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# The Legal 500 Country Comparative Guides

## Turkey

# INTERNATIONAL ARBITRATION

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This country-specific Q&A provides an overview of international arbitration laws and regulations applicable in Turkey.

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## TURKEY

# INTERNATIONAL ARBITRATION



### 1. What legislation applies to arbitration in your country? Are there any mandatory laws?

In Turkey, the arbitrations are regulated by two main legislations: (i) the International Arbitration Law No. 4686 (the “**IAL**”) and (ii) the Code of Civil Procedure No. 6100 (the “**CCP**”). Both laws are mainly based on the UNCITRAL Model Law and Swiss international arbitration law.

The IAL is applicable to disputes including a foreign element where the designated seat of arbitration is Turkey or when the parties or the arbitral tribunal choose IAL to be applied to the arbitration.

The CCP is applicable to the disputes which do not have a foreign element, as defined in the IAL, and where Turkey is the designated seat of arbitration.

### 2. Is your country a signatory to the New York Convention? Are there any reservations to the general obligations of the Convention?

Turkey is a party to the New York Convention. As per Article 90 of the Constitution of the Republic of Turkey (“**Turkish Constitution**”), international treaties which have duly entered into force have the force of law in Turkey. There are two reservations to the general obligations of the Convention: (i) reciprocity and (ii) commercial reservation. Accordingly, the Convention is applicable to disputes arising from commercial relationships and to awards rendered in another contracting state.

In addition, the provisions of Turkish International Private and Procedural Law No. 5718 (“**IPPL**”), which relate to the recognition and enforcement of the foreign arbitral awards and which are mostly parallel to the New York Convention, are applicable where the New York Convention is silent or is inapplicable.

### 3. What other arbitration-related treaties and conventions is your country a party to?

Turkey is a party to the European Convention on International Arbitration and to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (“**ICSID Convention**”).

In addition, Turkey has signed bilateral investment treaties (“**BIT**”) with 98 countries, 76 of them are currently in force (<https://www.trade.gov.tr/legislation/bilateral-investment-treaties>).

### 4. Is the law governing international arbitration in your country based on the UNCITRAL Model Law? Are there significant differences between the two?

Both IAL and CCP are mainly based on the UNCITRAL Model Law. Where the provisions of IAL differ from the UNCITRAL Model Law, the Swiss international arbitration law provisions are mostly used as reference. There are no significant differences between the two.

### 5. Are there any impending plans to reform the arbitration laws in your country?

No. To the best of our knowledge, there are currently no such plans to reform the arbitration laws in Turkey.

### 6. What arbitral institutions (if any) exist in your country? When were their rules last amended? Are any amendments being considered?

The main arbitral institutions in Turkey are: (i) Istanbul Arbitration Centre (“**ISTAC**”), (ii) Istanbul Chamber of Commerce Arbitration and Mediation Centre (“**ITOTAM**”), (iii) Turkish Union of Chambers and Commodity Exchanges Court of Arbitration (“**TOBB**”).

**Arbitration”).**

ISTAC was established in 2015 and its rules have not been amended since then. Yet, it should be noted that ISTAC introduced the Mediation-Arbitration rules (“**Med-Arb Rules**”), an alternative dispute resolution procedure which has the characteristics of both mediation and arbitration, on 15.11.2019 and it also introduced the Online Hearing Rules and Procedures as of 21.04.2020.

ITOTAM rules of arbitration have been recently amended and the amended version is in force as of 31.03.2021.

The TOBB Arbitration rules have not changed since 2016.

**7. Is there a specialist arbitration court in your country?**

There is no specialist arbitration court in Turkey.

**8. What are the validity requirements for an arbitration agreement under the laws of your country?**

As per the provisions of CCP and the IAL, an arbitration agreement shall be in writing. The relevant agreement can be embedded in a contract between the parties as a provision, or it can be a separate contract. An agreement is considered as made in writing if it is contained in a document signed (including by e-signature) by the parties or in an exchange of letters, telex, telegrams or other means of telecommunication which provide a record of the addressee’s confirmation of receipt. The reference in a contract to a document containing an arbitration clause also constitutes an arbitration agreement provided that the reference is such as to make that clause part of the contract.

**9. Are arbitration clauses considered separable from the main contract?**

Yes. Article 4 of the IAL and Article 412 of the CCP provide for the separability presumption by codifying that no objection could be made against the arbitration agreement by arguing that the underlying contract is invalid or that the arbitration agreement is related to a dispute which has not yet arisen.

**10. Do the courts of your country apply a validation principle under which an arbitration agreement should be****considered valid and enforceable if it would be so considered under at least one of the national laws potentially applicable to it?**

As per Article 62 of IPPL, when faced with the request to enforce a foreign arbitral award, the Turkish courts would have to analyze whether the arbitration agreement/clause is valid as per the governing law applied to it, and if no such law exists, as per the law of the seat of arbitration. One can argue that a similar analysis should be made in every instance where the validity of an arbitration agreement/clause is called into question.

**11. Is there anything particular to note in your jurisdiction with regard to multi-party or multi-contract arbitration?**

There is no particular issue to be noted for Turkey with regard to multi-party or multi-contract arbitration; except that they are common between domestic and foreign parties.

**12. In what instances can third parties or non-signatories be bound by an arbitration agreement? Are there any recent court decisions on these issues?**

There is no regulation under the Turkish law for the extension of an arbitration agreement to a third party. In light of the principle of the privity of contracts, an arbitration agreement can only be binding between its signatories and accordingly, a third party cannot be bound by an arbitration agreement without its consent.

This being the case, there are certain exceptions to this principle such as where the explicit or implicit consent of the non-signatory exists, or there is an assignment of claim to a third party, or if a representative or agency that is acting on behalf of the non-signatory, or if there is a ground for lifting the corporate veil, etc.

In a very recent decision of the 43<sup>th</sup> Chamber of Istanbul Regional Court, dated 22.04.2021 with file no. 2020/291 and decision no. 2021/528, the plaintiff in the arbitral process had assigned their receivable to a third party at the enforcement stage. The defendant debtor objected to the request for enforcement of the award by claiming, *inter alia*, that the third-party seeking enforcement was not a signatory to the arbitration agreement and that therefore the arbitral award could not have been extended to such third-party. Yet, the first instance court dismissed the defendant’s objections by stating that

there was no need for the approval of the debtor for the assignment of receivable and since the receivable of the plaintiff had been duly assigned to the non-signatory third-party, there was no obstacle for the non-signatory third-party to seek enforcement of the arbitral award, even though it was not a party to the arbitration agreement.

**13. Are any types of dispute considered non-arbitrable? Has there been any evolution in this regard in recent years?**

Yes. Under Turkish law, only the matters which are at the parties' free disposal can be arbitrated. The IAL and CCP govern that the disputes related to *in rem* rights in immovable properties and the disputes which are not subject to the free will of the parties cannot be arbitrated. In general, disputes related to the bankruptcy law, criminal law, administrative law, family law and tax law are not arbitrable.

**14. Are there any recent court decisions in your country concerning the choice of law applicable to an arbitration agreement where no such law has been specified by the Parties?**

No. To the best of our knowledge, there is no recent court decisions published in this regard.

**15. How is the law applicable to the substance determined? Is there a specific set of choice of law rules in your country?**

In general, the parties are free to decide the applicable law to the substance of the dispute. In the absence of such agreement, IPPL includes provisions for each category of dispute (e.g. tort, consumer protection etc.).

**16. Have the courts in your country applied the UNIDROIT or any other transnational principles as the substantive law? If so, in what circumstances have such principles been applied?**

No. To the best of our knowledge, there is no published Turkish court decision where the UNIDROIT or any other transnational principles are used as the substantive law. The major exception to this is the United Nations Convention on Contracts for the International Sale of Goods, to which Turkey is a party.

**17. In your country, are there any restrictions in the appointment of arbitrators?**

In general, the parties are free to determine the procedure for appointment of the arbitrators. However, both CCP and IAL govern that the number of arbitrators shall be an odd number.

In case the parties cannot agree on the procedure, then the appointment shall be made as per the procedure set forth in CCP or IAL.

- Both CCP and IAL set forth that, if the parties did not agree on the number of arbitrators, the tribunal shall consist of three arbitrators.
- Both laws govern that only real persons can be appointed as arbitrators.
- As per CCP, in case the arbitral tribunal consists of more than one arbitrator, then at least one of the arbitrators shall be a law graduate experienced at least 5 years in his field. There is no such provision in IAL.
- As per IAL, parties are to follow the following principles: (i) in the case of appointment of the sole arbitrator (*or the third arbitrator*), the arbitrator should be of a nationality other than those of the parties, and (ii) in case of appointment of a panel of three arbitrators, it should be ensured that that two of the arbitrators do not have the same nationality as any of the parties. There is no such provision in CCP.

The parties to the dispute, judges or public prosecutors cannot be appointed as arbitrators.

**18. Are there any default requirements as to the selection of a tribunal?**

Please see replies to Question 17.

**19. Can the local courts intervene in the selection of arbitrators? If so, how?**

The local courts can intervene in the selection of arbitrators, provided that:

- One of the parties does not comply with the agreement,
- The parties or the appointed arbitrators cannot agree on the third arbitrator,
- The third party or institution, who/which has been authorized to choose the arbitrator or the tribunal, does not give a decision.

In any such case, the civil court of first instance appoints the relevant arbitrator(s), upon the request of one of the parties.

## **20. Can the appointment of an arbitrator be challenged? What are the grounds for such challenge? What is the procedure for such challenge?**

Yes, the appointment of an arbitrator can be challenged:

- If the arbitrator lacks the qualifications set by the parties or
- If a ground for challenging the arbitrator is present according to the procedure determined by the parties or
- If the circumstances or matters come up to justify doubt over the arbitrator's impartiality and juridical independency.

Challenging an arbitrator by the party that has selected or has participated in the selection that arbitrator may only be requested based on the grounds for challenging the arbitrator learned after the appointment of the arbitrator.

Both CCP and the IAL govern that the parties can freely determine the procedure for challenging the arbitrators.

As per Article 418 of CCP, the party who is challenging the arbitrator must file its request within two weeks (*this term is 30 days as per article 7 of the IAL*) from the date on which the arbitrator or the arbitral tribunal is selected or the party has learned that a circumstance constituting a ground for challenging the arbitrator; and the other party shall also be notified in written form. If the arbitrator that is challenged fails to withdraw or if the other party does not accept the challenge, the arbitral tribunal shall decide on the matter.

The party who is challenging of one or more of the arbitrators from the arbitral tribunal must state the request and its reasons to the arbitral tribunal. The party that has learned that its challenge was rejected may apply to the court within one month (*this term is 30 days as per Article 7 of the IAL*) from the date of the decision, and request the lifting of the decision and granting a decision by the court regarding the challenge of the arbitrator or the arbitrators.

In the event that the challenging of the arbitrators results in the complete elimination or loss of quorum of the selected arbitrators or the arbitral tribunal, then such challenge shall be requested from the court. Decisions to be rendered by the court will be final and binding and cannot be appealed.

If the challenge of the arbitrators resulting in complete elimination or loss of quorum of the selected arbitrator or the arbitral tribunal is accepted by the court, arbitration shall be terminated. However, if the names of the arbitrator or the arbitrators were not determined in the arbitration agreement, selection of new arbitrators will be carried out.

## **21. Have there been any recent developments concerning the duty of independence and impartiality of the arbitrators**

No. To the best of our knowledge, there have not been any recent developments on this matter.

## **22. Have there been any recent decisions in your concerning arbitrators' duties of disclosure, e.g., similar to the UK Supreme Court Judgment in Halliburton v Chubb?**

No. To the best of our knowledge, there have not been any recent developments on this matter.

## **23. What happens in the case of a truncated tribunal? Is the tribunal able to continue with the proceedings?**

As per Article 421 of the CCP, if the arbitral duty of an arbitrator is terminated for any reason, a new arbitrator shall be selected to replace the arbitrator in question, with the same selection procedure thereof. If the names of the arbitrator or the arbitrators are determined in the arbitration agreement, arbitration shall be terminated if the arbitrator, the arbitral tribunal or sufficient number of arbitrators eliminating the quorum of the tribunal are terminated for any reason.

## **24. Are arbitrators immune from liability?**

As per Article 419 of CCP and Article 7/E of IAL, unless otherwise agreed by the parties, if the arbitrator that has accepted the duty in arbitration proceedings refrain from carrying out the duty without a justifiable reason, they shall be obliged to compensate the damages incurred by the parties due to such act.

## **25. Is the principle of competence-competence recognized in your country?**

Yes, the principle of competence-competence is

recognized in Turkey.

## **26. What is the approach of local courts towards a party commencing litigation in apparent breach of an arbitration agreement?**

The courts do not *ex officio* examine whether there is an arbitration agreement between the parties. Rather, the objection that the dispute shall be settled by arbitration is required to be raised by the defendant as a preliminary objection. In the event that such objection is raised, the courts examine the objections carefully and in detail to determine if there is a valid arbitration agreement between the parties.

## **27. How are arbitral proceedings commenced in your country? Are there any key provisions under the arbitration laws relating to limitation periods or time bars of which the parties should be aware?**

Unless otherwise agreed by the parties, an arbitral proceeding commences on the date in which the application to the court or the person or the institution authorized by the parties for the selection of the arbitrators is made; the claimant has selected an arbitrator and notified the other party to make its selection if the selection of the arbitrators is to be made by the parties; or the request for resolution of the dispute by way of arbitration is received by the opposing party if the names of the arbitrator or the arbitrators forming the arbitral tribunal were determined in the arbitration agreement.

The parties are required to take into consideration the statute of limitations applicable to their claims. Other than this, there is no specific time bar for commencing the arbitration process; except, if the party is granted preliminary injunction or precautionary attachment by the court, then the relevant party shall commence the arbitration:

- Within two weeks as per CCP,
- Within thirty days as per IAL.

## **28. In what circumstances is it possible for a state or state entity to invoke state immunity in connection with the commencement of arbitration proceedings?**

As per Article 49 of IPPL, a foreign state may not claim immunity from jurisdiction in legal disputes arising out of

private law relations. In other words, the state which has agreed to arbitration in an agreement relating to a private law matter cannot invoke its state immunity to challenge the arbitral proceeding.

## **29. What happens when a respondent fails to participate in the arbitration? Can the local courts compel participation?**

As per Article 430 of CCP and Article 11/C of IPL, if a party fails to attend the proceedings, the following provisions shall be applied:

- If the claimant fails to submit the statement of claim within due time without showing a valid reason or if the statement of claim is not in due form and the deficiency is not corrected within the time allowed by the arbitrator or the arbitral tribunal, the arbitrator or the arbitral tribunal shall terminate the arbitration proceedings.
- If the defendant fails to submit the answer; this shall not be considered as admission of the claimant's assertions or the acknowledgement of claimant's claim, and the proceedings shall be continued.
- If a party fails to attend a hearing without showing a valid reason or refrains from presenting evidence it previously offered; the arbitrator or the arbitral tribunal may continue the arbitration proceedings and enter an award upon examining available evidence.

The local courts cannot compel any of the parties to participate in the arbitral proceeding.

## **30. Can third parties voluntarily join arbitration proceedings? If all parties agree to the intervention, is the tribunal bound by this agreement? If all parties do not agree to the intervention, can the tribunal allow for it?**

Based on the privity of contracts, the arbitration agreements are binding between the parties of the relevant agreements. Accordingly, the possibility of a third party's voluntary participation to the arbitration proceeding depends on the contracting parties' consent and the third party's request. Please also see above our replies regarding extension of arbitral proceeding to non-signatories.

If all parties agree to the intervention, the tribunal should allow the third party to join the arbitration

process.

If all parties do not agree to the intervention, the tribunal cannot *ex officio* allow for it, due to the privity of contracts.

### **31. Can local courts order third parties to participate in arbitration proceedings in your country?**

The local courts cannot compel any third parties to participate in an arbitral proceeding.

### **32. What interim measures are available? Will local courts issue interim measures pending the constitution of the tribunal?**

The parties may request preliminary injunction or precautionary attachment from the local courts prior to or during the arbitral proceedings.

### **33. Are anti-suit and/or anti-arbitration injunctions available and enforceable in your country?**

No, anti-suit and/or anti-arbitration injunctions are not available or allowed under Turkish law. To the contrary, such injunctions are considered in breach of the Turkish public order and they may not be recognized or enforced.

### **34. Are there particular rules governing evidentiary matters in arbitration? Will the local courts in your jurisdiction play any role in the obtaining of evidence? Can local courts compel witnesses to participate in arbitration proceedings?**

The provisions of CCP related to the evidence are not directly applicable to the application proceedings initiated as per CCP. Within this scope, generally, the parties may freely determine the applicable rules and procedure regarding the obtainment of evidence. In general, written and oral proceedings are conducted in line with the international arbitration practices and, in this respect, the parties usually incorporate the International Bar Association Rules on the Taking of Evidence in International Arbitration ("**IBA Rules on Evidence**").

If necessary, the parties or the arbitral tribunal may seek assistance from local courts in obtaining of evidence

where necessary. Other than this, the local courts do not have the authority to *ex officio* obtain evidence.

The local courts cannot compel the witnesses to participate in arbitration proceedings.

### **35. What ethical codes and other professional standards, if any, apply to counsel and arbitrators conducting proceedings in your country?**

In general, counsels are required to conduct their duties with care, accuracy and integrity. In addition, the arbitrators shall conduct the arbitration proceedings independently impartially and in a fair and just manner.

The counsels shall comply with the provisions of the Attorneys Law and professional rules provided by the Union of Bar Associations of Turkey.

There is also the Istanbul Arbitration Association Arbitrators' Code of Ethics which is applicable under those circumstances where it has been expressly stated that such Code will be applicable.

### **36. In your country, are there any rules with respect to the confidentiality of arbitration proceedings?**

Neither CCP nor the IAL contains any provisions regarding the confidentiality of the arbitration. Yet, there are no provisions that would preclude the parties from incorporating confidentiality and disclosure conditions in the arbitration agreement or regulating the scope of confidentiality in the terms of reference.

### **37. Are there any recent decisions in your country regarding the use of evidence acquired illegally in arbitration proceedings (e.g. 'hacked evidence' obtained through unauthorized access to an electronic system)?**

No. To the best of our knowledge, there are currently no such published recent decision in Turkey.

### **38. How are the costs of arbitration proceedings estimated and allocated?**

As per Article 442 of the CCP,

"[...]"

*(4) Unless otherwise agreed by the parties, costs in arbitration proceedings shall be imposed on the party that is determined to be wrongful. If both parties partially prevail in the case, costs shall be allocated between the parties according to their rightfulness.*

*(5) Costs in arbitration proceedings shall also be designated in the decisions of the arbitrator or the arbitral tribunal terminating the proceedings or establishing the settlement between the parties."*

As per Article 16 of the IAL,

*"D) Unless otherwise agreed by the parties, the costs of proceedings shall be borne by the unsuccessful party. If both parties' claims are partially upheld in the arbitral award, the costs of arbitration shall be apportioned among the parties by taking into account the degree of justification of their claims.*

*The award of the arbitral tribunal that terminates the arbitral proceedings or that settles the case shall also contain the costs of arbitration."*

### **39. Can pre- and post-award interest be included on the principal claim and costs incurred?**

Provided that the substantive law applicable to the arbitration proceeding allows, interest on the principal claim and costs may be included upon the request of the parties.

### **40. What legal requirements are there in your country for the recognition and enforcement of an award? Is there a requirement that the award be reasoned, i.e. substantiated and motivated?**

If the arbitral award is rendered by a tribunal seated in Turkey, i.e. the award is a domestic award, then the award will be directly enforceable without any further need of an enforcement proceeding. If the award is a foreign award, then it can be enforceable after the enforcement decision of a competent Turkish court.

The New York Convention and the provisions of IPPL regulate the provisions for recognition and enforcement of the foreign arbitral awards.

The enforcement of foreign arbitral awards must be requested from the competent court of first instance by a petition; where the party requesting the enforcement must attach:

- The original or duly certified copy of the arbitration agreement or the arbitration clause,
- The original or duly certified copy of the arbitral award,
- Translated and certified copies of the above documents.

In an enforcement action, the Turkish court will assess whether there are any grounds for rejecting the plaintiff's application for enforcement. The grounds for refusing the enforcement of a foreign arbitral award are listed exhaustively under Article 62 of IPPL and are as follows:

- i. There is no agreement between the parties to submit their disputes to arbitration,
- ii. The arbitral award is contrary to morality or public order,
- iii. The subject matter of the dispute is not capable of being settled by arbitration under Turkish law<sup>[1]</sup>,
- iv. The parties have not been duly represented before the arbitral tribunal and have not provided subsequent consent to the procedures,
- v. The party against whom the award is invoked was not given proper notice of the appointment of the arbitrators or of the arbitration proceedings or was otherwise unable to present their case,
- vi. The arbitration agreement/clause is invalid under the law to which the parties have subjected it or, failing any such indication, under the law of the country where the award was made,
- vii. The composition of the arbitral authority or the arbitral procedure was not in accordance with the agreement of the parties, or, failing such agreement, was not in accordance with the law of the country where the award was made,
- viii. The award deals with a difference not contemplated by or not falling within the terms of submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration (in this case, only the part of the award which does not fall within the terms of submission or goes beyond its scope may be denied enforcement),
- ix. The award has not yet become final and binding on the parties under the law to which the parties have subjected the arbitration or under the law of the country where the award was made or under the procedural rules to



which it was subjected, or has been set aside by a competent authority of the country in which the award was made.

Article 14/A-2 of the IAL provides that the award shall contain legal grounds and reasoning. Yet there is no such provision under the IPPL. There has been conflicting decisions of different Chambers of the Court of Appeal in this regard. Within this scope, the General Assembly of the Court of Appeal on the Unification of Judgments rendered a decision dated 10.02.2012 with file no. 2010/1 and decision no. 2012/1, where it finally decided that even if a foreign court decision does not contain reasoning, it can be enforced in Turkey. Although this decision is related to foreign court decisions, it is also used for the enforcement of foreign arbitral awards by analogy.

[1] Article 408 of Civil Procedure Law provides, *albeit* in terms of domestic arbitrations, that disputes arising out of rights stemming from immovable properties and disputes the resolution of which does not depend on the free will of the parties cannot be settled by arbitration.

#### **41. What is the estimated timeframe for the recognition and enforcement of an award? May a party bring a motion for the recognition and enforcement of an award on an ex parte basis?**

Recognition and enforcement of an award may be requested from a competent court of first instance where the courts, in general, render their decisions within 6 - 18 months. The first instance court's decision will be subject to an appeal before the Regional Court of Appeal and then the Higher Court of Appeal, where each appellate review approximately take another 6-18 months.

No, a party is not allowed to bring a motion for the recognition and enforcement of an award on an *ex parte* basis.

#### **42. Does the arbitration law of your country provide a different standard of review for recognition and enforcement of a foreign award compared with a domestic award?**

Yes. As noted above, there is no need for a recognition or enforcement process for a domestic award; the domestic awards will be directly enforceable. Yet, they are subject to set aside proceedings. The grounds for setting aside a domestic award are very similar to those

for refusing the enforcement of a foreign award.

#### **43. Does the law impose limits on the available remedies? Are some remedies not enforceable by the local courts**

The available remedies are limited to those in line with Turkish public policy. Punitive damages, anti-suit or anti arbitration injunctions are not permissible under Turkish law.

#### **44. Can arbitration awards be appealed or challenged in local courts? What are the grounds and procedure?**

There is no appeal procedure for a foreign award or a domestic award. The domestic awards will only be subject to set aside proceedings. The grounds for setting aside are governed under IAL and CCP, which are mostly parallel to the grounds for refusing the recognition or enforcement of foreign awards provided by the New York Convention.

#### **45. Can the parties waive any rights of appeal or challenge to an award by agreement before the dispute arises (such as in the arbitration clause)?**

In principle, the parties cannot waive a right which has not born or matured yet. Accordingly, generally, the parties cannot waive any rights of appeal or challenge to an award by agreement before the dispute arises.

However, there is an exception to this general principle: As per Article 15 of the IAL, the parties may, in part or in full, renounce the right to initiate an action for setting aside the award, if the party's domicile or habitual residence is not in Turkey. In such case, a party may renounce that right completely in an express clause in the arbitration agreement or in writing, following the signing of the arbitration agreement. Alternatively, in the same manner, the parties may renounce their rights to file a setting aside case based on one or more grounds set under the law.

#### **46. To what extent might a state or state entity successfully raise a defence of state or sovereign immunity at the enforcement stage?**

Please see the answer to question 28.

**47. In what instances can third parties or non-signatories be bound by an award? To what extent might a third party challenge the recognition of an award?**

Please see our answer to question 12 for those instances where third-parties or non-signatories can be bound by an arbitration agreement.

**48. Have there been any recent court decisions in your jurisdiction considering third party funding in connection with arbitration proceedings?**

There is no specific regulation under the Turkish law regarding third party funding. Within this scope, it is neither prohibited, nor regulated. Yet, it can be stated that there is an increasing interest to this process among scholars and it is discussed in the panels. To the best of our knowledge, there are currently no publicly available court decisions in this regard.

**49. Is emergency arbitrator relief available in your country? Are decisions made by emergency arbitrators readily enforceable?**

There is no provision under IAL or CCP regarding emergency arbitrators.

The ITOTAM and ISTAC arbitration rules contain provisions for emergency arbitrators.

There is no publicly available information regarding the decisions made by the emergency arbitrators.

**50. Are there arbitral laws or arbitration institutional rules in your country providing for simplified or expedited procedures for claims under a certain value? Are they often used?**

There are no provisions under CCP or IAL regarding simplified or an expedited arbitration procedures. Yet, both ISTAC and ITOTAM allow expedited proceedings.

The threshold for expedited arbitration proceedings in an ISTAC Arbitration is TL 300,000 (*approximately €30,000*) and in an ITOTAM Arbitration is TL 500,000 (*approximately €50,000*).

There is no publicly available data related to the use of the expedited arbitration proceedings.

**51. Is diversity in the choice of arbitrators and counsel (e.g. gender, age, origin) actively promoted in your country? If so, how?**

Diversity in the choice of arbitrators and counsels is a topic often discussed in Turkey. Although there is no formal decision on the issue, both ISTAC and ITOTAM promote diversity.

**52. Have there been any recent court decisions in your country considering the setting aside of an award that has been enforced in another jurisdiction or vice versa?**

To the best of our knowledge, there are no publicly available decision dealing with this issue.

**53. Have there been any recent court decisions in your country considering the issue of corruption? What standard do local courts apply for proving of corruption? Which party bears the burden of proving corruption?**

To the best of our knowledge, there are no publicly available decision related to arbitration process, dealing with this issue.

**54. Have there been any recent court decisions in your country considering the judgment of the Court of Justice of the European Union in Slovak Republic v Achmea BV (Case C-284/16) with respect to intra-European Union bilateral investment treaties or the Energy Charter Treaty? Are there any pending decisions?**

No. To the best of our knowledge, there are no publicly available decision in this regard.

**55. Have there are been any recent decisions in your country considering the General Court of the European Union's decision Micula & Ors (Joined Cases T-624/15, T-694/15 and T-694.15), ECLI:EU:T:2019:423, dated 18 June 2019?**

**Are there any pending decisions?**

No. To the best of our knowledge, there are no publicly available decision in this regard.

**56. What measures, if any, have arbitral institutions in your country taken in response to the COVID-19 pandemic?**

As noted above, ISTAC introduced the Online Hearing Rules and Procedures as of 21.04.2020, shortly after the pandemic.

**57. Have arbitral institutions in your country implemented reforms towards greater use of technology and a more cost-effective conduct of arbitrations? Have there been any recent developments regarding virtual hearings?**

Please see our answer to question 56.

**58. In your country, does the insolvency of a party affect the enforceability of an arbitration agreement?**

As per Article 11 of IAL, if one of the parties loses its capacity to be a party to the case, the arbitral tribunal shall notify the interested parties to ascertain whether they intend to continue with the arbitration. If no

notification is made or if the parties do not explicitly notify the other party or the arbitral tribunal that they wish to continue the proceedings, within six months, then the arbitration proceedings will be terminated.

**59. Is your country a Contracting Party to the Energy Charter Treaty? If so, has it expressed any specific views as to the current negotiations on the modernization of the Treaty?**

Yes. Turkey is a contracting party to the Energy Charter Treaty (<https://www.energycharter.org/who-we-are/members-observers/countries/turkey/>). Turkey is attending the negotiation rounds on the modernization of the Treaty; the views of Turkey can be reviewed in the publicly available communications of the rounds.

**60. Have there been any recent developments in your jurisdiction with regard to disputes on climate change and/or human rights?**

No.

**61. Has your country expressed any specific views concerning the work of the UNCITRAL Working Group III on the future of ISDS?**

No.

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