

Arbitration - Turkey

Institutional Arbitration in Turkey: the Istanbul Chamber of Commerce

Contributed by **Cerrahoğlu Law Firm**

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The Istanbul Chamber of Commerce (ICOC) has been operating as an arbitration institute since 1979. With the purpose of making Istanbul an arbitration-friendly jurisdiction, the ICOC acts as the principal institute for providing services to parties to a commercial dispute seeking settlement through arbitration. Thus far, 270 disputes have been settled through ICOC arbitration. Such disputes have involved both Turkish parties and foreign entities.

In recognition of the demanding character of commercial disputes and the need for fast and confidential expertise, the ICOC has adopted modernized arbitration rules and issued the ICOC Regulation Pertaining to Arbitration, Conciliation and Expert Witnesses. Articles 13 to 34 of the regulation contain the rules applicable to arbitration proceedings.

Parties are entitled to initiate arbitration proceedings with the ICOC on the condition that at least one of the parties is a member of:

- the ICOC;
- the Istanbul Chamber of Industry;
- the Istanbul Commodity Exchange; or
- the Istanbul and Marmara Region Maritime Chamber of Commerce.

In cases where the above condition is not fulfilled, the rendering of such services is subject to the authorization of the ICOC's board of directors.

The ICOC Arbitration Tribunal consists of three arbitrators. The ICOC council designates arbitrators who are regarded as beneficial for their personality traits or areas of specialization. The parties are entitled to designate all the arbitrators by mutual agreement provided that at least one of the designated arbitrators is listed in the list of arbitrators announced by the ICOC.

The tribunal may resolve the disputes by applying Turkish law or the law of a foreign country if mutually agreed by the parties. Unless stated otherwise in the arbitration agreement, the arbitrators may also render a ruling of equity. Procedural principles to be implemented at the tribunal may be designated by the agreement of the parties provided that such principles are not contradictory to the mandatory provisions of Turkish statutes. If such principles are neither designated by the parties nor stipulated by the regulation, they will be determined by the tribunal.

The Arbitration Office set up within the ICOC deals with the administration of services related to arbitration proceedings. The proceedings are usually executed in the Turkish language. However, the tribunal may opt for the execution of a trial in a foreign language under special conditions (eg, if one of the parties is from a foreign country). The seat of the tribunal is the location of the ICOC and a hearing is conducted as a closed session. The arbitrators are required to render an award within six months of the date of their first meeting.

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