

## RESOLUTION OF DISPUTES ARISING FROM PUBLIC PROCUREMENT AGREEMENTS THROUGH ARBITRATION

As published in the Official Gazette dated December 30, 2017 and numbered 30286<sup>1</sup>, in order to promote the choice of arbitration for the resolution of disputes that may arise from the agreements concluded pursuant to the Public Procurement Contracts Law, it is now possible to choose arbitration instead of Turkish State Courts in the agreements to be concluded by public authorities.

Previously, with the Circular of the Prime Ministry published in the Official Gazette dated November 19, 2016<sup>2</sup>, public authorities were advised to choose Istanbul Arbitration Centre (ISTAC) arbitration as a dispute resolution mechanism.

Thus, in agreements concluded by public authorities, in case arbitration is selected and the respective dispute has a foreign element, it will be resolved by choosing either the Istanbul Arbitration Centre Arbitration Rules or the provisions of the International Arbitration Law. In case of disputes without a foreign element, the Rules of the Istanbul Arbitration Centre will be applied.

Therefore, in addition to the local companies participating in the tender, international investors are now able to resolve their disputes arising from public procurement contracts with public institutions before the Istanbul Arbitration Centre.

As a result, it has been recognized by public authorities that ISTAC arbitration is a more efficient and faster option. It is advisable to include arbitration clauses both in agreements between private sector companies and in public procurement agreements related to investments and projects in Türkiye.

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<sup>1</sup> <https://www.resmigazete.gov.tr/eskiler/2016/11/20161119-5.pdf>

<sup>2</sup> <https://www.resmigazete.gov.tr/eskiler/2017/12/20171230M1.htm>