

A New Era for ICC Arbitration: The 2026 Rules

Inside Arbitration | Vardar Şanlı



The International Chamber of Commerce (the “ICC”) has updated the ICC Arbitration Rules, one of the most widely used sets of institutional arbitration rules worldwide. The 2026 ICC Arbitration Rules (the “**2026 ICC Rules**”) entered into force on June 1, 2026 and constitute the most comprehensive update to the ICC arbitration framework since 2021. The 2026 ICC Rules are intended to make ICC arbitration proceedings faster, more flexible and more efficient. The amendments cover a broad range of matters, from expedited arbitration procedures and early determination to confidentiality obligations and electronic communications and notifications.

Terms of Reference Are No Longer Mandatory in Standard ICC Arbitration Proceedings

Under the 2021 ICC Arbitration Rules, the arbitral tribunal was required to prepare the Terms of Reference within 30 days of receiving the case file and submit them to the ICC International Court of Arbitration (the “**ICC Court**”). The Terms of Reference recorded the parties’ claims and relief sought, defined the scope of the dispute and set out the principal procedural matters. Although it was a distinctive feature of ICC arbitration, its preparation could result in additional delay and cost, particularly where a party failed to participate in the proceedings or otherwise delayed the process.

The 2026 ICC Rules remove the mandatory requirement to prepare Terms of Reference. However, the arbitral tribunal may still prepare them where it considers that doing so would assist the conduct of the proceedings. At the same time, the initial Case Management Conference (the “**CMC**”) has assumed a more central role and has become the principal procedural stage for organising the arbitration.

The initial CMC must be held within 30 days of the transmission of the file to the arbitral tribunal. The procedural timetable must be established at or immediately following the initial CMC. Any new claim or counterclaim introduced after the initial CMC will require the arbitral tribunal’s authorisation.

Additionally, the general six-month time limit for rendering the final award has been removed. Under the 2021 ICC Arbitration Rules, this period began to run upon the signing of the Terms of Reference or their approval by the ICC Court. Under the new framework, the relevant time limit will be fixed or extended by the President of the ICC Court, taking into account the procedural timetable or a reasoned request from the arbitral tribunal. By contrast, under the Expedited Procedure Provisions, the six-month period for rendering the final award from the date of the initial CMC has been retained.

The Scope of the Expedited Procedure Has Been Expanded.

The 2026 ICC Rules introduce significant changes to the Expedited Procedure Provisions (the “EPP”). While the core features of the existing expedited procedure have been retained, the threshold for the automatic application of the EPP has been increased from USD 3 million to USD 4 million for arbitration agreements concluded on or after June 1, 2026. As a result, a broader range of disputes will fall within the scope of the EPP. The approach under the 2021 ICC Arbitration Rules, which allows the parties either to opt into or opt out of the EPP, has also been retained.

A Highly Expedited Procedure Has Been Introduced.

The 2026 ICC Rules introduce a new opt-in mechanism called the Highly Expedited Arbitration Provisions (the “HEAP”). The HEAP is designed for procedurally straightforward disputes in which the parties seek to obtain a final award within a particularly short period. The amount in dispute is not determinative. Accordingly, both low-value and high-value disputes may be resolved under the HEAP. However, joinder of additional parties and consolidation of arbitrations are not permitted under this procedure.

The HEAP applies only where the parties expressly agree to its application. The parties may include this choice in the arbitration agreement or agree to apply the procedure after the dispute has arisen.

Proceedings under the HEAP will be conducted by a sole arbitrator. If the parties fail to agree on the arbitrator within 20 days, the appointment will be made by the ICC Court. The parties are required to present their claims, defences and supporting evidence at the outset of the proceedings. Accordingly, the claimant must submit its Statement of Claim together with the Request for Arbitration, while the respondent must submit its Statement of Defence together with the Answer to the Request for Arbitration. The initial CMC must be held within seven days of the transmission of the file to the sole arbitrator.

The final award must be rendered within three months of the initial CMC. To comply with this compressed timetable, the sole arbitrator may limit further submissions and document production or decide the dispute without a hearing. The award may also be issued without reasons if the parties so agree.

The Scope of the Emergency Arbitrator Mechanism Has Been Expanded.

Under the 2026 ICC Rules, Emergency Arbitrator applications may be directed not only against parties to the arbitration agreement and their successors, but also against persons whom the President of the ICC Court considers, on the basis of the information submitted with the application, may be bound by the arbitration agreement. The 2026 ICC Rules also expressly introduce the preliminary order mechanism. In certain circumstances, a preliminary order may be issued without prior notice to the other party. As a procedural safeguard, the other party must promptly be given a reasonable opportunity to present its position, and the preliminary order may subsequently be modified where appropriate.



The Early Determination Mechanism Has Been Expressly Included in the 2026 ICC Rules.

The 2026 ICC Rules expressly provide for the Early Determination mechanism, which had previously been addressed in the ICC Note to Parties and Arbitral Tribunals on the Conduct of the Arbitration since 2017. The mechanism enables the arbitral tribunal to determine, at an early stage of the proceedings, claims or defences that are manifestly without merit or manifestly outside its jurisdiction. Any party may apply for early determination. The arbitral tribunal will decide whether the application should proceed. If it permits the application to proceed, the opposing party must be given a reasonable opportunity to present its position, after which the tribunal will determine the appropriate procedural measures. The mechanism is particularly suitable where the dispute is predominantly legal, does not require extensive evidentiary examination, or concerns a claim in respect of which the essential legal elements have not been pleaded.



Arbitrators' Disclosure and Confidentiality Obligations Have Been Clarified.

The 2026 ICC Rules require arbitrators to disclose any matter concerning the parties, the dispute, or any person or entity involved in the proceedings whenever they are in doubt as to whether disclosure is required. At the same time, the 2026 ICC Rules expressly clarify that the fact of disclosure does not, in itself, indicate that the arbitrator lacks independence or impartiality. The 2026 ICC Rules also impose a more active obligation on the parties. Each party must provide the Secretariat with a reasoned list of the persons and entities that it considers relevant to the arbitrators' assessment of independence and impartiality. The Rules further expressly provide that arbitrators are subject to a duty of confidentiality in relation to the arbitration. This duty does not apply where the information is already in the public domain, the parties have agreed otherwise, disclosure is required under the applicable law or disclosure is necessary to protect a right or comply with disclosure obligations. By contrast, the 2026 ICC Rules do not impose a general duty of confidentiality on the parties by default. Parties seeking a broader confidentiality regime must therefore address the matter separately.

Other Changes Introduced by the 2026 ICC Rules

The 2026 ICC Rules establish electronic communication as the default method for written communications with the Secretariat. Accordingly, the Request for Arbitration, the Answer, and any Request for Joinder will generally be submitted electronically. Hard copies will be required only where transmission by delivery against receipt, registered post or courier is requested or where electronic transmission is not practicable. The 2026 ICC Rules also expand the existing possibility of continuing the proceedings with the remaining arbitrators where an arbitrator dies or is removed by the ICC Court. Under the 2021 ICC Arbitration Rules, this was possible only after the proceedings had been closed. Under the new framework, the ICC Court may permit the remaining arbitrators to continue after the final hearing or the final substantive submissions, whichever occurs later. The fee scales and administrative expense structure have also been updated and certain responsibilities relating to the management of arbitration costs have been transferred to the Secretariat.

