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Update on the ICC Arbitration Rules that came into effect on 1 June 2026

Client Updates

On 1 June 2026, the new Arbitration Rules of the International Chamber of Commerce (ICC) came into effect. These Rules reflect the ICC Court of Arbitration's commitment to making arbitration more efficient, reducing costs, and increasing procedural flexibility, while maintaining the high standards of the process and the quality of arbitral awards that have positioned the ICC as one of the world's leading arbitration institutions for decades. Set out below are several notable examples.

1. Removing the Mandatory Nature of Terms of Reference (ToR):

The ToR document has traditionally served to define the framework of the arbitration at an early stage of the proceedings. Among others, it records the parties' agreement on the tribunal's jurisdiction, the seat of arbitration, and the law applicable to the arbitration, while also framing the issues in dispute and the relief sought by the parties. Preparing and signing the ToR was a mandatory step in every ICC arbitration, however, under the 2026 Rules, it is no longer required.

The main benefit of signing the ToR at an early stage is that it formally records the parties' agreements regarding the tribunal's powers, which may support the enforceability of the arbitral award. At the same time, criticism has been raised over the years that agreeing the language of the ToR usually requires significant time and resources from both the parties and the tribunal, and that the benefits of the document do not always justify the time and cost involved.

2. Expansion of the Expedited Procedure Provisions:^[1]

The amendment raises the monetary threshold for disputes to be conducted under the expedited arbitration rules from USD 3 million to USD 4 million, for arbitration agreements concluded on or after 1 June 2026. In practice, this significantly increases the number of proceedings that will be handled under the expedited procedure, under which an award is generally expected within six months from the date of the first case management conference.

This shorter process is made possible, among other things, because it is conducted by a sole arbitrator even if the arbitration agreement provides otherwise. In addition, the arbitrator is given broad authority, after consulting with the parties, to decide that the proceedings will be conducted without document production and even to decide the case on the basis of documents alone.

This latest increase continues the ICC's gradual expansion of the expedited track. Since the expedited procedure provisions were introduced in the 2017 Rules, they have been applied in 1,034 proceedings, in which 591 arbitral awards were issued.^[2] The monetary threshold has gradually increased: from USD 2 million under the 2017 Rules, to USD 3 million under the 2021 Rules, and now to USD 4 million. In 2025, more than 40% of the arbitrations administered by the ICC were valued below USD 4 million.^[3] As a result, a substantial portion of ICC cases in the coming years are likely to be conducted on an expedited basis, particularly as more small and medium-sized businesses turn to international arbitration to resolve cross-border disputes.

3. Formalizing Arbitrators' authority to make an early determination: ^[4]

For the first time, the Rules expressly recognize the tribunal's authority to decide, at a preliminary stage, claims or arguments that are manifestly without merit or manifestly outside the tribunal's jurisdiction. Although the power to make an early determination was already considered an inherent power of arbitrators and already existed,^[5] the amendment now formally codifies that power, thereby creating greater certainty and reinforcing the tribunal's authority to use this tool.

4. Express recognition of independence and impartiality requirements, and of confidentiality and disclosure obligations: ^[6]

For the first time, the Rules expressly impose on arbitrators a duty of confidentiality vis-à-vis the parties to the proceedings. As a general rule, arbitrators must keep confidential all matters relating to arbitration that are not in the public domain, unless the parties agree otherwise or disclosure is required by law, to protect a legal right, or in order to comply with disclosure obligation.^[7] By addressing this expressly, the ICC reinforces important principles of arbitration, including trust, integrity, and the protection of the sensitive nature of the proceedings and the information disclosed in the course of them.

The amendment also introduces a new obligation on the parties to submit to the Secretariat a list of relevant persons and entities that they believe prospective arbitrators and arbitrators should consider, together with the reasons for doing so.^[8] The aim is to support compliance with disclosure obligations at an early stage, helping identify potential issues of independence and impartiality, enhance transparency, and reduce related disputes at a later stage. At the same time, while the scope of the arbitrators' own disclosure obligation has not changed, the amendment clarifies that, in case of doubt, disclosure should be preferred,^[9] and that disclosure in itself does not indicate a lack of independence or impartiality. ^[10]

5. Granting temporary orders on an ex-parte basis in emergency arbitration: ^[11]

Since 2012, the ICC Rules have allowed parties to apply to an emergency arbitrator in cases where urgent interim relief is needed and cannot wait until the tribunal is constituted. The amendment now introduces a

mechanism for preliminary orders, allowing a party to request an order preventing the opposing party from frustrating the purpose of the emergency arbitration, even without notice to the other side, that is, on an ex parte basis, and even before the other side has been notified of the commencement of the emergency arbitration proceeding.^[12]

Concluding remarks:

Taken together, the amendments reviewed reflect the ICC's broader effort to make arbitration faster, more efficient and simpler, without undermining the fairness or integrity of the process. In practice, this objective is advanced by reducing procedural steps, expanding the scope of expedited proceedings, and giving the tribunal broader tools to manage the proceedings in a focused and efficient manner. At the same time, the amendments strengthen mechanisms intended to preserve the integrity of the process, including clear provisions regarding the tribunal's powers, and disclosure and confidentiality obligations. Viewed more broadly, these changes are designed to adapt international arbitration to the evolving needs of parties and to enable faster decisions, at more reasonable cost, and with a higher degree of legal certainty.

*This update was prepared with the assistance of Esther Halfon.

[1] Art. 32 and Appendix V of the ICC Arbitration Rules 2026, (hereinafter: the ICC Rules).

[2] International Chamber of Commerce, [Unveiling the 2026 ICC Arbitration Rules, part 3: Expedited Procedure Provisions and Emergency Arbitration](#).

[3] Ibid.

[4] Art. 30 of the ICC Rules.

[5] International Chamber of Commerce, [Unveiling the 2026 ICC Arbitration Rules, part 5: Early determination](#).

[6] Art. 12 of the ICC Rules; International Chamber of Commerce, [Unveiling the 2026 ICC Arbitration Rules, part 1: arbitrator disclosure](#).

[7] Art. 12(8) of the ICC Rules.

[8] Art. 12(5) of the ICC Rules.

[9] Art. 12(2) of the ICC Rules.

[10] Art. 12(4) of the ICC Rules.

[11] Art. 31 and Appendix IV of the ICC Rules.

[12] Para. 7 of Appendix IV of the ICC Rules.

This update is intended to provide general and concise information only. It does not constitute a full or complete analysis of the issues discussed, does not constitute a legal opinion or legal advice, and should not be relied upon as such.

Key Contacts



Nuna Lerner
Partner



Nir Keidar
Partner