

Comparing ICSID Convention and ICSID-Administered UNCITRAL Arbitration

ICSID Arbitration	Points of Comparison	ICSID-administered UNCITRAL Arbitration
As of February 2021, ICSID has administered 729 cases under the ICSID Arbitration Rules of which 256 are pending and 473 are concluded.	ICSID's experience as administering institution	As of February 2021, ICSID has provided a range of services in 78 UNCITRAL cases, including full administration in 35 cases of which 14 are pending and 21 are concluded.
ICSID charges a US\$25,000 lodging fee to file a request for arbitration.	Lodging fee	No lodging fee
Each case is assigned to a case team which is led by an ICSID Counsel, who serves as Secretary of the Tribunal.	Case administration / support services	<p>Each case is assigned to a case team which is led by an ICSID Counsel, who serves as Secretary of the Tribunal.</p> <p>The case team can provide varying degrees of support based on the needs of the parties and tribunal.</p>
Each party is charged a flat annual fee of US\$21,000 for ICSID's full administrative services.	Yearly fee for case administration or support services	<p>Each party is charged a flat annual fee of US\$21,000 for ICSID's full administrative services.</p> <p>ICSID is also able to provide more limited services as required by the parties and tribunal.</p>
ICSID Arbitration Rules (2006)	Arbitration Rules	UNCITRAL Arbitration Rules (2013), subject to the parties' agreement.

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<p>ICSID assists with the appointment of arbitrators at the parties' request. It can compile ballots or lists of candidates as agreed by the parties.</p> <p>The ICSID Arbitration Rules provide default procedures to facilitate the constitution of the tribunal where the parties cannot reach agreement.</p>	<p>Appointment of arbitrators and constitution of the tribunal</p>	<p>Where the ICSID Secretary-General is named appointing authority in a treaty or a contract, she can appoint arbitrators and facilitate the tribunal constitution process. The ICSID Secretary-General can also be proposed as appointing authority in the notice of arbitration or be requested to serve as appointing authority by agreement of the parties after the institution of the proceeding.</p> <p>Where the ICSID Secretary-General acts as appointing authority, the US\$10,000 appointment fee is waived if ICSID subsequently serves as the administering institution.</p>
<p>Arbitrators are paid US\$3,000 per day, i.e., US\$375 per hour, and reimbursed reasonable expenses, including a <i>per diem</i>.</p>	<p>Arbitrator fees</p>	<p>Arbitrators' fees are determined taking into account, <i>inter alia</i>, the amount in dispute and the complexity of the case (Art. 41.1, UNCITRAL Arb. Rules). Where the ICSID Secretary-General is the appointing authority, she can apply the ICSID arbitrator fee schedule of US\$3,000 per day / US\$375 per hour, and the tribunal shall take it into account when fixing its fees (Art. 41.2, UNCITRAL Arb. Rules).</p>

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<p>Challenges to a single arbitrator are decided by the non-challenged members of the tribunal. Where the non-challenged members of the tribunal are equally divided, or the challenge is to a sole arbitrator or a majority of the arbitrators, the Chair of the ICSID Administrative Council makes the decision (Art. 58, ICSID Convention).</p> <p>There is no additional fee when the Chair of the ICSID Administrative Council decides a challenge.</p>	<p>Arbitrator challenges</p>	<p>The ICSID Secretary-General, if designated as appointing authority, decides challenges upon request where the parties do not agree to the challenge and the challenged arbitrator does not withdraw (Art. 13.4, UNCITRAL Arb. Rules).</p> <p>Where the ICSID Secretary-General decides a challenge, a fee of US\$10,000 applies.</p>
<p>ICSID supports in-person meetings and hearings in facilities that are equipped with state-of-the-art technology, both at its office in Washington, D.C. and the World Bank Group office in Paris.</p> <p>ICSID supports remote meetings and hearings on a number of different virtual platforms, with end-to-end encryption in accordance with the level of security required by the World Bank Group, complete with court reporting and interpretation services.</p>	<p>Technological support</p>	<p>ICSID supports in-person meetings and hearings in facilities that are equipped with state-of-the-art technology, both at its office in Washington, D.C. and the World Bank Group office in Paris.</p> <p>ICSID supports remote meetings and hearings on a number of different virtual platforms, with end-to-end encryption in accordance with the level of security required by the World Bank Group, complete with court reporting and interpretation services.</p>
<p>The place of proceeding is determined by party agreement or by default provision (Arts. 62-63, ICSID Conv.)</p>	<p>Place of proceeding / place of arbitration</p>	<p>The place of arbitration is determined by party agreement or tribunal decision (Art. 18, UNCITRAL Arb. Rules).</p>

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<p>ICSID has dedicated hearing facilities in Washington, D.C. and Paris. It can also leverage World Bank Group facilities in various country offices, depending on the size of a meeting or hearing. There is no extra cost for using these facilities.</p> <p>ICSID has arrangements with arbitral institutions around the world and is able to host meeting and hearings at their facilities.</p>	<p>Place of meetings and hearing facilities</p>	<p>For hearings held outside of the place of arbitration, ICSID has dedicated hearing facilities in Washington, D.C. and Paris. It can also leverage World Bank Group facilities in various country offices, depending on the size of a meeting or hearing. There is no extra cost for using these facilities.</p> <p>ICSID has arrangements with arbitral institutions around the world and is able to host meeting and hearings at their facilities.</p>
<p>The parties can agree, or the tribunal can decide, the rules of confidentiality or level of transparency that will govern the proceeding.</p> <p>In treaty-based cases, the relevant treaty rules will prevail, failing which ICSID rules on transparency will apply.</p> <p>If the host State and home State are parties to the Mauritius Convention, the UNCITRAL Rules on Transparency will apply. If the host State and home State are not parties to the Mauritius Convention, the parties can still agree to apply the UNCITRAL Rules on Transparency or other rules governing transparency.</p>	<p>Confidentiality and transparency</p>	<p>The parties can agree, or the tribunal can decide, the rules of confidentiality or level of transparency that will govern the proceeding.</p> <p>In treaty-based cases, the relevant treaty rules will prevail, failing which the UNCITRAL Rules on Transparency will apply.</p>

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<p>ICSID can assist the parties in complying with the applicable rules on transparency, including by:</p> <ul style="list-style-type: none"> - facilitating the publication of case documents; - making arrangements for <i>amicus curiae</i> participation; - making arrangements for non-disputing treaty party participation; and - coordinating the observation in person or via webcast of public hearings. 	<p>Confidentiality and transparency (cont'd)</p>	<p>ICSID can assist the parties in complying with the applicable rules on transparency, including by:</p> <ul style="list-style-type: none"> - facilitating the publication of case documents; - making arrangements for <i>amicus curiae</i> participation; - making arrangements for non-disputing treaty party participation; and - coordinating the observation in person or via webcast of public hearings.
<p>Final and binding on the parties (Art. 53, ICSID Conv.)</p>	<p>Awards</p>	<p>Final and binding on the parties (Art. 34.2, UNCITRAL Arb. Rules)</p>
<p>Awards are recognized in each of ICSID's 155 Contracting States, and the pecuniary obligations that they imposed are enforceable in any Contracting State (Art. 54(1), ICSID Conv.).</p> <p>No formal process is required for recognition (Art. 54(1)-(2), ICSID Conv.).</p> <p>Enforcement is subject to the laws concerning the execution of judgments and the rules on immunity from execution where enforcement is sought (Arts. 54 -55, ICSID Convention).</p>	<p>Award recognition and enforcement regime</p>	<p>Awards can be recognized and enforced under the New York Convention if they are made in the territory of a State other than the State where recognition and enforcement are sought, and they are not considered as domestic awards in the State where recognition and enforcement are sought (Art. I .1, New York Conv.).</p> <p>A formal process is required for recognition and enforcement (Art. IV, New York Conv.).</p> <p>Recognition and enforcement are subject to refusal based on seven grounds (Art. V, New York Conv.).</p>

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<p>No appeal available</p> <p>Post-award remedies consist in interpretation, revision, and annulment (Arts. 50-52, ICSID Conv.).</p>	<p>Post-award remedies</p>	<p>No appeal available</p> <p>Post-award remedies consist in interpretation, correction, and additional award (Arts. 37-39, UNCITRAL Arb. Rules).</p> <p>Other post-award remedies are available in accordance with the laws of the place of arbitration.</p>
<p>ICSID holds the case funds in an escrow account. Interest earned is credited to the parties.</p> <p>In addition, ICSID covers case-related expenses from this account.</p> <p>Any balance in the escrow account after the conclusion of a case is refunded to the parties.</p>	<p>Case funds</p>	<p>For cases that are fully administered, ICSID holds the case funds in an escrow account. Interest earned is credited to the parties.</p> <p>In addition, ICSID covers case-related expenses from this account.</p> <p>Any balance in the escrow account after the conclusion of a case is refunded to the parties.</p>