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Domestic Arbitration Pursuant to the New Turkish Code of Civil Procedure

In Turkey, regulations on arbitration date back to 1927 with the Code of Civil Procedure (<http://www.mevzuat.adalet.gov.tr/html/435.html>), where the rules on commercial arbitration cases had been embedded without, however, differentiating between domestic and international arbitration. Although the provisions of the Code of Civil Procedure still apply to domestic arbitration, the need for a more comprehensive law concerning international arbitration was met in Turkey with the adoption of the Turkish International Arbitration Law in 2001 (<http://www.mevzuat.adalet.gov.tr/html/1147.html>). Regulating the procedures and principles of international arbitration, the Turkish International Arbitration Law applies to disputes bearing foreign elements and where the place of arbitration is located in Turkey or, where the provisions of the Turkish International Arbitration Law are chosen by the parties or the arbitral tribunal. When drafting the Turkish International Arbitration Law, the legislator was generally guided by the UNCITRAL Model Law on International Commercial Arbitration (the "Model Law") (http://www.uncitral.org/pdf/english/texts/arbitration/ml-arb/06-54671_Ebook.pdf) but made changes to a few provisions.

In addition to the rules on international arbitration, Turkey's Code of Civil Procedure offered the above mentioned rules on domestic arbitration which were somewhat out of date, less arbitration friendly and less detailed compared to the rules applicable to international arbitration. Notwithstanding, recent legislative reforms in Turkey proof Turkey's efforts to align its laws with the *European Community acquis*. *Inter alia*, new and efficient regulations regarding domestic arbitration have been adopted and will be effective as of 1 October 2011. Those new, detailed rules on domestic arbitration are likewise in line with the Model Law. The new rules on domestic arbitration will apply if the arbitration does not hold a foreign element as defined by the Turkish International Arbitration Law and where the place of arbitration is located in Turkey. Some of the essential features of the new rules are as follows:

- Disputes arising out of estates or matters that are not subject to the parties' disposition are not arbitrable;
- The arbitral tribunal may issue preliminary injunctions during the course of the proceedings. More interestingly, in case a local court issues a preliminary injunction before the commencement of the arbitral proceedings, the injunction may be amended or annulled by the arbitral tribunal;
- In case the arbitral tribunal consists of more than one arbitrator, at least one of the arbitrators should be a lawyer with at least five years of legal experience;
- A party may file an annulment action against the award within one month following the notification of the final award to the parties. The grounds for filing this action are similar to those provided by Article 36 of the Model Law, i.e. the grounds for refusing recognition or enforcement of the award. Furthermore, the parties are entitled to appeal the result of the annulment action on the same grounds; however, the appellate proceedings will not hinder the enforcement of the arbitral award.

The new provisions regarding domestic arbitration are designed to provide effective solutions, to give dynamic to and increase the choice of Turkish arbitration on the basis of the common, familiar and secure nature of the Model Law. This will further Turkish case law on arbitration which will, in return, enhance the number of international arbitrations taking place under the regime of the Turkish International Arbitration Law, since both laws are rooted in the Model Law.