

## TURKISH INTERNATIONAL ARBITRATION ACT 2001 ( IT'S STRUCTURE AND SALIENT FEATURES)

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### *1. Legal sources of the rules regulating arbitration*

Domestic arbitration in Turkish law has been regulated by the Code of Civil Procedure (“CCP”) (articles 516-536).

There are several institutional arbitration rules in Turkey: The Istanbul Chamber of Commerce Rules of Arbitration; TOBB Rules of Arbitration (Union of Chambers and Exchanges of Turkey); Izmir Chamber of Commerce Rules of Arbitration.

A special law exists for the international arbitration: Act on International Arbitration, num. 4686 of 21 June 2001 (hereinafter “AIA”).

Regarding the recognition and enforcement of foreign arbitral awards Act on Private International and Procedural Law, num. 2675 of 2 May 1982 applies.

Turkey is a party to the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (1958 New York Convention). (Ratified by the Law, num. 3731 of 8 May 1991).

The European Convention on International Commercial Arbitration (European Convention) done at Geneva on 21 April 1961 was ratified by Turkey the Law, num. 3730 of 8 May 1991).

Turkey has ratified the Convention on the Settlement of Investment Disputes between States and Nationals of Other States of 1966 (ICSID Convention) by the Law, num. 3460 in 1988.

## *2. Compulsory or mandatory arbitration*

Mandatory (compulsory) arbitration for several kinds of disputes exists in Turkish law. Such disputes may not be referred to voluntary arbitration. As examples of compulsory arbitration, the following laws can be cited:

- Act on Compulsory Arbitration, num. 3533: Under this Law Disputes Between the Administrations Under the General Budget, Subsidiary Budget and Individual Budget and Municipalities and the Administrations and Institutions whose Budget belongs to the State or Private Administrations are to be settled by compulsory arbitration.
- Act on Tobacco and Tobacco Monopoly, num. 1177: Under this law, disputes arising out implementation of written agreements between tobacco grower and purchaser are to be settled by arbitration (article 25).
- Governmental Decree Having the Power of Law, num. 91 on Exchange Securities (article 13).
- Act on Customs, num. 1615: Under this law, disputes relating to customs are to be settled by the Customs Arbitration Board.
- Act on Collective Bargaining, Strike and Lockout, num. 2822: Disputes arising out collective bargaining are to be settled by an official arbitrator. The parties are entitled, however, to refer the dispute to a private arbitrator (article 58 *et seq.*).
- Act on Rice Planting, num. 3039: Several disputes are to be settled by the Rice Commission as arbitrator (article 14).
- Act on Attorneys-at Law, num. 1136 (as amended by the Act num. 4667 of 2 May 2001): All disputes arising out “mandate agreement” as well as disputes related to honorary fee are to be settled by the Arbitration Board of the Bar Association where the legal assistance has been performed (article 167).
- Act on Notary Public, num. 1512: Under this law, disputes relating to the value of goods, furniture and installations to be paid by the new notary public in case of transfer of the office of a notary public (article 49/IV).
- Act on Formation and Duties of Turkey Football Federation, num. 3813: Under this law, an Arbitration Board exists in the Federation (article 4). All disputes between Federation and clubs, between federation and referees, between federation and technical directors or trainers, between clubs and technical directors or trainers, between clubs and football players, and between clubs are to be settled by the

Arbitration Board. Decisions of the Arbitration Board are final (article 13/III).

In cases of compulsory arbitration the provisions of the Code of Civil procedure on voluntary arbitration (article 516 *et seq.*) apply *mutatis mutandis*.

### *3. Number, nomination and appointment of arbitrators*

#### *3.1. Appointment of arbitrators*

\* Under Code of Civil Procedure.

Under CCP, arbitral tribunal is composed of three arbitrators unless otherwise agreed by the parties. Arbitrators are appointed by the court of the proper venue (article 520).

Where the parties to an agreement are entitled to nominate their arbitrators under the arbitral clause in the “main agreement” or in a separate “arbitration agreement”, each party nominates its own arbitrator. When one of the parties fails to nominate its arbitrator within 7 days after the receipt of notice for nomination, its arbitrator is appointed by the judge (article 520).

\* Under the Act on International Arbitration, num. 4686.

Under AIA, the parties are free to determine the number of arbitrators. However, the number of arbitrators shall be an odd number. Failing such determination, the number of arbitrators shall be three (article 7).

Unless otherwise agreed by the parties, regarding the appointment of arbitrators the following rules apply:

- Only a natural person shall be appointed as an arbitrator.
- In a case of arbitration with a sole arbitrator, if the parties are unable to agree on the appointment of the arbitrator, upon the request of a party, the Principal Court shall appoint the arbitrator.
- In a case of arbitration with three arbitrators, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator. If a party fails to appoint its arbitrator within 30 days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within 30 days of their appointment, the appointment shall be made, upon the request of a

party, by the Principal Court. The third arbitrator shall be the chairman of the arbitral tribunal.

- If more than three arbitrators are to be appointed, the arbitrators who will appoint the last arbitrator will be nominated in equal number by the parties according to the abovementioned procedure.
- Where, under an appointment procedure agreed upon by the parties, (i) if a party breaches the agreement, or (ii) the parties or arbitrators appointed by them are jointly agree on the appointment of the arbitrator pursuant to the agreed procedure, but the parties or arbitrators fail to reach an agreement, or (iii) a third party, institution or organization entrusted for the appointment of the arbitrator or arbitral tribunal fails to appoint the arbitrator or arbitral tribunal, then the appointment of the arbitrator or arbitral tribunal shall be made, upon request of a party, by the court of first instance.
- Decisions rendered by the court of first instance upon hearing the parties are final.
- As regards the nationality of arbitrator, where a sole arbitrator is to be appointed, this arbitrator shall be of a nationality other than those of the parties' if the parties have different nationalities.

Where three arbitrators are to be appointed, two arbitrators shall not be of the same nationality as one of the parties.

If there are more than three arbitrators to be appointed the same procedure applies.

\* Under institutional arbitration: ITO (Istanbul Chamber of Commerce) Arbitration Rules.

Under ITO Arbitration Rules, the arbitral tribunal is composed of three arbitrators (article 17).

ITO has arranged three Arbitrators' Lists. Lawyer arbitrators take place in the First List. Second List covers trader arbitrators. The Third List consists of experts. Normally, the lawyer arbitrator who is the chairman of the arbitral tribunal appoints the two arbitrators from the Second and Third Lists.

However, under ITO Arbitration Rules, the two arbitrators may be appointed by the parties by mutual agreement. If the parties agree, even all arbitrators may be appointed by them.

Moreover, the parties may agree on the appointment of a sole arbitrator to settle the dispute.

In case of appointment of arbitrators outside the ITO Lists, the appointment is subject to the approval of the Chamber's Assembly.

Where the arbitral tribunal is composed of three arbitrators, the lawyer arbitrator (First List) presides normally the arbitral tribunal.

When all arbitrators are appointed, from the First List or outside it, the chairman of arbitral tribunal (the presiding arbitrator) shall be nominated by the arbitrators themselves.

### *3.2. Independence and impartiality of arbitrators*

Every arbitrator must be and remain independent of the parties involved in the arbitration.

Lack of independence or impartiality is a ground of challenge of arbitrator (CCP article 521/I).

The provisions relating to disqualification and challenge of judges apply *mutatis mutandis* to arbitrators.

Therefore, in the following cases the arbitrator is forbidden to handle a case, even though there is no challenge: (i) if he or she has a direct or indirect interest in the dispute; (ii) in disputes concerning his/her spouse (even in case of divorce); (iii) in a dispute where the arbitrator acts as representative of one of the parties (CCP, article 28).

Moreover, an arbitrator may disqualify himself/herself or may be challenged by one of the parties in the following cases: (i) in a dispute where he or she has been counsel or has given advice to one of the parties; (ii) in a dispute where there is hostility or litigation between himself/herself and one of the parties; (iii) in any case when serious doubts as to the impartiality of the arbitrator exists (CPC article 29).

If an arbitrator does not act impartial he can be held liable for damage. In such cases, the provisions of CCP on liability of judges apply *mutatis mutandis* to liability of arbitrator (CCP article 573 *et seq.*).

### *4. Effect of “arbitration clause” or “arbitration agreement”*

Where an “arbitration clause” exists in an agreement (contact) or an “arbitration agreement” between the parties exists, the dispute may be handled by the arbitrator or arbitral tribunal under Turkish law.

In spite of the existence of an “arbitration clause” or an “arbitration agreement”, if the dispute is brought before a court by one of the parties, the other party may oppose it and request the court to reject the case. Objection on the ground of “arbitration clause” can be raised as a “preliminary objection” (*ilk itiraz*) or later as an “amendment” (*islah*) (CCP article 83 *et seq.*).

Under the AIA, if a dispute that constitutes the subject of an “arbitration agreement” has been brought before a court, the other party may oppose it. Regarding the disputes for settlement of opposition to the arbitration and validity of arbitration agreement are subject to the provisions of CCP on preliminary objections (AIA, article 5/I; CCP, article 83 *et seq.*). In the case of admittance of the opposition by the court, the case is rejected for procedural reasons (AIA, article 5/I).

When the parties agree to refer to arbitration during proceedings before a court, the file of the case is transferred to the relevant arbitrator or arbitral tribunal (AIA, article 5/II).

### *5. Arbitration proceedings*

#### *\* Arbitration under Code of Civil Procedure.*

Under CCP, the arbitral award shall be rendered within 6 months from the day when the arbitral tribunal is constituted. In default of meeting of this requirement, the proceedings shall be void and the dispute shall be brought before an ordinary court having jurisdiction (article 529/I).

The time for arbitral award may not be extended except with the express written consent of the parties or by decision of a judge (CCP article 529/II).

Under CCP unless the agreement provides otherwise, the arbitrator or arbitral tribunal determines the procedure of proceedings and the time therefore.

When the time has expired, the arbitrator or arbitral tribunal reaches the award solely upon the basis of the documents that have been brought before it (article 525). Legal rules on evidence (CCP article 236-374) apply to the arbitration (article 526). The arbitrator or arbitral tribunal may apply to a Justice of the Peace Court for:

- (i) the administration of an oath;
- (ii) the swearing of a witness or the questioning of one who refuses;
- (iii) the taking evidence through a foreign court; (iv) the production of proof of deeds (CCP articles 322, 323 and 333) (CCP article 527).

If during the hearing an incident of falsity (forgery) that may result in a penal prosecution takes place, the case shall be suspended until the criminal court decides on this matter. During this time the period fixed for arbitration shall not run (article 528).

\* Under Act on International Arbitration, num. 4686.

Under AIA, num. 4826 the parties may agree freely on the rules of procedure within the limits of compulsory provisions that would be applied by arbitrator or arbitral tribunal. They may determine them by making reference to a law, or international or institutional arbitration rules (*e. g.*, ICC Arbitration Rules). If there is no such agreement between the parties, the arbitrator or arbitral tribunal shall conduct the arbitral proceedings according to the provisions of AIA (article 8/A).

Under AIS, the parties have equal rights and competence in the arbitral proceedings. The parties shall be granted with the opportunity to present their claims and defenses (article 8/B).

Parties may be represented by foreign persons or legal persons during the arbitral proceedings. However, this provision does not apply to requests made to the courts concerning the arbitration (article 8/B):

Place of arbitration shall freely be determined by the parties or the arbitral tribunal appointed by them. Failing such agreement, the place of arbitration shall be determined by the arbitrator or arbitral tribunal taking into account the characteristics of the case (AIA, article 9).

The arbitrator or arbitral tribunal may decide to hold hearings for the presentation of evidence, request the expert to give explanations and for the presentation of oral arguments of the parties as well as conducting arbitration proceedings on the basis of documents in the file (AIA, article 11/A).

Unless otherwise agreed to by the parties, where there is a sole arbitrator the arbitral award on the merits of the case shall be rendered within one year after his appointment. In cases where there are more arbitrators, the arbitral award shall be rendered within one year following the drafting of the minutes of the first hearing (AIA, article 10/B).

The term of arbitration may be extended by the agreement of the parties or failing such agreement, by the court of first instance upon request of one of the parties (article 10/B).

Under AIA arbitration proceedings can be conducted in Turkish or any other official language of a State recognized by the Republic of Turkey (article 10/C).

The arbitrator or arbitral tribunal may decide (i) to appoint experts; (ii) to request the parties to make explanations, to produce relevant documents and to give information to the experts; (iii) to conduct of site visits relating to the case (article 12/A).

The arbitrator or arbitral tribunal may seek assistance of the Principal Court. In such a case, the court shall apply the provisions of CCP (AIA, article 12/B).

The arbitrator or arbitral tribunal makes its award in accordance with the provisions of the agreement between the parties and the applicable law chosen by the parties.

In all cases the arbitrator or arbitral tribunal shall take into account of the relevant trade usages regarding interpretation and implementation of the provisions of the contract (article 12/C I).

If the parties have not determined the applicable law to the merits of the case, the arbitrator or arbitral tribunal makes its award in accordance with the substantive law of the State that has the closest connection with the dispute (AIA, article 12/C II).

The arbitrator or arbitral tribunal may not render award as an amiable compositeur or decide *ex aequo et bono* unless the parties have agreed to give it such powers (article 12/C III).

When the parties agree to settle the dispute during the arbitration proceedings, the arbitrator or arbitral tribunal shall record the settlement in the arbitral award upon the request of the parties (article 12/D).

## *6. Arbitral awards relating to conservatory and interim measures, declaratory awards and final awards*

### *6.1. Arbitral awards relating to interim and conservatory measures*

\* Under Code of Civil Procedure.

In arbitrations under CCP the arbitrator or arbitral tribunal may not order interim and conservatory measures. The parties should apply to the competent court for provisional and conservatory measures (CCP article 101 *et seq.*).

\* Under Act on International Arbitration, num. 4686.

Under AIA unless otherwise agreed, the arbitrator or arbitral tribunal may grant an interim measure at the request of any party during arbitration (article 6/I). The arbitrator or arbitral tribunal may make the granting of any such measure subject to appropriate security.

If a party does not comply with the interim measure ordered by the arbitrator or arbitral tribunal, the other party may seek the assistance of the competent court for granting of interim and conservatory measure (article 6/III).

Under AIA, when a party requests a court the granting of interim measure before or during the arbitration, this shall not constitute a breach of the “arbitration agreement” (article 6/I).

## *6.2. Declaratory awards by arbitrator or arbitral tribunal*

Under Turkish law, the arbitrator or arbitral tribunal may render declaratory awards relating to clarification of a legal relationship or interpretation of a provision.

## *7-10. Voluntary arbitration*

\* Under Code of Civil Procedure.

Under CCP 1arbitration is not permitted in matters which are not subject to the disposal of the parties (e. g., unfair competition, restraints of competition, etc.) (article 518).

However, according to one view, after the ratification of the New York Convention, the commercial disputes (article 4 of the Turkish Commercial Code) such as cancellation of resolutions of shareholders' assembly (article 381, TCC), disputes relating to distribution of public utilities such as electrical energy and natural gas have acquired the arbitrability in Turkish law (Cfr. article V/2 a New York Convention). Such disputes can be settled by arbitration in Turkey.

\*Under Act on International Arbitration, num. 4686.

AIA applies to disputes containing foreign element and for which Turkey is determined as the place of arbitration or for which the provisions of this law are chose by the parties or the arbitrator or arbitral tribunal (article 1/II).

This law shall not apply to the disputes relating to rights in rem on immovable property and to the disputes not subject to the wills of both parties (article 1/IV).

The presence of any of the following circumstances indicates that the dispute contains a “foreign element” and in such a case the arbitration is qualified as “international arbitration” (article 2):

- if domiciles or habitual residences or places of business of the parties of “arbitration agreement” are located in different States;
- if the domiciles or habitual residences or places of business of the parties are located in a State other than (i) the place of arbitration which is specified in the “arbitration agreement” or determined on the basis of this agreement; (ii) the place where the significant part of the obligations arising out of the “main agreement” shall be performed or the place with which the matter in dispute has the closest connection.

Furthermore, a “foreign element” has been admitted in AIA in the following situations:

- when at least one of the company partners who are parties to the “main agreement” upon which the “arbitration agreement” is based has brought foreign capital to Turkey under the legislation on encouragement of foreign capital;
- when under the “main agreement” or “legal relationship” upon which the arbitration agreement is based transfer of capital or goods from one country to another has been carried out.

## *11. Arbitration and conciliation*

Arbitration means in Turkish law the settlement of disputes that have arisen or will arise between the parties, not by judicial authorities (courts) but by independent and impartial arbitrator or arbitral tribunal. In arbitration, the dispute is settled by an arbitral award which is binding on the parties and which can be enforced.

Conciliation is not a previous step to arbitration. A request for conciliation does not require an arbitration clause or any other special arrangement to have been negotiated.

If an agreement is reached during conciliation proceedings, it shall be recorded and signed by the parties and conciliator. Although an agreement reached in conciliation is legally binding, it is not enforceable as an arbitral award.

If a party fails to respect a conciliation agreement, the party wishing to rely on it would have to present a claim before the competent judge.

If no agreement is reached, the conciliation shall be considered as having failed.

Declarations made by the parties in the course of conciliation proceedings shall not bind them in later arbitration proceedings or litigation before court.

Normally, the conciliator may not be appointed as an arbitrator in subsequent arbitration proceedings.

It is possible to insert a clause into a contract requiring the parties to participate in conciliation prior to litigation, whether before an arbitral tribunal or ordinary courts.

### *15. Arbitral award*

\* Under Code of Civil Procedure.

Under CCP arbitral award is either made by the sole arbitrator or by the arbitral tribunal. If the arbitral tribunal is composed of more than one arbitrator, the majority of the arbitrators may render the award (article 531).

The arbitral award shall contain (i) the object of litigation; (ii) findings of fact and of law; (iii) the decision on the merits and the amount of costs.

The arbitral award shall be dated and signed by the arbitrator or arbitrators.

The original agreement (*e. g.*, “arbitration agreement or “main agreement containing the arbitral clause”) shall be annexed to the award (article 530).

Under CCP the arbitral award shall be filed in the office of the clerk of the court of having the jurisdiction, which shall preserve it in its files and deliver copies to the parties who so demand.

Written notice of the filing and the award shall be given to the parties by the clerk’s office, which may demand a receipt. The award shall take effect, as regards the parties, on the date of receipt of such notification (article 531).

\* Act on International Arbitration, num. 4686.

Under AIA, unless otherwise agreed by the parties, the award is given by majority decision (article 13/A).

The arbitral award shall contain the following: (i) the names of the parties and their representatives or counsels, if any, (ii) the legal justifications

and reasons on which the award is based; (iii) the place of arbitration and the date of award; (iv) the names of arbitrators and dissenting opinion, and (v) the possibility of setting against the award (article 14/A).

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

The arbitral award shall be notified by the arbitrator or the chairman of the arbitral tribunal to the parties (article 14/A).

The parties may request that the arbitral award be sent to the Principal Court at their own cost. In such a case, the file is kept in the office of the clerk (article 14/A).

Under AIA, the parties may request correction of clerical or material errors in the award. Furthermore, they are entitled to request interpretation of the award (article 14/B).

#### *18. Recourse against arbitral award: appeal or setting aside*

\* Appeal under Code of Civil Procedure.

Under CCP the parties may appeal arbitral award to the Court of Cassation (article 533).

In the following circumstances, the arbitral award may be reversed by the Court of Cassation (article 533):

- if the award was rendered after the expiry of the time allowed for arbitration;
- if the award is concerned with a matter that was not claimed;
- if the arbitrators decided upon matters not within their competence;
- if they did not decide upon all claims of the parties.

In the last three cases, if the award is reversed, further proceedings shall take place before a new arbitral tribunal. And a new time limit is fixed.

Against arbitral award, the parties may demand for vacation (yargılamanyadesi) (CCP article 534. Grounds for vacation CCP article 445 *et seq.*).

Under CCP any clause by which the parties renounce in advance recourse to appeal or a demand for vacation is null and void (article 535).

\* Setting aside under Act on International Arbitration, num. 4686.

Under AIA, recourse to an arbitral award may be made only by an application for setting aside before the competent court of first instance (article 15/A).

The arbitral award may be set aside by the court only if the party making the application furnishes proof that: (i) a party to the arbitration agreement was incapacitated or arbitration agreement is not valid under the law to which the parties have subjected it or failing any indication thereon, under the Turkish law; (ii) the composition of the arbitral tribunal was not in accordance with the agreement of the parties or the procedure under AIA; (iii) the arbitral award was not rendered within the time limit; (iv) the arbitrator or arbitral tribunal decided on its competence or non-competence in a manner contrary to law; (v) the award deals with a dispute not contemplated by arbitration agreement or contains decisions on matters beyond the scope of submission to arbitration; (vi) the conduct of arbitration was contrary to the procedure agreed upon by the parties or under the procedure of AIA; (vii) the principle of equality of parties has been breached (article 15/A 1).

Furthermore, the arbitral award may be set aside if the court finds that (i) the subject-matter of the dispute is not capable of settlement by arbitration under Turkish law; or (ii) the award is in conflict with the public policy (article 15/A 2).

An application for setting aside an award may be made within 30 days. This period starts as of the notification date of the parties of the arbitral award.

The parties may renounce, partially or wholly, their right to file an application for setting aside the award (article 15/A).

Judgment rendered by the competent court in the action for setting aside the award may be appealed (temyiz) pursuant to CCP but may not be made subject to revision (karar düzeltme) (article 15/A).

Upon a final decision denying the request to set aside the award, the competent principal court shall issue to the requesting party a document indicating that the arbitral award is enforceable (article 15/B).

## *22 et seq. Recognition and Enforcement of foreign arbitral awards*

\* Act on Private International Law and Procedural Law, num. 2675.

The Code of Civil Procedure does not contain any provision regarding enforcement of foreign arbitral awards.

Final foreign arbitral awards may be enforced in Turkey under the Act on Private International Law and Procedural Law, num. 2675 of 20 May 1982.

An enforcement order (*exequatur*) is required to enforce foreign arbitral awards.

The competent court for enforcement order is court of first instance determined upon by the parties. In absence of such an agreement, enforcement order should be requested from the court of the domicile of the party against whom the arbitral award was rendered (article 43).

In practice the Turkish Court of Cassation is of the opinion that the arbitral awards rendered under “the authority of the laws of a country other than Turkey” are “foreign awards”. According to the Court of Cassation the arbitral awards rendered under the “authority of the laws of Turkey, even if the arbitration contains a foreign or international element” are domestic arbitral awards (See decisions of the General Assembly of the Court of Cassation of 7 November 1951, num. 126/109; of 11th (Commercial) Chamber of 23 December 1955, num. 1745/840; of 15th Chamber of 10 March 1976, num. 1617/1052).

Regarding enforcement of foreign arbitral awards “reciprocity rule” plays an important role (article 44/II). Three kinds of “reciprocity” are distinguished in Turkish law. In case of “conventional reciprocity” (a convention or a bilateral treaty between Turkey and a foreign State), foreign arbitral award is enforced in accordance with the provisions of the Convention.

There are various bilateral treaties between the Republic of Turkey and other States.

On the one hand, the bilateral treaties concerning judicial aid in civil and commercial matters (*e. g.* Poland, Algeria, Iraq, Republic of Azerbaijan, China) provide for recognition and enforcement of arbitral awards; on the other hand bilateral treaties concerning the reciprocal encouragement and protection of investments contain provisions on arbitration for settlement of disputes and recognition and enforcement of arbitral awards (*e. g.*, bilateral investment treaties referring to ICSID Arbitration Rules with Germany, U.S., the Netherlands, Switzerland, Romania, Uzbekistan, Hungary, Pakistan, Finland, etcetera; bilateral investment treaties referring to ICC Rules of Arbitration with Kazakhstan, Belarus, Uzbekistan, Pakistan, etcetera; bilateral treaties referring to UNCITRAL Rules of Arbitration with Bulgaria, Hungary, Turkmenistan, etcetera).

In case of lack of “conventional reciprocity”, “legal reciprocity” and “actual reciprocity” (“*de iure*” and “*de facto* reciprocity”) are to be taken into account.

Under the Act on Private International Law and Procedural Law, foreign arbitral awards must have become enforceable according to the rules of procedure of the country where such arbitral awards were rendered (double *exequatur*).

\* New York Convention 1958.

Turkey has ratified the New York Convention 1958 by the Law num. 3731 of 8 May 1991 and the European Convention on International Arbitration of 21 April 1961 (the “European Convention”) by the Law, num. 3730 of 8 May 1991.

By means of ratification of New York Convention 1958 Turkey has adapted, as a rule, that, the nationality of an arbitral award is determined by the place of arbitration (territory principle). Thus an arbitral award rendered under the authority of the laws of a country other than Turkey because of the place of arbitration where the arbitral award is rendered (*lex loci arbitri*) is a “foreign arbitral award”.

Another requirement for enforcement of such foreign arbitral awards is that the country where the place of arbitration is situated must have ratified the New York Convention (New York Convention “reciprocity rule”, article III).

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