a party requires urgent legal protection and the circumstances are such that he/she cannot wait for the appointment of arbitrators, the party can apply for an emergency arbitrator.

The Council will appoint an emergency arbitrator within two business days. The emergency arbitrator will render a decision on the applicant's request for interim measures within seven business days. This decision is binding on the parties. If the applicant does not submit an arbitration request within 15 days of the request for interim measures, the Council will terminate the emergency arbitrator's duties.

Mediation

The ISTAC is not only an arbitration center—as per the LIAC, it also hosts and supports other ADR mechanisms, including mediation. In Turkey, the Mediation Law governs the procedures and principles of mediation. Parties to a dispute can agree to resolve their disputes through mediation, regardless of whether or not the dispute contains a foreign element. However, mediators acting under the auspices of the ISTAC Mediation Rules must be registered with the Turkish Ministry of Justice, if the dispute does not contain a foreign element.

The mediation will terminate if:

- i. the parties settle the dispute;
- ii. the mediator is of the opinion that mediation will not resolve the parties' dispute;
- iii. one of the parties withdraws from the mediation process; or
- iv. the parties agree to terminate the mediation process.

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Overall, the ISTAC is poised to be a cornerstone of Turkish arbitration proceedings. As a multi-purpose international dispute resolution center, the ISTAC will effectively compete with other reputable arbitration and ADR centers. The fact that it offers a variety of dispute resolution methods under modern and progressive rules, demonstrates that the ISTAC is very well equipped to become a key arbitration and ADR center for the region and the world.

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