

ISTANBUL ARBITRATION CENTRE MEDIATION RULES

Section I INTRODUCTORY PROVISIONS

ARTICLE 1

Objective

1. These Mediation Rules aim to regulate the rules on procedure and practice to be followed before Istanbul Arbitration Centre in the course of the resolution of private disputes, which may be subject to mediation.

ARTICLE 2

Definitions

1. Pursuant to these Mediation Rules, the following terms shall have the meanings assigned thereto:
 - a) Mediator: For the purpose of conducting mediation process, a person or persons who are designated by the parties of a dispute and/or by the Arbitration Centre and who are registered to the mediation registry of the Ministry of Justice except for the disputes consisting of a foreign element;
 - b) Mediation Rules: Istanbul Arbitration Centre Mediation Rules;
 - c) Board: Istanbul Arbitration Center National and International Board of Arbitration;
 - d) Secretariat: Istanbul Arbitration Centre Secretariat General;
 - e) Centre: Istanbul Arbitration Centre;
 - f) Party: A party or parties to a dispute.

ARTICLE 3

Scope

1. For the disputes to be resolved by mediation before the Centre, the existence of a mediation agreement or a mediation clause in a contract referring their dispute to the Mediation Rules is required. The parties may commence willingly the mediation process under the Mediation Rules even if there is no prior mediation agreement or mediation clause between the parties.

Section II

COMMENCEMENT OF THE MEDIATION

ARTICLE 4

Request for Mediation

- 1.** The party wishing to commence a mediation process under the Mediation Rules shall apply in writing to the Secretariat, in person, by post or in electronic form,. The request shall include at least the following:
 - a)** Full names, titles, addresses, telephone and facsimile numbers and email addresses of each of the parties;
 - b)** If any, full names, titles, addresses and any other contact details of their representatives and counsels;
 - c)** Explanations on the subject matter, nature and circumstances of the dispute;
 - d)** Along with the relief sought, the amount of the any quantified claims, and for the claims of which the amount cannot be determined, an estimate of their monetary value;
 - e)** Along with any other relevant agreements, if any, a copy of the mediation agreement and/or mediation clause;
 - f)** Any agreement between the parties and/or statement on issues such as, if it is determined, the place of the mediation, the language of the mediation, the number of mediators and the area of expertise of mediators;
 - g)** Proof of payment of the administrative costs pursuant to Article 13(2) of these Rules.
- 2.** The request for mediation and its annexes, as well as any documents to be submitted by the parties to the Secretariat during the mediation process shall be supplied in the number of copies sufficient to provide one copy for the other party, one copy for each mediator, and one additional copy.
- 3.** The date on which the necessary application documents regarding the request of mediation and the proof of payment of the administrative costs are submitted in full, shall be deemed to be the date of the commencement of the mediation process. If the application documents are not complete, the Secretariat grants a time limit, not exceeding 7 days, within which the applicant shall remedy these defects.
- 4.** After the full submission of the required application documents regarding the request for mediation, the Secretariat shall notify the opposing party or parties of the request.
- 5.** Any notification to the requesting party in the course of mediation process shall be made to the address specified under Article 4(1)(a) and the requesting party

shall be liable for any mistake and changement on its address details. For the applications submitted through a representative, the notifications shall be made to the representative's address.

ARTICLE 5

Answer

- 1.** Within 15 days of the notification of the request for mediation and annexes, the opposing party shall submit in writing to the Secretariat its answer, in person, by post or in electronic form. The answer shall include at least the following:
 - a)** Full names, titles, addresses, telephone and facsimile numbers and email addresses of each of the parties;
 - b)** If any, full names, titles, addresses and any other contact details of their representatives and counsels;
 - c)** The nature, circumstances and grounds of the dispute, along with the responses to the facts, legal statements and claim or claims specified in the request for mediation and if any, explanations concerning the counterclaims;
 - d)** Statements on the place of the mediation, the language of the mediation, the number of mediators and their area of expertise.
- 2.** In cases where it is highly difficult or impossible to prepare the answer within the time limit set forth under Article 5(1), provided that the application to Secretariat has been within such time, the answering party may be granted, as once, an additional time, not exceeding 15 days.
- 3.** After the full submission of the required documents regarding the answer, the Secretariat shall notify the applicant party or parties of the answer and its annexes.
- 4.** Any notification to the answering party in the course of mediation process shall be made to the address specified under Article 4(1)(a) and the answering party shall be liable for any mistake and changement on its address details. For the applications submitted through a representative, the notifications shall be made to the representative's address.

Section III MEDIATOR

ARTICLE 6

Mediator

- 1.** Except the disputes consisting of a foreign element, the Mediators are persons chosen or appointed by the Board among the real persons registered to the

mediation registry of the Ministry of Justice in order to serve for the resolution of the dispute.

2. The Mediators must perform their duties with due care, personally, independently and impartially.
3. The Mediators, who accept the duty, shall notify in person, by post or in electronic form the Secretariat in writing of their contact information, experience, expertise and, if any, any prior activities related to the subject matter of the dispute.

ARTICLE 7

Choice of Mediator

1. Unless otherwise agreed by the parties and the nature of the dispute requires clearly, it is accepted by the Board that a sole Mediator shall conduct the mediation process.
2. If the parties fail to agree on the Mediator, the Board shall appoint the Mediator. The Board shall take into consideration any agreement between the parties regarding the qualifications of the mediator.

ARTICLE 8

Mediator's Commencement of the Duty and Objections

1. The Mediator shall begin its duty upon the Board's decision concerning the appointment of Mediator. The Secretariat shall notify the parties of such decision.
2. Within 7 days of the notification of the decision concerning the appointment of Mediator, the parties may submit in writing to the Secretariat their objections with respect to the appointment, commencement of duty, ability, impartiality and independence of the mediator. The Board considers these objections and renders its decision within 7 days. The decision of the Board concerning such matter is final.
3. If the Mediator does not attend two consecutive meetings without a valid excuse, the mediator shall immediately inform the Secretariat of the situation. The parties of the dispute may also make such notification. The Board shall take necessary measures, including the replacement of the mediator, in the shortest time possible.
4. If the Mediator leaves the duty for any reason, loses the qualifications required to perform the duty or resigns, the Board shall appoint a new Mediator within 7 days.

Section IV CONDUCT OF THE MEDIATION

ARTICLE 9

General Provisions

1. Within 2 days of the appointment of the Mediator, the Secretariat shall transmit the Request and Answer along with their annexes to the Mediator.
2. The Mediator, taking into consideration the nature of the dispute, shall make every effort to settle the dispute in an expeditious and cost-effective manner.
3. The Mediator must provide equal and sufficient opportunities to the parties to make their statements.
4. All participants in the mediation process must act in good faith. The Mediator may take necessary measures against the malicious claims solely intended to prolong the mediation process.
5. Unless otherwise agreed by the parties, the mediation process confidential.

ARTICLE 10

Language of the Mediation

1. The parties freely determine the language of the mediation. In the absence of such agreement between the parties, the Mediator shall determine the language of the mediation considering all circumstances and conditions.

ARTICLE 11

Mediation Meetings

1. Within at most 15 days from the Secretariat's transmission of the Request and Answer along with their annexes, the Mediator holds the first meeting with the parties at the location determined by the Board.
2. Locations and dates of the following meetings are to be determined respectively by the Mediator in each meeting.
3. Unless otherwise agreed by the parties, the mediator may use electronic means of communication in the meetings.

ARTICLE 12

Termination of the Mediation

1. The Mediation process is terminated under the following circumstances:

- a) If the parties reach an agreement;
 - b) If the Mediator, after consulting with the parties, determines that it is no longer necessary to make further effort for the mediation;
 - c) If one of the parties notify her/his withdrawal from the mediation process;
 - d) If the parties agree on the termination of the mediation process.
2. Upon the termination of the mediation process, the Mediator shall draw up a record. The Mediator and the parties shall sign such record, and the Mediator shall transmit the record to the Secretariat and parties. If one of the parties refuses to sign the record, the Mediator shall sign the record, inscribing the reason of such refusal.
 3. In cases where the mediation process is terminated upon the parties' agreement, if requested by the parties and if there is an arbitration agreement between the parties, the Board may appoint the Mediator as an Arbitrator. In such event, the settlement agreement may be recorded in the form an arbitral award.

ARTICLE 13

Mediation Costs

1. The mediation costs consist of the Istanbul Arbitration Centre administrative costs and the Mediator fee.
2. The party applying for mediation process pays TRY 500 together with its application for the Istanbul Arbitration Centre administrative costs. Such payment is not refundable. The Board, taking into consideration all relevant facts and circumstances may request the payment of an additional cost. If the proof of payment of the administrative cost is not submitted along with application, the Secretariat shall not process the application.
3. Except the disputes consisting of a foreign element, the scale of Mediator fee on the Code of Mediation of Legal Disputes shall apply for the determination of mediator fee.
4. For the disputes consisting of a foreign element, the parties and the mediator may agree on the Mediator fee; if they fail to agree the scale of Mediator fee on the Code of Mediation of Legal Disputes shall apply.

Section V

FINAL PROVISIONS

1. In all matters not expressly provided under these Rules the Board, the Secretariat and the Mediator will act in the spirit of these Rules.

- 2.** These rules enter into force upon the approval of the Istanbul Arbitration Centre General Assembly.