

Arbitration - Turkey

Chamber of Commerce forms working group to amend arbitration rules

Contributed by **Cerrahoglu Law Firm**

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Introduction

The Istanbul Chamber of Commerce (ICOC), which was founded in 1880 and which adopted its current name in 1952, is the largest non-governmental organisation in Turkey established to support the growing Turkish economy and to strengthen business relations in Istanbul. The ICOC, with its 300,000 active members, has also aimed to develop international commercial activities and investments since its foundation. Thus, the ICOC is not just a non-governmental organisation that aims to boost local investments and economic development, but also an international entity in terms of its goals and projects. As an international entity, the ICOC has been involved in arbitration since 1979.

Working group

The ICOC has recently formed a working group for the purpose of updating its current rules on arbitration, which date from 1979. The new rules are expected to comply with the new Code of Civil Procedure (6100/2011), and embody certain concepts of global arbitration rules. With the new rules, the ICOC aims to become a more appealing arbitration institution for parties using arbitration.

The working group is composed of Professor Dr Ergun Özsunay, Professor Dr Ziya Akıncı and Professor Dr Fadlullah Cerrahoğlu, all of whom are well-known academics and successful practitioners of domestic and international arbitration in Turkey.

New rules

The new ICOC rules are expected to include the following amendments:

- a requirement for arbitration agreements to be executed in writing;
- the ability for arbitrators to decide on their own jurisdiction, including objections regarding the existence and validity of arbitration agreements;
- the freedom of parties to decide upon the number of arbitrators, as long as it is an odd number;
- the ability for arbitrators to disclose any facts or circumstances which may rightfully call into question their impartiality and independence, prior to appointment;
- the freedom of parties to agree upon the law to be applied to the merits of the dispute;
- the authority of arbitrators to rule on interim measure requests raised by parties;
- the time limit for rendering a final award will now be one year following the appointment of the arbitrator, where there is a sole arbitrator, and following the issuance of first minutes of the meeting, where there is a tribunal; and
- a provision that awards will be subject not to appeal, but to cancellation proceedings before the Turkish courts.

The proposed amendments were submitted to the assembly of the ICOC for approval. The new ICOC rules will come into force following the assembly's approval.

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