

SECTION I
General Provisions

Purpose and scope
Article 1

The purpose of this Law is to regulate the procedures and principles concerning international arbitration.

This Law shall apply with respect to the disputes containing foreign element and for which Turkey is determined as the seat of arbitration or for which the provisions of this Law are chosen by the parties or the arbitrator or the arbitral tribunal.

The provisions of articles 5 and 6 of the Law hereof shall also apply in the cases where the seat of arbitration is determined outside of Turkey.

This Law shall not be applied to the disputes concerning the real rights on the immovable properties in Turkey and to the disputes, which are not subject to the will of both parties.

The settlement through international arbitration of the disputes arising from the concession agreements and contracts regarding public services in which a foreign element exists pursuant to the Law Relating to the Principles Required to Be Complied with in the Case of Having Recourse to the Arbitration Process for the Disputes Arising from Concession Agreements and Contracts Regarding Public Services dated January 21, 2000 and no 4501 is also subject to this Law.

The provisions of the international treaties, to which the Turkish Republic is a party, are reserved.

Foreign element
Article 2

The presence of any one of the following circumstances indicates that the dispute contains foreign element and in this case, the arbitration acquires an international character.

1. That the domiciles or habitual residences or the place of business of the parties to the arbitration agreement are located in different States;

2. That the domiciles or habitual residences or the places of business of the parties are located in a State other than;

a) The seat of arbitration in cases where it is specified in the arbitration agreement or determined on the basis of this agreement,

b) The place where a significant part of the obligations arising from the main contract shall be performed or the place with which the matter in dispute has the closest connection;

3. That at least one of the company partners, who are parties to the main contract forming the basis of the arbitration agreement, have brought foreign capital according to the Legislation of Encouragement of Foreign Capital or that in order to be able to implement this contract, it is required to conclude credit and/or guarantee contracts for the purpose of obtaining capital from abroad;

4. That the main contract or the legal relation constituting the basis of the arbitration agreement realizes the transfer of capital or goods from one country to another.

The provisions of the Law dated January 1, 2000, no 4501 are reserved.

Competent court of jurisdiction as to subject-matter and venue in arbitration and limit of intervention
Article 3

For the works, which are specified in this Law to be realized by a Court, the Court of First Instance of the place where the domicile or habitual residence or the place of business of the Respondent is located is the competent Court of jurisdiction as to subject-matter and venue; if the Respondent does not have any domicile, habitual residence or place of business in Turkey, the Court of First Instance of Istanbul is the competent Court of jurisdiction as to subject-matter and venue.

For the problems arising from international arbitration, the Courts may intervene only according to the provisions of this Law.

SECTION II
Arbitration Agreement

Definition and form
Article 4

Arbitration agreement is an agreement in which the parties have concluded upon the settlement by arbitration of all or some of the disputes that have arisen or that may arise between them in respect of a present legal relationship, whether contractual or not. An arbitration agreement may be concluded by arbitration clause inserted in the main contract or by a compromise.

The arbitration agreement shall be in writing. In order for the written form to be deemed to have been fulfilled, an arbitration agreement has to be contained in a written document signed by the parties or in an exchange of a communication means such as letter, telegram, telex, fax or an electronic form or it should not have been objected in the Answer of the Respondent to an assertion of the existence of an arbitration agreement mentioned in the Request for Arbitration. A valid arbitration agreement shall be deemed to have been concluded also in the case of reference to a document containing an arbitration clause so as to make it a part of the main contract.

The arbitration agreement is valid in the case that it is in accordance with the law chosen by the parties to be applied to the arbitration agreement or failing such a choice of law, in the case that it is in conformity with Turkish law.

Any objection cannot be raised against the arbitration agreement that the main contract is not valid or the arbitration agreement relates to a dispute that has not yet arisen.

**Objection as to arbitration and arbitration agreement
before the court**
Article 5

If the case has been filed before the Court for a dispute that forms the subject-matter of the arbitration agreement, the

opposing party may object that the dispute should be resolved by arbitration. The raising of objection as to arbitration and the settlement of the disputes regarding the validity of the arbitration agreement are subject to the provisions, relating to interlocutory pleas, of the Code of Civil Procedure. In the case of the acceptance of the objection as to arbitration, the Court shall reject the case for procedure.

In the case of agreement, in the course of proceedings, of the parties on having recourse to the arbitration process, the action file shall be forwarded to the concerned arbitrator or arbitral tribunal by the Court.

Conservatory measure or conservatory sequestration
Article 6

The request of one of the parties for conservatory measure or conservatory sequestration from the Court before or in the course of arbitral proceedings and the decision of the Court upon such a measure or a sequestration do not constitute contradiction with the arbitration agreement.

Unless otherwise agreed, during the arbitral proceedings, the arbitrator or the arbitral tribunal on the request of one of the parties may decide upon the conservatory measure or conservatory sequestration. The arbitrator or the arbitral tribunal may subject the decision hereof to the provision of an appropriate guaranty. The arbitrator or the arbitral tribunal can neither decide upon conservatory measure and conservatory sequestration to be executed by the enforcement organs or fulfilled by other official authorities, nor determine upon thereof which bind the third parties.

If one of the parties does not fulfill the decision of conservatory measure and conservatory sequestration given by the arbitrator or the arbitral tribunal, the opposing party may demand competent Court's assistance with the request to give a decision for conservatory measure and conservatory sequestration. If needed, the competent Court may appoint another Court for rogatory commission.

The rights of request of the parties are reserved according to the Code of Civil Procedure and the Code of Seizure and Bankruptcy.

The decision of conservatory measure or conservatory sequestration given by the Court upon the request of one of the parties before or during the arbitral proceedings is automatically removed upon the decision of arbitrator or the arbitral tribunal becoming enforceable or in the case of rejection of the action by the arbitrator or the arbitral tribunal.

SECTION III
Appointment, Challenge, Responsibility, Termination of Mandate and Competency of Arbitrator or Arbitral Tribunal

Number, appointment, challenge, responsibility, termination of mandate and competency of arbitrators

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 appointed.

B) Unless otherwise agreed by the parties, the following rules shall be applied for the appointment of the arbitrator:

1. Only natural person may be appointed as arbitrator.
2. If a sole arbitrator is to be appointed and the parties are unable to agree on the arbitrator, it shall be appointed, by the Court of First Instance, upon request of one of the parties.
3. If three arbitrators are to be appointed, each party shall appoint one arbitrator, and the two arbitrators thus appointed shall appoint the third arbitrator. If a party fails to appoint the arbitrator within thirty days of arrival of a request to do so from the other party to itself or if the two arbitrators fail to agree on the third arbitrator within thirty days of their appointment, upon request of one of the parties, the appointment of arbitrator shall be realized by the Court of First Instance. The third arbitrator shall be the presiding arbitrator.
4. If more than three arbitrators are to be appointed, the arbitrators, who will appoint the last arbitrator, shall be determined in equal number by the parties according to the procedure stated in the sub-paragraph above.

Although they have agreed on the appointment procedure of the arbitrators;

1. If a party fails to act in accordance with the agreement,

2. While according to the agreed procedure it is required that the parties or the arbitrators appointed by the parties decide together upon the appointment of arbitrators, if the parties or the arbitrators are unable to reach an agreement upon this matter,

3. If a third person, an institution or an establishment authorized for the appointment of arbitrators fails to appoint the arbitrator or the arbitral tribunal,

The appointment of the arbitrator or the arbitral tribunal shall be realized by the Court of First Instance upon the request of one of the parties.

The decisions given by the Court of First Instance when needed, in accordance with the provisions of this paragraph following the oral hearing of the parties are final. In appointing an arbitrator, the Court of First Instance shall take into consideration the agreement of the parties, the principles of the impartiality and independency of the arbitrators; when the parties are of different nationalities, if a sole arbitrator is to be appointed, this arbitrator shall not be of the nationality of the parties and if three arbitrators are to be appointed, that the two of them shall not be of the nationality of a party. The same procedure shall also be applied in the cases where more than three arbitrators are to be appointed.

C) The person suggested to be an arbitrator must disclose any circumstances likely to give rise to justifiable doubts as to its impartiality and independence prior to its acceptance of this duty. An arbitrator shall, without delay, disclose also the circumstances which occurred afterwards to the parties, unless they have already been informed.

Arbitrator may be challenged if it does not have the qualifications agreed by the parties, if there is a ground for challenge provided in the arbitration procedure agreed by the parties, if circumstances justifying to doubt from its impartiality are realized.

D) The parties may agree freely on a procedure for challenging an arbitrator.

A party who intends to challenge an arbitrator may, within thirty days after the appointment of the arbitrator or the arbitral tribunal or after the date of becoming aware of arising of any situation, where it may request for the challenge of an arbitrator, make a challenge request and shall inform of this request in writing to the opposing party.

The party requesting for the challenge of one or more than one arbitrator among the arbitral tribunal shall inform the arbitral tribunal of its challenge request and its ground. The party, who is informed that its challenge request is not accepted, may apply to the Court of First Instance against the decision within thirty days as from this date and may request for the setting aside of this decision and for holding to the challenge of the arbitrator or the arbitrators.

For the challenge of appointed arbitrator or whole arbitral tribunal or the arbitrators in the number as to remove the decision majority, it can only be resorted to the Court of First Instance. The judgments to be rendered by the Court of First Instance pursuant to this paragraph are definitive.

The arbitration comes to an end in the case of ruling on the challenge by the Court of First Instance of the appointed arbitrator or the whole arbitral tribunal or the arbitrators in the number so as to remove the decision majority. However, if, under the arbitration agreement, the name(s) of arbitrator(s) is/are not determined, it shall again be resorted to arbitrator appointment means.

E) Unless otherwise agreed by the parties, in case the arbitrator, who accepts the duty in the arbitral proceedings, avoids to perform its duty without any justifiable ground, it is obliged to compensate the damage suffered by the parties due to this reason.

F) In case an arbitrator becomes *de jure* or *de facto* unable to perform its duty or fails to act within due course of time, the power of being arbitrator terminates if he resigns or if the parties agree in this respect.

If there is a dispute between the parties on the existence of grounds necessitating the resignation of the arbitrator, each of

them may request from the Court of First Instance for a decision on the termination of the arbitrator's power. The decision to be rendered by the Court of First Instance is definitive.

The resignation of the arbitrator or the consent of other party to the termination of the arbitrator's power does not mean the acceptance of existence of grounds for challenging the arbitrator.

G) If the duty of an arbitrator terminates for any reason, a new arbitrator shall be appointed for substitution by applying the procedure at the appointment of the arbitrator being replaced.

Running of the arbitration period does not suspend due to the substitution of one or more than one arbitrator.

However, if the names and first names of the arbitrator or the arbitrators constituting the arbitral tribunal are specified under the arbitration agreement, the arbitration comes to an end in the case where the duty of the arbitrator or the arbitral tribunal or the arbitrators in the number as to remove the decision majority of the arbitral tribunal terminates for any reason.

H) The arbitrator or the arbitral tribunal may rule on its own jurisdiction, including also the objections concerning the existence or the validity of arbitration agreement. When such an award is rendered, a clause, which takes place in a contract, shall be assessed as independent of the other terms of the contract. The decision of the arbitrator or the arbitral tribunal upon the invalidity of the main contract shall not automatically give rise to the invalidity of arbitration agreement.

An objection in respect of the lack of jurisdiction of the arbitrator or the arbitral tribunal shall be raised not later than the submission of the first Answer. The fact that the parties have appointed themselves or participated in the appointment of the arbitrators does not remove their rights to raise an objection against the jurisdiction of the arbitrator or the arbitral tribunal.

Unless the objection that the arbitrator or the arbitral tribunal is exceeding the scope of its authority is raised immediately, it shall not be valid.

The arbitrator or the arbitral tribunal may, in both two cases above-mentioned, accept a later objection if it comes to a conclusion that the delay is based on a justified ground.

The arbitrator or the arbitral tribunal shall examine and rule on an objection with respect to the lack of jurisdiction as a preliminary question; if it rules that it has jurisdiction, it shall continue the arbitral proceedings and resolve the action.

SECTION IV
Arbitral Procedure

**Determination of rules of procedure, equality and
representation of parties**
Article 8

A) The parties may freely agree on the rules of procedure to be applied by the arbitrator or the arbitral tribunal, provided that the mandatory provisions of this Law are reserved, or may determine by making reference to a law, rules of international or institutional arbitration. If there is no such agreement between the parties, the arbitrator or the arbitral tribunal shall conduct the arbitral proceedings according to the provisions of this Law.

B) The parties have equal right and competence in the arbitral proceedings. The parties shall be granted with opportunity of asserting their claims and defences.

In the arbitral proceedings, the parties may be represented by foreign natural persons or legal entities. This provision shall not apply to the requests made to the Courts concerning arbitration.

Seat of arbitration
Article 9

The seat of the arbitration shall be determined freely by the parties or an arbitration institution appointed by them. Failing such an agreement, the seat of arbitration shall be determined by the arbitrator or the arbitral tribunal in accordance with the circumstances of the case.

In the cases where the arbitral proceedings require, the arbitrator or the arbitral tribunal may also meet at another place, on the condition of informing the parties in advance.

**Date of filing action, term of arbitration, language used,
request for arbitration and answer, terms of reference**
Article 10

A) Unless the parties have agreed otherwise, the arbitration case shall be deemed to have been filed on the date on which it is

referred to the Court of First Instance for the appointment of the arbitrators or to the person, institution or establishment that shall appoint the arbitrator according to the arbitration agreement of the parties and if, according to the agreement, the appointment of the arbitrators is to be realized by both parties, on the date on which the Claimant appoints its arbitrator and notifies the opposing party to appoint its own arbitrator; if the names and first names of the arbitrator or arbitrators constituting the arbitral tribunal have been indicated in the agreement, on the date on which the request for settlement of the dispute through arbitration process is received by the opposing party.

If one of the parties has obtained the decision of conservatory measure or conservatory sequestration from the Court, it is obliged to file its arbitration case within thirty days. Otherwise, the conservatory measure or conservatory sequestration is removed automatically.

B) Unless the parties have agreed otherwise, the final award regarding the merits shall be rendered by the arbitrator or the arbitral tribunal within one year following the date of appointment of the arbitrator in the actions with sole arbitrator, following the date of the drawing up of the first meeting minutes of the arbitral tribunal in the actions with more than one arbitrator.

The term of arbitration may be extended with the agreement of the parties, failing such an agreement, by the Court of First Instance upon the recourse of one of the parties. In the case of rejection of the recourse, the proceedings shall come to an end at the expiration of the term of arbitration. The decision of the Court is definitive.

C) The arbitral proceedings may be held in Turkish and in an official language of a State recognized by the Turkish Republic. The language(s) to be used in the proceedings shall, if not agreed upon by the parties, be determined by the arbitrator or the arbitral tribunal. This language or these languages, unless otherwise provided in the agreement of the parties or in the relevant interlocutory decision of the arbitrators, shall be used in all written statements of the parties, at the hearings, in the

interlocutory decisions, final award and written communications of the arbitrator or the arbitral tribunal.

The arbitrator or the arbitral tribunal may decide upon the submission of any documents relied on by the parties with their translations into the language or languages used in the arbitral proceedings.

D) Within the period of time agreed by the parties or determined by the arbitrator or the arbitral tribunal, the Claimant shall submit the Request for Arbitration comprising the names, titles and addresses of the parties, its representative, arbitration clause or compromise, the agreement or legal relation from which the dispute has arisen or with which the dispute is concerned, the facts supporting the claim, the matter in dispute, the amount in dispute and its request; the Respondent shall also submit its statement comprising its answers, to the arbitrator or the arbitral tribunal. The parties may attach their documentary evidences to their statements and refer to the evidences they will submit later.

The parties, unless they have agreed otherwise, may amend or extend their claims and defences during the course of arbitral proceedings. However, having regard to that this act is made in delay or creates a great difficulty unfairly for the other party and to the other circumstances, the arbitrator or the arbitral tribunal may not allow such amendment or extension. The amendment or extension of claim or defence so as to exceed beyond the scope of arbitration agreement is not permitted.

E) Unless otherwise agreed by the parties, the arbitrator or the arbitral tribunal draws up terms of reference following the submission of the Request for Arbitration and the Answer.

In the terms of reference, the names and titles of the parties, their addresses for notification during the arbitration, the summary of their claims and defences, their relief sought, the explanation of the dispute, the names and first names, titles and addresses of the arbitrators, the seat of arbitration, the term of arbitration, the commencement of term, the explanations concerning the procedural provisions to be applied to the dispute and the issues such as whether or not the arbitrators have been granted with the power to be *amiable compositeur* are provided.

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

Hearing and written proceedings, losing ability of being a party, default of a party at the proceedings
Article 11

A) The arbitrator or the arbitral tribunal may decide to the holding of hearings on the grounds such as the submission of the evidences, making oral statements and requesting for explanation from the expert-witness as well as decide to the conducting of the proceedings on the basis of documents. Unless the parties have agreed that no hearings shall be held, the arbitrator or the arbitral tribunal shall hold a hearing at an appropriate stage of the proceedings, upon the request of one of the parties.

The arbitrator or the arbitral tribunal shall give the parties appropriate advance notice of any kind of site inspection date, examination of expert-witness or other meetings and hearings it will hold for the examination of other evidences and the consequences of the absence of the parties.

The statements, information, and other documents supplied to the arbitrator or the arbitral tribunal shall be communicated to the parties.

B) In the case where one of the parties of the arbitral proceedings loses the ability of being a party, the arbitral proceedings shall be postponed by the arbitrator or the arbitral tribunal and it shall be notified to the concerned ones for the purpose of the continuation of the arbitral proceedings. In this case, the term of arbitration shall not run.

If no notification is made within 6 months or if the ones who are notified do not expressly serve the other party or the arbitrator or the arbitral tribunal that they will continue to the arbitral proceedings, the arbitral proceedings shall come to an end.

C) In the case of default of a party at the proceedings, the following provisions shall apply:

1. If, without showing any justified reason, the Claimant fails to communicate its request for arbitration within due course of

time, the arbitrator or the arbitral tribunal shall terminate the arbitral proceedings.

2. If the Request for Arbitration is not in accordance with the first sub-paragraph of paragraph D of Article 10 and the deficiency is not removed 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 Respondent fails to submit its Answer, this case is not considered as the acceptance of the Claimant's allegations and the arbitral proceedings are continued.

4. If, without showing any justified reason, any party fails to appear at a hearing or abstains from producing its evidences, the arbitrator or the arbitral tribunal may continue the proceedings and render the award according to the existing evidences.

Appointment of expert-witness by arbitrator or arbitral tribunal, taking evidences, law applicable to the substance of dispute and reconciliation
Article 12

A) The arbitrator or the arbitral tribunal may come to a decision;

1. the appointment of one or more expert-witnesses to report on the subjects determined by the arbitrator or the arbitral tribunal.

2. requiring the parties to make necessary explanations, to produce any relevant documents and information to the expert-witness.

3. the carrying out of site inspection related to the case.

Unless otherwise agreed, upon the request of a party or if the arbitrator or the arbitral tribunal considers it necessary, the expert-witnesses shall, after delivery of their written or oral reports, participate in a hearing to which they will be convoked. In this hearing, the parties may put questions to them and present

special expert-witnesses appointed by them in order to be heard on dispute matters.

B) The parties shall submit their documents within the period determined by the arbitrator or the arbitral tribunal. The arbitrator or the arbitral tribunal may request assistance from the Court of First Instance in taking evidences. In this case, the Court shall apply the provisions of the Code of Civil Procedure.

C) The arbitrator or the arbitral tribunal shall decide in accordance with the terms of the contract between the parties and the rules of law chosen by the parties to be applied to the substance of the dispute. In the interpretation and the completion of the contractual terms, the commercial customs and usages shall also be taken into consideration. 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 rules of procedure.

In the case the parties have not agreed upon the rules of law to be applied to the merit of the dispute, the arbitrator or the arbitral tribunal shall decide according to the substantive law rules of the State it concluded as the one with the dispute has the closest connection.

The arbitrator or the arbitral tribunal may decide according to *ex aequo et bono* or as *amiable compositeur* only if the parties have authorized it to do so.

D) If during arbitral proceedings, the parties reach to a settlement on the dispute, the arbitral proceedings shall be terminated. The settlement shall be recorded as an arbitral award by the arbitrator or the arbitral tribunal that considers appropriate the request of the parties.

Procedure of the arbitral tribunal in making decision and termination of arbitral proceedings
Article 13

A) Unless otherwise agreed by the parties, the arbitral tribunal shall make decision by majority.

If the parties or other members of the arbitral tribunal have authorized so, the Chairman of the Arbitral Tribunal may decide by itself on the certain issues of the procedure.

B) The arbitral proceedings shall terminate by the rendering of final arbitral award or by the realization of one of the cases below:

1. If the Claimant withdraws its claim, except the case where, upon the objection of the Respondent, the arbitrator or the arbitral tribunal concludes that the Respondent has a justified interest in 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 the continuation of the proceedings for any other reason unnecessary or impossible.

4. If the request for an extension of the arbitration term is rejected by the Court pursuant to Article 10 paragraph B sub-paragraph 2.

5. If the arbitral tribunal cannot decide by unanimity although it is provided by the parties that the award would be rendered by unanimity.

6. If, pursuant to Article 11 paragraph B sub-paragraph 2, arbitral proceedings cannot be continued.

7. If advance payment for costs of proceedings are not deposited pursuant to Article 16 Paragraph C sub-paragraph 2.

The mandate of the arbitrator or the arbitral tribunal terminates with the termination of the proceedings, subject to Article 14 paragraph B.

Form and content, correction, interpretation and completion of arbitral award, receipt of written notices
Article 14

A) In the arbitral awards;

1. The names and first names, titles and addresses of the

parties and their representatives and counsels, if any,

2. The legal justifications on which the award is based and the grounds thereof and the amount of compensation held in the requests regarding compensation,

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

4. The name(s) and first name(s), signature(s) and dissenting opinion(s) of the arbitrator or the arbitral tribunal who renders the award,

5. That an action for setting aside may be brought against the award

shall be stated.

Unless otherwise agreed, the arbitrator or the 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.

The parties may request for the entrusting of arbitral award to the Court of First Instance on its own expense. In such a case, the award and the action file shall be submitted by the arbitrator or the Chairman of the Arbitral Tribunal to the Court of First Instance and shall be kept by the Court at the clerk's office.

B) Each one of the parties, within thirty days of notification of the award, on the condition of also informing to the other party and by applying to the arbitrator or the arbitral tribunal;

1. may request correction of any calculation, clerical and similar material errors in the arbitral award,

2. may request it to interpret all or some sections of the award.

If the arbitrator or the arbitral tribunal, who takes the opinion of the opposing party, shall make the correction of material error in its award or give the interpretation of the award within thirty days of the request date, if the arbitrator or the arbitral tribunal considers the request to be justified.

The arbitrator or the arbitral tribunal may also correct the material errors in the award automatically within thirty days of the date of the award.

Each party, with notice also to the other party, may ask for it, within thirty days of notification of the award, to make additional award on issues that have not been decided upon in spite of having been claimed during the arbitral proceedings. If the arbitrator or the arbitral tribunal considers the request justified, it shall make the additional award within sixty days.

The decisions of correction, interpretation and completion shall be served on the parties and shall constitute a part of the award.

C) Unless otherwise agreed by the parties, any written notice shall be deemed to be received if it is delivered to the person itself to whom it is sent or to its domicile, habitual residence, place of business or postal address.

In the case where none of the places of notice above is found despite the carrying out of necessary research, the written notices that are sent to its last known domicile, habitual residence, place of business or postal address by registered mail or by any other means on which the delivery initiative is documented shall be deemed to be received.

Written notice shall be deemed to be received at the date when it is delivered in the forms provided.

The provisions of this paragraph shall not apply to the notifications made by the Courts.

SECTION V **Recourse Against Arbitral Awards**

Action for setting aside and making the arbitral award possible to be enforceable **Article 15**

Against an arbitral award, only an action for setting aside may be brought. Action for setting aside shall be filed before the Court of First Instance with competent jurisdiction as to venue and shall be discussed with priority and expeditious proceedings.

The arbitral awards may be set aside in the following situations:

- 1.** The party who applies proves that;
 - a)** a party to the arbitration agreement is under incapacity or the arbitration agreement is not valid under the law to which the parties have subjected it or failing such a choice of law, under the Turkish Law,
 - b)** the appointment of the arbitrator or the arbitral tribunal has not been in accordance with the procedure provided in this Law or specified in the agreement of the parties,
 - c)** the award is not rendered within the term of arbitration,
 - d)** the arbitrator or the arbitral tribunal has decided on its competence or incompetence in contradiction with the law,
 - e)** the arbitrator or the arbitral tribunal has decided on a matter beyond the scope of the arbitration agreement or has not decided on all of the issues claimed or exceeded its competence.
 - f)** the arbitral proceedings has not been carried out in accordance with the agreement of the parties as to procedure or failing such agreement in this respect, in accordance with the provisions of this Law and this situation has effected the substance of award.
 - g)** the principle of the equality of parties has not been respected or,

2. By the Court, it has been determined that,

a) the dispute that is subject of the award of the arbitrator or the arbitral tribunal is not arbitrable in accordance with Turkish Law.

b) the award is in contradiction with the public policy.

In the action for setting aside that is filed with the claim that the arbitrator or the arbitral tribunal has decided upon a matter which is beyond the arbitration agreement, if the matters within the scope of arbitration agreement is possible to be separated from the ones beyond the arbitration agreement, only the section of the award that includes the matters which are beyond the arbitration agreement may be set aside.

The action for setting aside may be filed within thirty days. This term starts to run from the date of notification to the parties of the arbitral award or the decision of correction, interpretation or completion. The filing of the action for setting aside shall *automatically* cease the enforcement of the award.

The parties may partially or completely renounce the right to file an action for setting aside. The parties having habitual residence or domicile outside of Turkey may completely renounce the right to file an action for setting aside with an express statement they will insert in the arbitration agreement or through agreeing upon later in writing as well as renounce the right to bring action for setting aside due to one or several reasons enumerated above.

The request for setting aside shall be decided with examination on the file, unless the Court in charge of action decides on the contrary.

The means of appeal is open against the decisions rendered on the action for setting aside according to the provisions of the Code of Civil Procedure; however it cannot be resorted to the mean of revision. The appellate examination shall be decided upon as limited to the grounds of setting aside provided under this article, with priority and expeditious proceedings.

In the case of the award is set aside but it is not appealed or in the case of it is set aside due to the existence of the cases under

sub-paragraph (b) of paragraph 2 and sub-paragraphs (b), (d), (e), (f), (g) of paragraph 1; unless the parties have agreed otherwise, they may again determine the arbitrators and the term of arbitration. The parties may, if they wish, appoint the previous arbitrators.

B) Following the finalization of the decision regarding the dismissal of the action for setting aside, the Court of First Instance shall provide a certificate concerning enforceability of the award, to the party who requests. The submission of this document is not subject to any charges. Where the awards put into enforcement, the provisions of the Code of Charges shall be applied.

In the cases where the term provided for the action for setting aside has elapsed or the parties have renounced to file the action for setting aside, sub-paragraphs (a) and (b) of paragraph 2 of (A) shall be *automatically* taken into consideration by the Court during the delivery of the certificate regarding the enforceability of the award. In this case, unless the Court decides on the contrary, the examination shall be realized on the file.

SECTION VI
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 agreed between the arbitrator or the arbitral tribunal and the parties, taking into consideration the amount of claim in dispute, nature of the dispute and the term of arbitral proceedings.

The parties may also determine the fees of the arbitrator or the arbitral tribunal by reference to the international established rules or institutional arbitration rules.

If the parties and the arbitrator or the arbitral tribunal cannot agree on the determination of the fees or the arbitration agreement does not include any provision regarding the determination of the fees or no reference has been made by the parties to the established international rules or institutional arbitration rules in this respect, the fees of the arbitrator or the arbitral tribunal shall be determined according to the fees tariff prepared annually by the Ministry of Justice by consulting with the concerned professional organizations in the nature of public establishment.

Unless otherwise agreed by the parties, the fee of the Chairman shall be calculated as 10 % more than the fee to be paid to each arbitrator.

In the cases of correction, interpretation or completion of the arbitral award, no additional arbitrator fees shall be paid.

B) The costs of arbitration shall be indicated in the award of the arbitrator or the arbitral tribunal. The costs of the arbitration shall comprise the following:

1. The fees of the arbitrators,
2. The travel and other expenses incurred by the arbitrators,

3. The fees paid to the expert-witnesses who are appointed by the arbitrator or the arbitral tribunal and to the other people whose assistance is referred to and the site inspection costs,

4. The travel and other expenses of witnesses to the extent that such expenses are approved by the arbitrator or the arbitral tribunal,

5. The attorney fee assessed by the arbitrator or the arbitral tribunal for the counsel, if any, of the successful party according to the attorneyship minimum fee tariff,

6. The jurisdiction charges received at the applications to be made to the Courts according to this Law,

7. The notification expenses concerning the arbitration proceedings.

C) The arbitrator or the arbitral tribunal may request from the Claimant to deposit advance for the costs of proceedings.

If the advance is not paid within the period provided in the decision of the arbitrator or the arbitral tribunal, the arbitrator or the arbitral tribunal may suspend the proceedings. If the advance is paid within thirty days following the notification to the parties stating that the proceedings are suspended, the proceedings shall be continued, otherwise it shall be terminated.

Following the award, the arbitrator or the arbitral tribunal shall provide a document indicating expenditure places and amounts of the deposited advances and return any balance to the one who paid.

D) Unless the parties agree on the contrary, the costs of proceedings shall be borne by non suited party. If both of the parties are found partially right in the case, the costs of proceedings shall be apportioned among the parties in accordance with justified appreciation.

The costs of proceedings shall also be shown in the award of the arbitrator or the arbitral tribunal that terminates the proceedings or fixes the reconciliation between the parties.

SECTION VII
Final Provisions

Provisions abolished and not to be applied
Article 17

Unless otherwise provided, the provisions of the Code of Civil Procedure shall not apply with respect to the subjects governed by this Law.

Article 5 of the Law Relating to the Principles Required to Be Complied with In the Case of Having Recourse to the Arbitration Process for the Disputes Arising from Concession Agreements and Contracts Regarding Public Services dated January 21, 2000 and no 4501 has been abolished.

Transitory Provision 1

If the parties and the arbitrator or the arbitral tribunal cannot agree on the determination of the fee or the arbitration agreement does not include any provision regarding the determination of the fee or no reference has been made by the parties to the arbitrator or the established international rules or institutional arbitration rules in this respect, until the fee tariff is determined by the Ministry of Justice, the fees of the arbitrators shall be assessed by the Court of First Instance taking into consideration the nature of the dispute and the term of arbitration.

The principles and procedures concerning the preparation of fee tariff shall be established under the regulation to be issued by the Ministry of Justice within six months following the publication date of the Law.

Entry into force
Article 18

This Law shall enter into force on the date of its publication.

Execution
Article 19

The provisions of this Law shall be executed by the Council of Ministers.

Publication date : June 4, 2001