

Arbitration - Turkey

Statutory Mechanisms for Arbitration

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In Turkey, the Civil Procedure Law and the International Arbitration Act⁽¹⁾ provide the statutory mechanisms for the settlement of disputes by arbitration. Domestic arbitrations are subject to the Civil Procedure Law, while international arbitrations are governed by the International Arbitration Act.

For a dispute to fall under the scope of the International Arbitration Act, (i) the dispute must involve a foreign element, and (ii) the seat of arbitration must be in Turkey. A dispute is deemed to 'involve a foreign element' and the arbitration qualifies as 'international' if one of the following criteria is met:

- Parties to the arbitration agreement have their domiciles or regular residences or places of business in different countries;
- Domiciles or regular residences or places of business of the parties are located in a country other than: (i) the seat of arbitration in cases stated by the arbitration agreement or in cases determined based on the arbitration agreement; or (ii) the place where a substantial part of the obligations arising from the main contract is to be performed or the place with which the subject matter of the dispute is most closely connected;
- At least one of the shareholders of the company which is a party to the main contract underlying the arbitration agreement brings foreign capital as per the legislation for the encouragement of foreign investment, or it is necessary to execute credit and/or security agreements to obtain capital from abroad for the purposes of performing such contract; or
- The main contract or legal relationship underlying the arbitration agreement realizes the transfer of capital or goods from one country to the other.

Furthermore, the International Arbitration Act also applies to disputes where the parties or the arbitral tribunal opt for the provisions of the act. All other arbitration disputes, besides those governed by the International Arbitration Act, are governed by Articles 516 to 536 of the Civil Procedure Law.

Domestic arbitrations can be appealed against before the Court of Appeals; however, international arbitrations falling under the scope of the International Arbitration Act cannot be appealed. The International Arbitration Act provides that the sole legal remedy against international awards made under the act is the annulment of the award. This can be initiated through proceedings before the competent court of first instance.

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Endnotes

(1) The International Arbitration Act entered into force on July 5 2001. It is based on the United Nations Commission on International Trade Law Model Law on International Commercial Arbitration 1985 and the Swiss Private International Law Act 1987.