


International arbitration centre established in Istanbul

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Introduction

Istanbul Arbitration Centre Code

Comment

Introduction

The establishment of an independent and autonomous institutional arbitration centre in Istanbul has been a priority for many years. The idea was officially introduced by the Turkish Higher Planning Council – within the Ministry of Development – at the end of 2009, as part of the strategy and action plan for the Istanbul International Financial Centre.⁽¹⁾

On November 20 2014 the Turkish Grand National Assembly adopted the Istanbul Arbitration Centre Code,⁽²⁾ authorising the creation of an arbitration centre in Istanbul (the Istanbul Arbitration Centre). The code entered into force on January 1 2015.⁽³⁾

Istanbul Arbitration Centre Code

The working group in charge of drafting the Istanbul Arbitration Centre Code studied several arbitration institutions worldwide. The two models chosen were the German Institution of Arbitration and the arbitration court of the Czech Republic's Economic Chamber and Agricultural Chamber, because of the importance of impartiality and independence to both institutions and the active role they have played in establishing an arbitration culture in their respective countries.

The purpose of the Istanbul Arbitration Centre Code is to set out the rules for the creation of the Istanbul Arbitration Centre and define the centre's organisational structure and activities.

According to the code, the Istanbul Arbitration Centre is a legal entity subject to civil law that will facilitate the settlement of national and international disputes by way of arbitration or other alternative dispute resolution mechanisms. Its duties are:

- to determine the rules with respect to arbitration and other alternative dispute resolution mechanisms;
- to ensure the conduct of these proceedings; and
- to promote arbitration and other alternative dispute resolution mechanisms.(4)

The Istanbul Arbitration Centre has two separate arbitration courts, one for domestic and the other for international disputes. It is further composed of a general assembly, a board of directors, auditors, an advisory board and a secretary general.(5)

The general assembly is composed of 25 members with at least 10 years' professional experience. They are elected as representatives by various institutions, including the Union of Turkish Bar Associations, the Turkish Council of Higher Education, the Ministry of Justice, the Banks Association of Turkey, the Capital Markets Board of Turkey, the Confederation of Turkish Tradesmen and Craftsmen and the Turkish Union of Chambers and Commodity Exchanges (which also has its own institutional arbitration).(6) The general assembly elects, in turn, the members of the board of directors, the advisory board and the auditors.(7) The members of the domestic and international arbitration courts and the secretary general are elected by the board of directors, and must be legal practitioners with at least 10 years' professional experience.(8)

The Istanbul Arbitration Centre Code does not include arbitration rules. The rules that regulate the conduct of cases submitted to the centre, as well as the procedures and principles regarding its operation, will be drafted by the board of directors, with the input of the advisory board, and adopted with the approval of the general assembly.(9) According to the code, these rules should be promulgated within six months of the election of the board of directors,(10) which should take place in the next couple of months.(11) The Istanbul Arbitration Centre's first arbitration rules are thus not expected until late 2015.

Finally, in order to safeguard the principles of confidentiality and impartiality – which are mainstays of all arbitration proceedings – the Istanbul Arbitration Centre Code includes a confidentiality and limitation provision. According to this provision, the members of the governing bodies and employees of the Istanbul Arbitration Centre must keep confidential any information with which they become acquainted during their work.(12) Further, apart from members of the advisory board, such persons cannot act as arbitrators or mediators in cases submitted to the Istanbul Arbitration Centre, unless the parties agree to it.(13)

Comment

There has been a significant increase in the number of international arbitration proceedings involving Turkish parties in recent years. The establishment of a globally renowned arbitration centre in Istanbul, Turkey's financial centre, was therefore essential.

The enactment of the Istanbul Arbitration Centre Code and the creation of the Istanbul Arbitration Centre should reinforce Istanbul's status as an international business and arbitration centre and facilitate the use of alternative dispute resolution mechanisms in

Turkey. The independent implementation of the arbitration rules to be adopted by the Istanbul Arbitration Centre will further contribute to these aims.

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Endnotes

(1) Adopted by the Higher Planning Council on September 29 2009 and published in the *Official Gazette* on October 2 2009, nb 27364.

(2) Istanbul Arbitration Centre Code 6570, published in the *Official Gazette* on November 29 2014, nb 29190.

(3) Article 17 of the Istanbul Arbitration Centre Code.

(4) Article 4 of the Istanbul Arbitration Centre Code.

(5) Article 5 of the Istanbul Arbitration Centre Code.

(6) Article 6 of the Istanbul Arbitration Centre Code.

(7) Article 7(1) of the Istanbul Arbitration Centre Code.

(8) Articles 12(1) and 13(2) of the Istanbul Arbitration Centre Code.

(9) Articles 7(c) and 9(a) of the Istanbul Arbitration Centre Code.

(10) Article 1(3), Transitional Provision of the Istanbul Arbitration Centre Code.

(11) Article 1(2), Transitional Provision of the Istanbul Arbitration Centre Code.

(12) Article 14(2) of the Istanbul Arbitration Centre Code.

(13) Article 14(1) of the Istanbul Arbitration Centre Code.