

## **SECTION ELEVEN**

### **Arbitration**

#### **Scope of application**

**ARTICLE 407-** (1) The provisions in this Section shall be applicable to disputes that do not have any foreign element as defined by the International Arbitration Law No. 4686 and dated 21/6/2001, and where the place of arbitration is determined to be in Turkey.

#### **Arbitrability**

**ARTICLE 408-** (1) Disputes arising from real rights over immovables and transactions that are not within the disposal of the two parties on their own will are not convenient for arbitration.

#### **Waiver of right to object**

**ARTICLE 409-** (1) If either party does not comply with the arbitration agreement or a provision that may be agreed upon by the parties, the other party may object to such non-compliance. The related party shall be assumed to have waived the right to object if they continue to participate in the arbitral proceedings without any objection for two weeks following the date of notification of non-compliance or for a period that is agreed upon by the arbitrators in this regard.

#### **Competent court in arbitration**

**ARTICLE 410-** (1) **(Amended: 28/2/2018-Art. 7101/57)** In the works specified to be carried out by the court, the competent court having jurisdiction during the arbitral proceedings is, depending on the subject matter of the dispute, the civil or commercial court of first instance in the place of arbitration. If no place of arbitration has been determined, the competent court is, depending on the subject matter of the dispute, the civil or commercial court of first instance, and the court in jurisdiction is the defendant's place of residence, domicile, or place of business in Turkey.

#### **Assistance of the court**

**ARTICLE 411-** (1) Court assistance in arbitral proceedings shall only be possible in cases that are explicitly permitted in this Section.

#### **Definition and form of the arbitration agreement**

**ARTICLE 412-** (1) An arbitration agreement is an agreement between the parties to settle through arbitration all or certain disputes that have arisen or that may arise from an existing legal relationship, whether contractual or not.

(2) An arbitration agreement may be in the form of an arbitration clause in an agreement or in the form of a separate agreement.

(3) The arbitration agreement shall be made in writing. An agreement shall be considered to be in writing if it is contained in a document signed by the parties or in an exchange of letters, telegrams, telex, fax or other means of telecommunication or through an online exchange, or in an exchange of statements of claim and defence in which the existence of an agreement is alleged by one party and not denied by the other. The reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement provided that the reference is intended to make that clause part of the agreement.

(4) No objection can be made against the arbitration agreement by arguing that the underlying contract is invalid or that the arbitration agreement is related to a dispute that has not yet arisen.

(5) If the parties agree on resorting to arbitration during the court proceedings, the case file shall be sent to the relevant arbitrator or arbitral tribunal by the court.

### **Objection to arbitration**

**ARTICLE 413-** (1) If a lawsuit is brought before the court regarding a dispute which is the subject of an arbitration agreement, the other party may make an initial objection to the arbitration. In such case, the court shall accept such objection and dismiss the lawsuit on procedural grounds, unless the arbitration agreement is null and void or impossible to be implemented.

(2) Objection to the arbitration shall not entail an obstruction of the arbitral proceedings.

### **Interim measures and recording of evidence**

**ARTICLE 414-** (1) Unless otherwise agreed by the parties, the arbitrator or the arbitral tribunal, at the request of a party, may order an interim measure or recording of evidence during arbitral proceedings. The arbitrator or the arbitral tribunal may require the provision of appropriate security for decisions of interim measure.

(2) The court shall rule on the enforceability of an interim measure granted by the arbitrator or the arbitral tribunal, upon request of a party, provided that an arbitration agreement is currently in effect.

(3) In cases where the arbitrator or the arbitral tribunal or another person to be assigned by the parties is unable to act on a timely or effective basis, either party may apply to the court for arbitration for the purposes of interim measure or recording of evidence. If this is not the case, applications for arbitration can only be made based on a written agreement in such regard between the parties or the authorization of the arbitrator or the arbitral tribunal.

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(4) A decision of a court for interim measures that is given upon the request of a party before or during arbitral proceedings shall automatically cease to have effect where the decision of the arbitral tribunal becomes enforceable or where the case is rejected by the arbitrator or the arbitral tribunal.

(5) An interim measure granted by the court may be amended or terminated by the arbitrator or the arbitral tribunal.

#### **Number of arbitrators**

**ARTICLE 415-** (1) The parties are free to determine the number of arbitrators. However, this number must be an odd number.

(2) If the number of arbitrators has not been determined by the parties, three arbitrators shall be selected.

#### **Selection of the arbitrators**

**ARTICLE 416-** (1) The parties are free to agree on a procedure for the selection of the arbitrator or the arbitrators. Unless otherwise agreed by the parties, the following rules shall be applied to the selection of the arbitrators:

a) Only real persons can be selected as arbitrators.

b) Where a sole arbitrator is to be selected and the parties are unable to agree on the arbitrator, the arbitrator shall be selected, upon request of a party, by the court.

c) If three arbitrators are to be selected, each party shall appoint one arbitrator and the two arbitrators thus selected shall decide on the third arbitrator. If a party fails to select the arbitrator within thirty days of receipt of such a request from the other party, or if the two arbitrators selected by the parties fail to agree on the third arbitrator within thirty days of their selection, the selection shall be made, upon request of a party, by the court. The third arbitrator shall act as the chair.

ç) If more than three arbitrators are to be selected, the arbitrators who will select the last arbitrator shall be appointed by the parties in equal numbers in accordance with the procedure set forth in the above subparagraph.

d) If multiple arbitrators are to be selected, at least one of them must be a legal professional with five years or more of experience in their area of specialty.

(2) Where under a selection procedure agreed upon by the parties;

a) A party fails to comply with the agreement,

b) The parties or the arbitrators selected by the parties are unable to reach an agreement despite having to reach a joint decision on the selection of arbitrators,

c) A third party, institution or organization authorized with the selection of arbitrators fails to select the arbitrators or the arbitral tribunal,

The selection of the arbitrators or the arbitral tribunal shall be made, upon request by a party, by the court. No recourse is possible against the decision of the court given, where necessary, upon hearing the parties. In the selection of an arbitrator, the court shall give due regard to any agreement between the parties and selecting an independent and impartial arbitrator. In case of selection of more than three arbitrators, the same principles shall also be applicable.(1)

#### **Grounds for rejection**

**ARTICLE 417-** (1) A person who is asked to act as an arbitrator shall disclose any circumstances and conditions that justify doubts as to their impartiality or independence. An arbitrator shall without delay disclose any such circumstances to the parties unless they have already been informed of them.

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(1) "Appeal" in this paragraph and in Article 58 of the Law no. 7101 and dated 28/2/2018 has been replaced by "recourse".

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(2) An arbitrator may be rejected if they do not possess the qualifications that were agreed to by the parties, if there exists a reason for rejection in accordance with the arbitration procedure agreed upon by the parties, or if there are circumstances and conditions that justify doubts as to their impartiality or independence. A party can only reject an arbitrator that they have appointed or which they participated in the appointment of based on the reasons for rejection learnt after the date of appointment of that arbitrator.

#### **Procedure for rejecting an arbitrator**

**ARTICLE 418-** (1) The parties can freely agree on a procedure for rejecting an arbitrator.

(2) A party who intends to reject an arbitrator can, within two weeks after being informed of the selection of arbitrator or arbitral tribunal or of any circumstance that may give rise to rejection, request for rejection, and shall inform the other party in writing of this request. If an arbitrator who is rejected does not withdraw or if the other party does not accept the rejection, the arbitral tribunal shall make a decision on the rejection.

(3) A party who requests for the rejection of one or more arbitrators shall provide its request and reasoning before the arbitral tribunal. A party who becomes aware that the rejection has been unsuccessful may, within one month after the date of notification, apply to the court for lifting such decision and rejection of the arbitrator or the arbitrators.

(4) An application for the rejection of the arbitrator selected, all members of the arbitral tribunal, or a number of arbitrators that may remove the decision-making majority, shall only be made to the court. No recourse is possible against the decision of the court under this paragraph.(1)

(5) The arbitration will come to an end if the court agrees to the rejection of the arbitrator selected, all members of the arbitral tribunal, or a number of arbitrators that may remove the decision-making majority. However, unless the names of the arbitrator or arbitrators are specified in the arbitration agreement, new arbitrators shall be selected.

#### **Responsibility of the arbitrators**

**ARTICLE 419-** (1) Unless otherwise agreed by the parties, an arbitrator who accepts office shall be responsible to indemnify any damages that are due to the failure of the arbitrator to perform their duties without a justifiable reason.

#### **Failure to perform duties**

**ARTICLE 420-** (1) If an arbitrator, de jure or de facto, fails to perform their duty or fails to act on time, if they withdraw from their office, or if the parties agree on the termination, their mandate shall be terminated.

(2) If any dispute occurs concerning the existing of any ground for the arbitrator's withdrawal from office, any party may request the court to decide on the termination of the arbitrator's mandate. The decision given by the court shall be final.

(3) The arbitrator's withdrawal from their office or the acceptance of the other party of the termination of the arbitrator's mandate does not imply acceptance of the existence of any ground for the rejection.

#### **Selection of new arbitrators**

**ARTICLE 421-** (1) Where the mandate of an arbitrator terminates for any reason, a substitute arbitrator shall be selected according to the procedure that was applicable to the selection of the arbitrator being replaced.

(2) The replacement of one or more arbitrators will not suspend the term of arbitration.

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(1) "Appeal" in this paragraph and in Article 59 of the Law no. 7101 and dated 28/2/2018 has been replaced by "recourse".

(3) If the names and surnames of the arbitrator or the arbitrators making up the arbitral tribunal is specified in the arbitration agreement, upon the termination for any reason of the mandate of the arbitral tribunal or a number of arbitrators that would remove the decision-making majority of the tribunal, the arbitration shall be terminated.

**Arbitrator ruling on their own competence**

**ARTICLE 422-** (1) The arbitrator or the arbitral tribunal may rule on their own jurisdiction, including any objections with respect to the existence or validity of the arbitration agreement. For that purpose, an arbitration clause that forms part of an agreement shall be treated independently of the other terms of the agreement. A decision by the arbitrator or arbitral tribunal that the original agreement is null and void shall not entail ipso jure the invalidity of the arbitration agreement.

(2) A plea as to the arbitrator or the arbitral tribunal not having jurisdiction shall be raised not later than the submission of the statement of defence. The parties having personally selected, or participated in the selection of, an arbitrator does not preclude them from raising such plea with regard to the mandate of the arbitrator or the arbitral tribunal.

(3) A plea that the arbitrator or the arbitral tribunal is exceeding the scope of its authority shall not be valid if it is not raised without undue delay.

(4) The arbitrator or the arbitral tribunal may, in either case, admit a later plea if it considers the delay justified.

(5) The arbitrator or the arbitral tribunal shall examine and rule on the objection to its jurisdiction as a preliminary question. If they consider themselves competent, then the arbitral proceedings shall be continued and a decision rendered.

**Equality of parties and the right to be legally heard**

**ARTICLE 423-** (1) The parties shall have the same rights and powers in the arbitration proceedings. Each party shall be given an opportunity to exercise their right to be legally heard.

**Determination of a procedure for arbitral proceedings**

**ARTICLE 424-** (1) The parties are free to determine the rules to be applied by the arbitrator or the arbitral tribunal regarding arbitral proceedings by making reference to the arbitration rules, provided that the mandatory provisions of this Chapter are reserved. Failing such an agreement between the parties, the arbitrator or the arbitral tribunal shall conduct arbitral proceedings as appropriate, by having due regard to the provisions of this Chapter.

**Place of arbitration**

**ARTICLE 425-** (1) The parties or an arbitration institution chosen by the parties are free to determine the place of arbitration. Failing such agreement, the place of arbitration shall be determined by the arbitrator or the arbitral tribunal according to the circumstances of the case.

(2) The arbitrator or the arbitral tribunal may meet upon prior notification to the parties at any place where the arbitration proceedings require, and conduct hearings, investigations etc.

**Date of commencement**

**ARTICLE 426-** (1) Unless otherwise agreed by the parties, an arbitration case is considered to have commenced on the date on which a request for the selection of arbitrators is made to the court or to a person, institution, or organization which, according to the parties' agreement, selects arbitrators, and where both of the parties are responsible for the selection of the arbitrators in accordance with the arbitration agreement, on the date of the claimant's notification, following the selection of their arbitrator, to the other party that they are to select their own arbitrator or, in case the arbitration agreement contains the name and surname of the arbitrator or that of the arbitrators making up the arbitral tribunal, on the date of receipt by the other party of the request for the resolution of the dispute through arbitration.

(2) In a case where a party has obtained an interim measure or an interim attachment from a court, the party shall commence arbitration within two weeks of its receipt. Otherwise, the interim measure or the interim attachment shall automatically be lifted.

**Term of arbitration**

**ARTICLE 427-** (1) Unless otherwise agreed by the parties, an award shall be rendered by the arbitrator or the arbitral tribunal as to the relevant dispute within one year, in the case of a sole arbitrator, from the date of their selection or, in the case where there are multiple arbitrators, from the date when the minutes of the arbitral tribunal's first meeting are kept.

(2) The term of arbitration may be extended, upon agreement of the parties, or, in case of failure, upon request by a party, by the court. The court's decision shall be final.

**Statement of claim and defence**

**ARTICLE 428-** (1) Within the period of time agreed by the parties or determined by the arbitrator, the claimant shall submit to the arbitrator or the arbitral tribunal its statement of claim containing the arbitration clause or agreement, the original agreement, if any, and the circumstances upon which the claim is based, while the respondent shall submit to the arbitrator or the arbitral tribunal its statement of defence including the circumstances upon which the defence is based.

(2) The parties may include in their statements written evidence and references to future evidence that they will submit.

(3) Unless otherwise agreed by the parties, either party may amend or extend their claim or defence during the arbitral proceedings. However, the arbitrator or the arbitral tribunal may not allow such amendment or extension having regard to the delay in making it or to the fact that it creates an unjust difficulty for the other party and to other circumstances and conditions. The claim or defence shall not be amended or extended so as to go beyond the scope of the arbitration agreement.

**Hearing or examination based on the case file**

**ARTICLE 429-** (1) The arbitrator or the arbitral tribunal can rule on whether to hold hearings for presentation of evidence, for verbal statements, or for requesting an explanation by experts, as well as on whether the proceedings shall be conducted on the basis of the case file. Unless the parties have agreed that no hearings shall be held, the arbitrator or the arbitral tribunal shall hold hearings at an appropriate stage of proceedings, if so requested by either party.

(2) The arbitrator or the arbitral tribunal shall give sufficient advance notice to the parties concerning the date of any inspection, examination by an expert, or of any hearing and any meeting for the purposes of examining other evidence, and of the consequences of the parties' failure to attend.

(3) All statements, information or other documents supplied to the arbitrator or the arbitral tribunal shall be communicated to the parties.

**Failure of a party to participate in arbitral proceedings**

**ARTICLE 430-** (1) In case of a party's failure to participate in the arbitral proceedings, the following provisions shall be applicable:

a) If the claimant fails to timely submit their statement of claim without a justifiable reason, if the statement of claim is not in accordance with the procedure for statement of claim, and the incompleteness is not remedied within the period to be determined by the arbitrator or the arbitral tribunal, the arbitrator or the arbitral tribunal shall terminate the arbitral proceedings.

b) If the defendant fails to submit their statement of defence, this shall not be considered as an admission of the claimant's allegations and the proceedings shall be continued.

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c) If any party fails to appear at a hearing or to produce evidence without a justifiable reason, the arbitrator or the arbitral tribunal may continue the arbitral proceedings and may make the award according to the evidence before it.

#### **Expert appointment by arbitrator or arbitral tribunal**

**ARTICLE 431-** (1) The arbitrator or the arbitral tribunal may rule on:

- a) The appointment of one or more experts to report to them on specific issues determined by them,
- b) Requiring a party to provide the expert any relevant statements or to produce any relevant information or documents,
- c) Conducting inspection.

(2) Unless otherwise agreed by the parties, if a party requests or if the arbitrator or the arbitral tribunal considers it necessary, the experts shall, after delivery of their written or oral reports, participate in a hearing they are asked to attend. In this hearing, the parties shall have the opportunity to pose questions to them and to present special expert witnesses in order to testify on the dispute.

#### **Collecting evidence**

**ARTICLE 432-** (1) The parties may, by consent of the arbitrator or the arbitral tribunal, request help from the court in collecting evidence.

#### **Decision making procedure of the arbitral tribunal**

**ARTICLE 433-** (1) The parties may also make decisions, unless otherwise agreed by the parties, by a majority of its members.

(2) Certain issues concerning procedure may be decided by the chair of the arbitral tribunal, if so authorized by the parties or the other members of the arbitral tribunal.

(3) The arbitrator or the arbitral tribunal shall decide *ex aequo et bono* or as *amiable compositeur* only if the parties have expressly authorized them to do so.

#### **Settlement**

**ARTICLE 434-** (1) If, during arbitral proceedings, the parties settle the dispute, the arbitral proceedings shall be terminated. If the request by the parties is of honourable or orderly nature or in relation to a subject matter that is eligible for arbitration, the settlement shall be recorded in the form of an arbitral award.

#### **Termination of arbitral proceedings**

**ARTICLE 435-** (1) The arbitral proceedings are terminated by the issuance of the final arbitral award or by the realization of any of the following circumstances:

- a) If the claimant withdraws their claim, unless the defendant objects thereto and the arbitrator or the arbitral tribunal recognizes a legitimate interest on their part in obtaining a final settlement of the dispute.
- b) If the parties agree on the termination of the proceedings.
- c) If the arbitrator or the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.
- ç) If a request concerning the extension of the term of arbitration in accordance with the second paragraph of Article 427 is rejected by the court.
- d) If, in cases where the parties agree that the arbitral tribunal renders its decision with unanimity, the arbitral tribunal could not reach unanimity.

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e) If an advance for arbitration expenses in accordance with the second paragraph of Article 442 is not deposited.

(2) The mandate of the arbitrator or the arbitral tribunal shall terminate with the termination of the arbitral proceedings, subject to the provisions of Article 437.

#### **Form, content and preservation of arbitral award**

**ARTICLE 436-** (1) An arbitral award shall contain the following:

a) The names and surnames of the arbitrator or the members of the arbitral tribunal,  
b) The names, surnames, titles and addresses of the parties, their representatives, if any, and lawyers,

c) The reasons upon which the award is based and their legal basis,

ç) Assets and liabilities as well as arbitration costs explicitly and clearly specified under a sequence number,

d) An indication that an action could be brought against the award,

e) The place of arbitration and the date of the award,

f) The signatures of the arbitrator or the whole or majority of the arbitral tribunal that made the award, and if it is included in the award, any dissenting opinions.

(2) Unless otherwise agreed, the arbitrator or the arbitral tribunal may render partial awards.

(3) (**Amended: 22/7/2020-Art 7251/45**) The arbitral award shall be notified to the parties by the arbitrator, the chairman of the arbitral tribunal, or the related arbitration institution. In addition, the original copy of the award shall be sent, alongside the case file, to the court to be preserved therein.

#### **Interpretation and correction of arbitral award, additional award**

**ARTICLE 437-** (1) Unless otherwise provided, within two weeks of receipt of the arbitral award, a party may, provided that the other party is notified, request the arbitrator or the arbitral tribunal to:

a) Correct in the arbitral award any material errors in computation, any typographical errors or any similar errors,

b) Provide an interpretation of the whole or parts of the award.

(2) If the arbitrator or the arbitral tribunal considers that, following the receipt of the other party's opinion, the request is justified, they shall make the correction of the material error or provide the interpretation within one month of receipt of the request. Where necessary, this period can be extended by the arbitrator or the arbitral tribunal.

(3) The arbitrator or the arbitral tribunal may correct any material error on their own within two weeks following the date of the award.

(4) A party, with notice to the other party, may request, within one month of receipt of the arbitral award, for an additional award to be made as to the claims presented in the arbitral proceedings but omitted from the award. If the arbitrator or the arbitral tribunal considers the request to be justified, they shall make the additional award within one month. Where necessary, this period can be extended for maximum one month by the arbitrator or the arbitral tribunal.

(5) The decision concerning the correction, interpretation and the additional award is notified to the parties and shall form part of the arbitral award.

#### **Notifications**

**ARTICLE 438-** (1) Unless otherwise agreed by the parties, any notification is made in accordance with the provisions of the Notification Law no. 7201 and dated 11/2/1959.



**Action to set aside**

**ARTICLE 439-** (1) Recourse against an arbitral award may only be made by an action to set aside the award. Actions to set aside shall be made before the regional court of justice in the place of arbitration and they shall be given priority and handled expeditiously.(1)

(2) An arbitral award may be set aside in cases where it is found that:

- a) A party to the arbitration agreement was under some incapacity, or the arbitration agreement is not valid,
- b) The selection of the arbitrator or the arbitral tribunal is not in accordance with the procedure specified in the agreement or in this Chapter,
- c) The award is not rendered within the term of arbitration,
- ç) The arbitrator or the arbitral tribunal unlawfully found itself competent or incompetent,
- d) The arbitrator or the arbitral tribunal made an award concerning an issue beyond the scope of the arbitration agreement, or did not make an award about the whole request, or exceeded their jurisdiction,
- e) The arbitral proceedings are not in compliance, in terms of the procedure, with the agreement, or, failing such agreement, with the provisions of this Chapter, and that such non-compliance affected the substance of the award,
- f) The parties are not treated equally and their right to be legally heard is not respected,
- g) The dispute which the arbitral award deals with is not available for arbitration under the Turkish law,
- ğ) The award is in conflict with the public order.

(3) In cases where an action to set aside the arbitral award is initiated on the ground that the award contains matters beyond the scope of arbitration agreement, if the matters that fall under the scope of arbitration agreement can be separated from those that do not, only that part of the arbitral award which contains matters that fall beyond the scope of arbitration agreement may be set aside.

(4) The action to set aside an award may be taken within one month. This period commences from the date of notification of the arbitral award or the decision on correction or interpretation or an additional award. This action shall not suspend the execution of the arbitral award. However, the execution of the arbitral award may be suspended, upon request by a party, provided that a security is provided to match the value of the specified cash or property.

(5) The application for setting aside the arbitral award shall, unless the regional court of justice that hears the case decides otherwise, be decided upon examination of the case file.(1)

(6) The judgment on the action to set aside the award may be appealed. The examination shall be given priority and handled expeditiously, limited to the grounds for setting aside the award specified in this article. An appeal shall not suspend the execution of the award.

(7) In cases where the action to set aside the award is accepted and no appeal is launched against the judgment concerning the acceptance, or under the circumstances envisaged under subparagraphs 2(b), (c), (ç), (d), (e), and (f), the parties, unless the parties have agreed otherwise, may redetermine the arbitrators and the term of arbitration. The parties may appoint their former arbitrators, if they so wish.(1)

**Fees of arbitrators**

**ARTICLE 440-** (1) Unless otherwise agreed by the parties, the fees of the arbitrators shall be arranged between the arbitrator or the arbitral tribunal and the parties, by taking into consideration the amount in dispute, the nature of the dispute and the term of arbitral proceedings.

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*(1) The term "the court in the place of arbitration" specified in the first paragraph of this Article and Article 60 of the Law no. 7101 and dated 28/2/2018 was replaced by "the regional court of justice in the place of arbitration", the term "court" in the fifth paragraph by "regional court of justice", and the term "(c)" was added after "(b)" in the seventh paragraph.*

(2) The parties may determine the fees of the arbitrator or the arbitral tribunal by making a reference to the established international rules or institutional arbitration rules.

(3) If the parties and the arbitrator or the arbitral tribunal cannot agree on the determination of the fees or if the arbitration agreement does not contain any provision concerning the determination of the fees or if no reference has been made by the parties in this respect to the established international rules or institutional arbitration rules, the fees of the arbitrator or the arbitral tribunal shall be determined in accordance with the tariff of fees determined annually by the Ministry of Justice after consultation with the relevant professional organizations, which are public establishments in nature.(1)

(4) Unless otherwise agreed by the parties, the fees of the chairman shall be calculated as ten percent more than the fee to be paid to each arbitrator.

(5) Unless otherwise agreed, no additional fees shall be payable for the correction or interpretation of the award or issuing an additional award. (2)

(6) The award of the arbitrator or the arbitral tribunal shall contain the costs of proceedings.

### **Costs of proceedings**

**ARTICLE 441-** (1) Costs of proceedings include:

a) The fees of arbitrators and the secretariat as determined by the arbitrators,

b) Arbitrators' travel expenses and other expenses that incur,

c) The fees paid to the experts, and to the other persons whose assistance is sought and who are appointed by the arbitrator or the arbitral tribunal, and the costs for the site inspection,

ç) The witnesses' travel and other expenses to the extent approved by the arbitrator or the arbitral tribunal,

d) If they are represented by an attorney at law, the successful party's attorney fees, which are calculated by taking into account the minimum fee tariff, subject to the approval of the arbitrator or the arbitral tribunal,

e) The charges for the applications to be made to the courts in accordance with this Law,

f) The notification expenses with respect to the arbitral proceedings.

### **Deposit of advance and payment of costs**

**ARTICLE 442-** (1) The arbitrator or the arbitral tribunal may request that each of the parties deposit an advance, where necessary, for the costs of proceedings. Unless otherwise agreed, this advance shall be paid in equal amount by the parties.

(2) If the advance is not paid within the period specified in the arbitral award, the arbitrator or the arbitral tribunal may suspend the proceedings. If the advance is paid within one month from the notification to the parties of the suspension, the arbitral proceedings shall be continued; otherwise, the arbitral proceedings shall come to an end.

(3) After the award is rendered, the arbitrator or the arbitral tribunal shall provide to the parties a certificate stating where and how much of the advances deposited were spent and shall return any remaining balance of the advance to the party who paid it.

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

(5) The award of the arbitrator or the arbitral tribunal that terminates the arbitral proceedings or that settles the case shall also contain the costs of proceedings.

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(1) With regard to the tariff specified in this paragraph, see "Arbitrators' Fee Tariff in the Civil Procedure Code" published in the Official Gazette no. 30196 and dated 30/9/2017.

(2) The term "No additional fees" in this paragraph and Article 46 of the Law no. 7251 and dated 22/7/2020.

**Setting aside the judgement**

**ARTICLE 443-** (1) With regard to setting aside the judgement, the provisions of Part Three of Chapter Six above shall apply to arbitration as appropriate for its nature.

(2) Only the subparagraphs (b), (c), (e), (f), (g), (h), (i), and (i) of Article 375(1) shall apply to arbitration for the purposes of setting aside the judgement. The action for setting aside the judgement shall be heard by the court.

(3) If the application for setting aside the judgement is accepted, the court shall repeal the arbitral award and appoint a new arbitrator or arbitral tribunal to decide on the dispute. In such case, the arbitrator or the arbitral tribunal shall be reselected or re-established in accordance with Article 421.

**Inapplicable provisions**

**ARTICLE 444-** (1) With respect to the matters regarding this Chapter, unless otherwise stated, the other provisions of this Law shall not be applicable.