INTERNATIONAL ARBITRATION LAW

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CHAPTER ONE
General Provisions

Purpose and scope

Article 1 – The purpose of this Law is to set forth the procedures and principles concerning international arbitration.

This Law shall be applicable where a dispute has a foreign element and the place of arbitration is determined to be in Turkey or where the provisions of this Law are chosen to be applied by the parties or their arbitrator or an arbitral tribunal.

Articles 5 and 6 of this Law are applicable even if the place of arbitration is determined to be outside Turkey.

This Law shall not be applicable to disputes related to real rights concerning immovables and to disputes that are not within the disposal of the two parties.

This Law shall also be applicable to the resolution, through international arbitration, of disputes concerning concession contracts which are related to public services and which contain a foreign element in accordance with Law No. 4501 of 21 January 2000 concerning Principles That Shall Be Complied with When There Is Access to Arbitration for Disputes Arising from Concession Contracts and Agreements Related to Public Services.

The provisions of international conventions to which Turkey is a party are reserved.

Foreign element

Article 2 – The existence of any of the following circumstances demonstrates that the dispute has a foreign element and, under such circumstances, arbitration is considered as international:

1. Where the parties to the arbitration agreement have their domiciles or habitual residences or places of business in different states;

2. Where one of the following is situated outside the State in which the parties have their domiciles or habitual residences or places of business;

a) The place of arbitration, which is determined in, or pursuant to, the arbitration agreement,

b) A place where a substantial part of the obligations arising from the underlying contract is performed or a place where the dispute has the closest connection.

3. Where at least one shareholder of the company, which is a party to the underlying contract that constitutes the basis for the arbitration agreement, has brought foreign capital in accordance with the laws concerning the encouragement of foreign capital, or where a loan and/or guarantee agreement needs to be signed for the execution of the underlying contract.

4. Where, in accordance with the underlying contract or with the underlying legal relationship, the movement of capital or of goods shall be made from one country to another.

The provisions of Law No. 4501 of 21.1.2000 are reserved.

Competent Court, limit of intervention

Article 3 - In the works specified in this Law to be carried out by the court, the defendant's place of residence, habitual residence or place of business is the civil court of first instance; if the defendant does not have a place of residence, habitual residence or place of business in Turkey, Istanbul Court of First Instance shall be responsible and authorized.

For problems arising from international arbitration, courts can only intervene in accordance with the provisions of this Law.

CHAPTER TWO
Arbitration Agreement

Definition and form

Article 4 - 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. An arbitration agreement may be in the form of an arbitration clause in an agreement or in the form of a separate agreement.

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.

The arbitration agreement shall be valid according to the law agreed by the parties, failing such agreement to Turkish Law.

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.

Objection and agreement to arbitration before the court

Article 5 – If an action is brought before the court regarding a dispute which is the subject of an arbitration agreement, the other party may make an objection to the arbitration. The submission of that objection and the resolution of disputes concerning the validity of the arbitration agreement are subject to the provisions of the Code of Civil Procedure concerning initial objections. If such objection is accepted, then the court shall dismiss the action on procedural grounds.

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

Interim measures and interim attachments

Article 6 – It is not inconsistent with an arbitration agreement for a party to request, before or during arbitral proceedings, from a court an interim measure or interim attachment and for the court to grant such measures or attachment.

Unless otherwise agreed by the parties, the arbitrator or arbitral tribunal, at the request of a party, may order an interim measure or an interim attachment during arbitral proceedings. The arbitrator or the arbitral tribunal may require the provision of appropriate security for decisions of interim measure or interim attachment. The arbitrator or the arbitral tribunal shall not grant interim measures or interim attachments that are required to be enforced through enforcement offices or to be executed through other official authorities or which bind third parties.

If a party does not comply with the interim measure or attachment granted by an arbitrator or arbitral tribunal, the other party may request the assistance of the competent court for taking an interim measure or interim attachment. The competent court, if necessary, may hear through a substitute court.

The parties' right to make a request in accordance with the Civil Code of Procedure and the Enforcement and Bankruptcy Law is reserved.

Any decision of a court for interim measures or interim attachments 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 arbitral tribunal.

CHAPTER THREE
Selection, Rejection, and Responsibility of the Arbitrator and Arbitral Tribunal, Termination of their Duties and their Competence

Number, selection, rejection, and responsibility of arbitrators, termination of their duties, and their competence

Article 7 – A) The parties are free to determine the number of arbitrators. However, this number must be an odd number.

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

B) Unless otherwise agreed by the parties, the following rules shall be applied to the selection of the arbitrators:

1. Only real persons can be selected as arbitrators.

2. 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 civil court of first instance.

3.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 civil court of first instance. The third arbitrator shall act as the chair.

4. 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.

Where under a selection procedure agreed upon by the parties;

1. A party fails to comply with the agreement,

2. 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,

3. 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 civil court of first instance.

The decision of the civil court of first instance given, where necessary, upon hearing the parties, shall be final. 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, as well as, where the parties are of different nationalities, selecting an arbitrator of a nationality other than those of the parties in case of selection of the sole arbitrator, and in case of selection of three arbitrators, ensuring that two of the arbitrators are not of the same nationality as any of the parties. In case of selection of more than three arbitrators, the same principles shall also be applicable.

C) 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.

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.

D) The parties can freely agree on a procedure for rejecting an arbitrator.

A party who intends to reject an arbitrator can, within thirty days 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.

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, within thirty days after the date of notification, may apply to the civil court of first instance for lifting such decision and rejection of the arbitrator or arbitrators.

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 civil court of first instance. The decision of the civil court of first instance under this paragraph is final.

The arbitration will come to an end if the civil court of first instance 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.

E)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.

F)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.

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

The arbitrator's withdrawal from 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.

G) 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.

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

H) 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.

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.

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.

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

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.

CHAPTER FOUR
Arbitration Procedure

Determination of the rules of procedure, equality of parties and their representation

Article 8 – A) The parties are free to agree on the procedure to be applied by the arbitrator or the arbitral tribunal during the proceedings, subject to the mandatory provisions of this Law, or they may determine such procedure with reference to any law, or international or institutional arbitration rules.

If there is no such agreement between the parties, the arbitrator or the arbitral tribunal shall conduct the proceedings in accordance with the provisions of this Law.

B)The parties shall have the same rights and powers in the arbitration proceedings. Each party shall be given an opportunity to assert their claims and defences.

The parties may also be represented in the arbitration proceedings by foreign real or legal persons. This provision shall not be applicable to requests to a court concerning arbitration.

Place of arbitration

Article 9 – 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.

The arbitrator or the arbitral tribunal may meet upon prior notification to the parties at any place where the arbitration proceedings require.

Date of commencement, term and language of arbitration, statement of claim and defence, terms of reference

Article 10 – A) 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 civil court of first instance 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.

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

B)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.

The term of arbitration may be extended, upon agreement of the parties, or, in case of failure, upon request by a party, by the civil court of first instance. In case of denial of the request, arbitration proceedings shall be ended at the end of the term of arbitration. The court's decision shall be final.

C)The arbitration proceedings can be performed in Turkish or any other language that is the formal language of a state that is recognized by the Republic of Turkey. The parties are free to agree on the language or languages to be used in the arbitral proceedings, whereas failing such agreement, it shall be determined by the arbitrator or the arbitral tribunal. Unless otherwise provided in the agreement of the parties or in the interim decision made by the arbitrators with regard to the issue, such language or languages shall be used in any written statement by the parties, any hearings and any interim decision, final judgment and written notices of the arbitrator or the arbitral tribunal.

The arbitrator or the arbitral tribunal may rule that any evidence relied on by the parties shall be accompanied by a translation into the language or languages used in the arbitration proceedings.

D) Within the period of time agreed by the parties or determined by the arbitrator or the arbitral tribunal, the claimant shall submit to the arbitrator or the arbitral tribunal its statement of claim containing the parties' names, titles, addresses and their representatives, the arbitration clause or agreement, the agreement or legal relationship that brought about or which is related to the dispute, the circumstances upon which the claim is based, the subject matter of the dispute, the amount in dispute and their request, while the defendant shall submit to the arbitrator or the arbitral tribunal its statement of defence. The parties may include in their statements written evidence and references to future evidence that they will submit.

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.

E) Unless otherwise agreed by the parties, the arbitrator or the arbitral tribunal, following the submissions as to the claim and defence, shall draw up its terms of reference.

The terms of reference may contain such particulars as the parties' names and titles, their current addresses for notification during the arbitration, a summary of their claims or defences, their requests, explanations on the dispute, the names and surnames, titles, and addresses of the arbitrators, the place of arbitration, the term of arbitration, the commencement of the term, explanations as to the procedural rules applicable to the dispute, and whether or not the arbitrators are authorized to act as amiable compositor.

The terms of reference shall be signed by the arbitrators and the parties.

Hearing and proceedings in writing, losing capacity to be a party, failure of a party to participate in arbitral proceedings

Article 11 – A) The arbitrator or the arbitral tribunal shall 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.

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.

All statements, information or other documents supplied to the arbitrator or the arbitral tribunal shall be communicated to the other party.

B) Where a party to arbitral proceedings loses their capacity to be a party to arbitration, the arbitrator or the arbitral tribunal suspends the arbitral proceedings and notifies the relevant parties for the purposes of continuation of the proceedings. In such case, the term of arbitration shall not run.

The arbitral proceedings shall come to an end if, within six months, no notification is made or a party who is being served the notification does not explicitly notify the other party or the arbitrator or the arbitral tribunal of their intention to continue with the proceedings.

C) In case of a party's failure to participate in the arbitral proceedings, the following provisions shall be applicable:

1. If the claimant fails to timely submit their statement of claim without a justifiable reason, the arbitrator or the arbitral tribunal shall terminate the arbitral proceedings.

2. If the statement of claim is not in accordance with the first subparagraph of Article 10(D) 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.

3. 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.

4. If any party fails to appear at a hearing or to produce evidence, 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, collecting evidence, rules applicable to substance of dispute and settlement

Article 12 – A) The arbitrator or the arbitral tribunal may rule on:

1. The appointment of one or more experts to report to them on specific issues determined by them,

2. Requiring a party to provide the expert any relevant statements or to produce any relevant information or documents,

3. Conducting inspection related to the case.

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.

B) The parties shall provide their evidence within the term that is determined by the arbitrator or arbitral tribunal. The arbitrator or the arbitral tribunal may request help from the court of first instance assistance in collecting evidence. In such case, the court shall apply the provisions of the Civil Code of Procedure.

C) The arbitrator or the arbitral tribunal shall decide in accordance with the provisions of the agreement between the parties and the rules of law that are chosen by the parties as applicable to the substance of the dispute. The commercial usages and practices under the law shall be taken into account in interpreting the provisions of the agreement and for filling gaps. Any designation of the law of a given State shall be construed, unless otherwise expressed, as directly referring to the substantive law of that State and not to its conflict of laws rules or its rules of procedure.

Failing any agreement by the parties on the substantive law to be applied to the dispute, the arbitrator or the arbitral tribunal shall make awards based on the substantive law of a State that is considered to have the closest connection with the dispute.

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.

D) If, during arbitral proceedings, the parties settle the dispute, the arbitral proceedings shall be terminated. The arbitrator or the arbitral tribunal shall, if they accept the request by the parties, record the settlement in the form of an arbitral award.

Decision making procedure of the arbitral tribunal and termination of arbitral proceedings

Article 13 – A) Any decision of the arbitral tribunal shall be made, unless otherwise agreed by the parties, by a majority of its members.

However, 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.

B)The arbitral proceedings are terminated by the issuance of the final arbitral award or by the realization of any of the following circumstances:

1. 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.

2. If the parties agree on the termination of the proceedings.

3. If the arbitrator or the arbitral tribunal finds that the continuation of the proceedings has for any other reason become unnecessary or impossible.

4. If a request concerning the extension of the term of arbitration in accordance with the second subparagraph of Article 10(B) is rejected.

5. If, in cases where the parties agree that the arbitral tribunal renders its decision with unanimity, the arbitral tribunal could not reach unanimity.

6. If the arbitration proceedings could not be continued in accordance with the second subparagraph of Article 11(B).

7. If an advance for arbitration expenses in accordance with the second subparagraph of Article 16(C) is not deposited.

The mandate of the arbitrator or the arbitral tribunal shall terminate with the termination of the arbitral proceedings, subject to the provisions of Article 14(B).

Form, content, correction and interpretation of award, additional award, receipt of written notifications

Article 14 – A) An arbitral award shall contain the following:

1. The names, surnames, titles and addresses of the parties, their representatives, if any, and lawyers,

2. The reasons upon which the award is based and their legal basis, and with regard to requests for compensation, the amount of compensation,

3. The place of arbitration and the date of the award,

4. The name and surname, signature and dissenting opinion of the arbitrator or the arbitral tribunal that made the award,

5. An indication that an action could be brought against the award.

Unless otherwise agreed, the arbitrator or the arbitral tribunal may render partial awards. The arbitral award shall be notified to the parties by the arbitrator or the chair of the arbitral tribunal.

The parties may request that the arbitral award be sent to the civil court of first instance provided that the relevant costs are paid. In such case, the arbitrator or the chair of the arbitral tribunal shall submit the award and the case file to the civil court of first instance and they shall be kept at the office of the clerk.

B) Within thirty days of receipt of the award, a party may, provided that the other party is notified, request the arbitrator or the arbitral tribunal to:

1. Correct in the arbitral award any material errors in computation, any typographical errors or any similar errors,

2. Provide an interpretation of the whole or parts of the award.

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 thirty days of receipt of the request.

The arbitrator or the arbitral tribunal may correct any material error on their own within thirty days following the date of the award.

A party, with notice to the other party, may request, within thirty days 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 sixty days.

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

C) Unless otherwise agreed by the parties, any written notification is deemed to have been received if it is delivered to the addressee personally or if it is delivered at their domicile, habitual residence, place of business or mailing address.

If none of the above can be found after making a reasonable inquiry, a written notification is deemed to have been received if it is sent to the addressee's last known domicile, habitual residence, place of business or mailing address by registered letter or any other means which provides a record of the attempt to deliver it.

The written notification is deemed to have been received on the day it is delivered as specified above. The provisions of this paragraph do not apply to communications by courts.

CHAPTER FIVE
Recourse Against Arbitral Awards

Action to set aside and arbitral awards becoming enforceable

Article 15 – A) Recourse against an arbitral award may only be made by an action to set aside the award. **(Amended 2nd sentence: 28/2/2018-Art 7101/53)** Actions to set aside shall be made before the regional court of justice where the competent civil court of first instance has jurisdiction in accordance with Article 3, and they shall be given priority and handled expeditiously.

An arbitral award may be set aside in the following circumstances:

1. Where the party making the application furnishes proof that:

a) A party to the arbitration agreement was under some incapacity, or the arbitration agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the Turkish law,

b) The selection of the arbitrator or the arbitral tribunal is not in accordance with the procedure specified in the parties' agreement or in this Law,

c) The arbitral award is not rendered within the term of arbitration,

d) The arbitrator or the arbitral tribunal unlawfully found itself competent or incompetent,

e) 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,

f) The arbitral proceedings are not in compliance, in terms of the procedure, with the parties' agreement, or, failing such agreement, with the provisions of this Law, and that such non-compliance affected the substance of the award,

g) The parties are not treated equally, or

2. Where the regional court of justice finds that:(1)

a) The dispute which the arbitral award deals with is not available for arbitration under the Turkish law,

b) The award is in conflict with the public order.

In cases where an action to set aside the 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.

The action to set aside an award may be taken within thirty days. 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 automatically suspend the execution of the arbitral award.

The parties may, in part or in full, renounce the right to initiate an action to set aside the award. Parties whose domicile or habitual residence is not in Turkey may completely renounce the right to initiate action to step aside in an express clause in the arbitration agreement or by agreeing later in writing. In the same manner, the parties may renounce the right to set aside the award for one or more of the reasons as set forth above.

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.(2)

(Amended first sentence: 28/2/2018-Art. 7101/53) The judgment on the action to set aside the award may be appealed in accordance with the provisions of the Civil Code of Procedure No. 6100 dated 12/1/2011. The examination shall be given priority and handled expeditiously, limited to the grounds for setting aside the award specified in this article.

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 1(b), (d), (e), (f), (g) and subparagraph 2(b), 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.

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(1) The term " by the court" in this subparagraph and Article 53 of this Law no. 7101 and dated 28/2/2018 has been changed to "by the regional court of justice".

(2) The term "court" in this subparagraph and Article 53 of this Law no. 7101 and dated 28/2/2018 has been changed to ""regional court of justice".

B)Upon the finalization of the judgment concerning the denial of the action to set aside, the civil court of first instance shall give a certificate concerning the enforceability of the arbitral award to the party who made a request for it. No court charges are applicable to the issuance of this certificate. At the stage of the arbitral award's enforcement, the provisions of the Code on Charges shall be applicable.

In cases where the term provided for the action to set aside has elapsed or where the parties have renounced the right to initiate an action to set aside, subparagraphs (A)2(a) and (b) shall be automatically taken into consideration by the court for granting the certificate concerning the enforceability of the arbitral award. In such case, unless the court decides otherwise, the examination shall be made on the file.

CHAPTER SIX

Costs of Arbitration

Fees of arbitrators, costs of proceedings, deposit of advance, payment of costs

Article 16 – A) 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.

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.

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 schedule of fees determined annually by the Ministry of Justice after consultation with the relevant professional organizations, which are public establishments in nature.

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.

No additional fees shall be payable for the correction or interpretation of the award or issuing an additional award. 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.

No additional fees shall be payable for the correction or interpretation of the award or issuing an additional award.

B) The arbitrator or the arbitral tribunal shall state the costs of arbitration in the arbitral award. The term “costs of proceedings” includes:

1. Arbitrators' fees,

2. Arbitrators' travel expenses and other expenses that incur,

3. 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,

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

5. 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 schedule, subject to the approval of the arbitrator or the arbitral tribunal,

6. The charges for the applications to be made to the courts in accordance with this Law,

7. The notification expenses with respect to the arbitral proceedings.

C) The arbitrator or the arbitral tribunal may request that the claimant deposit an advance for the costs of proceedings.

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 thirty days from the notification to the parties of the suspension, the arbitral proceedings shall be continued; otherwise, the arbitral proceedings shall come to an end.

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.

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

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.

CHAPTER SEVEN
Final Provisions

Inapplicable and repealed provisions

Article 17 – With respect to the matters regarding this Law, unless otherwise stated, the provisions of the Civil Code of Procedure shall not be applicable.

(Article 5 of Law No. 4501 and dated 21 January 2000 concerning Principles To Be Complied with When There Is Access to Arbitration for Disputes Arising from Concession Contracts is repealed.)

Competent court with regard to the dispute

Additional Article 1- (Annex: 28/2/2018-Art 7101/54)

The duties and powers conferred to the civil court of first instance under this Law shall be used by the civil or commercial court of first instance depending on the subject matter of the dispute.

Transitory Article 1 – If the parties and the arbitrator or the arbitral tribunal cannot agree on the determination of the fees or the arbitration agreement does not contain any provision regarding the determination of the fees or the parties made no reference with respect to the fees to internationally established rules or institutional arbitration rules, until the Ministry of Justice prepares a fee schedule, the fees of the arbitrators or the arbitral tribunal shall be assessed by the civil court of first instance by taking into account the nature of the dispute and the term of arbitration.

The procedures and principles concerning the preparation of the fee schedule shall be contained in the regulations to be issued by the Ministry of Justice within six months following the date of publication of the Law.

Entry into force

Article 18 – This Law enters into force on the date of its publication.

Enforcement

Article 19 - The provisions of this Law are enforced by the Council of Ministers.

TABLE SHOWING THE EFFECTIVE DATES OF THE LEGISLATION OR DECISIONS OF THE CONSTITUTIONAL COURT SUPPLEMENTING AND AMENDING THE LAW NO. 4686

Number of the Amending Law/Decree or the Repealing Decision of the Constitutional Court	**Amended or repealed articles of the Law no. 4686**	**Date of Entry into Force**
7101	15, Additional Article 1	15/3/2018