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Purpose

Article 1

The aim of this Law is to determine the principles and procedures that shall be complied with where public service concession contracts contain access to arbitration for disputes arising from these contracts.

Definitions

Article 2

Of the terms used herein:

- (a) Arbitration shall refer to a private means of dispute resolution by which parties may submit an existing or future dispute to an arbitrator or an arbitral tribunal in accordance with their agreement. The parties may determine the dispute resolution procedure.
- (b) International arbitration agreement shall refer to an agreement under which disputes arising from public service concession contracts, in part or as a whole, may be agreed to be arbitrated in accordance with international commercial arbitration.
- (c) Foreign element shall refer to circumstances under which [i] at least one of the parties, be it established or to be established, to a [concession] contract is to be considered foreign in accordance with the regulations on the encouragement of foreign capital, or [ii] the realization of the contract shall necessitate foreign capital, or conclusion of foreign loan or security agreements.
- (d) Contract shall refer to a concession contract.

Resolution of Disputes Involving a foreign Element by International Arbitration

Article 3

A dispute arising from a concession contract that contains a foreign element may be settled:

- (a) before an arbitrator or an arbitral tribunal, which will sit in Turkey, and which will apply either Turkish or foreign law,
- (b) before an arbitrator or an arbitral tribunal, which will sit in a foreign country, and which will apply either Turkish or foreign law,
- (c) before an international arbitration institution which has its own arbitration procedure.

Principles Concerning Arbitration

Article 4

If arbitration is agreed [as a dispute resolution mechanism], an arbitration agreement may take either the form of a clause in a concession contract or the form of a separate agreement. The arbitration agreement shall become effective in accordance with the procedure governing effectiveness of the contract.

The arbitration clause or agreement shall deal with, in detail, the following issues: disputes that are to be arbitrated; applicable arbitration rules; place of arbitration; number, appointment procedure and qualities of the members of the tribunal; arbitration procedure of the tribunal; language of arbitration; applicable substantive law; submission of evidence; appointment of an expert; service of process of the dispute to the opposite party; service period; arbitration period; power and procedure of a tribunal to collect evidence; tribunal's fees; costs of arbitration; attorney fees; and other similar subjects.

(Article 5 was repealed by Article 17(2) of Law No. 4686 of 2001.)

Filling Gaps

Article 6

Where there is no provision in this Law [concerning an aspect of arbitration] and in international conventions duly put into force, the provisions concerning arbitration of Law No. 1086 of 18 June 1927, on Civil Procedure and of Law No. 2675 of 20 May 1982 on Private International and Procedural Law shall be applicable.

(Article 7 is omitted because of its irrelevance.)

Transitory Article 1

Projects and works that were commenced prior to entry into force of this Law shall be concluded in accordance with the applicable procedures and principles to them.

(Transitory Article 1(2), Article 8 and Article 9 are deliberately omitted because of their irrelevance.)