

ISTANBUL CHAMBER OF COMMERCE
REGULATION PERTAINING TO ARBITRATION, CONCILIATION AND
EXPERT WITNESS ARBITRATION

I. GENERAL PROVISIONS

Article 1 – Three new judicial bodies to respectively perform the Conciliation, the Arbitration and the Expert Witness Arbitration functions have been established within the organization of the Istanbul Chamber of Commerce on the basis of Article 12 of Law No. 5174 and in accordance with the provisions of these Regulations, with the purpose of finalizing commercial and industrial disputes through conciliation or arbitration procedures.

Article 2 - In order to benefit from these services, at least one of the parties must be a member of the Istanbul Chamber of Commerce, the Istanbul Chamber of Industry, the Istanbul Commodity Exchange or the Istanbul and Marmara Region Maritime Chamber of Commerce.

In cases where the above condition is not fulfilled, rendering of such service shall be subject to the authorization of the Chamber's Board of Directors. If authorization is not granted, reasons thereof shall not be declared.

Article 3 – The procedures foreseen in these Regulations are completely independent of each other. Recourse to conciliation shall not be a prerequisite for applying to arbitration; neither shall an application for conciliation be interpreted as an agreement for recourse to arbitration in the case that such conciliation remains inconclusive.

The Arbitration Agreement between the parties shall not preclude recourse to conciliation.

Article 4 - Conciliators, arbitrators and expert witness arbitrators, consisting of a sufficient number of lawyers, financial experts and persons considered beneficial by the Chamber Council for their personality traits or areas of specialization, shall be designated by the Chamber Council.

The names of conciliators, arbitrators and expert witness arbitrators shall be listed and announced by the Chamber. The preparation of this list shall be governed by special regulations.

Article 5 - An Arbitration Office shall be set up at the Chamber for the performance of services foreseen by the provisions of these Regulations. The organization of the Arbitration Office shall be governed by the Chamber's Personnel Regulations.

II. CONCILIATION

Article 6 - In order for the initiation of the conciliation procedures, the parties or one of the parties, shall apply to the Istanbul Chamber of Commerce Arbitration Office with a written request and pay the registration fee designated on the expense schedule.

In cases where only one of the parties has applied for conciliation, such party shall submit the written request thereof in as many copies as the number of parties with whom conciliation is requested.

In order for the realization of the conciliation, the dispute should be described to the extent necessary and the related documents should be attached to the written request.

Article 7 - In cases where only one of the parties has applied for conciliation, the Office shall forward a copy of the written request to the other party or parties requesting such party/parties to declare in writing:

- a) that it consents to the implementation of the conciliation procedures,
- b) its explanations and comments about the subject, and
- c) that it agrees to comply with the expense schedule of the Istanbul Chamber of Commerce for such conciliation

within five (5) days as of the receipt of the said copy of the written request and to enclose all the supporting documents with such written declaration.

If the other party refuses conciliation or does not fulfill the above conditions, then the Office shall inform the party requesting conciliation that it will not be possible to execute the conciliation procedures. The parties may, at any time, renounce the conciliation procedure.

Article 8 - Following the fulfillment of the conditions stipulated in Article 7 above, the Office shall submit the file as well as the names of three nominees to act as conciliator to be designated from the list stated in Article 4 hereof to the Chamber's Board of Directors.

The parties shall be notified with registered mail about the conciliator assigned by the Board from among such nominees, and shall be requested to submit their objections, if any, within five (5) business days from the receipt of the notification.

In the event the parties mutually agree on a person included in the list stated in Article 4 above, such person shall be assigned as conciliator. If the parties agree on a person whose name is not on the list, designation of such a person as conciliator shall be subject to the consent of the Chamber's Board of Directors. In case of refusal, the reasons thereof shall not be expounded.

In cases where an objection is raised against the conciliator to be designated in accordance with paragraph 2 above, the parties shall be notified of another conciliator to be assigned under the same procedures. If this conciliator is also refused and the parties do not notify the name of a person mutually agreed upon, then the conciliation procedure shall be cancelled.

The non-conclusion of the conciliation as such, shall not preclude a re-application for conciliation for the same dispute.

Article 9 - Conciliation fees and expenses foreseen in the schedule should be fully paid before the conciliator starts the conciliatory activities.

If the said amount is not deposited with the Chamber's Cash Desk within five (5) business days as from the acknowledgment of the conciliator by the parties, the conciliation shall be deemed to be renounced.

Article 10 - The conciliator shall inspect the parties' opinions on file. The conciliator may also listen to the parties, and may request them to give written explanations on certain points and to submit further documents.

The conciliator may also engage in any other action he may deem appropriate for the conciliation.

Article 11 - The conciliator shall complete the conciliatory draft within one (1) month as of the fulfillment of the obligation stated in Article 9 above. The Board of Directors may extend this period upon the request of the conciliator. The conciliation period however, may not be longer than three (3) months. The conciliation statement drawn up by the conciliator shall be notified in writing to the parties by the conciliator or by the Office, either personally against their signatures or by registered return mail. One copy of the conciliation statement shall be kept at the Arbitration Office. The parties shall acknowledge the conciliation within five (5) working days as of the receipt of conciliation statement either by placing their signatures thereon, or by way of declaration.

If the parties do not accept the conciliation draft, the duty of the conciliator shall terminate.

Article 12 - Representations or proposals made by the parties during the course of the conciliation may not subsequently be used in actions that may be referred to arbitration or State Courts.

III. ARBITRATION TRIALS

Article 13 - Settlement of disputes by way of arbitration may only be possible upon the agreement of the parties in accordance with the provisions of Articles 516 and 517 of the Code of Civil Procedures.

The Arbitration Agreement between the parties should explicitly state that the dispute shall be settled in accordance with the Arbitration Regulations of the Istanbul Chamber of Commerce. The application charge designated in the schedule should be paid to the Chamber's Cash Desk prior to applying for arbitration procedures. Following the payment of the application charge, the other party shall be notified about the application for arbitration. The other party may have recourse to the Arbitration Office in relation to this notification, within five (5) business days.

In the event an Arbitration Agreement or Arbitration Clause does not exist, one of the parties may apply to the Arbitration Office requesting in writing the notification of the other party about the settlement of the dispute by way of arbitration. The Arbitration Office shall submit against signature or send with registered return mail, one copy of the request to the other party (and all the parties), asking for the Arbitration Office to be informed in writing of the acceptance of the settlement of dispute by way of arbitration within five (5) business days. The arbitration procedures shall be initiated with the written notice of acknowledgment of the other party to the Arbitration Office.

Article 14 - In the event the Arbitration Agreement includes clauses which are contradictory to the provisions of these Regulations, the Office shall notify the parties that the Chamber shall not implement the arbitration trial, together with the reasons thereof. The said notification shall be either served against signature or by registered return mail. The written acknowledgment of the parties of the Chamber's arbitration trial, shall be deemed as an agreement to comply with the provisions of these Regulations.

Article 15 - The suit shall be deemed to be filed at the moment application is made for the implementation of arbitration procedures.

Article 16 - In order for the execution of arbitration procedures, the Arbitration Office should have decided that the conditions foreseen in Articles 2 and 14 of these Regulations have been fulfilled. Upon the fulfillment of the conditions stated in Paragraph 1, the Arbitration Office shall start the procedures necessary for the establishment of the Arbitration Tribunal. Otherwise, the Office shall notify the parties by delivery against signature or registered return mail, the decision concerning the non-fulfillment of the required conditions. An objection may be raised with the Board of Directors against this decision within five (5) business days as of receipt of such notification. The Board shall then make its decision within seven (7) business days as from the date of the objection.

Article 17 - The Arbitration Tribunal shall in principle, consist of three arbitrators. The succeeding arbitrator on the First Arbitrator List stated in Article 4 of these Regulations, shall designate two arbitrators, one from each of the list of merchants and the list of experts respectively.

The parties, by mutual agreement, may designate the other two arbitrators or all the arbitrators of the Arbitration Tribunal. Under such circumstances, one of the arbitrators must be designated from the list stated in Article 4 of these Regulations.

Upon the mutual agreement of the parties, the dispute may be settled by a single arbitrator, who shall be either the succeeding arbitrator on the First List of Arbitrators or the arbitrator to be designated by the parties from the list stated in Article 4 above.

Assignment of arbitrators to be designated by the parties from outside the said list shall be subject to the authorization of the Chamber Council. In the event the Arbitration Tribunal is constituted of three arbitrators, the presiding judge shall be either the arbitrator on the First List of Arbitrators, if a nominee exists on such list; or the arbitrator designated as the only arbitrator from the list stated in Article 4 of these Regulations; or the arbitrator to be elected from among the arbitrators themselves if all arbitrators have been designated from or outside the First List of Arbitrators.

Article 18 - Following the formation of the Arbitration Tribunal, the parties shall be

notified personally of the names of arbitrators against signature or by registered return mail.

Provisions of Article 521 of the Code of Civil Procedures shall be applicable with respect to the refusal of arbitrators. If, following the formation of the Arbitration Tribunal, one or more arbitrators are not able to fulfill their duties due to reasons of refusal, death, incapacity or resignation, the vacated positions shall be filled in accordance with the provisions of Article 17 above.

Article 19- After the formation of the Arbitration Tribunal, the plaintiff shall submit its complaint to the Arbitration Office. The complaint shall contain the following information:

- a) Names and residences of each parties,
- b) The Arbitration Agreement,
- c) Physical facts and legal reasons,
- d) The Plaintiff's Final Demand

The advance payment regarding costs of arbitration and arbitrators' fee, shall be calculated by the Arbitration Office in accordance with the provisions of the Costs and Fees Regulation, shall be paid to the Chamber's cashier desk by the plaintiff.

Article 20 - The Arbitration Tribunal shall ensure that the Defendant is notified of the complaint by the Arbitration Office by delivery against signature or registered return mail, and shall designate a reasonable period for plea.

Such period may not exceed ten (10) business days as of the date of notification.

Article 21 - The bill of answer shall include:

- a) The Defendant's answers to the facts and legal reasons set forth by the Plaintiff.
- b) The Defendant's explicit defense.

The Defendant shall attach all the evidence of plea to the bill of answer. The parties

shall submit their second pleading within five (5) business days from notification of the bill of answer and the Plaintiff's second pleading. Such period may be extended up to ten (10) business days by the Arbitration Tribunal.

Submittal of pleading other than that stated above, shall be by the decision of the Arbitration Tribunal. Upon the acceptance of such pleading of one of the parties, the other party shall also be allowed to submit a pleading. Provisions of the above paragraph shall be applicable with respect to periods.

Excluding the complaint and bill of answer, the parties shall enclose all evidence with all pleadings to be submitted.

The defendant shall notify the Arbitration Office of its counterclaim under the scope of the Arbitration Agreement within the response period. The defendant shall give its response to the counterclaim in the second pleading. In the event a cross action is filed, the Regulations Pertaining to Arbitrators' Fees and Court Expenses shall be applicable. Pleadings which are not submitted during the specified period, can only be considered with the mutual agreement of the parties.

Article 22 - Unless otherwise provided for in the Arbitration Agreement, the arbitrators may give a judgment of equity.

Award of the Arbitration Tribunal may be based on Turkish Laws or the laws of a foreign country upon the mutual agreement of the parties.

Article 23 - The trial shall be executed in the Turkish language. The Arbitration Tribunal may decide for the execution of the trial in a foreign language under special conditions.

Article 24 - The sitting of the Arbitration Tribunal shall be at the location of the Istanbul Chamber of Commerce.

The trial before the Arbitration Tribunal shall be held as a closed session. The trial

however, may be held as a public trial upon the concurrence of the parties and with the resolution of the Arbitration Tribunal.

Article 25 - Procedural principles to be implemented at the Arbitration Tribunal may be designated by the agreement of the parties, provided that such principles are not contradictory to the mandatory provisions of the Code of Civil Procedures.

Unless designated by the parties and stipulated in these Regulations , the procedure principles to be implemented shall be determined by the Arbitration Tribunal.

Article 26 - The Arbitration Tribunal may make any attempts whatsoever, for the completion of material facts and evidence which will support the settlement of the dispute, other than material facts and evidence presented by the parties.

The parties shall be obliged to be of assistance to the Tribunal in such attempts. The Tribunal shall grant to the parties a period of maximum five (5) business days for the presentation of evidence requested by the Court. The party which does not present the required evidence during this time shall be deemed to have abstained from such presentment and the abstention thereof shall be recorded in the memorandum of trial.

The Arbitration Tribunal may decide to make an inspection and resort to expert witnesses.

Article 526 of the Code of Civil Procedures shall also be applicable to the arbitration trial.

Article 27 - The Arbitration Tribunal may decide to hold a hearing upon the request of one of the parties or of its own motion. The parties shall then be notified about the date of such hearing.

Article 28 - The parties may personally be present at the hearing or designate a

representative. Provisions of the Code of Civil Procedures and Attorneyship Law shall be applicable in respect of the representation of the parties before the Arbitration Tribunal.

Each of the parties may request a declaration by their technical staff about the dispute. The parties should forward such request and designate the concerned persons to this effect, during the stage when evidence is presented. Questioning of such witnesses shall be dependent on the resolution of the Arbitration Tribunal.

Article 29 - Representations of waiver, admittance and amicable settlement shall be totally recorded in the memorandum of trial. The memorandum shall be signed by the parties and arbitrators.

Questions may be forwarded to the parties at the hearing. Each party on the other hand, may request the other party, via the tribunal, to answer its questions.

The absence of any party in spite of service of process, shall not preclude the execution of the hearing. If however, neither of the parties appear at the Tribunal within five (5) business days from the date of hearing. The defaulting party may examine the protocol of proceedings within 5 work days after the date of proceedings and make written statements.

In case of the absence of both parties, the Arbitral Tribunal may render judgment either relying upon the file or fix a new date of proceedings and serve it upon the parties.

After the proceedings, Arbitral Tribunal may continue the investigations.

The provisions of the Code of Civil Procedure on default do not apply to arbitral proceedings.

Article 30 - Article 529 of the Code of Civil Procedures shall be applicable for the period of arbitration.

If there is a single arbitrator, the said period shall be deemed to start with the initiation of the arbitrator's activities thereof.

Article 31 - The parties may terminate the continuing hearings with an agreement in writing. Upon such termination, tribunal expenses and arbitrator fees shall be payable in accordance with the Regulations Pertaining to Arbitrators' Fees and Court Expenses.

Article 32 - When the Arbitration Tribunal satisfies that the subject of the dispute has been sufficiently clarified and the parties have had a reasonable opportunity to present their claims and pleas, then the Arbitration Tribunal pass on to award's discussion upon the payment of the costs of arbitration and arbitrators' fee have been made by the plaintiff to the Chamber's cashier desk. The Arbitration Tribunal shall be convened by participation of all arbitrators. Casting an abstained vote shall not be acceptable at the meetings.

Such discussions and voting shall be confidential.

Such discussion shall be entered into upon participation of all arbitrators.

The Arbitration Tribunal shall decide by a majority of votes and voting shall be an open ballot. The dissenting opinions shall be attached to the award.

Voting shall start with the youngest arbitrator. The Chairman shall vote last. After the award's discussion and voting, the Arbitration Tribunal may assign the Arbitration Office for writing down the award.

The awards rendered by an arbitrator or an Arbitration Tribunal shall include the written components referred in the provision 530 of the Code of Civil Procedure Law No. 1086 and dated 18/06/1927 and arbitrators after which the date of award shall be written shall sign the awards.

Article 33 - The Arbitration Tribunal award shall include the issues specified in Article 530 of the Code of Civil Procedures.

One copy of the award shall be submitted to the parties upon request, provided that such parties have paid the relevant fees and expenses.

Article 34 - Provisions of Code of Civil Procedures shall be applicable with respect to the submittal of the arbitration award to the court and the authorization and execution thereof.

One copy of the arbitration award shall be kept at the Arbitration Office.

Arbitration Awards may be published with the decision of the Board of Directors of the Istanbul Chamber of Commerce, without citing the names of the parties.

III. EXPERT WITNESS ARBITRATION

Article 35 - The parties may apply for the Expert Witness Arbitration of the Istanbul Chamber of Commerce provided that they mutually agree in writing. The points requested to be determined with the decision of Expert Witness Arbitrators should be clearly described.

Article 36 - Upon the application stated in the above Article, The Chamber's Board of Directors shall designate an Expert Witness Arbitrator from the list cited in Article 4 above. The parties shall also be allowed to designate the Expert Witness Arbitrator from the said list, by mutual agreement.

The parties may also request three (3) Expert Witness Arbitrators. The parties shall be notified personally against signature or by registered return mail, about the names of the designated Expert Witness Arbitrators.

Provisions of Article 18/II of these Regulations shall also be applicable with respect to the refusal of the Expert Witness Arbitrator.

Provisions of Article 18/III of these Regulations shall also be applicable by analogy to Expert Witness Arbitration.

Article 37 - Any person who has acted as Expert Witness Arbitrator in the settlement of a certain dispute, cannot act as Arbitrator in the same dispute.

Article 38 - The Expert Witness Arbitrator shall adjudge on the facts stated in the file and listen to the parties if he deems necessary. The parties shall submit to the Expert Witness Arbitrator all the points which shall constitute the basis of the judgment, within the period to be designated by such Expert Witness Arbitrator and shall present the evidence, if any.

The Expert Witness Arbitrator may, upon request or of its own motion, decide to carry out investigations.

Under such circumstances, the necessary expenses shall be paid in advance.

Article 39 - The Expert Witness Arbitrator shall make his decision within three (3) months as from the date of his assignment.

Article 40 - In his decision, the Expert Witness Arbitrator shall explicitly describe the issue which is requested to be settled, the decision and the reasons therefor. After the decision is signed, it shall be submitted to the Arbitration Office for service of process.

In the event more than one Expert Witness Arbitrator exists, provisions of Article 32 of these Regulations shall be applicable by analogy.

Article 41 - Provisions of these Regulations concerning Arbitration Trials shall also be applicable, where appropriate, to the Expert Witness Arbitration.

Article 42 - Provisions of the Regulations Pertaining to Arbitrators' Fees and Court Expenses shall be applicable with respect to fees and expenses.

ISTANBUL CHAMBER OF COMMERCE
REGULATION CONCERNING COSTS AND FEES
FOR ABRITRATION, CONCILIATION AND EXPERT WITNESS ARBITRATOR

Article 1- The Service Fee of Arbitration, Conciliation and Export Witness Arbitration is 66,00-YTL.

Article 2- The costs of arbitration includes costs of task and processes written in the provision 26 of Arbitration Regulation, costs of notifications and hearings, costs of the access and accommodation of arbitrators.

The advance payment regarding the costs of arbitration for each arbitration trial paid by the plaintiff shall be fixed by the Board of Directors of the Chamber. The cost of arbitration shall be discharged from the paid provisional advance. The advance payment shall be deducted when the arbitration is over.

Apportioning of arbitration costs between each parties shall be in accordance with general provisions and shall be specified in an arbitration award. Conciliation costs and conciliator fees shall be paid equally by the parties.

The appointed experts and surveyors by an arbitrator or an arbitration tribunal shall be paid in accordance with the tariffs fixed by the Chamber Assembly under the provision 26 of Code No 5174. Where a dispute is to be referred to an expert committee, the collected expert fees shall be equally apportioned between the committee experts.

Article 3- When a recourse is made to an Expert Witness Arbitrator, the costs of this occupation shall be determined by the Arbitration Office on the basis of the relevant documents. The applicant shall pay these costs in advance after each calculation made by the said Office. The said Office may request an advance payment at the time of application for the Expert Witness Arbitration. Where the costs are less than that of amount of discharged advance payment, the surplus amount shall be refunded.

Article 4- Fees for each arbitrator shall be 1% of the value of the dispute subject. The Conciliator's fee shall be one-fourth of the arbitrator's fees.

Article 5- Expert Witness Arbitrator's fees shall be fixed by the Board of Directors of the Chamber having regard to the pattern of work, location of investigation, value of the subject of investigation, duration of investigation and other circumstances as follows;

For Istanbul	Between	110.-YTL - 600.-YTL
Outside Istanbul	Between	165.-YTL – 750.- YTL

The determined fee shall be paid in advance.

Article 6- When the parties carry an amicable settlement and submit a written notice to the Chamber about the amicable settlement; before the first meeting of the Arbitration Tribunal if a dispute is to be referred to the Arbitration Tribunal and before consigning the plaintiff's petition and its annexes to an arbitrator if a dispute is to be referred to an arbitrator; the paid arbitrator's fee and the entire service fee collected by the Chamber and the part of the arbitration cost deducted from the charged advance payment shall be refunded. After these duration stated above, any amicable settlement may not cause any repayment of charged arbitrator's fees.

Article 7- The service fees of the Arbitration, Conciliation and Expert Witness Arbitration as well as fees of Arbitrator, Conciliator and Expert Witness Arbitrator specified in this Regulation shall be determined as fixed maximum price by the Board of Directors every year in January. The said fees shall be published by the Chamber.

Article 8- The costs and fees applicable to arbitration or conciliation shall be those

that prevail on the date of application. Changes made to such amounts shall not be reflected upon any pending work.

**ISTANBUL CHAMBER OF COMMERCE
REGULATIONS PERTAINING TO THE
PREPARATION OF ARBITRATION- CONCILIATORS
EXPERT WITNESS ARBITRATOR LISTS**

Article 1 - The Arbitrator, Conciliator and Expert Witness Lists shall be prepared and announced upon the proposal of the Chamber's Board of Directors in accordance with Article 4 of the Istanbul Chamber of Commerce's Regulations Pertaining to Arbitration, Conciliation and Expert Witness Arbitration, by the Chamber Council to be established following the general election of the bodies. Previous lists shall be applicable until the publication of new lists. Arbitrators, Conciliators and Expert Witness Arbitrators shall be designated from the said list in accordance with the procedures specified in the Regulations Pertaining to Arbitration, Conciliation and Expert Witness Arbitration .

Article 2 - This general list which will include lawyers, financial experts and other experts shall consist of three separate lists as follows:

First List : "List of First Arbitrators"

Second List: "List of Experts"

Third List : "List of Merchants"

Article 3 - The List of First Arbitrators and the List of Merchants shall consist of sixty-six names each with thirty-one regular and thirty-three alternate members. The List of Experts on the other hand, shall include four names covering each occupational group with two regular and two alternate members. Fields of specialization outside occupational groups maybe added to the list if so required.

Lists shall be completed after the names chosen by the Board of Directors as per Paragraph 1 from among an adequate number of candidates designated by the Arbitration Office are submitted to and approved by the Council. Any vacancies in the regular lists during a term, shall be filled by adding new members from the alternate list in sequence to the end of the list.

Article 4 - Those persons who are employed in Chamber organs which are instituted by election and in the administrative organs, may not be included in the arbitrator lists during the term of their employment.

Article 5 - The persons elected by the Chamber Council shall be notified of the Council's decision by registered return mail. The designated arbitrator shall acknowledge such designation in writing or by signing the protocol at the Office within ten (10) business days as from the date of notification.

Otherwise he shall be considered as having refused the assignment.