

**Arbitration Centre  
of Turkey**

**istac**

## ISTAC 2017

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### Edition

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1<sup>st</sup> Edition, April 2018, Istanbul

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*Inclusion of the following clause in the contracts by the parties is sufficient to enable the cases to be heard at ISTAC;*

***Any disputes arising out of, or in connection with the present contract shall be finally settled through arbitration under the Istanbul Arbitration Centre Arbitration Rules.***

”





“

*ISTAC Arbitration;*

***Is a method of resolution for commercial disputes by experts in an expeditious and cost-effective manner, with a binding award, which is internationally enforceable, as court decisions, without recourse to appeal.***

”

# THE INSTITUTIONS REPRESENTED IN THE GENERAL ASSEMBLY



*Hakan Öztatar*



*Atty. Enver Usca*



*Atty. Ebru Bostancıoğlu  
Atty. Mehmet Rifat Bacanlı  
Atty. Muharrem Eliş  
Atty. Erkan Köroğlu*

Confederation  
Of Turkish Trade  
Unions



*Atty. H. Ferhan Tuncel*



*Atty. Şebnem Ergün*



*Muhammet Erişen*



*Atty. Ali Murat Dizdar*

ist

ISTANBUL ARBITRATION CENTRE



*Prof. Ziya Akıncı  
Mustafa Şadan Eren  
Atty. Müjdat Keçeci  
Rıdvan Kartal  
Atty. Murat Keçeciler  
Arif Parmaksız*



*Mustafa Çıkrıkçıoğlu  
Atty. Muhammet Aksan*



*Prof. Murat Atalı  
Prof. Hasan Ayrancı  
Prof. Arslan Kaya*



*Atty. Atila Türel*



*Atty. Fatma Yasemin Ertekin*



*Burhanettin Nalbant*



**TİSK**  
TURKISH  
CONFEDERATION OF  
EMPLOYER ASSOCIATIONS

*Atty. Başar Ay*



# ISTAC EXECUTIVE BOARD

***Prof. Ziya AKINCI***

President of the Executive Board



***Mustafa ÇIKRIKÇIOĞLU***

Vice-President of the  
Executive Board



***Müjdat KEÇECİ***

Member of the Executive  
Board





***Hakan ÖZTATAR***  
Member of the Executive  
Board



***Atty. Mehmet Rifat BACANLI***  
Member of the Executive  
Board



## OUR GOAL IS TO BECOME THE ARBITRATION CENTRE OF NOT ONLY TURKEY BUT ALSO THE REGION...

**3** years ago, the date of April 30, 2015, was the starting point and the kickoff of a long-term marathon for the Istanbul Arbitration Centre. As the Istanbul Arbitration Centre Law no. 6570 entered into force on January 01, 2015, the management was formed; the authority and the responsibilities were entrusted at the first General Assembly convened in the Service Building of The Union of Chambers and Commodity Exchanges of Turkey in Ankara; and we started off.

At the second General Assembly which convened on October 26, 2015, “The Istanbul Arbitration Centre Arbitration and Mediation Rules” were approved and accordingly, the legal infrastructure was completed. ISTAC settled in its headquarters located at TOBB Plaza in Şişli-Levent right after its registration of the first case on December 18, 2015; and had a very busy activity period since January 01, 2016.

Our prioritized objective when starting a new institution from scratch, was to correctly locate this centre in a trust-based area such as arbitration; and to acquire a reputable identity for it, as well as to create a prestigious image not only in the country but also abroad. When we achieved this, the business world would trust ISTAC for the disputes and entrust the cases, without any need for searching for achieved and would seek the solution in ISTAC arbitration.

We always emphasize that the first few years pass for the formation of the corporate infrastructure, and promotion of the centre, in terms of new arbitration centres like us. As the centre gains recognition, it starts to appear in the arbitration clauses of the contracts; and the cases will follow once disputes arise out of such contracts. We had taken this probability into account in the beginning when we started off a new journey with ISTAC. Starting from our the beginning, we applied a program focused on promotion. We gave conferences addressed to the companies and public institutions; we organized training programs. We had promotional activities not only in the country but also abroad. Moreover, we attached importance to media relations and we took each opportunity to introduce ISTAC and arbitration to the public and the economic actors in our press meetings, individual interviews and TV programs. During the last 2 years, Turkey started to speak about arbitration over media agenda at such high level for the first time; and awareness is raised.

Meanwhile, the recommendation of ISTAC Arbitration to the public institutions under the Communiqué of the Prime Ministry no. 2016/25 and amendment of the regulations on “Standard Contracts” of the Public Procurement Authority on December 30, 2017 were important turning points for our institution for clearing the way of benefitting from ISTAC Arbitration. At this stage we know that many companies and financial institutions in



*Our prioritized objective when starting a new institution from scratch, was to correctly locate this centre in a trust-based area such as arbitration; and to acquire a reputable identity for it, as well as to create a prestigious image not only in the country but also abroad.*



the private sector now include ISTAC clause in their contracts. We also expect the same developments from the public sector following the Communiqué of the Prime Ministry and the amendment in the public procurement contracts.

It is most-certainly that any company or businessman would not desire to be engaged in litigations however, the business world always accommodates such risks and naturally the remedies are sought in law. We address all industrialists, contractors, traders, exporters, mariners, bankers, and in short, all the business world facing these problems; and we say, don't get lost within the heavy workload of the state courts, use the alternative dispute resolution methods, take the advantages of ISTAC.

Consequently, our institution had its first experiences with those who heard our message and sought for the solution at ISTAC. It has been 27 months since the date on which we started our activities at TOBB Plaza. The number of cases referred to our centre during this time reached 15. More than half of these cases, 9 of which are finalized, concern international disputes. This is because arbitration is now an indispensable element of the global trade. International companies seek remedy before reputable and impartial arbitration institutions that offer service at the generally accepted international standards, rather than the courts of the countries in which they make their investments. Turkish companies opening up to the world, trading with many countries and having investments abroad also follow the same route. ISTAC also aims to be the fast, easy and cost-effective "dispute resolution centre" for our entrepreneurs operating abroad. Moreover, we see the inclusion of Istanbul Arbitration Centre in the international bilateral treaties signed by Turkey in the recent periods as an important stage which brings our institution closer to this target. We are very proud and excited for this process, which first started in October 2017 when IS-



TAC Arbitration Clause was included in the Treaty on Reciprocal Promotion and Protection of Investments signed with Ukraine, and continued with the Turkey-Mauritania Contract signed in February 2018.

Our hopes for the future grow when we see that Istanbul Arbitration Centre, which is at the bottom of the ladder, already is recognized at the international arena. Last year, ISTAC took its place in “GAR’s Guide to Regional Arbitration 2017”, which covers more than 30 regional arbitration institutions all over the world, and became the first arbitration Centre of Turkey which was listed in this prestigious catalogue. Global Arbitration Review (GAR), one of the main reference guides of the arbitration practitioners all over the world, took one step further this year and listed ISTAC as “arbitration Centre worth a closer look”. In addition to this, ISTAC, the first Centre in Turkey cooperating with the Permanent Court of Arbitration (PCA) in the Hague based on the contract we signed last year, is among the 22 prestigious arbitration institutions in the world.

*ISTAC aims to be the fast, easy and cost-effective “dispute resolution centre” for our entrepreneurs operating abroad. Inclusion of ISTAC in BITs (Bilateral Investment Treaties or Treaties on Reciprocal Promotion and Protection of Investments) creates this opportunity for the business world.*



These developments for a young institution, which is only 2,5 years old, cannot be undervalued. If there is a picture of success here, I would like to underline that the power and moral support we receive from our institutions represented in our General Assembly play a significant role in this and I would like to express my gratitude to them. Moreover, I would like to express my gratitude to our Executive Board, our members of National and International Boards of Arbitration, our Board of Auditors and Advisory Board, our colleagues in Specialized Commissions, our at ISTAC for the valuable contributions and efforts they had provided for our institution and Young ISTAC community due to their voluntary contributions.

We just started this journey together, we have a long way to go and our way is clear.

Making ISTAC the arbitration centre of not only Turkey but our region, being one of the lead actors in the global arbitration and taking a share from the international arbitration economy and contributing to the economy of the country is not a dream anymore.

The experience we acquired during the first 27 months shows that ISTAC possesses this potential. And as Istanbul becomes one of the arbitration centres of the world, Turkey will be a country dispensing justice at the international arena.

I believe that we will succeed this together.

With My Best Regards,

**Prof. Ziya Akıncı**  
President of the Istanbul Arbitration Centre



“

**Why  
ISTAC?**

- ***Instead of protracted lawsuits at courts, solutions that are more affordable than courts***
- ***Proceedings at international standards***
- ***Modern rules with which the practitioners are familiar***
- ***Internationally recognized and reputable Members of the Board***
- ***Effective Secretariat services***
- ***Independent and impartial institutional arbitration service that observes the equality of arms principle...***

”



“

*Fast Track Resolution in  
3 months at ISTAC;*

***The disputes below TRY 300.000  
are resolved in a binding manner  
within 3 months by ISTAC Fast Track  
Arbitration Rules.***

”





The common ground of the cities, which are the financial centres of the world, is that they are also effective as an arbitration centres. Accordingly, the establishment of Istanbul Arbitration Centre was also planned within the scope of Istanbul Financial Centre strategy. The first spade was dug in January 2013 for the financial centre in Ataşehir and the excavations were started. As the construction started as of September 2016, and the financial towers started to rise in the area, Istanbul Arbitration Centre is maturing with its first term experiences.

**October 02, 2009**

## **The First Step for the Arbitration Centre; Istanbul Financial Centre Action Plan**

"The Strategy and Action Plan for Istanbul Financial Centre" prepared by State Planning Organization was approved by the decision of the Higher Planning Council dated September 29, 2009. The Strategy Certificate took effect after being published in the Official Gazette no. 27364 dated Oc-

tober 02, 2009. The decision also covered the formation of a corporate arbitration centre in Istanbul, with an independent and autonomous structure, capable of competing at the international level; and efficient utilization of the mediation within the scope of Financial Centre Project.

**March 25, 2013**

## **ISTAC Draft Law is on the Agenda of the TBMM (Grand National Assembly of Turkey)**

Istanbul Arbitration Centre Draft Law was submitted to the Presidency of the Grand National Assembly of Turkey.



November 20, 2014

**ISTAC Law no. 6570 Is Approved by the Assembly**

The Law no. 6570 regarding the establishment of the Istanbul Arbitration Centre was adopted during the General Assembly of TBMM.

The 1<sup>st</sup> Article of the Law is as follows: **"The purpose of this Law is to set forth the rules and principles for the establishment of Istanbul Arbitration Centre as well as its organization and activities to ensure the**

**resolution of disputes including the ones with foreign elements through arbitration and alternative dispute resolution methods".** The 2<sup>nd</sup> Article of the Law is as follows: **"Istanbul Arbitration Centre, a legal entity subject to provisions of the private law, is established in order to provide the implementation of this Law and carry out the duties conferred to it by this Law."**

November 29, 2014

**Approval of the ISTAC Law by the President of the Republic**

Following the approval of the Istanbul Arbitration Centre Law no. 6570 by Recep Tayyip Erdoğan, the President of the Republic, the Law was published in the Official Gazette no. 29190.

January 01, 2015

**The Foundation is laid by the Law and Corporate Structuring Process is Started**

Istanbul Arbitration Centre Law took effect. Action is taken in order to form the managing body and the organizational structure of the institution.

April 30, 2015

**The Management is Formed in the first General Assembly**

The General Assembly of Istanbul Arbitration Centre convened at the Service Building of Union of Chambers and Commodity Exchanges of Turkey (TOBB). The permanent and alternate members of the Executive Board were elected during the first General Assembly, chaired by Dr. Vahdettin Ertaş, the representative of Capital Markets Board (CMB).

Prof. Ziya Akıncı, the representative of the Union of Chambers and Commodity Exchanges of Turkey (TOBB), was elected as the President of the Executive Board of ISTAC. Hakan Öztatar, representing the Ministry of Justice; Müjdat Keçeci, representing TOBB;

Mustafa Çıkrıkçıoğlu, representing Turkish Exporters Assembly (TIM), Mehmet Rifat Bacanlı, representing the Union of Turkish Bar Associations were appointed as the Executive Committee. Arif Parmaksız (TOBB), Atty. Başar Ay (TİSK), Atty. Ferhan Tuncel (Türk-İş) and F. Yasemin Ertekin (TESK) were elected as alternate members of the Executive Board. Dr. Vahdettin Ertaş, the representative of CMB, Atty. Erkan Köroğlu, the representative of the Union of Turkish Bar Association and Atty. Murat Keçeciler, the representative of TOBB were elected as the auditors. Moreover, an Advisory Board of 15 members was established.





ISTAC premises located at TOBB Plaza in Istanbul-Levent is designed as an arbitration institution with hearing rooms and meeting rooms. The centre also hosts the arbitration events and gatherings of attorneys and legal professionals within the scope of commission works.

**October 15, 2015**

## ISTAC Boards of Arbitration Were Formed

The Boards of Arbitration of Istanbul Arbitration Centre were determined. In accordance with the Law no. 6570, the President and the Secretary General of ISTAC took office in both boards. International Board of Arbitration was comprised of Prof. Jan Paulsson, Prof. Bernard

Hanotiau and Dr. Hamid Gharavi, who are the leading names of arbitration worldwide. The experienced legal professionals of Turkey, Prof. Sabih Arkan, Prof. Atilla Altop and Assoc. Prof. Cemile Demir Gökyayla took their places in the National Board of Arbitration.

**October 26, 2015**

## ISTAC's Constitution "Arbitration and Mediation Rules" Were Adopted

The 2<sup>nd</sup> General Assembly of ISTAC was held at TOBB Plaza. "Istanbul Arbitration Centre Arbitration and Me-

diation Rules" were presented to the General Assembly; approved; and came into force.

November 26, 2015

**The First Introduction of ISTAC Arbitration Rules**

The President of the Executive Board, Prof. Ziya Akıncı, introduced "ISTAC Arbitration Rules" to the public for

the first time, by the presentation he at ICEF-2015 Istanbul Economics and Finance Conference.

December 18, 2015

**The First Case Even Before Moving into the Management Centre**

While the central structuring preparations were in progress at ISTAC, the first international arbitration case was registered.

January 01, 2016

**Start of Work at its Own Centre**

ISTAC started its activities in its premises at TOBB Plaza located in Istanbul Levent (Şişli).

February 05, 2016

**Young ISTAC Platform Started its Activities**

The first meeting of Young ISTAC, a platform established under the auspices of Istanbul Arbitration Centre in order to reinforce the communication and cooperation among the young professionals working or desiring to

work in the field of arbitration and mediation, and to provide the spread of arbitration, is held. The President Prof. Ziya Akıncı introduced Istanbul Arbitration Centre and Arbitration Rules to students and young professionals.

February 08, 2016

**The First Meeting with Media and the First Public Appearance**

ISTAC, which started its activities at TOBB Plaza in January 2016, firstly focused on promotion and media relations. The first press meeting organized on February 08, 2016 was the first public appearance of ISTAC. President and members of the Executive Board of ISTAC came together with the economy media during a breakfast meeting. An intense arbitration agenda was created in the printed and visual media.



March 03, 2016

**ISTAC Arbitration Clause in the First Major Project Contract**

In the Project of Water Supply From Turkey to Northern Cyprus, ISTAC Arbitration was chosen as the dispute resolution method. Istanbul Arbitration Centre was chosen as the

institution for the resolution of disputes in the "Intergovernmental Contract for the Supply and Management of Water" signed by and between Turkey and Northern Cyprus.





Main agenda during the first two General Assemblies was the corporate structuring of ISTAC. The Executive Board was elected during the first meeting; and ISTAC Arbitration and Mediation Rules were adopted and approved during the second meeting. ISTAC's future activities for the upcoming months were evaluated for the first time during the 3<sup>rd</sup> General Assembly.

**March 08, 2016**

### ISTAC Step by Step...

The 3<sup>rd</sup> General Assembly of Istanbul Arbitration Centre was held.

**May 23, 2016**

### ISTAC-TOBB Press Meeting with the Economy Writers

Istanbul Arbitration Centre realized its second press move by meeting the directors, programmers and columnists of economy media at a lunch meeting. ISTAC management appeared before the media this time together with the management of the Union of Chambers and Commodity Exchanges of Turkey (TOBB),

which has the highest number of representatives in the institution. The President of ISTAC, Prof. Ziya Akıncı and the President of TOBB, Rifat Hisarcıklioğlu made statements emphasizing the significance of arbitration. ISTAC and arbitration received extensive coverage in the media after the meeting.



June 10, 2016

**ISTAC is on GAR Newsletter for the First Time**

ISTAC was widely included in GAR Newsletter shared worldwide by Global Arbitration Review prior to "GAR Live Istanbul - Introducing ISTAC Rules" conference held on June 24, 2016. In the newsletter dated

June 10, 2016, Prof. Ziya Akıncı and Jean-Claude Najar, one of the leading arbitration lawyers, gave messages emphasizing the advantages of ISTAC Arbitration and Istanbul.

September 05, 2016

**The First Step in Cooperation with the Business World: Chamber of Sworn-in Certified Public Accountants of Istanbul**

The visit of ISTAC Executive Board to the management of Chamber of Sworn-in Certified Public Accountants of Istanbul (YMMO) led the way for the cooperation between two institutions. Within this scope, YMMO decided to support ISTAC by explaining the advantages of ISTAC to the business world and by inclusion of ISTAC

arbitration clause in the contracts. While ISTAC provided information to the members of YMMO about ISTAC arbitration with the seminars, conferences and other training programs, it supports the opinions of the sworn-in certified public accountants to submit opinions or appear as expert witnesses at arbitral proceedings.

September 18-23 2016

**The First Introduction Abroad**

ISTAC was discussed at the International Bar Association (IBA) conference. With support of the Union of Tur-

kish Bar Associations, Istanbul Arbitration Centre was introduced at the Annual IBA Conference held Washington.

Press meeting held on the evening of May 23, 2016 hosted by ISTAC management, with the participation of TOBB management, brought the leading names of the media and business world together. The President of TOBB, Rifat Hisarcıklioğlu and the President of ISTAC, Prof. Ziya Akıncı explained the significance of arbitration for the business world.





Istanbul Arbitration Centre realized the first of its regular training programs, on October 26, 2016. Following this, ISTAC became the arbitration training address of hundreds of young lawyers. The seminars and conferences organized with the participation of the lawyers and experts from Turkey and abroad contribute significantly to raising of a new arbitration generation.

**October 11, 2016**

## The First Training at the Centre

The first part of "Arbitration Training Program for the Practitioners" was realized at ISTAC Centre with a large participation. The program which lasted 8 hours was applied as 4 modules. The President Prof. Ziya Akıncı, Mem-

ber of the Advisory Board Prof. Bahadır Erdem, Assoc. Prof. Emre Esen and the Secretary General Dr. Candan Yasan Tepetaş gave lectures to the course attendees about arbitration applications and ISTAC Arbitration.

**October 31, 2016**

## ISTAC Step by Step...

The activities of ISTAC were evaluated during the 4<sup>th</sup> General Assembly.

**November 19, 2016**

## Recommendation of ISTAC to the Public Under the Communiqué of the Prime Ministry

The Communiqué no. 2016/25 of the Prime Ministry was an important milestone for ISTAC. ISTAC was recommended as the national and international dispute settlement centre

to the public institutes and agencies in the Communiqué signed by the Prime Minister Binali Yıldırım, which was published in the Official Gazette dated November 19, 2016.



Paris Conference was the first step of the cooperation between Istanbul Arbitration Centre and Tehran Regional Arbitration Centre (TRAC). The leading names of international arbitration and economy world participated in Paris Conference organized by ISTAC-TRAC. Moreover, it is decided to continue the joint events with Tehran and Istanbul conferences.

December 12, 2016

### The First Organization Abroad: Paris Conference

The conference was organized with the cooperation of ISTAC and Tehran Regional Arbitration Centre (TRAC). Prominent names in the field of arbitration including Prof. Pierre Mayer, Prof. Georges Affaki, Dr. Hamid Gharavi, ISTAC President Prof. Ziya Akıncı, TRAC President Dr. Oveis Rezvanian, the Representative of Iran Ministry of Justice Prof. Mohsen Mohebi and International Chamber of Commerce (ICC) Paris and Tunis representatives came together in Paris Conference. OECD Perma-

nent Ambassador and Former President of the Central Bank Erdem Başçı, Paris Attaché of the Ministry of Justice Abdullah Aydın, Ministry of Economy Vice-General Director of the General Directorate of Incentive Implementation and Foreign Investment Murat Alıcı, ISTAC Vice-President Mustafa Çıkrıkçıoğlu, members of ISTAC Executive Board Müjdat Keçeci, Rifat Bacanlı and the Secretary General Candan Yasan Tepetaş were among the attendees.

December 19, 2016

### Ankara Initiative For the Public Sector

Following the Communiqué of the Prime Ministry dated November 19, 2016, "Arbitration for Public Institutions and Organizations Conference" organized in Ankara by Istanbul Arbitration Centre was held at Constitutional Court's High Council Hall. The conference was started with the opening speech of the president of the Constitutional Court Prof. Zühtü Arslan; and Constitutional Court Judicial Clerk Dr. Mücahit Aydın, ISTAC International Board Member Dr. Hamid Gharavi, ISTAC President Prof. Ziya Akıncı, İhsan Doğramacı Bilkent University Academic Member Prof. Bilgin Tiryaki- oğlu, Secretary-General Dr. Candan Yasan Tepetaş and ISTAC Advisory Board Member Prof. Ejder Yılmaz delivered speeches at the conference. Many practitioners from public institutions all around the country were informed on ISTAC Arbitration Rules.







When Istanbul Arbitration Centre General Assembly Meeting was held for the 5<sup>th</sup> time on April 18, 2017, the institution now had almost an experience of 1,5 years. The number of cases registered exceeded 7 and some of these cases were at the stage of finalization. Accordingly, the 5<sup>th</sup> General Assembly was a meeting in which the activities were evaluated and opinions for a more effectual ISTAC were deliberated.

**February 8, 2017**

## ISTAC is in "GAR Arbitration" Catalogue

Istanbul Arbitration Centre was included in the "GAR's Guide to Regional Arbitration 2017", which contained more than 30 regional arbitration centres of the world. ISTAC has been the first Turkish arbitration centre which is published in this prestigious catalogue.

**April 18, 2017**

## ISTAC Step by Step...

The 5<sup>th</sup> General Assembly of Istanbul Arbitration Centre was held.

**April 29-30, 2017**

## Competition Tradition for the Arbitrators of the Future is Started

Istanbul Arbitration Centre brought the law students together in a moot court competition for the first time. With the organization of Young ISTAC, 42 teams from law faculties com-

peted in "Future Arbitration Counsel Competition". The new target was to organize the competition, which attracted intense attention from the universities, to an international level.





May 23, 2017

### The Arbitration Centre of Turkey is Now at the International League

An agreement was concluded with the Permanent Court of Arbitration (PCA) which has its headquarters at the Hague. ISTAC is now among 22 reputable arbitration centres of the

world, as the first institution from Turkey which cooperated with the PCA based on this agreement. ISTAC - PCA cooperation led the way for facilitation in arbitral proceedings.

October 9, 2017

### The First ISTAC Clause in the BITs

In the Treaty on Reciprocal Promotion and Protection of Investments signed by and between Turkey and Ukraine, Istanbul Arbitration Centre is stipulated among the institutions to be applied to for the resolution of disputes.

November 29, 2017

### The First Office Outside Istanbul

Istanbul Arbitration Centre signed a protocol with Ankara Bar Association and took an important step towards expanding its activities to the capital. In compliance with the

protocol, the applications to be made for arbitration cases can also be made over the liaison office in Ankara Bar Association. The office shall facilitate reaching ISTAC regionally.



The protocol which started the cooperation between Istanbul Arbitration Centre and Ankara Bar Association was signed by the President of the Executive Board of ISTAC, Prof. Ziya Akıncı and the President of Ankara Bar Association Atty. Hakan Canduran. The members of the Executive Board Hakan Öztatar and M. Rifat Bacanlı also attended the signature ceremony.

December 30, 2017

### ISTAC Arbitration Clause in Public Procurement Contracts

Following the recommendation of ISTAC Arbitration for the domestic and international agreements in which the public institutions and agencies are a party, based on the Communiqué of the Prime Ministry no. 2016/25, the amendments were made in the Standard Contracts annexed to the

Implementation of the Public Procurement Regulations. The new amendments were published in the Official Gazette no. 30286 (rep.). Accordingly, the basis for resolution of disputes arising out of public procurement contracts through Istanbul Arbitration Centre Arbitration Rules is established.

“

*Filing a case at ISTAC is as easy as going online;*

***ISTAC REQUEST FOR ARBITRATION form on the corporate website [www.istac.org.tr](http://www.istac.org.tr) can be filled and the case can be filed electronically.***

”



ISTAC REQUEST



ISTAC REQUEST



MODEL CLA



CALCULAT

## Events

13 April 2018- The OIC Task Force Meeting

5-7 May 2018- ASIA ADR Week

4 May 2018- The Istanbul International Construction Law Conference





“

*In ISTAC  
Arbitration;*

- ***The arbitrator can be chosen freely***
- ***Any city can be chosen as the place of arbitration***
- ***Arbitration can be carried out in any foreign language***
- ***Dispute may be resolved under a foreign law***

”

**15 CASES IN 27 MONTHS**

## **2018 WILL BE A MILESTONE FOR ISTAC**

Arbitration is a method of resolution of the disputes between the parties finally through arbitrators instead of the state courts. Selection of the arbitrators among the persons specialized in the matter of the dispute enable faster and better results in arbitration.



Istanbul Arbitration Centre, which became a hot topic as Turkey's project in the field of arbitration within the scope of Istanbul Financial Center investment, is an independent institution which is established under the Law no. 6570. ISTAC, having started its activities on October 26, 2015 by setting its "Arbitration and Mediation Rules", registered its first international case on December 18, 2015. Taking the starting point

of its active operations as January 01, 2016, the date of its settlement in TOBB Plaza, ISTAC left its first 27 months behind. During this period of time, which can be deemed as the foundation period, Istanbul Arbitration Centre started to take its share from the economic and commercial potential created by the international arbitration in Turkey together with the case applications. While the number of cases registered by ISTAC re-



ached 15, 9 of these cases were finalized in about 6 months.

Based on the power and confidence received from this experience of two-years, ISTAC offers the advantages of a fast - cost effective - reliable judgment to our companies competing at the international arena, as well as the local and foreign investors and entrepreneurs doing business in Turkey and in our region, and in short, to the business world. ISTAC's "Arbitration Rules", in other words, its corporate constitution, are drafted to meet 3 main expectations in any type of dispute; Fast and cost-effective judgment of high quality...

### **ISTAC ARBITRATION IS FAST**

The most important problem of the business world today in resolution of legal disputes is the tardiness of the judicial proceedings. In practice, it requires about 2 to 3 years for the state courts for the finalization and enforceability of a commercial case. In some cases, it is observed that this time may be up to 5 or 6 years or even more. Against the heavy workload of the state courts, Istanbul Arbitration Centre offers many important opportunities to the business world in terms of fast

resolution of disputes. One of these opportunities is the procedure of "Fast Track Arbitration" in Turkey for the first time by ISTAC. In Fast Track Arbitration, the case is resolved, and the dispute is finally settled within 3 months after it is transmitted to the arbitrator. Under the Istanbul Arbitration Centre Rules the disputes in the amounts below TRY 300.000, unless decided otherwise, are subject to fast track arbitration. It is also possible for the parties to choose the fast track arbitration for the disputes with higher amounts. Whereas, the disputes which are not subject to fast track arbitration can be concluded within 6 months in ISTAC. Moreover, since the stages of proceedings are scheduled in advanced under the "Procedural Timetable" to be issued when the case is received by the arbitrator, the circumstances such as protraction of the file needlessly or the delay of judgment shall be prevented. Another innovation under Istanbul Arbitration Centre Arbitration Rules is the appointment of "Emergency Arbitrator". The Emergency Arbitrator shall render an interim measure award within 7 days after receiving the file in order to provide for the legal protection need of the parties before the arbitrators start working.



ISTAC introduces its corporate identity on the global arbitration league through national and international conferences.

## ISTAC ARBITRATION IS MORE COST-EFFECTIVE THAN THE COURTS

Dispute Amount (TRY)	Turkish Courts (TRY)	Istanbul Arbitration Centre (TRY)
100.000.000	6.831.000	589.800
50.000.000	3.415.500	499.800
25.000.000	1.711.540	349.800
10.000.000	683.100	259.800
5.000.000	341.548	194.800
1.000.000	71.980	54.800
500.000	37.860	29.800
300.000	20.492	19.800

### ISTAC OFFERS SPECIALIZED TRIAL SERVICES

It is evident that today, the resolution of commercial disputes is based on expertise. Each one of the areas such as the corporate law, construction law, franchising, license agreements, banking or capital markets law require a different specialization. It is not realistic to expect a judge serving at the commercial court to be specialized in all of these areas.

The parties applying to Istanbul Arbitration Centre shall have the right to select the arbitrator to resolve their dispute based on the arbitrator's field of expertise. If the parties cannot reach an agreement concerning the selection of the arbitrator, then ISTAC may appoint an arbitrator who is an expert in the field of the dispute in question. Resolution of the dispute by an arbitrator who is specialized in the relevant area shall provide for better understanding of the claims and defenses of the parties, as well as a more accurate evaluation and a correct decision to be rendered at the end. Since the arbitrators who are the specialists of the subject of the dispute would not need to refer to an expert, and since even an expert is appointed, his examination shall have a narrow scope, the dispute can be solved in a healthier and faster manner. Moreover, the post of reputable arbitrators of international standing at the National and International Boards of Arbitration of Istanbul Arbitration Centre is one of the significant factors that make ISTAC Arbitration advantageous. The Boards perform the duties indicated in the "ISTAC Arbitration Rules" such as appointment of an arbitrator in case the parties fail to appoint one.

### ISTAC ARBITRATION IS NOT EXPENSIVE, IT IS COST-EFFECTIVE

Istanbul Arbitration Centre applies a cost sca-

le based on resolution of commercial disputes always at a cost which is lower than that of the courts. As a matter of fact, as the amount of dispute increases, the arbitration costs are reduced to levels which are lower than the court charges, which is an important advantage in terms of litigation fees. The cost difference between two alternatives can clearly be seen in the comparative fees-charges table in case the same case to be heard by the courts or ISTAC.

### THE NUMBER OF CASES SHALL INCREASE MORE RAPIDLY IN 2018 AND THEREAFTER

The new legal arrangement coming into effect as of the beginning of 2018 is an important turning point for Istanbul Arbitration Centre, which is an independent institution subject to the provisions of private law. The arrangements for amendment of the Tender Implementation Regulations of the Public Procurement Authority (PPA) were published in the Official Gazette dated December 30, 2017 (rep.). As the changes in the Regulations regarding the Framework Agreement, the Consultancy Services Procurement, the Services Procurement, the Goods Procurement and the Construction Works tenders, took effect as of January 19, 2018, settlement of disputes to arise out of the tender contracts by Istanbul Arbitration Centre was enabled. This regulation change was a legal step expected by the institution following the "Recommendation to the public institutions of the benefits of ISTAC Arbitration as the method of dispute resolution" in the Communiqué of the Prime Ministry no. 2016/25 published in the Official Gazette dated November 19, 2016. While the legislation was set by the amendment of regulation, for the implementation of the Communiqué of the Prime Ministry, the foundations were laid

for the use of arbitration in the disputes concerning the public sector as well as the private sector.

According to the new application, the administrations may prefer one of the options of “Turkish courts or arbitration” for the resolution of the disputes which would arise between the parties at the stage of implementation of the public procurement contracts. To this end, the parties are required to prescribe one of these alternatives in their contracts. If arbitration is preferred and in case the dispute contains a foreign element, the dispute is settled either by selecting the Istanbul Arbitration Centre Arbitration Rules or the provisions of International Arbitration Law no 4686. Istanbul Arbitration Centre Rules are applied for the disputes which do not involve foreign element.

Within the scope of the new arrangements concerning the implementation of the public tenders, if arbitration is preferred for dispute resolution, then the dispute clause is required to be included in the contracts as follows: “Any disputes arising out of implementation of the present contract or its annexes (except where the administration is authorized to act and take decision ex officio based on the provisions of the contract) shall be finally settled through arbitration under the Istanbul Arbitration Centre Arbitration Rules”.

As ISTAC Arbitration Clause is started to be included in the public procurement contracts following the private sector, intensification of case traffic at ISTAC is expected starting from 2018; and the increase in ISTAC activities would result in decrease in the workload of the state courts. While Istanbul Arbitration Centre offers important opportunities to the business world in settlement of disputes, it aims to be an arbitration centre which is active not only in Turkey but also at the international arena. Turkey's location which qualifies it as “the Eastern country closest to the West and the Western country closest to the East”, being on the energy routes, being located at the centre of an international trade traffic from Europe to North Africa and from the Middle East to the Central Asia also increase Istanbul's chance. Moreover, the transportation, accommodation and visa advantages, the facilities in the issues of freedom of movement and visa provided by Turkey to the majority of the countries in the Middle East and Central Asia increase the positive expectations for Istanbul Arbitration Centre. While many companies operating internationally prefer the arbitration centres such as London, Paris, Stockholm or Dubai for dispute resolution, now they have Istanbul alternative which is easier to access for lesser costs. As a matter of fact, Istanbul Arbitration Centre was

## PROTOCOL FOR COOPERATION WITH TRANSPORTERS

Truck operators shall also  
benefit from ISTAC Arbitration

A cooperation protocol is signed by and between BSEC – URTA (Union of Road Transport Associations in the Black Sea Economic Cooperation Region), which gathers all the road transport associations of the Black Sea countries under its umbrella, and Istanbul Arbitration Centre. The protocol was signed by the President Prof. Ziya Akıncı on behalf of ISTAC and the Secretary-General Haydar Özkan on behalf of BSEC-URTA. This protocol shall enable the companies operating in the field of transport to be more familiar with arbitration and the other alternative dispute resolution methods, provide the introduction of ISTAC to the sector and inclusion of ISTAC arbitration clause in the bills of lading. Within this frame, ISTAC plans activities such as seminars and conferences concerning mainly CMR (Convention Marchandise Routier) transport certificate and arbitration training. Moreover, presentation of arbitrators and experts list to ISTAC by BSEC-URTA is expected to provide significant facilitations for the world of transport.







extensively described in the “Legal Guide to Investing in Turkey” catalogue published by the Prime Ministry, Investment Agency; and ISTAC was given as one of the most important assurances for the foreigners who shall invest in Turkey.

### **FIRST STEP; INCLUSION OF ISTAC ARBITRATION CLAUSE IN THE AGREEMENTS**

The parties, which desire to benefit from the arbitration opportunity offered by ISTAC, are required to agree on “settlement by arbitration based on Istanbul Arbitration Centre Rules” in case of a dispute. For this purpose, it is sufficient to include the clause “Any disputes arising out of, or in connection with the pre-

sent contract shall be finally settled through arbitration under the Istanbul Arbitration Centre Arbitration Rules.” in the agreements between the parties. A model arbitration clause is provided in Turkish and English at the corporate website, [www.istac.org.tr](http://www.istac.org.tr). Accordingly, the parties can copy this model and include it in their agreements. Moreover, the opportunity of resolving some commercial disputes through “mediation” before they reach the stage of litigation and obtaining faster results can be provided at ISTAC. It is known that many significant holdings of the business world, important foreign capital companies, banks, defense industry, local and foreign investors started to include ISTAC in their agreements. ISTAC Arbitration is preferred as the dispute resolu-



tion method in more than 50 agreements in the energy sector, as well as the agreements in the start-up, construction, franchising, domestic and foreign trade and service sectors.

### **ISTAC CLAUSE IN THE TREATIES WITH UKRAINE AND MAURITANIA**

Initiation of inclusion of Istanbul Arbitration Centre in the international treaties is of utmost importance for the institution's international reputation and recognition. In the Treaties on Reciprocal Promotion and Protection of Investments (BITs) signed recently, ISTAC is also included among the arbitration centres to which the investors can refer to for the settlement of disputes. The first step in this direction was taken on

October 09, 2017 with the treaty signed with Ukraine. Following this, "ISTAC Arbitration Clause" was included in the BIT signed on February 28, 2018 by and between Turkey and Mauritania. Approval and ratification processes of both treaties are ongoing. The Ministry of Economy which conducts the official procedures of the mentioned bilateral treaties inserted ISTAC clause to the section concerning "the settlement of the disputes between the investor and host state" in the Draft Contract Text of Turkey which is used during the negotiations. Accordingly, the option of ISTAC is provided to the international companies investing in Turkey and also to the Turkish entrepreneurs investing and trading abroad, for the resolution of potential disputes arising out of their contracts to be signed.

Filing a case at ISTAC is realized by a fast and easy process, just by filling an online petition available at the website of the institution. Payment of TRY 300 as the registration fee is sufficient, whereas the arbitration charge is requested over the scales as based on the amount of the dispute in question. The Centre, with its hearing rooms and current infrastructure, is able to offer services in English, French and German.

Each ISTAC clause included in the agreements in the business world shows Turkey's confidence in its Arbitration Centre and the trust in its future. Preference of Istanbul and ISTAC Arbitration instead of going abroad for arbitration cases enable the arbitration fees, arbitrator, counsel and specialist-expert charges, accommodation and transport charges to remain within Turkey. It is predicted that the cases concerning the potential disputes to be filed in Turkey, which hosts global major projects such as the Third Airport, bridge, highways, city hospitals, energy investments, shall also have high amounts. However, it is expected that the prestige and brand value of Istanbul shall increase as it is perceived as a place which dispenses justice.

ISTAC, with the power and confidence acquired from the first experiences obtained during the activity period which is not even 2.5 years yet, takes firm steps towards the future in order to activate this potential. While working with the scale of justice, it opens the way for the arbitration economy and arbitration tourism in Turkey.



# ISTAC IN FIGURES

October 26, 2015 – March 1, 2018

Following the entry into force of Istanbul Arbitration Centre Law on January 01, 2015, the Executive Board was elected during the first General Assembly held on April 30, 2015. The first duty of the ISTAC management was to form the corporate infrastructure and legislation required in order to start operations of the Centre. Accordingly, “ISTAC Arbitration and Mediation Rules” were adopted and approved during the 2nd General Assembly Meeting held on October 26, 2015. Therefore, the Centre was ready for accepting cases. Consequently, when the cases received by ISTAC between the dates October 26, 2015 – March 01, 2018 are considered it is noted that the rate was 6 percent between the dates October 26 – December 31, 2015; 27 percent between the dates January 01 – December 31, 2016; and it reached 40 percent between the dates January 01 – December 31, 2017. The case application rate was 27 percent during the first 2 months of 2018.

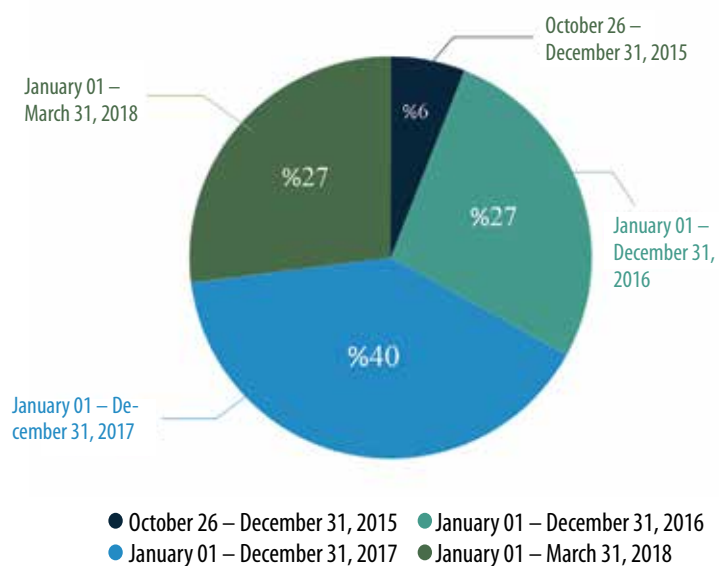
53 percent of ISTAC cases are international disputes and 47 percent are domestic disputes; and in general, the dispute amount range varies between 15.000 Turkish Liras and 800.000.000 Turkish Liras. The dispute amount in 47 percent of the cases is over 2.000.000 Turkish Liras. In such disputes, the highest ranking subject matters of 32 percent are sales agreements, 20 percent are service agreements, and 20 percent are construction agreements.

The nationalities of the parties in the cases reflected in the figures underline that ISTAC is already taking steps towards being an international centre. Although 84 percent of the dispute parties are of Turkish origin, the remaining 16 percent is distributed between Africa, United Arab Emirates, France and India. The statistics show that the chosen arbitration language is Turkish in 87 percent of the cases and English in 13 percent of the cases; and that 87 percent of the parties in dispute were among private sector companies.

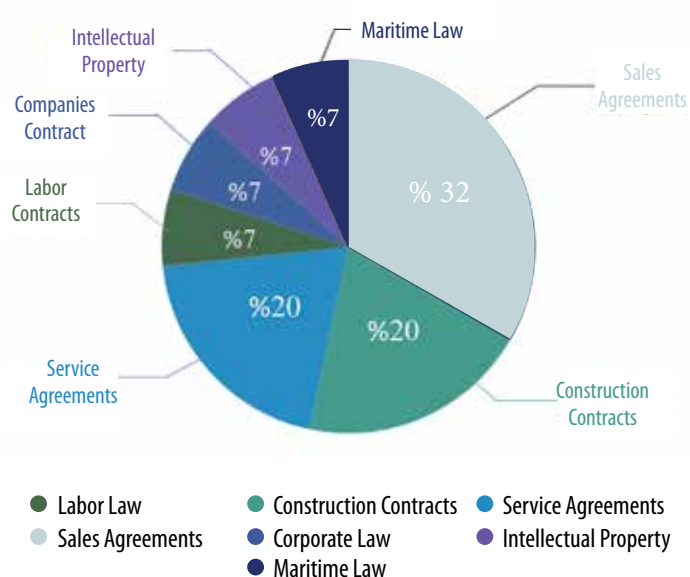
Moreover, activity period of approximately 2.5 years of ISTAC reveals that female arbitrators are also effective in the field of arbitration. While the female arbitrators constitute the majority in 30 percent of the cases in the Arbitral Tribunal, it is also noted that female arbitrators acted as the Presidents of the Tribunals in 30 percent of the cases.



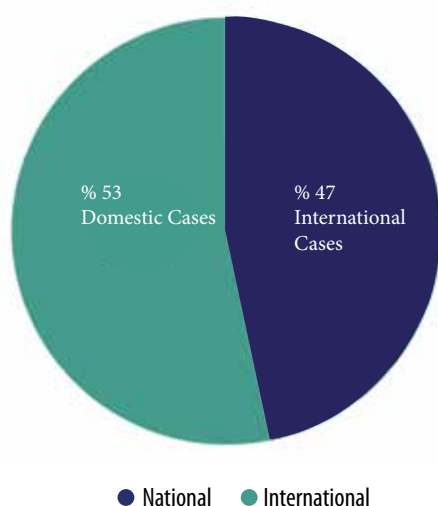
## CASES RECEIVED BY YEARS



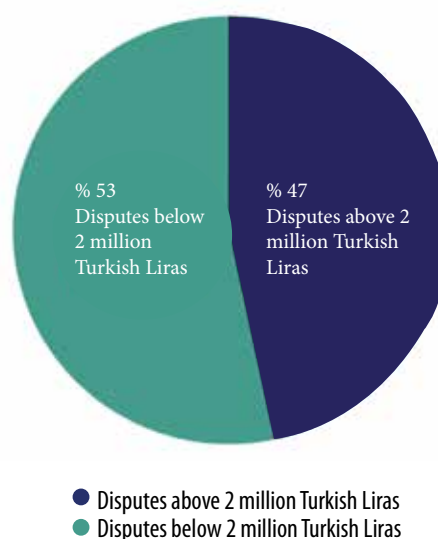
## NATURE OF DISPUTES



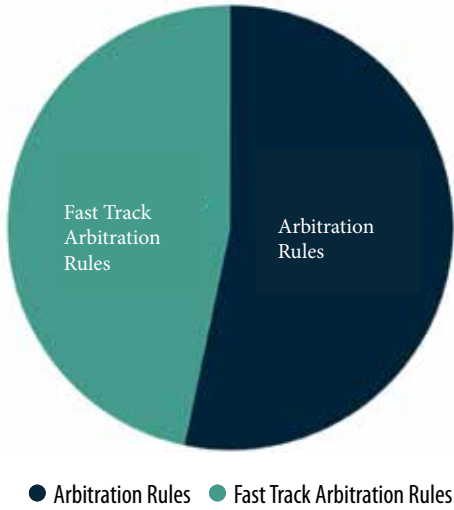
## INTERNATIONAL AND DOMESTIC CASES



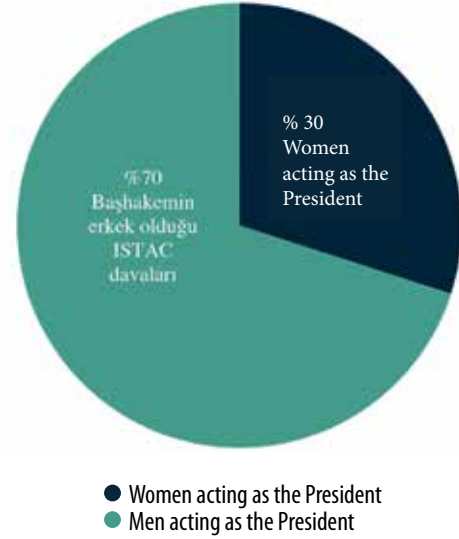
## DISPUTES OVER 2 MILLION TURKISH LIRAS



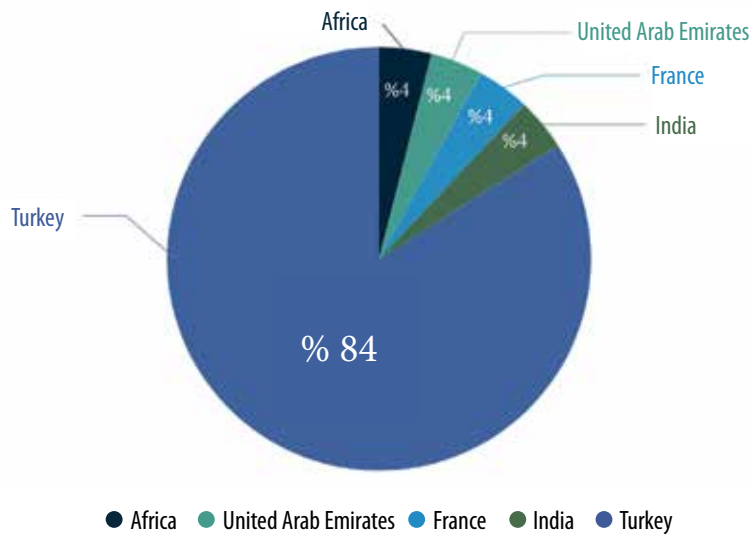
## APPLICATION OF ARBITRATION RULES AND FAST TRACK ARBITRATION RULES



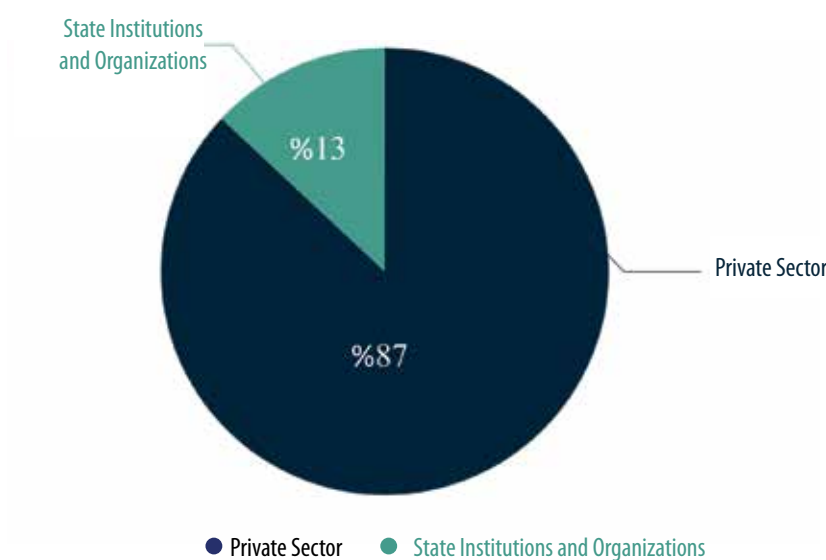
## WOMEN ACTING AS THE PRESIDENT OF THE ARBITRAL TRIBUNAL



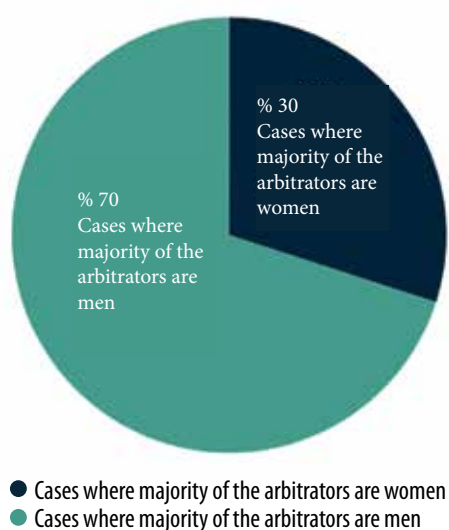
## NATIONALITY OF PARTIES



## PRIVATE SECTOR – PUBLIC INSTITUTIONS IN ISTAC CASES



## GENDER RATIO OF ARBITRATORS





Steps taken by some institutions including the United Nations, the World Bank and the International Chamber of Commerce, and the agreements that formed the international arbitration legislation played the determining role for the arbitration law, which had entered the development process in the world specifically in the 20<sup>th</sup> century, to achieve the international standards. The formation of the global legislation which is referred to almost in any country of the world constitutes the milestones of the arbitration institution.



The Permanent Court of Arbitration operating at the Peace Palace in The Hague where the International Court of Justice is located, has 118 member states. The activities of the PCA are not limited to the states which are the parties of 1899 and 1907 contracts; and the services may also be offered to the non-party states and citizens.

## **The Permanent Court of Arbitration (PCA) at The Hague Peace Palace**

1899

It was established in The Hague Peace Palace during the First Hague Peace Conference, based on "The Hague Convention for the Pacific Settlement of International Disputes" which was adopted in 1899. Although the mentioned convention was amended during the Second Peace Conference which was organized in 1907, the Permanent Court of Arbitration (PCA) was preserved. PCA, which operates at the Peace Palace in The Hague city of the Netherlands where International

Court of Justice is located, offers arbitration, conciliation and mediation services for the disputes between the states and private law bodies or between the inter-governmental organizations. Turkey, as a country which is a party to the agreement, is among the members of the Permanent Court of Arbitration since June 12, 1907. ISTAC entered among the reputable arbitration institutions which cooperate with the PCA with the agreement signed in May 2017.

## The First Geneva Protocol is Signed

1923

Following the First World War, the League of Nations, which started its activities in Geneva in 1920 and laid the foundations of the current United Nations, formed a protocol in order to provide basis for the settlement of the international disputes in the global trade. Geneva Protocol, which is the first

essential agreement at the international level in the field of arbitration, was signed in 1923. The main purpose of the protocol was to provide the validity of the international arbitration agreements and to provide the implementation of the arbitration agreement sanctions.

## ICC Court of Arbitration is Established

1923

International Court of Arbitration of the International Chamber of Commerce was established in 1923 within the organization of the International Chamber of Commerce, established in Paris in 1919, in order to resolve the disputes of global trade. ICC, the leading institutions of corporate commercial arbitration became an arbitration centre with international identity with its experience of 95 years. ICC Court of Arbitration composed of the members of

90 countries continues its activities and being the arbitration institution with the most widespread authority. The President of TOBB, Rifat Hisarcıklıoğlu also serves as the President of ICC National Committee of Turkey, which carries out its activities at headquarters of the Union of Chambers and Commodity Exchanges of Turkey (TOBB) in Ankara. ICC Arbitration also is included in this organization at the headquarters of TOBB.

## Signing of the Second Geneva Convention

1927

4 years after the first protocol, "Geneva Convention on Execution of Foreign Arbitral Awards", again led by the League of Nations, was signed. The main purpose of the Second Geneva Convention was to

develop the scope of the first protocol and to provide the enforcement of a decision taken in any country not only in that country but also in other contracting states.

## The New York Convention for International Arbitration

1958

In June 10, 1958, "The New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards" was signed by the representatives of 45 states during the conference held in New York with support of the United Nations. The Advisor of the Union of Chambers and Commodity Exchanges of Turkey, Prof. Rabi Koral, representing Turkey, signed the protocol. The New York Convention, which has the broadest implementation network with 157 contracting countries today, in terms of recognition and enforcement of foreign arbitral awards, provides the major convenience for the recognition and enforcement of the arbitral awards. Turkey, 33

years after signature affixed during the New York Conference, ratified the New York Convention with the Law no. 3731 published in the Official Gazette no. 20877 dated May 21, 1991. The 2nd Article of the ratified Law is as follows: "Under reciprocity reservation, Turkey declares that it will only apply the Convention for the recognition and enforcement of the awards made in a State which is a party to this Convention; and that it shall limit the application of the Convention to the disputes, arising of contractual or non-contractual relations, which are regarded as 'commercial' under the national law of Turkey."





The Geneva Convention dated 1961 signed under the initiative of the UN Economic Commission for Europe is issued in a manner to complete the New York Convention. Following the new European Convention in which “Ad Hoc” arbitration was also regulated for the first time, the Commission on International Trade Law (UNCITRAL) established within the structure of the UN created the “model arbitration rules”.

## **The New European Convention Led by the UN**

**1961**

The primary purpose of the convention which is constituted with the initiative of the United Nations Economic Commission for Europe, was to develop the east-west trade within Europe. Contrary to the New York Convention, which only covered the recognition and enforcement of the arbitral awards, all the process starting from the arbitrators' taking the dispute in hand until the award stage is

regulated by the European Convention signed in Geneva. However, it was not as effective as the New York Convention since it was adopted by lesser number of states. Although Turkey, together with 17 European states, participated in the preparation works of the European Convention dated April 21, 1961, ratified the Convention 30 years later with the Law no. 3730 dated May 21, 1991.



## Washington Convention and the World Bank Arbitration: ICSID

1965

The Washington Convention prepared in 1965 under the auspices of the World Bank (Convention on the Settlement of Investment Disputes Between States and Nationals of Other States), was submitted for the approval by the countries the same year. The Washington Convention, which was signed by 20 countries at the first stage, took effect as the International Centre for Settlement of Investment Disputes started its activities on October 14, 1966, again within the structure of the World Bank. Afterwards, the provisions of the Convention were completed by the Regulations adopted by the Administrative Council and ICSID Arbitration Rules.

The main target of ICSID was to lay the basis for the settlement of the disputes arising of the investments of an investor of a contracting state in another contracting state and to implement an effective arbitration mechanism. The institution operates as an international arbitration centre, to which the disputes where the parties are the states, are referred. Since ICSID, with 162 member countries, takes place in many international investment agreements, it seems that it increased its significance in the recent years. ICSID Convention, which is signed by Turkey on June 24, 1987, was ratified by the Law no. 3460, by the GNAT on May 27, 1988; and was published in the



Official Gazette dated June 02, 1988. According to the ICSID website, the Republic of Turkey has been a party to 10 disputes as defendant. Moreover, the number of Turkish companies filing cases at ICSID against the contracting states for disputes, especially in construction and energy projects, reached 23.

## UNCITRAL is Established for International Arbitration

1966

Due to the developments and needs in the field of international commercial arbitration, United Nations Commission on International Trade Law (UNCITRAL) started to operate on December 17, 1966 within the organization of the United Nations in order to provide the harmony and uniformity between the national law systems. The work on "ad hoc" arbitration rules, initiated by the Commission in 1973 was adopted by the General Assembly of UNCITRAL after 3 years. The United Nations also adopted "UNCITRAL Arbitration Rules" on December 15, 1976 and took the decision for recommendation of its implementation in the international commercial relations. These rules were drafted by taking into consideration the New York Convention, the Geneva Convention and the

Washington Convention, as well as the UN Economic Commission for Europe and UN Economic Commission for Asia and Far East arbitration rules, American Arbitration Association arbitration rules, Union of Soviet Socialist Republics Chamber of Commerce Foreign Trade Arbitration Commission's procedural provisions and the International Chamber of Commerce arbitration rules. In other words, the requirements of the global trade brought Eastern-Western blocks together on the same platform during the Cold War period. These rules aiming the safe and fast operation of international trade and easy settlement of the disputes were revised in 2010 and 2013 and became the "ad hoc" rules which are most frequently used today.



35 countries, including Turkey, participated in the Conference for Security and Cooperation in Europe in 1973 hosted by Finland. Helsinki Final Act signed in 1975 formed the basis of the Organization for Security and Cooperation in Europe (OSCE) on a broad range from politics to economy, from education and culture to the human rights.

## **Arbitration Alternative of the Eastern Block: Moscow Convention**

**1972**

During the Cold War, the Eastern Block signed the Moscow Convention in 1972 as an alternative to the international trade law and arbitration mechanism of the Western Block. With this convention, the economic integration of the socialist countries which are the members of the Council of Mutual Economic Assistance (CMEA), was aimed. The system was based on the settlement of disputes through

the arbitral tribunals established within the structure of the chambers of commerce in the contracting countries. Since the Council was terminated following the collapse of the Union of Soviet Socialist Republics in 1991, the Moscow Convention lost its validity considerably as it was not recognized by the majority of the contracting countries declaring their independence.

## Panama Convention for Latin America

1975

The countries of Latin America, which did not trust the arbitration institutions of the USA and Europe for a long time, did not hurry to adopt the New York Convention. 17 years after the New York Convention dated 1958, Latin America region preferred to sign the Panama Convention (Inter-American Convention on International Commercial Arbitration) in 1975, which covered similar principles. Same applied for Washington (ICSID) Conven-

tion as well; many Latin American states did not sign this Convention until 1980s or 1990s. According to the Panama Convention, which had a regional nature, Inter-American Commercial Arbitration Commission (IACAC) rules (today, UNCITRAL arbitration) were to be applied if the parties could not agree on the arbitration procedure. Later, both IACAC and the Panama Convention were going to be based on UNCITRAL Arbitration Rules.

## Arbitration Recommendation to the World under Helsinki Final Act

1975

During the moderation of the Cold War conditions between the Eastern and the Western blocks after the Second World War, the Conference on Security and Cooperation in Europe, which was hosted by the neutral state of Finland, convened in January 1973. Intensive negotiations of the Conference, convened by the participation of 35 countries including Turkey, lasted for 3 years. Helsinki Final Act, signed on August 01, 1975, was a milestone regulating the relationship between the states. International arbitration was regulated under a separate section in the Helsinki Final Act. The message to the contracting states and the world under Arbitration Section was as follows:

**"The participating States, considering that the prompt and equitable settlement of disputes which**

**may arise from commercial transactions relating to goods and services and contracts for industrial cooperation would contribute to expanding and facilitating international trade and co-operation, considering that arbitration is an appropriate means of settling such disputes, recommend to organizations, enterprises and firms in their countries, to include arbitration clauses in commercial contracts and industrial co-operation contracts, or in special agreements. Recommend that the provisions on arbitration should provide for arbitration under a mutually acceptable set of arbitration rules, and permit arbitration in a third country, taking into account existing intergovernmental and other agreements in the field of arbitration."**

## Guarantee Fund for the Foreign Investments With MIGA

1985

Also as an institution using arbitration for dispute resolution, Multilateral Investment Guarantee Agency (MIGA), which is among the 5 institutions that constitute the World Bank Group, represents an important ring of the global trade system. MIGA, which was established by the Seoul Convention in 1985 with the signature of 9 developed and 20 developing countries, started its operations in September 1988. The Guarantee Fund forms the financial foundations of the organization which aims the protection of the foreign capital investments against non-commercial risks such as political instability and natural disasters. Political risk and natural risk insurances are provided to the investors and creditors, in consideration of a commission. The settlement of the disputes to arise as a result of the guarantee and reassurance agreements to be concluded

with the institution is also provided through mediation - conciliation and arbitration. According to the provisions of MIGA agreement, firstly, conciliation procedure is applied. If a result cannot be obtained through conciliation - mediation, then arbitration may be resorted to. If the parties cannot appoint an arbitrator at the stage of arbitration, then such appointment can be requested from the General Secretariat of ICSID or the International Court of Justice. While the board decides for its own procedure, unless decided otherwise by the parties, in general the arbitration process is directed by the rules which comply with the ICSID Convention. The agreement of MIGA, which is also signed by Turkey, one of the founding members, on October 11, 1985, is in effect since June 02, 1988 when the Law was published in the Official Gazette no. 19830.



## UNCITRAL Model Law from the UN to the Global Arbitration

**1985**

United Nations Commission on International Trade Law (UNCITRAL) under the umbrella of the United Nations prepared "UNCITRAL Model Law" in 1985 in order to provide uniformity in the global trade. A working method covering the countries in different geographies of the world is used while forming the rules of the Model Law based on a global basis. The representatives from more than 50 countries with different economic and legal systems and about 15 international organizations participated in the draft law works. Accordingly, a universal model, a model arbitration legislation based on the international standards, with common rules which are acceptable all over the world, is prepared. The Model Law, which was adopted during the meeting of the UNCITRAL dated June 21,

1985, was recommended to all the member states of the United Nations in order to provide harmony in the law systems and international arbitration.

Accordingly, while some countries shaped their national and international arbitration legislation based on UNCITRAL Model Law, those countries already having such laws enacted applied compliance amendments. Turkey enacted International Arbitration Law no. 4686 dated June 21, 2001 based on the UNCITRAL model in order to provide the legal infrastructure to facilitate the international arbitration and to have a share in this field by developing the arbitration institution. The arbitration section of the Code of Civil Procedure no. 6100 which took effect on October 01, 2011 was prepared based on the UNCITRAL Model Law.

## World Intellectual Property Organization (WIPO) and Arbitration

**1994**

The roots of the World Intellectual Property Organization are based on two international conventions. With the "Paris Convention for the Protection of Industrial Property" signed in 1883 and the "Berne Convention for the Protection of Literary and Artistic Works" signed in 1886, the first steps were taken for the formation of the basic legal standards with international validity in this area. While offices were opened in order to follow up the implementation of the agreements in the beginning, World In-

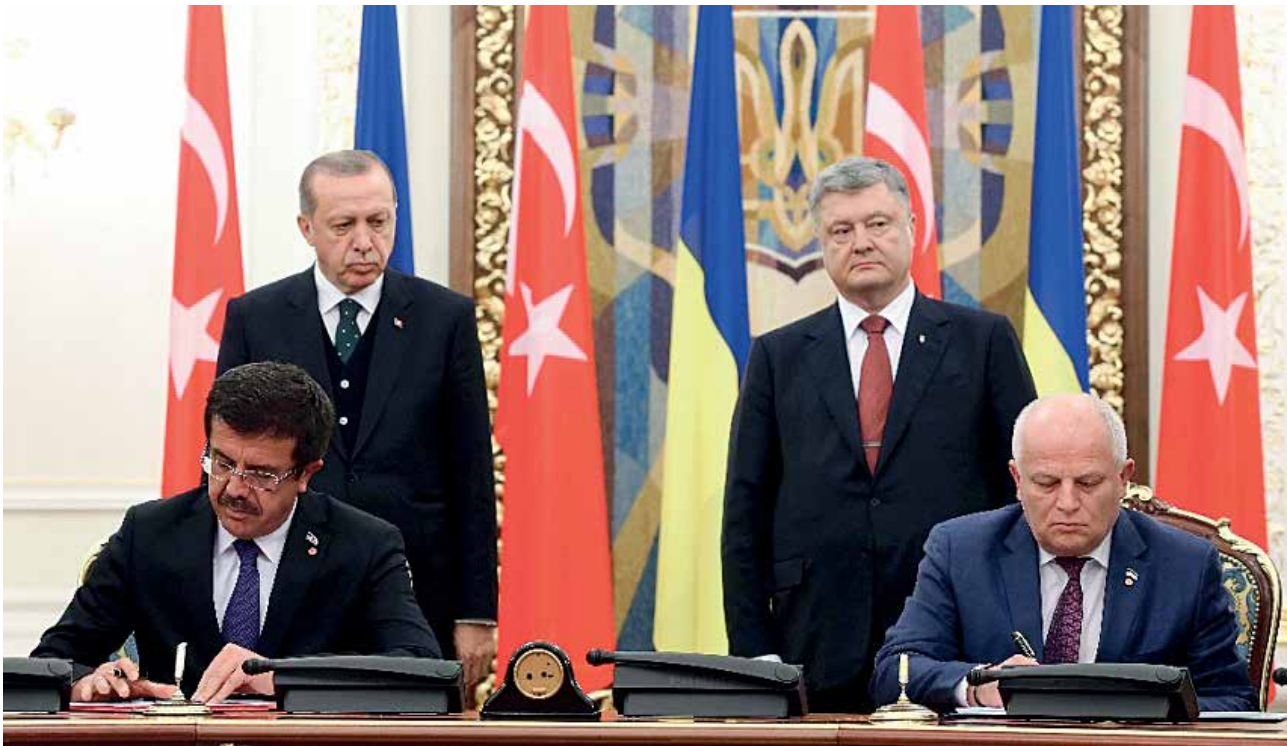
tellectual Property Organization (WIPO) emerged by time within the structure of the United Nations. There are 23 agreements arranging different parts of the intellectual property rights within the structure of WIPO, which was established in 1994. The activities of WIPO Alternative Dispute Resolution (ADR) Center, the arbitration centre of the institution, constitute one of the most important units which make WIPO effective within the international system.

## International Dispute Resolution of the World Trade Organization (WTO)

**1994**

By the end of Uruguay Round negotiations which took 7 years, the World Trade Organization (WTO) was established by the Final Act signed in Marrakesh, Morocco on April 15, 1994. Trade Related Aspects of Intellectual Property Rights (TRIPS) constitutes one of the prominent elements of the World Trade Organization system which covers the multilateral agreement between 29 parties replacing the General Agreement on Tariffs and Trade (GATT) and 25 Ministerial Declarations.

TRIPS Council also follows up whether the intellectual property rights of the member countries are in compliance with WTO and TRIPS rules. The legislation of Turkey, which became a founding member of the organization by signing the Marrakesh Agreement, was also inspected in 2000 - 2001. Moreover, the member countries may also apply to the arbitration within the structure of WTO with respect to the international commercial disputes.



One of the agreements signed during the official visit of the President Recep Tayyip Erdoğan to Ukraine on October 09, 2017 was the “Treaty on Reciprocal Promotion and Protection of Investments” between two countries. For the first time, ISTAC Arbitration Clause was included in the treaty signed by Nihat Zeybekci, the Minister of Economy.

## Arbitration Clauses in the Bilateral Treaties

Bilateral Investment Treaties (BITs) signed by and between the states have an important place in development of international arbitration. Hundreds of treaties are signed since the first BIT signed between Germany and Pakistan in 1959. The “must” of these treaties was to include the arbitration clause in the provisions concerning the settlement of disputes. Following the entry into force of the

Law on Foreign Investment Incentives in 1954, Turkey directed towards signing the treaties for “Reciprocal Promotion and Protection of Investments” in 1960s. These treaties contain fundamental provisions such as the protection of basic rights and benefits of the entrepreneurs investing in foreign countries, securing the profit transfers and recourse to international arbitration in case of disputes.

## Sectoral Institutions Developed Arbitration

The centres operating their own arbitration systems for years come to the fore among the sectoral institutions with the roots based on the former guild system and professional associations. An arbitration mechanism based on the representatives of the relevant sectors such as traders, industrialists or engineers acting as the arbitrators is operated in the sectoral arbitration. International Federation of Consulting Engineers (Federation Internationale Des Ingenieurs Conseils) FIDIC draws attention as the most effective institution in the sectoral arbitration in the recent years, specifically in the field of construction and contracting works sector. Established in Lausanne, Switzerland in 1913, FIDIC, which has more than 100 member

states today, is known for forming the international agreement standards in the construction sector. Application of FIDIC rules in about 30 percent of the construction projects all over the world reveals the power of the institution as a global sectoral organization. Moreover, The Grain and Feed Trade Association Arbitration Tribunal (GAFTA), Federation of Oils Seeds and Fats Association Arbitration Tribunal (FOSFA) and Refined Sugar Association Arbitration Tribunal in London are among the institutions of the sectoral arbitration that come to the fore. Today, lawyers can also serve as arbitrators in these institutions where only the representatives of the sectors could sit in the past.



The arbitration legislation of Turkey goes back to 168 years, to the years following Tanzimat reform era of the Ottoman period. By the end of 1,5 centuries that extend from the first steps taken in order to regulate the arbitration by a law for the first time, up to today, Turkey now acquired an international arbitration centre with its legislation and corporate structuring.



The first organization of craftsmen in Ottoman period was based on Ahi-order. Although Ahi-order was transformed with the influence of the western guild system, the order of trade life was provided with the traditional mediation rules of this organization for many long years. Arbitration in commercial disputes was included in the first laws enacted during Tanzimat era.

## Compulsory Arbitration in Kanunname-i Ticaret (Code of Commerce)

1850

Following the Tanzimat era during Ottoman period, “compulsory arbitration” was first included in the Code of Commerce dated 1850, which was constituted by partial translation of the first and third sections of the French Code of Commerce. According to the arrangements, which covered 40<sup>th</sup> and 52<sup>nd</sup> Articles of the Code, settlement of the commercial disputes to arise between the shareholders of a company by an arbitrator was compulsory.

If the parties could not appoint an arbitrator by a written agreement, then the court would appoint an arbitrator. The cases which were subject to arbitration could not be referred to the courts even if the parties have consented to such referral. The Code, which was in force until 1927, covered provisions concerning that the arbitral awards shall be enforced exactly and that the award can be enforced by the order of the judge.



## Procedural Code for the Commercial Courts

1881

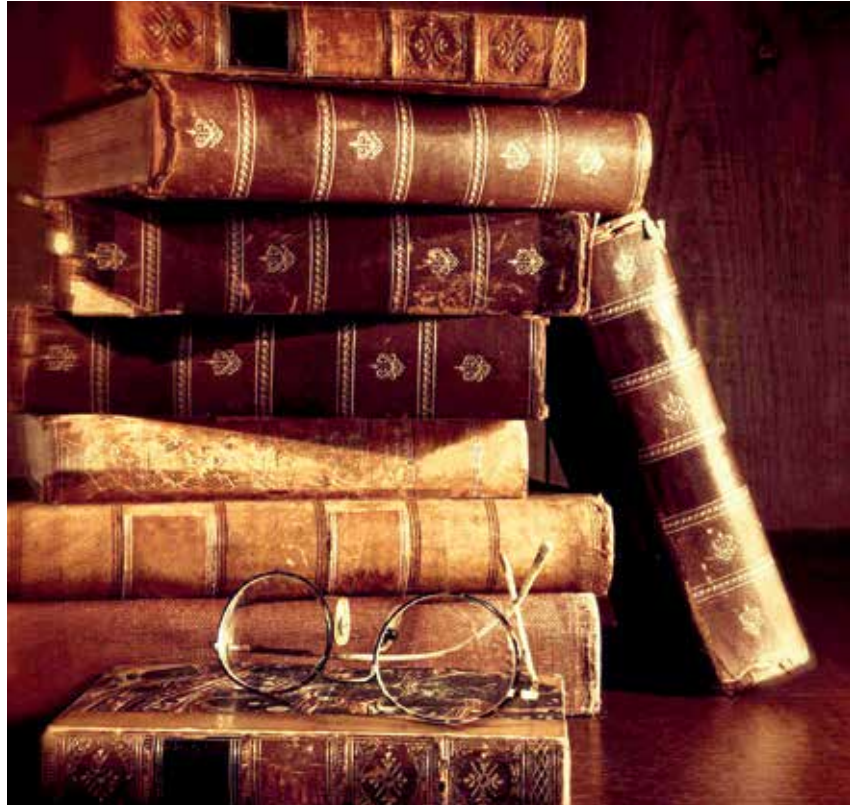
The "Procedural Code for the Commercial Courts" which took effect in 1861, following the Code of Commerce, is accepted as the first legal regulation containing arbitration procedures. This Procedural Code provided for examination of the disputes and conciliation of the parties and also for appointment of a commissary board or arbitral tribunal by the courts which shall be composed of 3 to 5 members, in order to take the reports which

would determine the result of the case, as well as it provided for the approval or amendment of such report by the board. However, the courts had the discretion to approve, amend or reject such reports. Arbitration was also stipulated in the 176<sup>th</sup> Article of the Code of Maritime Commerce dated 1864: there was a compulsory arbitration clause for settlement of disputes arising out of marine insurance agreements, by the arbitrators.

## Arbitration Law in Mecelle (Ottoman Civil Code)

1868

Ottoman Civil Code "Mecelle-i Ahkâm-ı Adliye", prepared by a commission chaired by the historian and jurist Ahmed Cevdet Paşa, and took effect in parts between the years 1868 - 1876, was covering arbitration together with the Islamic civil law rules. Arbitration was defined as follows: "Arbitration is the parties' appointment of another person as an arbitrator by their consent in order to resolve the disputes and cases of such parties" in the 1790<sup>th</sup> Article of Mecelle, which was used as the legal basis at the Sharia courts during the last fifty years of the Ottoman Empire. 16<sup>th</sup> and the last part of Mecelle (Kitabü'l Kaza - Book of Judgment) related to trials concerned the judicial procedures and arbitration provisions. The arbitration regulations were included in the 4<sup>th</sup> part of this section, between articles 1841 and 1851.



## The Provisional Civil Procedural Code

1879

At the Provisional Civil Procedural Code's enactment in 1879, the arbitration regulations therein were generally the continuity of Mecelle. The same year, courts of second instance were introduced in the legal system with the Provisional Law for the Organization of Court Procedures which covered significant arrangements in Ottoman judiciary organization. In this Provisional Law, the method of appeal was adopted against the arbitral awards,

as for the other court decisions. In the 130<sup>th</sup> article of the By-Law on Family Law, which was enacted in 1917 again by a provisional law, it was agreed that the procedure of arbitration would be applied for the disputes between the spouses. This provision provided the formation of a family assembly by selecting one arbitrator from the family of each party, if the husband or the wife applies to the judge for the dispute.



When Turkish State was being established with all its institutions following the Independence War, the foundation of the Grand National Assembly of Turkey and declaration of the Republic, the movement of enactment was started as based on the western law. The first arbitration regulations of the Republic Period were included in the Civil Procedural Code dated 1927.

## Arbitration Regulations Under the Civil Procedural Code in the First Years of the Republic

June 18, 1927

Arbitration was also included in the "Civil Procedural Code" no. 1086, adopted by the Assembly on June 18, 1927, during the foundation years of the Republic of Turkey; and the Code was published in the Official Gazettes no. 622, 623 and 624. The Code, which entered into force on October 04, 1927, was prepared with the translation of the Code of Civil Procedure of Switzerland's Neuchatel Canton dated 1925 and some part were prepared in light of the French and German law. The 8<sup>th</sup> part which contained 21 Articles concerned arbitration and regulations were made regarding arbitration law in this part which started from the 516<sup>th</sup> Article and ended on the 536<sup>th</sup> Article. The first and the last Articles concerning arbitration in the Law were as follows:

**"Article 516 - Parties may appoint an arbitrator for the disputes between them. Arbitration may be carried out by a special agreement or a clause may be included in any agreement for the settlement of disputes to arise of such agreement by an arbitrator.**

**Article 536 - The award given by the arbitrators shall**

**be approved by the presiding judge or the judge upon expiry of the term for appeal. Such approval shall be written under the award and the special minutes. The arbitral awards may only be enforced provided such condition is satisfied."**

However, although arbitration was included in the legislation during the enactment movement in the foundation period of the Republic, it could not develop for many long years in Turkey. Despite more than 30 changes in the Civil Procedural Code within the years, arbitration legislation remained in force for 84 years in its form which was arranged in 1927. According to the Civil Procedural Code, the enforceability of the arbitral award was subject to the approval of the award by the higher judicial authority. Since such legal remedies and control stages against arbitral awards were time consuming and extending the trial process, arbitration's most important advantages of being a fast, specialized and cost-effective trial model could not be implemented.

## Arbitration in the State Contracts During the First Years of the Republic

June 22, 1930

The arbitration clause, which is a “must” for the treaties that regulate the economic relations between the states today, was inserted in the texts of the agreements during the first years of the Republic of Turkey. In the 20<sup>th</sup> Article of the Law on Ratification of the “Treaty on Reciprocal Relations and for the Enforcement of the Judicial Awards Related to the Legal and Commercial Judicial Issues” no. 1865, signed on June 22, 1930, in Ankara between the governments of the Republic of Turkey and Austria, and adopted by the Grand National Assembly of Turkey on July 21, 1931, it was stated that “The decisions rendered by the arbitrators at

the country of one of the contracting parties shall be required to be enforced at the country of the other contracting party”. [Dustur (Düstur), IIIrd Order, Volume 12, P. 967-984]

Functioning of arbitration and enforcement process between the parties were also explained in detail in the mentioned international agreement; and the enforcement in Turkey of the arbitral awards given on the land of Austria was regulated by the ratification law. On those dates and afterwards, the legal gaps in Turkey concerning the international arbitration were endeavored to be eliminated by the Court Appeals’ jurisprudence.

## Arbitration is in the International BITs

June 20, 1962

Starting from 1960s, Turkey included arbitration as the dispute resolution method in the “Treaty on Reciprocal Promotion and Protection of Investments” (BITs). Treaty on Reciprocal Promotion and Protection of the Investments signed with Germany on June 2, 1962 was the first one which took effect after being published in the Official Gazette dated July 23, 1963. It was stated in the Treaty that if the disputes could not be resolved by consultations between the parties, then an arbitral tribunal may be appointed and one of the

contracting parties may demand the appointment of the arbitrators from the International Court of Justice. Bilateral treaties Turkey signed with 98 countries until today contain important provisions for the protection of the basic rights and benefits of the entrepreneurs investing in the foreign countries, securing the transfer of profit and referral to international arbitration in case of disputes. “ISTAC Arbitration” is now included in these agreements which are negotiated by the Ministry of Economy.

## Arbitration in the Private International and Civil Procedure Law no. 2675

May 20, 1982

Turkey headed towards liberalization in the foreign trade with its growth model based on export which was started to be applied in economy in 1980s; and encouragement of the foreign investments constituted a significant portion of this policy. Within the direction of the liberal economy and privatization strategy, international agreements on recognition and enforcement of the foreign arbitral awards were entered into force in 1980s and 90s for the purpose of establishment of a secure environment for the foreign capital. The first extensive approach to international arbitration in Turkish legislation was realized with the Private International and Civil Procedure Law no. 2675 which took effect

in 1982. The regulations regarding the “enforcement of the foreign arbitral awards” stipulated under the 43<sup>rd</sup>, 44<sup>th</sup> and 45<sup>th</sup> Articles of the Law, brought the legislation in Turkey closer to the international agreements. While the 43<sup>rd</sup> Article of the Law contained the provision that “finale and enforceable foreign arbitral awards can be enforced”, the 44<sup>th</sup> and 45<sup>th</sup> Articles contained the procedure to be applied to this end. However, in practice, the legislation was not sufficient to develop arbitration. First of all, establishment of international commercial arbitration legislation as well as legal and Constitutional arrangements regarding arbitration were needed.





Although legal arrangements concerning arbitration in Turkey were included in the legislation, a legal infrastructure with national and international qualities was needed. Specifically in the recent years, the arrangements such as the International Arbitration Law, the Istanbul Arbitration Centre Law and the Mediation Law made up the leeway for arbitration and mediation.

## Ratification of ICSID (Washington) Convention

June 02, 1988

"International Centre for Settlement of Investment Disputes" established within the organization of the World Bank as per the Washington Convention signed in 1965 became one of the most active institutions of international investment arbitration by time. The 54th article of ICSID Convention was as follows: "Each Contracting State shall recognize an award rendered pursuant to this Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgment of a court in that State."

What is meant by this was clear and apparent: the state courts did not have the authority to intervene in the enforcement of an arbitral award rendered within the scope of the provisions of ICSID. Turkey signed the Washington

Convention on June 24, 1987 and declared the recognition of ICSID's jurisdiction and arbitral awards. Following this, the ICSID Convention was ratified by the Law no. 3460 adopted by the Assembly on May 27, 1988 and published in the Official Gazette dated June 02, 1988. Accordingly, the disputes arising out of foreign capital investments could be referred to ICSID arbitration, but some reservations were also included in the regulation. One of these reservations was as follows: "Disputes on property rights and rights in rem regarding the immovables in Turkey could not be referred to ICSID as the Turkish courts had exclusive jurisdiction over them". After this date, Turkey included ICSID Arbitration in the Treaties on Reciprocal Promotion and Protection of Investments.

## European and New York Conventions in Force

**May 21, 1991**

The second important step of Turkey towards international arbitration was the laws approving the European and New York Conventions which entered into force after being published in the same Official Gazette, on May 21, 1991. With the "Law Ratifying the European Convention on International Commercial Arbitration" no. 3730, the adoption and entry into force of the Convention signed in Geneva on April 21, 1961 was declared. The Law no. 3731 also concerned the "Approval of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards" dated June 10, 1958.

The scope of the approval of the New York Convention was expressed as follows in the 2<sup>nd</sup> Article of the Law: "In compliance with the 3<sup>rd</sup> paragraph of the 1<sup>st</sup> Article of the Convention, the Republic of Turkey declares that it shall apply the Convention for the recognition and enforcement of the arbitral awards rendered in a contracting country of this Convention only on the basis of the principle of reciprocity; and also that it shall apply



the Convention only for the disputes which arise out of the contractual or non-contractual relations, which are considered to have commercial nature according to its domestic law."

## Constitutional Arrangements for Arbitration

**August 13, 1999**

The basic purpose of this arrangement was to open the way for the foreign capital investments which are required for the public services, by forming a constitutional basis for the international arbitration mechanism. The amendments in the 47<sup>th</sup>, 125<sup>th</sup> and 155<sup>th</sup> Articles of the Constitution with the "Law on Amendment of Certain Articles of the Constitution" no. 4446 dated August 13, 1999, were directly or indirectly concerning arbitration.

The following paragraph together with "privatization" provision was inserted in the 47<sup>th</sup> Article of the Constitution concerning "nationalization": "Which of the investment and services carried out by the State, government business enterprises and other public corporations can be carried out by or transferred to real or corporate entities under private law contracts shall be established by law."

With the amendment in the 155<sup>th</sup> Article, the provision "The Council of State shall provide its opinion within two months for the draft laws, concession conditions and agreements concerning the public services served by the Prime Minister and the Council of Ministers" was introduced. The most important arrangement in the Constitution concerning arbitration was made with the insertion to the 1st paragraph of the 125<sup>th</sup> Article: "Legal remedies are

available for any and all actions and transactions of the Administration. (Additional provision) Settlement of the disputes through national and international arbitration can be stipulated in the concession conditions and agreements related to the public services. Only the disputes with foreign element may be referred to the international arbitration."

Following this, another amendment was again made in the Constitution with the same approach in 2004. The 90<sup>th</sup> Article stated that the international treaties, where the Republic of Turkey is a party in due form, have the force of a law and action for annulment cannot be filed for such treaties by claiming contradiction to the Constitution. The 7<sup>th</sup> Article of the "Law on Amendment of Certain Articles of the Constitution" no. 5170 and the following arrangement inserted in the 4<sup>th</sup> paragraph of the mentioned 90<sup>th</sup> Article provided Constitutional security to the international treaties: "The provisions of the international treaties shall be referred to with respect to the disputes that may arise in cases where the international treaties related to the basic rights and freedoms, which are duly entered into force, and the laws include different provisions in the same subjects."





Such arrangements in the 47<sup>th</sup>, 125<sup>th</sup>, 155<sup>th</sup> and 90<sup>th</sup> Articles of the Constitution were the important steps in Turkey for the operation of the national and international arbitration. Accordingly, legal security was provided to the treaties signed for privatizations and the foreign investments, which were on the agenda of the Constitutional Court with the actions for annulment from time to time.

## **Compliance Regulations for Constitutional Amendment**

**December 18, 1999**

Following the constitutional amendment, compliance laws were enacted as a requirement of the legislation. Firstly, the "Law Amending Certain Articles of the Council of State and Administrative Procedural Law" no. 4492, dated December 18, 1999 entered into force. With this law, the authority of the Council of State to examine and evaluate the concession agreements was abolished in compliance with the amendment in the 155<sup>th</sup> Article of the Constitution, and the Council of State's authority was limited to "state its opinion". This was followed by the "Law Amending Certain Articles of the Law on Implementation of Certain Investments and Services through

Build-Operate-Transfer Model" no. 4493, dated December 20, 1999. Accordingly, while the scope of the build-operate-transfer projects were extended, the 5<sup>th</sup> Article of the Law no. 3996 was arranged as follows: "the contracts to be concluded between the administration determined by the Higher Planning Council and the capital company or the foreign company shall be subject to the provisions of the private law". So, this provision which was abolished by the Constitutional Court before was again integrated into the law and the contracts signed regarding the investments concerning the public services became private law contracts.



## The Arbitration Legislation With the Law no. 4501

January 21, 2000

The "Law on Principles to be Complied with in case of Referral of the Disputes Arising out of the Concession Contracts and Agreements related to Public Services to Arbitration" was one of the important legal arrangements which was realized following the amendment of the Constitution. While Article 2/a of the Law stated that "the disputes arising of the concession agreements with foreign element can be referred to ad hoc or institutional arbitration", the 4<sup>th</sup> Article covered the arbitration clause in the concession treaties, as well as the method for determination of the seat of arbitration, and the principles to be included in the contracts.



## International Arbitration Law no. 4686 in Force

July 05, 2001

The additional arrangement in the 1<sup>st</sup> paragraph of the 125<sup>th</sup> Article of the Constitution also formed the constitutional basis for the International Arbitration Law. As stated in the reasoning of the Law no. 4686, "in order to provide the determination of the procedures and principles of the settlement of the disputes arising out of the concession contracts and agreements related to the public services with foreign elements through arbitration, being in line with the amendment of the Constitution, the law draft prepared by the United Nations

Commission on International Trade Law (UNCITRAL) and the modern understanding of the comparative international arbitration law" were taken as the basis. The International Arbitration Law was adopted by the Grand National Assembly of Turkey on June 21, 2001 and entered into force after being published in the Official Gazette dated July 05, 2001. Accordingly, the legal basis for the international arbitration was formed in Turkey with the extensive arrangements composed of 19 Articles in 7 Sections.

## Arbitration in the Direct Foreign Investments Law

June 05, 2003

The Direct Foreign Investments Law no. 4875 adopted by the Assembly on June 05, 2003, to replace the Foreign Investment Incentive Law dated 1954 was also including the provisions for the settlement of disputes.

With this Law "the basic conditions of the direct foreign investments with the elements such as the investment freedom, national procedure, expropriation and nationalization, free transfer of the profit, national and international arbitration and alternative dispute resolution methods, non-cash capital valuation, foreign personnel employment" were arranged. A system based on notifications, which considerably eliminated bureaucracy, replaced the previous system which was based on permits

and approvals for the foreign investments. Article 3/e of the Law defines the dispute resolution methods as follows:

"For the settlement of the disputes arising out of the investment agreements subject to private law and the settlement of the investment disputes arising out of the public service concession contracts and agreements which are concluded by and between the foreign investors and the administration; national or international arbitration or other dispute resolution methods may be referred to, as well as the courts having jurisdiction, provided that the conditions included in the relevant legislation are met and that the parties so agree."

## **The Legislation was Renewed and Updated With the Private International and Civil Procedure Law no. 5718**

**December 12, 2007**

The Private International and Civil Procedure Law adopted by the Assembly on November 27, 2007, expanded and renewed the scope of the former Private International and Civil Procedure Law which was in force for almost 25 years; and the legislation was updated in general. Moreover, it was targeted with the new law to harmonize Turkish legal legislation with Europe, within the scope of the European Union accession negotiations, and to constitute the legislation for the new provisions brought by the Turkish Civil Code which entered into force in 2002. The matters were regulated in further detail in the new Law no. 5718 composed of 66

Articles, compared to the abolished law which included 48 Articles. In fact, the new Law which contained the content of the Law no. 2675 differentiates in general with its more detailed, extensive rules and legal phraseology. The arrangements related to arbitration in the 43<sup>rd</sup>, 44<sup>th</sup> and 45<sup>th</sup> Articles of the former Law are included in the 60<sup>th</sup>, 61<sup>st</sup> and 62<sup>nd</sup> Articles of the new Law with an expanded content. Moreover, it is noteworthy to underline the 63<sup>rd</sup> Article, which is a new provision included in the Law no. 5178, that states: "Recognition of the foreign arbitral awards is also subject to the provisions related to the enforcement thereof".

## **Domestic Arbitration is Regulated Under the Civil Procedural Code no. 6100**

**January 12, 2011**

The Civil Procedural Code no. 6100, which introduced significant arrangements in the field of arbitration, was adopted by the Grand National Assembly of Turkey on January 12, 2011; and was published in the Official Gazette dated February 04, 2011. The Civil Procedural Code, which is in force since October 01, 2011, provided the domestic arbitration legislation of Turkey to approach the international arbitration standards considerably. As a result, the legal grounds were constituted before the establishment of Istanbul Arbitration Centre, both with the International Arbitration Law and the Civil Procedural Code no. 6100 which replaced the 84 year-old former Civil Procedural Code. The arbitration provisions in the new Civil Procedural Code, which in total contained 452 Articles, are comprised of 37

Articles in the 11<sup>th</sup> Section (407 - 444) thereof. As in the International Arbitration Law, UNCITRAL Model Law was taken as the basis when the arbitration section was being drafted for the Civil Procedural Code. Moreover, the legislation of domestic arbitration was established by the Civil Procedural Code thanks to the significant arrangements such as "provisional measures and discovery of evidence, appointment of experts by the arbitrator or the arbitral tribunal, collection of evidence and enforceability of the arbitral awards at the time of being rendered" which were not included in the former Civil Procedural Code. Article 439/4 of the new Code is also noteworthy for safeguarding the arbitral proceedings in terms of regulating that the execution of the award shall not be stayed even if the arbitral award is challenged.

## **Mediation Law no. 6325 Entered into Force**

**June 07, 2012**

"Mediation" was introduced in the scope of legislation for the first time in the Turkish legal system. In the reasoning of the Mediation Law, it was stated that the aim was to settle the disputes through mediation, which is one of the alternative dispute resolution methods, without referring them to the courts; and to reach conclusions in a simpler and easier manner. The Law, the implementation regulation of which was published in the Official Gazette dated January 26, 2013, took effect in June 2016, one year after its approval by the Assembly. Following this, the La-

bor Courts Law no. 7036 was adopted by the Assembly on October 12, 2017 which set mediation proceedings as a pre-condition to filing an employee-employer lawsuit. Within the scope of these arrangements, the compulsory mediation period for the labor disputes started on January 01, 2018. Referral to mediation employee and employer receivables and compensation claims as well as reemployment cases, based on individual or collective labor contracts became the pre-condition of initiation of such lawsuits.

“

*Easy Calculation of Arbitration  
Costs at ISTAC;*

***The dispute (claim) value can  
be entered into the CALCULATOR  
accessible over the corporate  
website [www.istac.org.tr](http://www.istac.org.tr) and  
the arbitration costs can be  
calculated.***

”

**MODEL CLAUSE****CALCULATOR**



# HOW TO COMMENCE AN ARBITRATION?

**1**

## **CLAIMANT**

**SUBMITS TO THE SECRETARIAT ITS REQUEST FOR ARBITRATION (BRIEF PETITION) OR STATEMENT OF CLAIM (FULL PETITION). THE CASE CAN ALSO BE FILED BY SUBMITTAL OF THE REQUEST FOR ARBITRATION OVER ELECTRONIC MEDIUM OVER THE WEBSITE OF [www.istac.org.tr](http://www.istac.org.tr)**

**2**

## **CLAIMANT**

**DEPOSITS THE REGISTRATION FEE BY BANK TRANSFER OR BY CREDIT CARD OVER THE WEBSITE OF [www.istac.org.tr](http://www.istac.org.tr) . CLAIMANT PRESENTS TO THE SECRETARIAT THE DOCUMENT EVIDENCING THAT THE FEE IS PAID.**

**3**

## **CLAIMANT**

**NOMINATES ONE ARBITRATOR IF THREE ARBITRATORS ARE TO BE APPOINTED, PROPOSES THE NAME OF THE ARBITRATOR IF A SOLE ARBITRATOR IS TO BE APPOINTED.**

## HOW ARBITRATION IS CARRIED OUT AT ISTAC?

**1**

### CLAIMANT

Submits to the Secretariat its Request for Arbitration (brief petition) or Statement of Claim (full petition) and the evidences. Request for Arbitration can also be presented electronically over the website of ISTAC.

**2**

### RESPONDENT

Submits to the Secretariat the Answer to the Request for Arbitration (brief petition) within 30 days. Nominates one arbitrator in the Statement of Defence if three arbitrators are to be appointed, determines the name of the arbitrator if a sole arbitrator is to be appointed.

**3**

If arbitration will be conducted by an arbitral tribunal of three arbitrators, then the arbitrators appointed by the parties select the third arbitrator. If they fail to select, then ISTAC Board of Arbitration appoints an arbitrator.

**4**

The Secretariat collects the advance on costs and transmits the file to the Sole Arbitrator or the Arbitral Tribunal.

**5**

Procedural timetable and (unless decided otherwise) Terms of Reference are drafted.

**6**

Hearing stage is proceeded with.

**7**

Upon conclusion of the proceedings and hearings, the Award is transmitted to the Secretariat.

# HOW TO COMMENCE A FAST TRACK ARBITRATION?

**1**

## **CLAIMANT**

**SUBMITS TO THE SECRETARIAT ITS STATEMENT OF  
CLAIM (FULL PETITION).**

**2**

## **CLAIMANT**

**DEPOSITS THE REGISTRATION FEE BY BANK TRANSFER OR  
BY CREDIT CARD OVER THE WEBSITE OF [www.istac.org.tr](http://www.istac.org.tr) .  
CLAIMANT PRESENTS TO THE SECRETARIAT THE DOCUMENT  
EVIDENCING THAT THE FEE IS PAID.**

**3**

## **CLAIMANT**

**PROPOSES THE NAME OF THE SOLE ARBITRATOR AND  
THE CASE COMMENCES**



## HOW FAST TRACK ARBITRATION IS CARRIED OUT AT ISTAC?

**1**

CLAIMANT

Submits to the Secretariat its Statement of Claim (full petition) and the evidences.

**2**

RESPONDENT

Submits to the Secretariat its Statement of Defence and evidences within 15 days as of the notification of the Statement of Claim.

**3**

The Secretariat collects the advance on costs and transmits the file to the Sole Arbitrator.

**4**

Procedural timetable and (unless decided otherwise) Terms of Reference are drafted.

**5**

Hearing stage is proceeded with.

**6**

Upon conclusion of the proceedings and hearings, the Award is transmitted to the Secretariat.

**7**

The Secretariat serves the Award to the parties of the case.

## ISTAC Met With the Attorneys and Industrialists in İzmir

**January 30, 2017**

Istanbul Arbitration Centre realized a productive İzmir program on January 30. The President Prof. Ziya Akıncı and the Member of the Executive Board Atty. Müjdat Keçeci participated as lecturers in the Assembly Meeting of Aegean Region Chamber of Industry (EBSO) and informed the businessmen of İzmir about Istanbul Arbitration Centre. The President of EBSO, Ender Yorgancılar also emphasized the importance of the opportunities offered by arbitration in terms of commercial dispute resolution. The same day, Prof. Ziya Akıncı, ISTAC Board of Arbitration member Assoc. Prof. Cemile Demir Gökyayla, members of the Executive Board Atty. Müjdat Keçeci and Atty. Mehmet Rifat Bacanlı were the lecturers at the arbitration conference organized by İzmir Bar Association. Members of the bar were informed about ISTAC Arbitration Rules and application processes.



## Experienced Arbitrator Dr. Patocchi Gave Lectures in Istanbul

**February 1-2, 2017**

The first course was realized by Dr. Michele Paolo Patocchi in Istanbul within the scope of "Leading Arbitrators' Lectures Program" started by ISTAC. Both theoretical and practical training was provided during this intense 2-days program. Following the course at the end of the first half day, the arbitration process was practiced from the commencement until the final stage over the materials handed over at the afternoon sessions of the program. The participants grouped as the claimants and respondents practiced the case management meeting chaired by Dr. Paolo Patocchi. Accordingly, the subjects related to the procedural interim decisions, procedural timetable, terms of reference and requests for document production were experienced and applied by the participants as if in a real arbitration process.



## Young ISTAC Seminar: Experiences on Arbitration Practice

February 18, 2017

The experienced lawyer Prof. Fadlullah Cerrahoğlu was the lecturer in the first Young ISTAC event of the year 2017. Prof. Cerrahoğlu shared his experiences in arbitration with the young lawyers; and answered their questions. The event in which the trainee lawyers and the undergraduate law students participated free of charge attracted intensive attention.

## Arbitration Training by the Ankara Bar Association and ISTAC for the Practitioners

March 14, 2017

A daylong training program was made at the Culture Center of the Ankara Bar Association. The subject of the first presentation was "Arbitration Agreement" and the lecturer was Asst. Prof. Rifat Erten, Faculty Member of Ankara University, Faculty of Law. TOBB Arbitration Secretary General, Yasin Ekmen, described institutional arbitration applications. Dr. Candan Yasan Tepetaş briefed the participants about "Arbitration and the Process for Filing a Case in Compliance with ISTAC Arbitration Rules". Dr. Aslı Bayata Canyaş from Bilkent University provided a training on "Recognition and Enforcement of Arbitral Awards".



## Conference by the Young ISTAC in İzmir

April 04, 2017

The agenda of the conference organized jointly with Dokuz Eylül University, Faculty of Law was "Istanbul Arbitration Centre Rules and Young ISTAC". Turkey's ar-

bitration centre ISTAC was introduced to the lawyers of the future. Arbitration alternative is described in terms of career planning of the law students.

## Intensive Attention to Corporate Law Disputes and Arbitration Conference

April 22, 2017



"Corporate Law Disputes and Arbitration Conference" organized by Istanbul Arbitration Centre at Tekfen Tower conference hall has attracted more than 200 participants. The conference was opened by the opening speech of the President of Istanbul Bar Association, Atty. Mehmet Durakoğlu; and the second session of the conference was

chaired by Prof. Hamdi Yasaman. The President of ISTAC, Prof. Ziya Akıncı,

Atty. Elliott Geisinger (Switzerland), Atty. Dr. İsmail Esin, Asst. Prof. Tolga Ayoğlu, Assoc. Prof. Anlam Altay and Dr. Ali Dural delivered speeches regarding arbitration practices.





## Seminar in the Chamber of Sworn-in Certified Public Accountants

May 15, 2017

An arbitration seminar is organized for the members and lawyers of the Chamber within the scope of the cooperation started between Istanbul Arbitration Centre and Istanbul Chamber of Sworn-in Certified Public Accountants on September 2016. The first seminar was given by the President of ISTAC, Prof. Ziya Akıncı in November

2016. "Dispute Resolution in ISTAC Arbitration and Preparation of Arbitration Agreement" was discussed in the second training program provided by the Secretary General, Dr. Candan Yasan Tepetaş. Moreover, the areas which the sworn-in public accountants may provide arbitration option to the companies they offer service were assessed.

## Commercial Dispute Resolution and Investment Arbitration Training

June 3, 2017

Dr. Mehmet Karlı and Atty. Okan Demirkan were the speakers in the event which was organized by Young ISTAC in Istanbul. Training was completed with a case study. The young lawyers discussed and interpreted the commercial arbitration and investment arbitration over a case study moderated by the expert speakers.



## Round Table Meeting: Mediation in Sports Law

June 13, 2017

ISTAC Sports Law Specialized Commission, which is one of the commissions established by Istanbul Arbitration Centre in order to spread arbitration and mediation practices, held a round table meeting related to mediation. The commission member - mediator Atty. Mert Yaşar evaluated the influence of mandatory mediation on sports law disputes.

## Conference in Iran with Tehran Regional Arbitration Centre (TRAC)

July 05, 2017

The conference organized in Iran in cooperation with Tehran Regional Arbitration Centre (TRAC) within the scope of the activities carried out by the Istanbul Arbitration Centre in order to enhance its effectiveness on the international arena, brought arbitration lawyers together. In his speech during the conference, the President of ISTAC, Prof. Ziya Akıncı underlined that "ISTAC-TRAC cooperation offers considerable facilities for the arbitration in both countries which can yield many opportunities." Prof. Akıncı said: "Iran is a very important market for Turkish investors. The cooperation between two centres shall bring along regional economic and commercial growth. Regional arbitration centres also constitute an advantage for the parties which seek for dispute resolution as they can better understand the parties culturally and socially; and respond faster and easier to their needs."

ISTAC International Board of Arbitration Member Dr. Hamid Gharavi, when evaluating the cooperation of two institutions, said "The guarantee offered by the regional arbitration centres for the international trade and foreign investors bring along economic, commercial and legal developments". The Secretary General, Dr. Candan Yasan Tepetaş explained Turkey's arbitration legislation in the conference and emphasized that Turkish law has the infrastructure required for an international arbitration centre. Vice-President of ISTAC Executive Board, Mustafa Çıkrıkçıoğlu, Head of Mediation Office of the Ministry of Justice and the Member of ISTAC Executive Board Hakan Öztatar, members of the Executive Board, Müjdat Keçeci and Rifat Bacanlı also participated in Tehran conference and contributed to the regional promotion of the institution.





## Arbitration Seminar for Startups in ARI Teknokrat

**July 26, 2017**

“Fast and Effective Dispute Resolution Method for Startups: Arbitration” seminar was organized at An Teknokent with the cooperation of Istanbul Technical University and Young ISTAC. Young ISTAC member attorneys Ayça Aydın, Ege Koç, Şeref Can Arat, Fatma Esra Güzeleoğlu and Yavuz Can Aslan discussed the advantages of settlement of disputes by ISTAC Rules.



## "Arbitrability in Turkey and China" Panel

## August 16, 2017

"Arbitrability in Turkey and China" Panel, which is the first cooperation between ISTAC and Chinese European Arbitration Centre, hosted by Brödermann Jahn international law office with its headquarters in Germany, was held in Hamburg. In this activity where "Young CEAC" member Rong Zheng and Young ISTAC member Ezgi Babur von Schwander delivered speeches, the arbitration legislation of two countries and the enforcement of the arbitral awards were evaluated.



## A Seminar in Germany by DIS40 and Young ISTAC

September 18, 2017

The seminar, "Arbitration in Turkey and Germany: Legal Framework, Court Involvement and Cultural Aspects" organized by DIS40 and Young ISTAC was held in Berlin. Freshfield Bruckhaus Deringer Law Office hosted the event. The seminar organized with the cooperation of the young lawyers' platform of the German Arbitration Institute, DIS40, received intense attention from the participants.



## Training for the Lawyers Club of Atılım University

October 13, 2017

The members of the Young Lawyers Club of Atılım University made a visit to Istanbul Arbitration Centre. Within the scope of the activities of the Lawyers Club of the University, 53 students attended the visit organized by the Asst. Prof. Doğa Elçin and research Assistant Zeynep Müf-

tüoğlu, members of the Faculty of Law Asst. Prof. Doğa Elçin and research Assistant Zeynep Müftüoğlu. During the visit, the Secretary General of ISTAC, Dr. Candan Yasan Tepetaş briefed the law students about the arbitration practices and the proceedings in Turkey and the world.



## Seminar on Assessment of Damages in International Arbitration Attracted Intense Attention

October 19, 2017

The Seminar on "Assessment of Damages in International Arbitration" organized in Istanbul was realized with the participation of the public and private sector in-house counsel, lawyers, specialists working in the field of finance and the partici-

pants from the inspection bodies. The speakers of the seminar were Alex Davie and Emre Aydın. The questions of the participants were answered following the presentations on the basic principles and methods for damage assessment in arbitration.

## A visit by the Law Club of Istanbul Kültür University

November 08, 2017

ISTAC visit of the Law Club of Istanbul Kültür University turned into an on the spot and efficient training. The students attending the briefing given by Dr. Candan Yasan Tepetaş acquired information about arbitration practices in Turkey as well as ISTAC Arbitration.



## A Seminar by Swiss Arbitrator Marzolini

November 22-23, 2017

The series of training programs and seminars organized by ISTAC in which internationally acknowledged arbitration lawyers and arbitrators are hosted, continued in November with Paolo Marzolini from Switzerland. Marzolini, gave an applied seminar of 6 hours on "How Best to Present Your Case in International Arbitration". The main topics of the seminar were preparation of submissions in international arbitration,

organization of the work process of the counsel with the client, witness statement and report preparation techniques, opening and closing speeches for the hearings, witnesses and expert examinations and preparation of post-hearing party statements. Experienced arbitrator Paolo Marzolini delivered hands-on presentations about these processes which cover the material stages of arbitration.



## ISTAC Organized a Conference at Kütahya and Aydın Bar Associations

**December 15-16, 2017**

The conferences organized under the title "Effective Settlement of Disputes: Arbitration" received intense attention from the Aegean lawyers. The President of Kütahya Bar Association, Atty. Ahmet Atam, who hosted the conference in Kütahya, emphasized the significance of arbitration for counsel in his opening speech. The President of Aydın Bar Association, Gökhan Bozkurt, who spoke in the conference organized in Aydın, invited the lawyers and attorneys of the city to give close attention to arbitration. The Member of the Executive Board Atty. Mehmet Rifat Bacanlı and the Secretary General Dr. Candan Yasan Tepetaş emphasized in their presentations in both conferences that ISTAC Arbitration is the address for a fast, efficient and cost-effective settlement of disputes.



## Fast Training at the Centre for Kariyer Law Association

November 24, 2017

The representatives of Kariyer Law Association visited ISTAC and attended arbitration training program. The Secretary General Dr. Candan Yasan Tepetaş introduced Istanbul Arbitration Centre to young lawyers during the visit, and gave information about arbitration practices.



## ISTAC Meets the Lawyers: Conference at Şanlıurfa Bar Association

**December 01, 2017**

Within the scope of Istanbul Arbitration Centre's programs addressed to Anatolian Bar Associations, "Arbitration Conference for Lawyers" was organized in cooperation with Şanlıurfa Bar Association. The Conference was realized with the presentations of the Member of the Executive Board of ISTAC, Mehmet Rifat Bacanlı and the Secretary General, Dr. Candan Yasan Tepetaş. The Participants were informed about ISTAC Arbitration during the conference which was organized in order to raise arbitration awareness among the lawyers.





## Arbitration Meeting at Mersin Bar Association



**December 22, 2017**

"Bar Association Meetings" of Istanbul Arbitration Centre continued with the conference organized at Mersin Bar Association. Atty. M. Rifat Bacanlı and Dr. Candan Yasan Tepetaş introduced ISTAC Arbitration to the lawyers in Mersin during the Conference on "Arbitration for Lawyers and Istanbul Arbitration Centre". The President of Mersin Bar Association, Atty. Ali Er, who hosted the Conference, said: "Arbitration counsel shall be needed more in the future as the dispute resolution through arbitration spreads." The President Er, who stated that disputes

arise often in Mersin, which is a port and trade city, with free zone, continued as follows: "As Mersin Bar Association, we invite our colleagues to be more active together with Istanbul Arbitration Centre due to the increasing interest in and importance of arbitration." Representative of the Union of Turkish Bar Associations at ISTAC Executive Board, Atty. M. Rifat Bacanlı said: "Due to the developed state of the agricultural infrastructure, industry and trade, it is possible for Mersin and the free zone to become a regional centre for arbitration together with ISTAC."

## ELSA Istanbul Members Visited ISTAC

**December 20, 2017**

ELSA Istanbul member law students and ELSA's "Lawyers at Work & 101 Series" arbitration activity was realized at ISTAC premises. The young lawyers meeting Dr. Candan Yasan Tepetaş scrutinized arbitration in Turkey and the activities of Istanbul Arbitration Centre.



## "Arbitration in Shipping" Seminar

**January 09, 2018**

Dr. Candan Yasan Tepetaş and Atty. Burak Özdemir were the speakers in the seminar organized in Istanbul, Marmara, Aegean, Mediterranean and Black Sea Regions (IMEAK) Chamber of Commerce. Dispute resolution methods in shipping sector and the advantages offered by Istanbul Arbitration Centre were explained to the representatives of the sector.





## Istanbul Arbitration Summit With ISTAC-TRAC Cooperation

February 01, 2018



The third joint conference of Istanbul Arbitration Centre and Tehran Regional Arbitration Centre (TRAC) hosted by ISTAC was organized in Istanbul. Former Minister of Justice of Jordan, Aiman Odeh; Iran Şehit Beheştî University Faculty Member and Vice-President of Iran International Legal Affairs, Prof. M. J. Ghanbari; ISTAC Advisory Board Member, Prof. Ercüment Erdem; ISTAC Board Member, Dr. Hamid Gharavi; President of TRAC, Dr. Oveis Rezvanian; and President of ISTAC, Prof. Ziya Akıncı participated as the speakers in the conference which started with the opening speeches of the President of the Union of Turkish Bar Associations, Prof. Metin Feyzioğlu; former Minister of Justice of France, Dominique Perben; and Secretary General of ISTAC, Dr. Candan Yasan Tepetaş.

President of the Union of Turkish Bar Associations, Metin Feyzioğlu spoke about how surprised he was when he

noticed that almost half of the lawyers in Tehran, where he visited for a conference, spoke Turkish. "We are a neighbor of Iran more than we think. Trade brings along democracy and state of law. ISTAC and TRAC shall reinforce the commercial relations and peace in the region."

The President of the Istanbul Arbitration Centre, Prof. Ziya Akıncı said: "As the arbitration centres of the same region, we have the advantage of understanding the parties trying to settle the disputes, better both culturally and socially and responding faster to their needs. This advantage lays the grounds for the development of the regional arbitration". ISTAC Board of International Arbitration Member, Dr. Gharavi underlined that Turkey and Iran can mutually use the cooperation potential of both regional arbitration institutions and emphasized the importance of the protection of the freedom of arbitration institutions.



## Meeting the Lawyers at Çorum Bar Association

February 03, 2018

Following the activities organized at Ankara, Eskişehir, Denizli, Şanlıurfa, Kütahya, Aydın and Mersin Bar Associations, Istanbul Arbitration Centre met the lawyers in Çorum. The conference started with the opening speech of the President of Çorum Bar Association, Atty. Altan Akpınar. Following this, Atty. Mehmet Rifat Bacanlı explained the importance and advantages of arbitration for the lawyers. While the Secretary General Dr. Candan Yasan Tepetaş briefed the participants on ISTAC Arbitration and case processes, Young ISTAC Executive Committee Member, Atty. Muhammet Bembeyaz gave information about the activities of the platform.



## The Visit of MEF Law Students

February 06, 2018

Arbitration in Turkey and the activities of ISTAC were discussed during the Istanbul Arbitration Centre visit of the students of MEF University, Faculty of Law. The lawyers of the future were informed about the arbitration processes.



## Arbitration Conference at Istanbul Bar Association

February 12, 2018

The conference realized within the scope of ISTAC activities at bar associations attracted intensive attraction from the lawyers and law students. The President of the Istanbul Bar Association, Atty. Mehmet Durakoğlu underlined the importance of arbitration for attorneyship in his opening speech during the conference. Durakoğlu said: "We embrace arbitration. Embrace of arbitration by the attorneys is important for legalization of the process."

The Chairman of the Istanbul Arbitration Centre, Prof. Ziya Akıncı underlined that ISTAC will grow with the lawyers and described the advantages of arbitration: "ISTAC is also the centre of lawyers. For a more peaceful business world with increased business ethics, we are required to provide these fast judgment facilities. The lawyers serve as an arbitrator, party counsel, specialist during the arbitration and our centre creates work for them."

The Member of the Executive Board of ISTAC, Atty. Mehmet Rifat Bacanlı; ISTAC National Board of Arbitration Member Assoc. Prof. Cemile Demir Gökyayla and the



Member of ISTAC General Assembly, Atty. Ebru Bostancıoğlu delivered speeches in the conference; and Atty. Ceren Çakır Akgün described the activities of Young ISTAC.







The background of the image features a blue-tinted photograph. On the right side, there is a statue of Lady Justice, blindfolded and holding a sword upright in her right hand. In the foreground, on the left, a wooden gavel rests on a stack of books. The entire scene is overlaid with a semi-transparent orange circle that contains the text.

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***Fast Access to Legal Protection;  
The parties may access the “Interim  
Measure” they need within 7 days  
with ISTAC Emergency Arbitrator.***

”

## Pre-Moot Competition with support of ISTAC

**Mach 18-19, 2017**

9 university teams (Ankara, Bilkent, Galatasaray, Istanbul, Istanbul Bilgi, Istanbul Şehir, Kadir Has, Marmara and MEF University) participated in the 6th Pre-Moot Competition, which was sponsored by Istanbul Arbitration Centre, organized at Dolapdere Campus of Istanbul Bilgi University. With this competition, the teams got prepared for the 24th Willem C. Vis International Commercial Arbitration Moot Competition to be held in Vienna between the dates April 7-14. This competition, in which more than 300 faculties all over the world participate, is known as the "Law Olympics."



## Agenda of the Vienna Conference: ISTAC Arbitration Rules

**April 11, 2017**

Istanbul Arbitration Centre participated in the conference organized with support of CMS Vienna Law Office and Association of Austrian and Turkish Entrepreneurs and Industrialists (ATIS). In the conference, ISTAC Secretary General Dr. Candan Yasan Tepetaş and Young ISTAC's Foreign Affairs Committee representative Atty. Can Işıktaş introduced the "ISTAC Arbitration and Fast Track Arbitration Rules." Following this

the advantages of fast track arbitration application were discussed in the panel moderated by CMS Istanbul's Managing Partner, Dr. Döne Yalçın, with the participation of Daniela Karollus-Bruner and Dr. Dorothee Ruckteschler, who are the representatives of the same law office in Vienna and Stuttgart, respectively.



## Conference at Bilgi University: Arbitration and Construction Law

**April 21, 2017**

The subject of the conference organized at Bilgi University, which was sponsored by ISTAC, was "Delay and Default in International Construction Contracts and New Approaches to the Problem". David Falkenstein (London-Blackrock PM), Elliott Geisinger and Christopher Boog (Schellenberg Wittmer Ltd. London-Zurich-Singapore), Prof. Doug Jones (Clayton Utz-Sydney) and Aisha Nadar (Stockholm FIDIC Dispute Resolution Board Member) were among the speakers. The President of Istanbul Arbitration Centre, Prof. Ziya Akıncı also described arbitration practices in Turkey and ISTAC Arbitration at the conference.



## Arbitration and Mediation Conference in Denizli

May 17, 2017



The event, which was organized jointly by the Directorate of Mediation of the Ministry of Justice, Istanbul Arbitration Centre, Denizli Bar Association and Denizli Chamber of Industry was realized at the Bar's conference hall.

Before the conference, the Head of Mediation Directorate of the Ministry of Justice and the Member of the Executive Board of ISTAC, Hakan Öztatar delivered the mediator certificate of Mustafa Alper, the Chief Prosecutor of Denizli, who fell a martyr on May 10, 2017 while on duty, to his wife Hatıran Alper. Following the opening speeches

of the President of Denizli Bar Association, Atty. Müjdat İlhan and the President of Denizli Chamber of Industry, Müjdat Keçeci, the President of Istanbul Arbitration Centre, Prof. Ziya Akıncı, the Member of the Executive Board Atty. Rifat Bacanlı and the Secretariat General, Dr. Candan Yasan Tepetaş described the ISTAC Arbitration Rules in their presentations. In the second part of the conference, the Head of Mediation Directorate of the Ministry of Justice, Hakan Öztatar and the mediator-lawyers Neyir Şeyda Musal and İrfan Medet Akpınar presented practical evaluations on the subject.

## Panel at Istanbul Courthouse: Arbitration in Logistics and Insurance Law

May 24, 2017

The panel organized jointly by the Istanbul Bar Association Transport and Logistics Law Commission and Insurance Law Commission was held at the Conference Hall of Istanbul Courthouse. The Head of Mediation Directorate of the Ministry of Justice and the Member of the Executive Board of ISTAC, Hakan Öztatar emphasized that "although the point reached in logistics and insurance law is not sufficient, certain achievements are made" in his opening speech. Öztatar said that a significant progress was achieved in this field in 3.5 years and 13.500 disputes were resolved by mediation. Atty. Mehmet Durakoğlu, the President of Istanbul Bar Association, stated in his opening speech that considerable distance was travelled specifically in the field of insurance arbit-



ration. Durakoğlu said: "If a new perception to eliminate our concerns with respect to mediation can be exhibited, it shall be possible to define mediation as a new element within our judicial system."



## Conference in the University: Compulsory Mediation

May 30, 2017

Alternative dispute resolution methods were discussed in the "Compulsory Mediation in Labor Law" conference organized by Kadir Has University, Faculty of Law. The Head of Mediation Directorate of the Ministry of Justice and the Member of the Executive Board of ISTAC, Hakan Öztatar made a presentation in the first session of the Conference. The President of ISTAC, Prof. Ziya Akıncı informed the law students on "Arbitration and Mediation" during his speech in the second session.



## Arbitration in Law Career Days

June 11, 2017

Dr. Candan Yasan Tepetaş, faculty member of Bilgi University, participated in the Career Days event. Tepetaş made a presentation to her students about ISTAC Arbitration.

## ISTAC was discussed at the 5<sup>th</sup> GAR Live Istanbul Conference



June 15, 2017

The 5<sup>th</sup> GAR Live Istanbul Conference organized by Global Arbitration Review brought together many local and international legal professionals in many different fields such as finance, energy, construction with arbitration experts. The President of ISTAC, Prof. Ziya Akıncı explained the achievements of the young arbitration institution of Turkey made in a very short time. Prof. Akıncı

answered the questions of the participants and said that the most important target was inclusion of ISTAC in the agreements and that a significant progress is achieved to this end. Following the Conference, Global Arbitration Review gave wide coverage to Istanbul Arbitration Centre's achievements and shared a relevant article with its subscribers throughout the world.



## Introduction in Hamburg by Young ISTAC

June 28, 2017

Young ISTAC members Ezgi Babur von Schwander, Kerem Çelikboya and Leyla Orak Çelikboya, participated in the organization at CMS Hamburg office. In this event in Germany, which brought the young lawyers of two countries together, international arbitration legislation

was assessed and ISTAC representatives introduced the arbitration rules of the institution. Recognition and enforcement processes within the scope of the arbitration legislation in Turkey were explained to the German legal professionals and lawyers active in arbitration.

## ISTAC Was at ELSA Ankara International Summer Law School Activity

August 23-24, 2017

ISTAC also took its place in the activity which turned into a law feast at the capital of the country during the week of August 20-27. The Secretary General, Dr. Candan Yasan Tepetaş gave training to the lawyers of the future on ISTAC Arbitration Rules. ELSA Network, comprised of about 45 thousand law students and young lawyers in 43 countries, is organizing events in more than 300 law faculties through the local groups. ELSA Turkey has working groups in Ankara, Istanbul and İzmir.



## Turkey and Middle East International Arbitration Summit in Istanbul

September 27, 2017

The international arbitration summit, "Turkey & Middle East: 4th Annual International Arbitration Summit" organized by Wolters Kluwer and Legal Plus, in which Istanbul Arbitration Centre is among the sponsor institutions,

was realized in Istanbul. The arbitration experts and academicians assessed the development of arbitration in Turkey and the Middle East in the event, where the President of ISTAC, Prof. Ziya Akıncı made a presentation.



## Panel with Cooperation of TÜSİAD and Bar Association

September 29, 2017

The panel was organized by Turkish Industry and Business Association (TÜSİAD) and Istanbul Bar Association Banking Finance Commission. One of the main items on the event's agenda was "ISTAC Arbitration" as an alternative dispute resolution method in the capital markets. Dr. Candan Yasan Tepetaş made a presentation

on "Istanbul Arbitration Centre and Recommendations for Development of the Applications in the Financial Markets" during the panel. The participants from the legal and business world were provided information about recourse to ISTAC as a dispute settlement centre and the case processes.

## Introduction at International Dispute Resolution Conference

October 20, 2017

The Conference was held at the Istanbul Courthouse in Çağlayan. Dr. Serhat Eskiörük explained "ISTAC Arbitration and its Advantages" in the conference which also attracted participation from abroad. The activities of Istanbul Arbitration Centre and its progress in such a short time were scrutinized in the conference attended by the attorneys, lawyers and foreign guests.



## ISTAC Participated in Aman Union Summit Organized in Istanbul

November 01, 2017



The 8th Annual Meeting of Aman Union, which was the first umbrella organization that brought the export credit institutions together in order to increase the trade and investments between member countries of the Organization of the Islamic Conference was held in Istanbul between the dates October 31 - November 02. Arbitration stepping forward as a dispute resolution method in international trade was also on the agenda of the meeting.

The opening of the meeting, which was hosted by Türk Eximbank, was realized with the participation of

the Prime Minister Binali Yıldırım and the Minister of Economy Nihat Zeybekçi. ISTAC was represented by the Secretary General Candan Yasan Tepetaş in Aman Union Summit in which 165 guests from 34 countries participated. Dr. Tepetaş introduced Istanbul Arbitration Centre during a presentation she made in the second day of the Summit. Adnan Yıldırım, the General Manager of Türk Eximbank and the Executive Board Member of Aman Union, which has 35 members from 22 countries, took over the position of the Aman Union Secretary General in Istanbul Summit, for a period of two years.



## The Agenda of Capital Market Congress: ISTAC Arbitration

November 14-15, 2017

Turkish Capital Markets Congress was realized under title "Growth for our Future" in Istanbul. Arbitration was discussed in the panel with the subject "Extrajudicial Dispute Resolution, Protection of Capital Markets and Investors" on the second day of the event, where Istanbul Arbitration Centre was among the sponsors. Prof. Ercüment Erdem, Assoc. Prof. Cemile Demir Gökyayla, Assoc. Prof. Tolga Ayoğlu and Atty. Nur Özden were the speakers in this panel moderated by Atty. Dr. İsmail Esin. The arbitrability of share purchase agreements, enforcement of arbitral awards, effectiveness of foreign arbitral awards in Turkey and the use of mediation in the disputes arising out of capital market transactions were discussed during the Congress.



## Seminar with Cooperation of Turkish-German Chamber of Commerce and the Consulate of Austria

November 22, 2017

ISTAC Arbitration Rules and Fast Track Arbitration were shared with the German and Austrian Lawyers and in-house counsel in Turkey during the event organized in Istanbul. CMS Istanbul, Foreign Economic Relations Board (DEİK), German and Turkish Chamber of Commerce and Industry, Austrian Trade Commission, Austrian-Turkish Business Cooperation Council, Association of Austrian and Turkish Businessmen and Industrialists (ATİS) sponsored the event.



## Panel at Bilgi University: Arbitration for Everyone

November 30, 2017

The specialized academicians and lawyers assessed the place of arbitration in Turkish legislation at the panel organized by Istanbul Bilgi University, Faculty of Law. The President of ISTAC, Prof. Ziya Akıncı, National Board of Arbitration Member Assoc. Prof. Cemile Demir Gökyayla, Advisory Board Member (Esin Law Office Managing

Partner) Dr. İsmail Esin and the Chair of Young ISTAC Executive Committee Atty. Ayça Aydın were the speakers in the conference made in Santralİstanbul campus of the University. Arbitration practices in Turkey, ISTAC's activities and future expectations in arbitration were discussed during the panel.

## ISTAC at Kadir Has University

December 13 2017

The panel with the topic “ISTAC Arbitration and Arbitration Law” realized at Kadir Has University, Faculty of Law received intense attention from the students and lawyers. The panel, which was organized by Kadir Has University, Faculty of Law and the Law Club, was moderated by Asst. Prof. Ceyda Süral Efeçinar. Dr. Candan Yasan Tepetaş, the Chair of Young ISTAC Executive Committee Atty. Ayça Aydın and Atty. Ceren Çakır Akgün participated in the panel as the speakers. The questions of the students on the verge of starting their career in the field of law and arbitration were answered.



## Support to Istanbul Willem C. Vis “Pre-Moot” Competition



February 17-18, 2018

A preliminary event for preparation for the Willem C. Vis International Moot Commercial Competition, to be realized in Vienna for the 25<sup>th</sup> time this year in order to encourage international commercial law training and settlement of international commercial disputes through arbitration, was organized. Prior to the Vienna organization, which is one of the most prestigious moot court competitions where more than 300 law faculties all over the world participate, preliminary studies and pre-moot activities are organized by the law faculties and law offices in order to

practice for the competition. National pre-moot activity is organized with support of Istanbul Arbitration Centre at Bilgi University Faculty of Law, where the teams representing Turkey in the competition participated. The teams from the law faculties of Ankara University, Altınbaş, Ankara Yıldırım Beyazıt, Bahçeşehir, Bilkent, Galatasaray, Istanbul University, Istanbul Bilgi, Istanbul Şehir, Kadir Has, Koç and MEF Universities participated in the organization, which was embraced by the arbitration practitioners and arbitrators from the leading law offices of Turkey.





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*Hearings  
can be held at  
ISTAC;*

***The parties having an  
arbitration case at ISTAC  
can also use the hearing and  
meeting halls bearing all  
the required technical  
infrastructure and  
facilities free of  
charge.***

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# TOUR D'HORIZON FOR ISTAC ADV



The members of the Advisory Board of Istanbul Arbitration Centre, Prof. Bahadır Erdem, Prof. Cemal Şanlı, Assoc. Prof. Emre Esen and Atty. Dr. İsmail Esin expressed their opinions for a more effective arbitration centre in the meeting hosted by the President of ISTAC, Prof. Ziya Akıncı, which was held on November 07, 2017.

## Istanbul Arbitration Centre Law

### Article 11

- (1) The Advisory Board consists of fifteen members with at least five years of experience in arbitration or other alternative dispute resolution methods to provide information and opinion to the Centre within the scope of the Centre's goals. The members of the Advisory Board are elected for a period of four years by the General Assembly upon the proposal of the Executive Board.
- (2) The Executive Board consults the Advisory Board when deemed required.
- (3) The Advisory Board shall meet at least once a year upon being called by the Executive Board; and submits its report to the Executive Board on the matters for which it is consulted.

## Members of ISTAC Advisory Board

Atty. Muhammet Aksan, Prof. Murat Atalı, Prof. Zühtü Aytaç, Atty. Muharrem Eliş, Prof. Bahadır Erdem, Prof.ERCÜMENT Erdem, Atty. Şebnem Ergün, Assoc. Prof. Emre Esen, Atty. Dr. İsmail Esin, Assoc. Prof. Cemile Demir Gökyayla, Prof. Osman Gürzumar, Prof. İsmail Kırca, Prof. Cemal Şanlı, Prof. Mehmet Ünal, Prof. Ejder Yılmaz

# ISORY BOARD



## THE AGENDA OF 2017 MEETING: A MORE EFFECTIVE ISTAC

The activities of the institution for about two years were assessed during 2017 Advisory Board Meeting, hosted by the President Ziya Akıncı, held on November 07 at ISTAC premises. Prof. Bahadır Erdem, Prof. Cemal Şanlı, Assoc. Prof. Emre Esen and Atty. Dr. İsmail Esin from the Advisory Board attended the meeting.

The members of the Advisory Board, who also contributed considerably in the drafting of the “ISTAC Arbitration Rules”, emphasized the importance of the works of the commissions with respect to training and conference organizations. Good practice examples related to arbitration, innovative ideas and recommendations for expansion of ISTAC's field of activity were discussed during the meeting. Within the direction of the Board's recommendations, diversification and spreading of the activities related to the Specialized Commissions were included in the agenda.

## THE FIRST MEETING OF THE ADVISORY BOARD IN OCTOBER 2016

ISTAC Advisory Board realized the meeting for 2016 in October 31; and the meeting for 2017 in November 07. While the President of ISTAC, Prof. Ziya Akıncı, who chaired both meetings, emphasized the methods to increase the cooperation with the Advisory Board; and the proposals received within this direction were discussed.

Prof. Bahadır Erdem, Assoc. Prof. Cemile Demir Gökyayla, Assoc. Prof. Emre Esen, Atty. Dr. İsmail Esin, Atty. Muhammet Aksan and Atty. Şebnem Ergün participated in the Advisory Board Meeting for 2016. The period activities of ISTAC for the first period, which almost reached 1 year, were discussed. While the President Ziya Akıncı explained the Centre's activities to the Advisory Board, he also gave information about the future cooperation facilities between ISTAC and the arbitration centre planned to be established by the Organization of Islamic Cooperation. Moreover, Akıncı also talked about the organizational structure of the commissions constituted within the structure of the institution and said: “It is planned that our members in the General Assembly or the Advisory Board shall sit as the coordinators in the commissions which we formed on sectoral basis. Our basic expecta-

tions from these commissions are to carry out the required tasks in order to promote ISTAC and make it attractive in the relevant sectors.”

Prof. Bahadır Erdem pointed to the benefit of meeting more than once a year for the Advisory Board and said that the process shall determine the needs with respect to this. Atty. Dr. İsmail Esin proposed the Board to meet in a non-formal manner and submit the results obtained from such meetings to the management. Esin said: “ISTAC Arbitration Rules are the rules which do not accommodate any surprise, and which the practitioners are familiar with. Accordingly, there is no need for any change in the rules. In order to spread arbitration, it might be beneficial if the Specialized Commissions organize training programs and conferences addressing their own sectors.” Atty. Muhammet Aksan underlined the importance of presentation of opinions in the nature of proposals/recommendations by the Advisory Board and contribution to the creation of a corporate culture. Together with this, he emphasized that works could be performed so that ISTAC can become the arbitration centre of the Islamic world.





Young ISTAC is open to all Turkish and foreign individuals below the age of 40, who desire to work in the fields of arbitration or mediation, without any membership fee. Further information on Young ISTAC is available over the address [youngistac@istac.org.tr](mailto:youngistac@istac.org.tr)

## ARBITRATION LAWYERS OF THE FUTURE MEET AT YOUNG ISTAC

Istanbul Arbitration Centre established “Young ISTAC Platform” in order to increase the young lawyers' interest in this field and to contribute to raising a new arbitration generation. The platform, which started its activities starting from the first months of ISTAC's establishment, achieved a rapid development based on the interest it received from the young lawyers. The number of members of Young ISTAC Platform, composed of lawyers and practitioners below the age of 40 who are interested in or who desire to develop themselves in arbitration and alternative dispute resolution methods, is about to reach 3000.

The objectives of Young ISTAC are:

- to provide the apprehension, introduction and promotion of arbitration and mediation in an efficient manner;
- to create a strong network between young practitioners and to reinforce the communication between its members by arranging monthly meetings;
- to organize national and international training programs, conferences and social events with participation of experienced counsel and arbitrators;
- to prepare its members for the world of arbitration from the start of their careers and to provide career development opportunities;
- to raise awareness with respect to the Istanbul

Arbitration Centre dispute resolution methods;

- to organize two annual moot court competitions in English and Turkish in order to promote the arbitration practices.

Young ISTAC Executive Committee members are leading the way specifically in the activities related to the law faculties of the universities. They contribute to introduction of ISTAC by participating in the relevant conferences and workshops both in Turkey and abroad. “Future Arbitration Counsel Competition” organized with support of Istanbul Arbitration Centre steps forward as the most important event of the Young ISTAC.

### “FUTURE ARBITRATION COUNSEL COMPETITION” FROM YOUNG ISTAC

The organization which was realized at Santal Istanbul Campus of Bilgi University between the dates April 29-30, 2017 gathered a large number of law students from all over Turkey together in a moot case competition for the first time. 42 teams and 230 students from the law faculties of the universities applied for the “1st Future Arbitration Counsel Competition”, organized with support of Zorlu Holding. The teams, just like in a real arbitration proceeding, have submitted their Statement of Claims and Statement of Defence.





Academicians who are experts in arbitration and lawyers from leading law offices acted as arbitrators in the hearings held on April 29 with participation of 32 teams. The first 8 teams made it to the semi-finals and finals held on April 30, 2017 in the competition in which a commercial dispute was to be resolved by implementation of "ISTAC Arbitration Rules". The final hearing was between İhsan Doğramacı Bilkent University and Galatasaray University.

Galatasaray University was the party who experienced the joy of being the winner in the finals where Atty. Kürşat Karacabey, Member of the Executive Board of the Union of Turkish Bar Associations; Prof. Seldağ Güneş Peschke, Faculty Member of Ankara Yıldırım Beyazıt University; and Prof. Ziya Akıncı, President of Istanbul Arbitration Centre acted as the arbitrators. The Future Arbitration Counsel Award was given to Hande Pat from the team of Bilkent University; and Young ISTAC Special Award was received by the team of Ankara Yıldırım Beyazıt University. The teams struggling for the finals returned to their universities with monetary awards and surprise presents of Zorlu Holding.

The President of Istanbul Arbitration Centre, Prof. Ziya Akıncı said "There is no loser in this competition. We had two days which were like a feast; and our centre realized one of its best activities. Although ISTAC started its activities just a short while ago, it became an active arbitration centre with international cases. It also became a centre of attraction for the young lawyers" in the speech he delivered during the award ceremony.



The second Young ISTAC the Future Arbitration Counsel Competition, which Istanbul Arbitration Centre intends to traditionalize, is already commenced by the first announcement made in September 2017 and the "text of the case" published in November 2017. The mock hearings will again be organized at the campus of Bilgi University on April 28-29, 2018. 48 teams from the law faculties of the universities all over the country will compete in order to succeed in the finals. In this competition which is organized in Turkish, ISTAC Arbitration Rules are applied for the arbitration proceedings and Turkish Law is applied for the merits of the dispute. While Istanbul Arbitration Centre plans to organize the competition internationally, our young lawyers already gave the good news that Istanbul shall be the centre of international arbitration.



*During the last meeting of the year held on November 16, 2017, which was chaired by Atty. Mehmet Gün, ISTAC Intellectual Rights Commission assessed the disputes concerning the services of the patent and trademark institution, TÜRKPATENT. An action plan was discussed so that the required grounds for the utilization of ISTAC Arbitration in patent cases can be set. Cooperation of ISTAC and Istanbul Arbitration Association (ISTA) in this field is recommended.*

## SPECIALIZED COMMISSIONS INVIGORATE ISTAC

### **Istanbul Arbitration Centre Law no. 6570**

#### **Article 4 /b**

The duties of the Centre are;

“to promote and make publications about arbitration and alternative dispute resolution methods; to encourage, support, realize scientific studies concerning this issue; and to cooperate with the relevant individuals and institutions in the country and abroad.”

International arbitration centres and professional associations constitute commissions in different fields of expertise and create the basis of communication for the sectoral arbitration. While the information exchange and sharing the professional experiences, presentation of innovative and progressive opinions in the commissions contribute to the effectiveness of the arbitration institutions; and it also reinforces the cooperation with the institutions.

“To cooperate with the relevant individuals and institutions in the country and abroad” as stated in the Istanbul Arbitration Centre Law no. 6570 is among the duties of ISTAC. As a matter of fact, “Specialized Commissions” established within the organization of the Centre constitute an important element in enfor-

cement of such duties.

17 specialized work commissions were established within the organization of the centre in order to promote the systems with respect to the alternative dispute resolution methods in the most effective manner; to increase awareness concerning “ISTAC Arbitration and Mediation” and to provide its promotion.

These commissions, where the leading legal professionals, lawyers specialized in some sectoral cases and arbitration practitioners take part voluntarily, assess the current developments during the meetings organized at the Istanbul Arbitration Centre; and exchange opinions which enlarge ISTAC's horizon. The commissions organize the events such as conferences, seminars, informative meetings for the effective



use of the centre in the settlement of disputes; and make efforts in order to establish and develop sectoral cooperation both at the national and international platforms.

Moreover, each commission meeting serves as a bridge strengthening the communication between the legal professionals and arbitration counsel of different sectors and the Istanbul Arbitration Centre. The commission conferences provide these studies to be reflected onto wider masses. In fact, one recent example to such studies was the "Corporate Law and Arbitration Conference" organized on April 22, 2017 by "Corporate Law and Mergers and Acquisitions Specialized Commission". ISTAC had completed its studies to publish the presentations given during the conference which was realized by an extensive participation.

### **ISTAC Specialized Work commissions**

• Mediation Specialized Work Commission
• Maritime Law Specialized Work Commission
• Energy Specialized Work Commission
• Intellectual Right Specialized Work Commission
• Financial Specialized Work Commission
• Exporters ad SMEs Specialized Work Commission
• Construction Specialized Work Commission
• In House Counsel Specialized Work Commission
• License, Franchising, Leasing Specialized Work Commission
• Rules and Innovations Specialized Work Commission
• Health Specialized Work Commission
• Sports Specialized Work Commission
• Corporate Law, Mergers and Acquisitions Specialized Work Commission
• Transport and Logistics Specialized Work Commission
• Foreign Investments Specialized Work Commission
• Investment Arbitration Specialized Work Commission
• Foreign Representations Specialized Work Commission





# INTERNATIONAL BOARD OF ARBITRATION

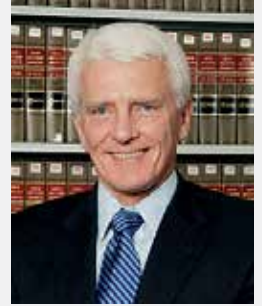


## **Ziya Akıncı** President of the Board

Ziya Akıncı, who has undertaken the Presidency of the National and International Boards of Arbitration constituted within the structure of the Istanbul Arbitration Centre, serves as arbitrator, expert, specialist and party counsel in many arbitration cases with a wide range of scope and characteristics such as domestic and international construction projects, energy projects, investment disputes, company mergers, GSM licenses, natural gas storage and SCADA systems. Prof. Akıncı, who is a member of International Chamber of Commerce (ICC) Court of Arbitration and International Center for Settlement of Investment Disputes (ICSID) Committee, has been involved in several ICC, ICSID, LCIA, SCC, DIAC, TRAC and ITOTAM arbitrations and ad hoc arbitrations. Prof. Akıncı, the Chairman of the International Private Law Department of Galatasaray University Faculty of Law, is the author of numerous books and publications including International Arbitration.

## **Jan Paulsson**

Professor Jan Paulsson, one of the most experienced and reputable names of the international arbitration world, served as the President of the International Council for Commercial Arbitration (ICCA), President of the London Court of International Arbitration (LCIA) and Vice-President of the ICC International Court of Arbitration. He is currently a Board member of The Hague Permanent Court of Arbitration and American Arbitration Association (AAA-ICDR) and a member in Singapore International Arbitration Court (SIAC). He participated as a counsel or arbitrator in over 700 arbitrations in the United States of America, Asia and Africa. He also acted before a great variety of international tribunals including the International Court of Justice in The Hague. Prof. Paulsson, who received his A.B. from Harvard, his J.D. from Yale Law School, and a Diplôme d'études supérieures spécialisées from the University of Paris, has publications in the field of international arbitration.



## **Bernard Hanotiau**



Prof. Bernard Hanotiau, the former vice-president of the Belgian Center for Arbitration and Mediation (CEPANI) and the London Court of International Arbitration (LCIA), has been involved as an arbitrator, counsel or expert in more than 350 international arbitrations in all parts of the world. He is frequently appointed as arbitrator in the cases related to the investment disputes where the states and state institutions, high technology and telecommunication corporations, construction and real estate companies, energy, oil, gas and mining companies, pharmaceutical and chemical companies, airlines and railway companies, banks and finance institutions are the parties. In addition to his membership in the Court of Arbitration of SIAC and the Board of the DIAC, Prof. Hanotiau, who is also a member of the Procedure Committee of the Singapore Chamber of Maritime Arbitrators, as well as a member of HKIAC International Advisory Board, is also a mediator certified by the Belgian Ministry of Justice. Prof. Hanotiau was received the GAR "Arbitrator of the Year" award in March 2011.

## **Hamid Gharavi**

Dr. Hamid Gharavi, who has arbitration experience in several international cases, is participating in many prestigious arbitration institutions including the Panel of ICSID Arbitrators, DIAC, SIAC, TRAC and Court of Arbitration for Sport (CAS). He has an experience of 30 investment arbitrations in a wide range including investment law, mergers and acquisitions, energy and distribution agreements, construction projects and sports law as well as his arbitrator and party counseling experience in more than 150 commercial arbitrations. Dr. Gharavi is known for acting as the counsel for the Savings Deposit Insurance Fund of Turkey in "Saba Fakes v. Turkey" arbitration, the case amounting to 19 billion Dollars, which is the largest claim brought against Turkey at ICSID so far and for enabling Turkey to win this case. Serving as the arbitrator and counsel in several cases of Turkish companies, Dr. Gharavi is shown among the most successful arbitration counsel by the prestigious institutions referred to in this field worldwide.



## **Candan Yasan Tepetaş** Member of the Board

# NATIONAL BOARD OF ARBITRATION

**Ziya Akıncı** President of the Board



## **Sabih Arkan**

He graduated from Ankara University Faculty of Law in 1969 and he was appointed as a Teaching Assistant to the Commercial Law Department of the same university in 1970. He received his Ph.D. degree in 1975. From 1976 to 1978, in 1985 and 1990, he performed studies and research at University of Hamburg in Germany. He became an associate professor in 1981 and professor in 1988. Currently, he is a member of Ankara University Faculty of Law Commercial Law Department, and the Director of Banking and Commercial Law Research Institute. "Law of Commercial Enterprises" by Prof. Arkan, who focused his works in the fields of commercial and corporate law, capital markets, insurance, shipping, trademark and competition, contributed to the education of the young lawyers as a text book for many long years.

## **Cemile Demir Gökyayla**

Following her completion of undergraduate study in Dokuz Eylül University Faculty of Law, she completed her master's and Ph.D. programs in private law at the Social Sciences Institute of the same university. She studied at Saarlandes University with the doctorate research scholarship she received from the German Academic Exchange Program. Assoc. Prof. Cemile Demir Gökyayla has acted as an arbitrator and counsel in many domestic and international arbitrations including UNCITRAL, ICC, IC-SID, DIAC and ITOTAM. Assoc. Prof. Gökyayla, the President of Istanbul Bilgi University International Private Law Department, lectures on international arbitration, foreign investment law, international commercial law and private international law. Her works include Document Production in International Arbitration, Exclusive Distribution Agreements in Private International Law and Recognition and Enforcement of the Foreign Awards.



## **Atilla Altop**

He graduated from Istanbul University Faculty of Law in 1981. He completed his master's degree in 1982 and his Ph.D. in 1987. He lectured at the University of Bremen Faculty of Law, while he studied in Germany for his associate professorship. He also carried out researches and studies as a guest lecturer at Georgetown University, Faculty of Law in 1997 for a period of three months. Between 1982 - 2001, he served as a research assistant, assistant professor and associate professor at Istanbul University Faculty of Law. Atilla Altop, who became a professor in 2001, served as the Dean of Istanbul Kültür University Faculty of Law during 2004 - 2005 academic year. He continues to be a member of Galatasaray University Faculty of Law since 2006.

## **Candan Yasan Tepetaş**

Candan Yasan Tepetaş, who graduated from Galatasaray University Faculty of Law in 2005, completed her LL.M. at the same university in 2009. She obtained Swiss Government Excellence Scholarship in 2012-2013 academic year and she worked as the visiting fellowship at Lausanne University-Swiss Institute of Comparative Law. In 2015, she received her Ph.D. with her thesis on the "Law Applicable to the Manufacturer's Liability". Currently she is a member of Istanbul Bilgi University Faculty of Law and she lectures on international commercial law, international procedural law and private international law in undergraduate and master's programs. The Secretary General of the Istanbul Arbitration Centre, Dr. Tepetaş also took part in drafting of "ISTAC Arbitration and Mediation Rules".



## SETTING THE AGENDA ON THE MEDIA ...

The most important need of a newly established arbitration centre is promotion. This is because there is no arbitration clause in any agreement for that institution, yet the road that leads to arbitration centre first passes through those agreements. Accordingly, it is required to raise awareness in the public and the business world in order for the referral to an arbitration institution by consent of the parties in the absence of an agreement clause, and for inclusion of the centre's name in the agreements. Starting off from this fact, Istanbul Arbitration Centre prioritized the promotional work when launching its activities. These activities were carried out under two channels.

First, a wide range of the economy including private and public sector is tried to be reached through seminars, training programs and conferences.

Second, an active media strategy is applied in order to promote both arbitration and ISTAC and raise awareness in the public and the business world.

ISTAC contacted many companies and professional organizations of the business world during its activity period exceeding two years; and gave conferences specific to the institutions. ISTAC Arbitration was introduced during the seminars and conferences organized at the chambers of industry and the chambers of commerce under the umbrella of the Union of Chambers and Commodity Exchanges of Turkey (TOBB), stock exchange, bars throughout the country, non-governmental organizations of the business world and universities. The conference realized in Ankara at the Constitutional Court was also one of the most effective promotions directed to the participants from the public institutions all over the country.

The efforts to access the public through media were started in the first days on which the Istanbul Arbitration Centre started its activities. The first meeting with the press was realized as a breakfast held on February 08, 2016. The first announcement about ISTAC's start of its activities was made through this organization. An intense arbitration

At ISTAC-TIM press meeting, both institutions gave the messages of cooperation. The President of ISTAC, Prof. Ziya Akıncı invited the exporters to benefit from arbitration. The President of TIM, Mehmet Büyükekşi said: "We shall direct our companies to use ISTAC instead of the foreign arbitration centres."







agenda is formed on the printed and visual media with the messages given by the management of the institution.

### **ISTAC-TOBB PRESS MEETING**

A lunch was organized on May 23, 2016 with the economy directors, programmers and columnists of the printed and visual media. This time, ISTAC management appeared before media, together with the management of the Union of Chambers and Commodity Exchanges of Turkey (TOBB) which has the highest number of representatives in the institution. Vice-Presidents Halim Mete and Ali Kopuz, Members of the Executive Board Bülent Karakuş and Cengiz Günay, Legal Advisor Yasin Ekmen, Presidential Chief Advisor Hüseyin Çağrı Gürgür, Presidential Advisors Hasan Çağlayan Dünder and Bahri Can Çalıcıoğlu, Presidential Press and Communication Advisor Murat Oray were among the participants of the press meeting as well as the President of TOBB Rifat Hisarcıkıoğlu. In this meeting, in which the President of ISTAC, Prof. Ziya Akıncı,

Vice-President Mustafa Çıkrıkçıoğlu, Members of the Executive Board Müjdat Keçeci, Hakan Öztatar, Atty. Mehmet Rifat Bacanlı, Secretary General Candan Yasan Tepetaş and Press-Communication Advisor Emine Munyar also attended, the advantages of arbitration for the business world and the distance travelled by ISTAC since its foundation were assessed together with the leading economy reporters and columnists.

In 2017, the media activities were carried out by concentrating more on the special news-interviews with the newspapers, journals, agencies and television and by prioritizing the TV programs. While a program to place ISTAC on the sectoral publications was on the foreground in this period, many events found a place in the media thanks to the press bulletins.

### **ISTAC-TİM PRESS MEETING**

The new year started with a new agenda for Istanbul Arbitration Centre. Istanbul Arbitration Centre, aiming to announce to the business world, the oppor-

The main agenda on ISTAC-TOBB press meeting was the arbitration for the business world. The President of TOBB, Rifat Hisarcıkıoğlu, said: "Time is money in the business world. Accordingly, we have a great opportunity now to choose the fast, practical and reliable method when resolving our commercial disputes". Prof. Akıncı invited the companies to benefit from ISTAC opportunities.





February 05, 2016 ... The management of the Istanbul Arbitration Centre chaired by Prof. Ziya Akıncı announced that ISTAC started its activities and is registering cases at the first press meeting.

tunities created for the use of ISTAC Arbitration by the changes in the Public Procurement Authority regulations which was published in the Official Gazette dated December 30, 2017 and took effect after 20 days, met the names directing the economy media, columnists and programmers at a lunch. This time, the Executive Board of the Istanbul Arbitration Centre appeared before the media together with the management of the Turkish Exporters Assembly during the press meeting held on February 05, 2018. The President of ISTAC, Prof. Ziya Akıncı and the President of TIM, Mehmet Büyükekşi gave the messages of cooperation for more extensive and effective use of arbitration. The Vice-President of ISTAC Executive Board and TIM Mustafa Çıkrıkçıoğlu, Vice-President of TIM Tahsin Öztiryaki, As-

sistant Secretary General Cihat Gök, Member of the Executive Board of ISTAC Müjdat Keçeci and Mehmet Rifat Bacanlı, Secretary General Candan Yasan Tepetaş and Press Advisor Emine Munyar attended the discussion meeting with the press.

The Istanbul Arbitration Centre continues its media works in 2018 also in order to keep arbitration on the agenda, to raise awareness for ISTAC Arbitration, and to create an effective, reputable and reliable brand image. Moreover, a bulletin in Turkish and English is being published every 4 months in order to explain the advantages of the arbitration to the lawyers and business world and to announce the developments in this area. ISTAC Bulletin, which is e-mailed to 3500 people, can also be followed up over social media.



ISTAC and TIM managements convened with economy media in the first press meeting of 2018, hosted by Istanbul Arbitration Centre.



“

*Inclusion of the following clause in the contracts by the parties is sufficient to enable the cases to be heard by ISTAC;*

***Any disputes arising out of, or in connection with the present contract shall be finally settled through arbitration under the Istanbul Arbitration Centre Arbitration Rules.***

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*Several publications on the development processes, corporate and legal structuring stages of the arbitration in the world and Turkey, as well as laws and the leading arbitration institutions were studied at the preparation stage of this book. Brief information is supplied in this book by benefitting from such general information.*

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## ABBREVIATIONS

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- AAA:** American Arbitration Association
- ICDR:** The International Centre for Dispute Resolution
- IACAC:** The Inter-American Commercial Arbitration Commission
- HKIAC:** The Hong Kong International Arbitration Centre
- IBA:** The International Bar Association
- ICC:** The International Chamber of Commerce
- ICCA:** The International Council for Commercial Arbitration
- ICSID:** The International Centre for Settlement of Investment Disputes
- CEPANI:** Belgian Centre for Arbitration and Mediation
- LCIA:** The London Court of International Arbitration
- OECD:** The Organisation for Economic Cooperation and Development
- PCA:** The Permanent Court of Arbitration
- SCADA:** Supervisory Control and Data Acquisition
- SIAC:** The Singapore International Arbitration Centre
- TRAC:** The Tehran Regional Arbitration Centre
- TRIPS:** Trade-Related Aspects of Intellectual Property Rights
- UNCITRAL:** The United Nations Commission on International Trade Law
- WIPO:** The World Intellectual Property Organization
- WTO:** The World Trade Organization



ISTAC Family with the Executive Board and Office Team: (Left to right) Administrative Affairs Officer Abdullah Taşkın, Secretary General Dr. Candan Yasan Tepetaş, Member of the Executive Board (Accountant) Atty. Mehmet Rifat Bacanlı, Member of the Executive Board Atty. Müjdat Keçeci, President of the Executive Board Prof. Ziya Akıncı, Vice-President of the Executive Board Mustafa Çıkrıkçıoğlu, Member of the Executive Board Hakan Öztatar, Press and Corporate Communication Advisor Emine Munyar, Director of Financial Affairs Melisa Filiz Küçükdeveci.

## **ACKNOWLEDGEMENT...**

**T**his book came out of the idea of preparing an activity report booklet in order to be submitted to the General Assembly by the Executive Board of the Istanbul Arbitration Centre. During the works on the content, it turned into a book offering a general frame on the corporate identity and arbitration.

I would like to express my sincere thanks and gratitude to;

The President of the Executive Board of Istanbul Arbitration Centre, Prof. Ziya Akıncı, Vice-President of the Executive Board Mr. Mustafa Çıkrıkçıoğlu, and the esteemed Members of the Executive Board Mr. Müjdat Keçeci, Mr. Hakan Öztatar and Mr. Mehmet Rifat Bacanlı, who have provided full support from the beginning until the end of this first extensive publication project of the institution,

as well as to the Secretary General Dr. Candan Yasan Tepetaş, for sharing her expertise on legal processes and the data flow with respect to the corporate activities.

Moreover, I would like to express my sincere thanks to ISTAC Financial Affairs Director Melisa Filiz Küçükdeveci and Administrative Affairs Officer Abdullah Taşkın for providing all sorts of logistic support as the office team at the stage of content formation, information flow, as well as for collection of photographs and visual materials.

**Emine Munyar**

Editor

ISTAC Press and Corporate Communication Advisor



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ISTANBUL  
ARBITRATION  
CENTRE

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