

Revision of the ICC's Rules of Arbitration

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Authors: [Mustafa Durakoğlu](#) and [İlke Işın Sürer](#)

The International Court of Arbitration of the International Chamber of Commerce (the “**ICC**”) has published a revised version of its Rules of Arbitration (the “**Rules**”) with an objective to enhance the efficiency, flexibility and transparency of its arbitration service.

The new provisions of the revised Rules include the following:

- **Joinder of Parties:** A new additional paragraph to Article 7 now provides for the possibility of additional parties to join the proceedings after the confirmation or appointment of an arbitrator. Such request for a joinder submitted during the course of arbitral proceedings will be decided by the arbitral tribunal, taking into account the particulars of each case.
- **Consolidation:** The amendment of Article 10 now allows the consolidation of arbitral proceedings with different parties.
- **Third Party Funding:** Pursuant to the additional paragraph of Article 11, the Parties are now required to disclose third party funding arrangements for purposes related to the integrity of the proceedings and the impartiality of arbitrators.
- **Appointment:** According to the amendment of Article 12, the tribunal now has the authority to disregard any agreement as to the confirmation of the tribunal and appoint each arbitrator in exceptional circumstances where the validity of the award may be affected due to unequal treatment and unfairness.
- **Exclusion of New Counsel:** The amendment of Article 17 grants the tribunal the authority to take necessary measures to avoid any conflicts of interest of arbitrators arising from a change in party representation and refers to the exclusion of a new counsel as an example.
- **Treaty Arbitration:** Pursuant to the new paragraph of Article 13, the nationality of arbitrators in arbitral proceedings based on arbitration agreements arising from treaties (i.e. investment arbitrations) must be different from the nationality of any party, unless otherwise agreed by the parties. The revised version of Article 29 further provides that the emergency arbitrator provisions do not apply to such treaty arbitrations.
- **Expedited Procedure:** The amendment of Annex VI increases the application threshold for the expedited procedure provisions from USD 2 million to USD 3 million (for arbitration agreements concluded after 1 January 2021).

- **Remote Hearings:** The revised version of Article 26 now includes wording as to the authority of the tribunal to hold hearings via video conference or similar means of remote communication after consulting the parties.
- **Additional Awards:** A new additional paragraph of Article 36 now regulates the procedure for additional awards as to claims which the tribunal has omitted to decide on.

While the launch of the revised Rules is set to take place on 1 December 2020 after introductory events of the ICC, the Rules will enter into force as of 1 January 2021. The text of the revision will remain subject to corrections until such date.

Çakmak Avukatlık Ortaklığı

Piyade Sokak, No. 18
C Blok, Kat:3, 06550
Çankaya, Ankara - Turkey

T +90 312 442 4680

Zorlu Center, D Lobisi, T3 Katı,
Daire 356, Levazım Mahallesi,
Koru Sokak No:2 34340
Beşiktaş İstanbul - Turkey

T +90 212 939 7560

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