

Kluwer Arbitration Blog

Istanbul Arbitration Centre

Ayça Aydın (Çetinel Law Firm) · Friday, March 4th, 2016 · ArbitralWomen

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A new arbitration institution has opened its doors and already started to register its cases in Istanbul. Istanbul Arbitration Centre (ISTAC) has been operational since the third quarter of 2015 and has published its set of arbitration and mediation rules, along with emergency arbitrator and Fast Track Arbitration rules.

Furthermore, a variation of the below provision has already been included in the dispute resolution clause of the project agreement executed in an infrastructure tender, awarded with the highest amount in the history of the Republic of Turkey:

“Any disputes arising out of or in connection with this agreement may finally be settled in accordance with the Arbitration Rules of Istanbul Arbitration Centre (Istanbul Tahkim Merkezi or ISTAC or ITM).”

1. What do the rules say?

i) *Arbitration and Mediation Rules*: ISTAC Arbitration and Mediation Rules (the “Rules”), as well as Fast Track Arbitration Rules and Emergency Arbitrator Rules, may be reached online through www.istac.org.tr. As of early February, the Rules are available in English and Turkish. A great deal of effort is being made to provide several other languages of the Rules, including French and German, in the near future.

The Rules are comparable with many internationally accepted and applied sets of rules of arbitration and mediation by several acknowledged international arbitration institutions. Intelligibility of the Rules by the already existing actors of alternative dispute resolution was a priority while drafting the Rules. The international board of ISTAC includes Jan Paulsson, Hamid Gharavi and Bernard Hanotiau among its members.

ii) *Fast Track Arbitration Rules*: Unless agreed otherwise by the parties, Fast Track Arbitration Rules apply to disputes where the total sum of the claims and any counterclaims do not exceed TRY 300.000 (approximately Eur 94.000 or approximately USD 101.000). The parties may also agree that the Fast Track Arbitration Rules shall apply where the amount in dispute exceeds this sum. Disputes subject to Fast Track Arbitration are in principle resolved by a sole arbitrator, within three months as of the transmission of the file to the sole arbitrator.

iii) *Emergency Arbitrator Rules*: Emergency arbitrator rules aim at providing provisional remedies (interim measures) to alleviate urgent needs of applicants. Parties to an arbitration agreement may opt out of the applicability of emergency arbitrator rules by stating so under their arbitration agreement. The requirement to submit a Request for Arbitration, Statement of Claim, Answer to the Request for Arbitration, or Statement of Defence is not sought for the party requesting the appointment of an Emergency Arbitrator. An emergency arbitrator is appointed within two working days as of the Secretariat's receipt of the application; and it issues the interim measure decision within seven days as of its receipt of file. An emergency arbitrator's interim measure decision is binding on the parties, whereas the sole arbitrator or the arbitral tribunal is not bound by such decision. The sole arbitrator or the arbitral tribunal may modify or terminate the emergency arbitrator's decisions upon such request by a party or its *ex officio* decision.

2. What is new? What is good?

The advantages of ISTAC are in addition to the logistical advantages Istanbul inherently enjoys as being literally in the center of the world map of modern perspective. Istanbul is convenient to everywhere, in terms of its location as well as the frequency of international flights from and to its two (third to come) international airports. Besides, visa requirements to visit Turkey may effortlessly be met at the airport or through e-visas by the nationals of more than 110 countries, if such nationals are not entirely exempt from visa requirements under certain circumstances. In many other circumstances, it is comparatively easier to obtain a visa to enter Turkey where necessary.

ISTAC is anticipated to fulfill needs in Eastern Europe, central Asia, Middle East and North Africa, while still attracting applications from elsewhere by virtue of its advantages.

i) *Administrative Team, Services and Facilities*: The administrative team and ISTAC Secretariat are fluent in multiple languages including English and French, as well as Turkish. The administrative team is at the service of users and easily accessible through email or phone. Contact details may be reached through www.istac.org.tr.

ISTAC provides a range of facilities and services allowing uncomplicated case management. These include allocation of equipped venues for hearings, conferences, presentations and meetings. The venues are located in the center of Istanbul and provide internet access and audiovisual services, along with copying, printing and facsimile services.

ii) *Competitiveness on Costs*: Competitiveness on costs when compared to well-known arbitration institutions not only comes with procurement of services in Turkish Lira currency, but also is due to a priority of ISTAC. ISTAC plainly aims at cost effectiveness of alternative dispute resolution. A prima facie review of costs reveals that it is more cost effective even when compared to court litigation.

Appendix 3 (Istanbul Arbitration Centre Rules on Costs and Fees Scales) of the Rules deals with regulating the arbitrator's fees and the costs of arbitration conducted in accordance with the ISTAC Arbitration Rules or the costs of arbitration where ISTAC plays a role as the appointing authority, and the costs of mediation conducted in accordance with ISTAC Mediation Rules. Scales of registration fees, administrative costs and arbitrator fees may be found within such Appendix and the website of ISTAC provides a cost calculator for facilitation of anticipation of fees. By way of example, for a dispute amounting to approximately EUR 3.125.000 (approximately USD 3.385.000

or TRY 10.000.000), the costs are broken down as follows:

Currency	EUR (approximate)	USD (approximate)	Turkish Liras
Amount in dispute	3.125.000	3.385.000	10.000.000
Registration fee	94	100	300
Administrative Expenses	25.000	27.000	80.000
Sole Arbitrator Fee	67.000	72.000	213.000
Arbitral Tribunal Fee	114.000	123.000	363.000

vi) *Improvements in post-arbitration procedures before Turkish courts*: Increasing the awareness and knowledge of international and domestic arbitration is a priority in Turkey. This is even more so upon ISTAC's establishment. These efforts include close contact with bar associations for vocational training of attorneys on arbitration, attempts to unify the Turkish Court of Appeal's chambers reviewing appeals of challenges to arbitral awards and studies to unify the Turkish legislation on domestic and international arbitration for ease of reference and application, which are more or less in the same vein but regulated under two different pieces of legislation. Young ISTAC, dealt with below, also intends to introduce the alternative dispute resolution methods to young practitioners, whereby a wide-spread increased awareness will be warranted among prospective implementers of alternative dispute resolution tools.

3. How can young practitioners be involved?

ISTAC provides a forum for active and early involvement of below 40 practitioners in the field of alternative dispute resolution: Young ISTAC. Young ISTAC, also established in 2015, is a platform welcoming young individuals engaged in arbitration and mediation not only in Turkey. Young ISTAC, having more than 400 members so far, attaches particular importance to create an effective and factual bridge between young and more experienced practitioners through the events it organizes over and above encouraging and training members on ISTAC and overall alternative dispute resolution procedures. Young ISTAC members will gather monthly as of February 2016, in order to put into practice its initiatives and provide an opportunity for networking and experience sharing among members. Each gathering will encompass a brief lecture, presentation or panel delivered or chaired by eminent names of alternative dispute resolution practice from Turkey and abroad. Further to these regular meetings, Young ISTAC will organize at least two moot arbitration competitions annually, at least one of which will be conducted in English; and will provide internship and secondment opportunities for members.

Young ISTAC's first event was held in February 05, 2016, with valuable contributions of Prof. Ziya Akinci, who is the president of both national and international boards of ISTAC. ISTAC and Young ISTAC was under scrutiny at this meeting, as an introduction for newcomers.

Membership applications to Young ISTAC may be conveyed by filling the membership form at www.istac.org.tr.

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References

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