

Insurance Arbitration Schemes in Turkey

Introduction

Insurance Arbitration Commission (IAC) was established with the enactment of Insurance Act (Law No. 5864) in 2007. The main aim of IAC is to resolve the disputes arising out of insurance contracts. Arbitration process under IAC is a faster and economical way for settling a dispute by arbitrators.

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IAC received 1.200 applications in its first year. Since then, significant increase has been seen in the number of applications due to wider recognition of scheme over the years. Number of the applications are increasing year by year and this, as a result, is decreasing the work load of commercial courts in Turkey. As of the end of 2018, over 200.000 disputes were settled under the IAC. Most of the applications made to the IAC are arising out of motor vehicles third-party liability insurance contracts and car insurance contracts.

It is voluntary for insurance companies to join the IAC. Currently, IAC has 51 member insurance companies which produce more than 90% of the premiums in the Turkish insurance market. Disputes with member insurance companies can be brought to the IAC. Nevertheless, applicants who have disputes arising out of compulsory insurance contracts can benefit the insurance arbitration scheme even if the insurance company is not a member to the IAC.

Article 30 of the Insurance Act and the relevant by-law lay down the principles of the insurance arbitration scheme.

This article aims to provide a brief overview for the insurance arbitration scheme under the IAC.

Arbitration Process

There are two preconditions for applying arbitration under the IAC. Applicants can apply the IAC only after their claim is denied by the insurer. Therefore, applicants should first apply to their insurers for their claims before making applications to the IAC. The applicants will also have a right to make applications to the IAC if the insurers remain silent for fifteen business days (fifteen days for motor vehicles' third-party liability insurance) for the request. No application is allowed to the IAC if the dispute has already been brought before a court or a consumer arbitration committee.

Application form is available at the website of the IAC. Applicants while submitting their application form, should also prove that the application fee has been deposited to the IAC. Amount of the fee is proportionate to the value of the claim. However, it is relatively cheap compared to litigation costs.

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Application to the IAC can be made in person. However, it is advised to seek help of professionals. Once the application form with the relevant documents are submitted to the IAC, the rapporteurs will consider whether the application meets the above-mentioned conditions. Consideration of the rapporteurs should be completed in fifteen business days.

IAC commissions an arbitrator or arbitration committee for the confirmed applications depending on the value of the claim. If the value of the claims is TRY 15.000 or over, an arbitration committee should be formed to resolve the dispute.¹

The requirements in becoming an arbitrator under IAC are set forth in Article 30 of the Insurance Act. Besides the other requirements, a minimum 5 years of experience in insurance law or a minimum 10 years of experience in insurance sector is required to qualify as an arbitrator. IAC classifies arbitrators in two groups: arbitrators and objection arbitrators.

¹ Although the value of the claim is immaterial for the application, almost 90% of claims brought before the IAC worth under TRY 15.000.

Arbitrators render the award based on the documents provided by the parties. However, depending on the subject of the dispute, if deemed necessary, expert opinions may be received on technical matters as well. Experts are also appointed by the IAC from the list of registered experts.

Since the arbitration scheme is regarded as a swift way of resolving a dispute, certain time limits are provided under Article 30 of the Insurance Act. Accordingly, arbitrators are under the obligation of completing the proceedings and rendering the award within a period of four months. However, this time limit may be extended with the express and written consent of the parties. If the arbitrators fail to resolve the dispute within the given period, the dispute will be settled by the competent courts. Arbitrators are required to be impartial and are not allowed to disclose any information without consent of the parties.

Arbitral Award

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The award rendered by the arbitrator should be submitted to the IAC's director and the director should notify the parties within three business days at the latest. Arbitral awards for claims worth under TRY 5.000 are final. Nevertheless, objection can be raised against the arbitral awards for claims worth TRY 5.000 or more within ten days after the notification. If the parties remain silent through this period of time, the award becomes final.

The party who wants to challenge the arbitral award should pay the objection fee and submit the objection application form which is available at the website of the IAC. The amount of the objection fee is proportionate to the value of the claim. The objection automatically suspends the enforcement of the arbitral award and it is examined by arbitration committee which consists of objection arbitrators. This committee is obliged to finalize the proceedings within two months.

The decision upon the objection is conclusive. However, awards for claims worth over TRY 40.000 can be appealed at regional appeals courts.

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