

ISTANBUL ARBITRATION CENTRE EMERGENCY ARBITRATOR RULES (APPENDIX-1)

ARTICLE 1

Scope

- 1.** Except for cases where the parties have agreed in writing that the Emergency Arbitrator Rules shall not be applicable, the Rules in this Appendix shall apply to applications that are made to the Secretariat for the appointment of an Emergency Arbitrator before the transmission of the file to the Sole Arbitrator or Arbitral Tribunal pursuant to Article 18 of the Istanbul Arbitration Centre Arbitration Rules.
- 2.** The Rules in this Appendix shall apply to the parties who are either signatories to the arbitration agreement taken as the basis for an application for the appointment of an Emergency Arbitrator, or successors of such parties.
- 3.** The Rules in this Appendix shall not prevent the parties from requesting from the courts an interim measure of protection, prior to or, after the application for the appointment of an Emergency Arbitrator. This is not incompatible with the arbitration agreement, nor will it constitute a waiver of the arbitration agreement, or from the right to make an application to the Emergency Arbitrator.

ARTICLE 2

Application

- 1.** The requirement to submit a Request for Arbitration, Statement of Claim, Answer to the Request for Arbitration, or Statement of Defence is not applicable for the party requesting the appointment of an Emergency Arbitrator.
- 2.** The application for the appointment of an Emergency Arbitrator shall include the following:
 - a)** Full names, titles, addresses, telephone and facsimile numbers, and email addresses of each of the parties and, if any, of their representatives;
 - b)** Explanations on the dispute to be resolved through arbitration;
 - c)** Reasons for the interim measures sought;
 - d)** Any relevant agreements along with a copy of the arbitration agreement and other necessary information and documents;
 - e)** The interim measure(s) sought;

- f)** Statements regarding the seat of the arbitration, the language of the arbitration and the applicable law;
 - g)** A copy of the Request for Arbitration, Statement of Claim, or Answer to the Request for Arbitration or Statement of Defence in cases where the party making the application submitted such documents prior to the application;
 - h)** Proof of payment of the Emergency Arbitrator costs pursuant to Article 8 of the Rules in this Appendix.
- 3.** The application shall be made in the language of the arbitration agreed by the parties; in the absence of any such agreement, the application shall be made in the language of the arbitration agreement or, if the arbitration agreement is made in many languages, in one of those languages.
 - 4.** The application shall be submitted in a number of copies sufficient to provide one copy for each party, one for the Emergency Arbitrator and one for the Secretariat.
 - 5.** The President of the Board shall discharge the Emergency Arbitrator from her/his duty if the party making the application has not submitted a Request for Arbitration or a Statement of Claim within 15 days of the Secretariat's receipt of the Application.

ARTICLE 3

Appointment of the Emergency Arbitrator

- 1.** The President of the Board appoints the Emergency Arbitrator within 2 working days from the Secretariat's receipt of the Application.
- 2.** The Emergency Arbitrator shall not be appointed after the transmission of the file to the Sole Arbitrator or Arbitral Tribunal pursuant to Article 18 of the Istanbul Arbitration Centre Arbitration Rules.
- 3.** The Emergency Arbitrator must be impartial and independent and must remain impartial and independent until its duty terminates
- 4.** Upon the acceptance of the duty, the Emergency Arbitrator shall sign and submit to the Secretariat a statement of impartiality and independence and undertakes to allocate sufficient time for its duty.
- 5.** The Emergency Arbitrator shall not act as an arbitrator in any arbitration proceedings relating to the dispute which gave rise to the Application unless the parties agreed after making her/his decision that the Emergency Arbitrator shall also perform arbitrator's duty.

6. The Secretariat shall notify the parties of the appointment of the Emergency Arbitrator; send a copy of the Application and its annexes to the other party, and transmit the file to the Emergency Arbitrator.
7. Once the file has been transmitted to the Emergency Arbitrator, the parties shall submit all statements, documents, pleadings and written communications directly to the Emergency Arbitrator, along with one copy to the Secretariat. The Emergency Arbitrator shall submit to the Secretariat a copy of all written communications with the parties.

ARTICLE 4

Challenge of the Emergency Arbitrator

1. A party wishing to challenge the Emergency Arbitrator shall make its request for challenge to the Secretariat within 3 days of the notification of the Emergency Arbitrator's appointment. Where circumstances and facts giving rise to a challenge become known later, the request for challenge shall be made within 3 days from the date on which the party making the request became aware of such circumstances and facts.
2. Matters which are not regulated under this article are subject, where appropriate, to the provisions of Articles 16 and 17 of the Istanbul Arbitration Centre Arbitration Rules.

ARTICLE 5

Place of the Interim Measure Proceedings

1. The place of the interim measures proceedings shall be the seat of the arbitration if the parties have agreed upon one. Otherwise, the place of the interim measures proceedings shall be Istanbul.
2. The Emergency Arbitrator may conduct meetings at any location deemed to be appropriate.

ARTICLE 6

Interim Measures Proceedings

1. The Emergency Arbitrator, after consulting with the parties, shall establish a procedural timetable within, at the latest, 2 days of the receipt of the file, and shall inform the parties and the Secretariat of the procedural timetable.
2. The Emergency Arbitrator shall decide on the admissibility of the Application and her/his jurisdiction to grant interim measures.

3. Taking into account the nature and urgency of the Application, the Emergency Arbitrator shall conduct the interim measures proceedings in a manner deemed to be appropriate.
4. Unless the Emergency Arbitrator deems it necessary, decides solely on the basis of documents without holding a hearing.
5. The Emergency Arbitrator may request the parties to submit any information or documents that she/he considers necessary.
6. The Emergency Arbitrator conducts the interim measure proceedings fairly and impartially, and must not violate each party's right to be heard.

ARTICLE 7

Interim Measure Decision

1. The Emergency Arbitrator shall make the decision within, at the latest, 7 days of receipt of the file. The President of the Board may extend this time limit upon the Emergency Arbitrator's reasoned request, or, in cases deemed to be appropriate, upon the President of the Board's own initiative.
2. The Emergency Arbitrator, taking into account the nature and circumstances of the Application, shall grant interim measures deemed to be appropriate. The Emergency Arbitrator may require an appropriate security in order to grant interim measures.
3. The Emergency Arbitrator shall draw up her/his decision in writing. The decision will state the date and the place of interim measure proceedings and the reasons for the decision. The decision will be signed by the Emergency Arbitrator. The Emergency Arbitrator shall notify the decision to the parties and the Secretariat.
4. The Emergency Arbitrator's decisions are binding on the parties. The parties undertake to comply with the decision without any delay.
5. If the circumstances and facts on which the interim measure was granted change prior to the transmission of the file to the Sole Arbitrator or Arbitral Tribunal, pursuant to Article 18 of the Istanbul Arbitration Centre Arbitration Rules, upon the reasoned request of a party, the Emergency Arbitrator may modify or terminate her/his decision.
6. The decision granted by the Emergency Arbitrator ceases to be binding upon the parties in the situations mentioned below:
 - a) The termination of the Emergency Arbitrator's duty by the President of the Board pursuant to Article 2(5) of the Rules in this Appendix;

- b)** The acceptance of a challenge against the Emergency Arbitrator pursuant to Article 4 of the Rules in this Appendix;
 - c)** Unless the Sole Arbitrator or Arbitral Tribunal expressly decide otherwise, the making of the arbitral award;
 - d)** The termination of the arbitration pursuant to Article 39 of the Istanbul Arbitration Centre Arbitration Rules.
- 7.** The Sole Arbitrator or Arbitral Tribunal is not bound by the decisions of the Emergency Arbitrator. Upon one party's request, or on its own initiative, the Sole Arbitrator or Arbitral Tribunal may modify or terminate the Emergency Arbitrator's decisions and the procedures made according to such decisions.

ARTICLE 8

Costs of Interim Measures Proceedings

- 1.** The costs of the interim measures proceedings consist of
 - a)** The administrative costs of the Istanbul Arbitration Centre;
 - b)** The Emergency Arbitrator's fee;
 - c)** The Emergency Arbitrator's and the parties' expenses with respect to such proceedings.
- 2.** The party who applied for the appointment of the Emergency Arbitrator must pay the amount of TRY 20.000 for the Emergency Arbitrator, and TRY 5000 for the administrative costs of the Istanbul Arbitration Centre. If the proof of payment of these costs is not submitted on Application, the Secretariat will dismiss the Application.
- 3.** In the decision, the Emergency Arbitrator shall fix the costs of the interim measures proceedings, and decide which of the parties shall bear the costs or in what proportion they shall be borne by the parties. Upon one party's request, the Sole Arbitrator or Arbitral Tribunal may modify the decision of the Emergency Arbitrator related to the costs.

ARTICLE 9

Final Provisions

- 1.** The President, or in her/his absence, the Vice-President of the Board, shall decide on all the matters relating to interim measures proceedings that are not expressly provided for in this Appendix.
- 2.** In all matters concerning the interim measures proceedings, which are not expressly provided for in this Appendix, the President of the Board, the Secretariat and the Emergency Arbitrator will act in the spirit of this Appendix and the Istanbul Arbitration Centre Arbitration Rules.