

## Compilation

### **Information on existing legislation and other legal authorities concerning the delivery and receipt of electronic communications or notices of arbitration, as well as on how such legislation was applied.**

Note: Responses are listed alphabetically and reproduced with minor edits.

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#### **Responses submitted by Belgium (CEPANI)**

Reference is made to the UNCITRAL Secretariat's invitation of 24 October 2025 to delegations of Working Group II to provide it with information on their existing legislation or other legal authorities concerning the delivery and receipt of electronic communications or notices of arbitration. CEPANI,<sup>1</sup> as an observer NGO of Working Group II, hereby wishes to provide comments on (i) the applicable legislative regime in Belgium and (ii) the practice under its arbitration rules.

#### **1. Applicable Legislation in Belgium**

Belgium enacted the UNCITRAL Model Law on International Commercial Arbitration (1985), with amendments as adopted in 2006 (Model Law), with changes and additions in 2013. The Belgian law on arbitration (BLA) is set out in Book 6 of the Belgian Judicial Code (BJC), which spans Articles 1676-1722 of the BJC. The BLA was finetuned in 2016 and 2024.

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<sup>1</sup> CEPANI is the Belgian Centre for Arbitration and Mediation ([www.cepani.be](http://www.cepani.be)).

The issue of communications in the framework of the arbitration is governed by Article 1678 BJC (which is partly based on Article 3 of the Model Law), which provides as follows:

“Art. 1678

§ 1. Unless otherwise agreed by the parties, the communication shall be delivered or sent to the addressee personally, or to his domicile, his residence or his email address, or, in the case of a legal entity, to its registered office, main place of business or email address.

If none of these places can be found after making reasonable inquiries, a communication is deemed to have been validly made if it is delivered or sent to the addressee's last-known domicile or residence, or, in the case of a legal entity, to its last-known registered office, its last-known main place of business or its last-known electronic address.

§ 2. Unless otherwise agreed by the parties, time limits that start to run with regard to the addressee as from the communication are calculated as follows:

a) where the communication is made by hand delivery against a dated acknowledgement of receipt, from the following day;

b) where the communication is made by email or any other method of communication that provides proof of sending, from the first day after the date indicated on the acknowledgement of receipt;

c) where the communication is made by registered post with acknowledgement of receipt, from the first day following the date on which the letter was delivered in person to the addressee at his domicile or residence, or to its registered office or main place of business or, where applicable, to the last-known domicile or residence, or to the last-known registered office or main place of business;

d) where the communication is made by registered letter, from the third working day after the date on which the letter was delivered to the postal service, unless the addressee provides proof to the contrary.

§ 3. [...]

§ 4. This article does not apply to communications made in court proceedings.”

The Belgian Supreme Court confirmed that “the modalities of communication are general provisions that, unless otherwise agreed by the parties, always apply to the arbitration dispute and the legal remedies against the arbitral award”.<sup>2</sup> These modalities include the possibility send any communication in the meaning of the BLA other than those exempted by Article 1678, § 4 BJC by e-mail:

“Communications can be sent to email address – Beyond the traditional notion of address (residence, domicile, registered office, main place of business), the B.L.A. expressly provides that communications may be validly made to a party’s email address, an addition inspired from the UNCITRAL Model Law. In so doing, the B.L.A. has “developed a modern concept of available modes of communication”. This allowance for electronic communications reflects

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<sup>2</sup> Cass. (1e k.), AR C.16.0256.N, 14 June 2018, b-Arbitra 2020/1, p. 89, <https://juportal.be>

modern arbitral practice and arbitration’s preference for flexible, practical solutions that can save time and costs (see ¶ 21 below). The B.L.A. does not create a hierarchy between the different places where communications can be sent; absent an agreement to the contrary, the choice is left to the judgment of the sender.”<sup>3</sup>

The legal consequences of the communication of the request for arbitration, are regulated by Article 1702 BJC (which is partly based on Article 21 of the Model Law):

“Art. 1702

Unless otherwise agreed by the parties, the arbitral proceedings commence on the date on which the communication of the request for arbitration was made in accordance with article 1678, § 1.”

Based on the joint reading of Article 1702 and 1678, § 1 BJC, a notice of arbitration may therefore validly be served by e-mail, unless the Parties have agreed otherwise.

Article 1678, § 2 BJC regulates the starting point of the applicable time limits, which depends on the method of transmission used. E-mails are governed by Article 1678, § 2 BJC, which provide that any such time limit starts “from the first day after the date indicated on the acknowledgement of receipt”. Such acknowledgment of receipt is not subject to any requirement of form. While an express acknowledgment of receipt by the institution or respondent party would thus be sufficient, a party notifying a request for arbitration will want to try to keep control. This can for example be achieved by selecting the option “request delivery receipt” when sending the e-mail containing the request for arbitration to the other side, in which case the delivery receipt generated by the provider of the other side may serve as proof of delivery of the e-mail.<sup>4</sup>

The application of this provision has given rise to limited case law,<sup>5</sup> which does, however, not address the transmission by e-mail.

## **2. CEPANI Practice**

Article 3(1) of the CEPANI Arbitration Rules in force as of 1 January 2023 (CEPANI Rules) provides the following on the submission of the request for arbitration:

“Article 3. – Request for arbitration

1. The party wishing to have recourse to arbitration under the Rules shall submit its request for arbitration to the Secretariat.”

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<sup>3</sup> E. STEIN, “Article 1678”, in N. BASSIRI & M. DRAYE, *Arbitration in Belgium – A Practitioner’s Guide*, Kluwer Law International, 2016, pp. 40-41 (¶ 9).

<sup>4</sup> *Ibidem*, p. 42 (¶ 14) (“For electronic communications, the acknowledgment of receipt is determined by the “delivery receipt” received upon sending and not the “read receipt” by the addressee.”) See also Commission Report, Doc 53 2743/003, p. 14 ([www.dekamer.be](http://www.dekamer.be)).

<sup>5</sup> CFI Brussels (N.) (5th ch.), 8 april 2022, b-Arbitra, 2023/2, p. 608 (with Editors’ Note) (on time limit for setting aside in case of notification by registered letter); CFI Antwerp (Ch. AB2), b-Arbitra 2022/2, 321 (with Editors’ Note) (on time limit for setting aside in case of notification by registered letter); CFI Brussels (F.) (4th Ch.), 19 February 2016, b-Arbitra 2022/2, p. 321 (with Editors’ Note) (on the time of commencement of the arbitration in case of notification of the request for arbitration by fax).

As described by the CEPANI Secretariat in its Guide, this provision leaves maximum flexibility to the Parties as to their preferred method in serving the request for arbitration:<sup>6</sup>

“The request for arbitration and the documents annexed thereto must be filed with the Secretariat. The Rules do not contain any specific requirements as to the means of filing, but electronic form is highly recommended. The Claimant must also attach evidence that the Respondent has been notified of the request and accompanying documents. It is important to note that CEPANI is different from other institutions where the first notification to the Respondent is made by the institution itself.”

“A) The request

The request for Arbitration must meet the requirements set out in Article 3 of the 2020 Rules. The request must include a copy of all relevant agreements, the arbitration agreement, and any other relevant evidence, either embodied in the Request or in an annex.

[...]

The Claimant is encouraged to send the request and its annexes to the Secretariat in electronic form. The electronic copy must be sent to CEPANI’s email address: info@cepani.be.”<sup>7</sup>

“G) Notification to Respondent

If a party is represented by counsel, the request (plus exhibits) may be notified to the latter. The Secretariat may ask for a written confirmation of their intervention. The request (plus exhibits) is validly notified if sent in electronic form. In all circumstances, the sender bears the burden of proof that the request has been sent.”<sup>8</sup>

“I) Date of the commencement of the arbitral proceedings

The date on which the Secretariat receives the request for arbitration and the annexes thereto and the payment of the registration costs shall be deemed to be the date of commencement of the arbitral proceedings. The Secretariat will inform the parties of this date in its introductory letter.”<sup>9</sup>

For arbitration proceedings with place of arbitration in Belgium, this means that any of the forms allowed by Article 1678 BJC can be used in CEPANI arbitration, including e-mail.

E-mail is by now far the Parties’ preferred method to notify request for arbitration, both vis-à-vis the Secretariat and vis-à-vis the other side in CEPANI arbitration.

### **3. Conclusion**

Unless the parties agree otherwise, the “notification” of a request to arbitration under Belgian law may be done in accordance with the general provisions on “communication” in Article 1678 BJC, which allows for communication by e-mail.

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<sup>6</sup> O. CAPRASSE, D. DE MEULEMEESTER, B. KOHL, E. VAN CAMPENHOUDT & B. ALLEMEERSCH, *Guide to the CEPANI Arbitration Rules*, Mechelen, WoltersKluwer, 2021, p. 17 (¶ 49).

<sup>7</sup> *Ibidem*, p. 18.

<sup>8</sup> *Ibidem*, p. 23.

<sup>9</sup> *Ibidem*, p. 24.

The possibility to commence arbitration proceedings by e-mail is firmly established under Belgian law and has until today not given rise to any controversy or case law. This is presumably because, in case of doubt, arbitral institutions and/or arbitral tribunal will follow up with a non-responsive respondent party via another means of communication to ensure that it is duly aware of the commencement of the arbitration. This being said, in line with Article 1678, § 2 BJC, communication is sufficient for the valid commencement of the arbitration and would put in motion any relevant time limits as of the time of receipt.

Finally, CEPANI practice shows that the use of e-mail is by far the preferred method to initiate arbitration proceedings in Belgium.

## **Responses submitted by Germany**

### **a) Existing Legislation**

The only legislation concerning notices of arbitration is section 1044 of the German Code of Civil Procedure (Zivilprozessordnung, ZPO). It reads as follows:

“Beginn des schiedsrichterlichen Verfahrens

Haben die Parteien nichts anderes vereinbart, so beginnt das schiedsrichterliche Verfahren über eine bestimmte Streitigkeit mit dem Tag, an dem der Beklagte den Antrag, die Streitigkeit einem Schiedsgericht vorzulegen, empfangen hat. Der Antrag muss die Bezeichnung der Parteien, die Angabe des Streitgegenstandes und einen Hinweis auf die Schiedsvereinbarung enthalten.”

English translation<sup>10</sup>

#### Commencement of the arbitral proceedings

Unless otherwise agreed by the parties, the arbitral proceedings in respect of a particular dispute commence on the date on which the respondent has received the request for that dispute to be referred to arbitration. The request must designate the parties as well as the subject matter in dispute, and must include a reference to the arbitration agreement.

The provision does not impose any form requirement, so electronic notices of arbitration are possible; moreover, the section is non-mandatory and open to party autonomy. However, it presupposes the receipt of the notice of/request for arbitration and does not stipulate rules or guidelines regarding the circumstances or conditions of such receipt, neither in written nor in electronic form.

In the context of proving receipt of a notice of arbitration, section 1028 ZPO, which is the equivalent to Art. 3 of the UNCITRAL Model Law, only refers to “written” communications to be addressed to the recipient’s last-known mailing address. The provision reads as follows:

“Empfang schriftlicher Mitteilungen bei unbekanntem Aufenthalt

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<sup>10</sup> [https://www.gesetze-im-internet.de/englisch\\_zpo/englisch\\_zpo.html](https://www.gesetze-im-internet.de/englisch_zpo/englisch_zpo.html).

- (1) Ist der Aufenthalt einer Partei oder einer zur Entgegennahme berechtigten Person unbekannt, gelten, sofern die Parteien nichts anderes vereinbart haben, schriftliche Mitteilungen an dem Tag als empfangen, an dem sie bei ordnungsgemäßer Übermittlung durch Einschreiben gegen Rückschein oder auf eine andere Weise, welche den Zugang an der letztbekannten Postanschrift oder Niederlassung oder dem letztbekannten gewöhnlichen Aufenthalt des Adressaten belegt, dort hätten empfangen werden können.
- (2) Absatz 1 ist auf Mitteilungen in gerichtlichen Verfahren nicht anzuwenden.”

English translation:<sup>11</sup>

Receipt of written communications in cases of unknown whereabouts

- (1) If the whereabouts of a party or of a person authorised to receive written communications are unknown, then unless otherwise agreed by the parties, such communications are considered to have been received on the day on which they could have been received at the addressee’s last known postal address, place of business or last known place of abode if mailed properly by registered letter with return receipt requested, or by any other means providing proof of delivery.
- (2) Subsection 1 is not to be applied to communications in court proceedings.

In the context of judicial proceedings before state courts, section 173 ZPO sets out conditions for the delivery and receipt of electronic communications via a safe mode of transmission such as the special electronic lawyer mailbox. The provision is not applicable to arbitral proceedings, but arguably, similar rules may be agreed by the parties regarding potential receipt of electronic notices of arbitration and proving such receipt. Also, potentially, some of the conditions set out in section 173 ZPO for the judicial context may also serve as a guideline for future legislation in the context of arbitration.

Subsection 2 of section 173 ZPO mandates some persons, including lawyers, notaries, tax accountants, organisations professionally participating in legal proceedings and public authorities/bodies to open such safe modes of electronic communication. Subsections 3 and 4 further provide as follows:

“(3) Die elektronische Zustellung an die in Absatz 2 Genannten wird durch ein elektronisches Empfangsbekanntnis nachgewiesen, das an das Gericht zu übermitteln ist. Für die Übermittlung ist der vom Gericht mit der Zustellung zur Verfügung gestellte strukturierte Datensatz zu verwenden. Stellt das Gericht keinen strukturierten Datensatz zur Verfügung, so ist dem Gericht das elektronische Empfangsbekanntnis als elektronisches Dokument (§ 130a) zu übermitteln.

(3) An andere als die in Absatz 2 Genannten kann ein elektronisches Dokument elektronisch nur zugestellt werden, wenn sie der Zustellung elektronischer Dokumente für das jeweilige Verfahren zugestimmt haben. Die Zustimmung gilt mit der Einreichung eines elektronischen Dokuments im jeweiligen Verfahren auf einem sicheren Übermittlungsweg als erteilt. Andere als natürliche Personen können die Zustimmung auch allgemein erteilen. Ein elektronisches Dokument gilt am vierten Tag nach dem auf der automatisierten

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<sup>11</sup> [https://www.gesetze-im-internet.de/englisch\\_zpo/englisch\\_zpo.html](https://www.gesetze-im-internet.de/englisch_zpo/englisch_zpo.html).

Eingangsbestätigung ausgewiesenen Tag des Eingangs in dem vom Empfänger eröffneten elektronischen Postfach als zugestellt. Satz 4 gilt nicht, wenn der Empfänger nachweist, dass das Dokument nicht oder zu einem späteren Zeitpunkt zugegangen ist.”

English translation:<sup>12</sup>

(3) Electronic service of documents to the persons mentioned in subsection 2 can be proven by an electronic notice of receipt, to be transmitted to the court. For the transmission, the structured data set provided by the court with the served document is to be used. If the court does not provide such structured data set, the notice of receipt has to be transmitted to the court as an electronic document as defined under section 130a.

(4) Upon persons other than those mentioned in subsection 2, service of electronic documents is only possible if they agreed to such electronic service in advance for the specific legal proceedings. Such agreement is considered declared if the person submitted an electronic document via a safe mode of transmission in the specific legal proceedings. Persons other than natural persons can also declare their agreement in general. An electronic document is deemed received in the electronic mailbox opened by the recipient on the fourth day following the day of receipt set out on the automatic notice of receipt. Sentence 4 does not apply if the recipient proves that the document was not received or was only received at a later date.

Section 130a ZPO provides for conditions under which an electronic document, including, e.g., a statement of claim, may be submitted to state courts. It requires the use of a safe mode of transmission, which is further defined in subsection 4 of the provision. Furthermore, the provision requires the document to be signed with a qualified electronic signature. Section 130a ZPO also does not apply to arbitration proceedings, where – as stated above regarding section 1044 ZPO – no statutory form requirements exist. Like section 173 ZPO, however, it may be of inspirational relevance for party agreements on receipt of electronic notices of arbitration or for future legislative work.

In general, these provisions (sections 130a, 173 ZPO) indicate in the context of legal proceedings the importance that electronic communications meet requirements of guaranteeing authenticity and integrity of the communication, namely the identification of sender and recipient and that the electronic mode of transmission should either be agreed to in advance or the electronic mailbox generally opened for the purpose of receiving procedural electronic communication. Similar conditions are set out under Article 19 (1) of the EU Service of Documents Regulation (2020/1784) regarding service of electronic documents by EU Member States courts upon recipients in other Member States.<sup>13</sup>

If there is doubt about whether an electronic notice of arbitration has been received, these aspects (authenticity and integrity of communication, identification of sender and recipient,

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<sup>12</sup> Own, free translation by delegates submitting this paper; the translation on [https://www.gesetze-iminternet.de/englisch\\_zpo/englisch\\_zpo.html](https://www.gesetze-iminternet.de/englisch_zpo/englisch_zpo.html) is not yet reflecting the current wording of the provision.

<sup>13</sup> To be implemented by section 1068 ZPO (revised) under German law, proposed to be revised along with the draft proposal for the modernisation of the German arbitration law, [https://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/DE/2026\\_Modernisierung\\_Schiedsverfahrensrec ht.html](https://www.bmjv.de/SharedDocs/Gesetzgebungsverfahren/DE/2026_Modernisierung_Schiedsverfahrensrec ht.html).

prior agreement to the mode of communication) might therefore arguably be taken into account by tribunals or courts evaluating the evidence provided for the question of receipt.

### **b) Legal writing/commentaries**

Generally, receipt under section 1044 ZPO is understood to mean that the notice/request entered the sphere of the other side in a way that they have the opportunity to take notice of its contents (compare inter alia BeckOK ZPO/Wilske/Markert, ZPO, section 1044 para. 5-5.2, referring to substantive civil law rules on notice of declarations of intent).

This leads to a question on determining the law applicable to the question of receipt of the notice/request: According to one view receipt may not be defined by the law of (the place of) arbitration but rather by the law applicable to the arbitration agreement (see MüKoZPO/Münch, 6<sup>th</sup> ed.2022, ZPO, section 1044 para. 17, beck-online: “Schuldstatut”), another view considers the law of the place of arbitration to be applicable to the question (see BeckOK Bürgerliches Gesetzbuch [Civil Code – BGB]/Henrich, 76<sup>th</sup> ed. 1.11.2025, BGB, section 204 para. 48, beck-online; see MüKoBGB/Grothe, 10<sup>th</sup> ed.2025, BGB, section 204 para. 58, beck-online).

Under German law, as there is no form requirement, it is generally understood that electronic notices of arbitration are possible, unless otherwise agreed by the parties. Such agreement may reference institutional arbitration rules. Also, institutional rules regularly provide that the request for/notice of arbitration shall be sent to the institution which would then notify the party (see MüKoZPO/Münch, 6<sup>th</sup> ed.2022, ZPO, section 1044 para. 15, beck-online).

Nonetheless, written form and delivery against notice of receipt is often still recommended for the purpose of proof (see, e.g. MüKoZPO/Münch, 6<sup>th</sup> ed. 2022, ZPO, section 1044 para. 17, beck-online Saenger, ZPO, section 1044 para. 2, beck-online).

The requirement under German law that a declaration/notice must have entered the sphere of the other side in a way that they have the opportunity to take notice of its contents is waivable. Parties therefore can agree that a declaration is deemed to have been received (MüKoBGB/Einsele, 10<sup>th</sup> ed. 2025, BGB section 310 para. 12), e.g., when sent to the last known postal or e-mail address. However, in general terms and conditions, a provision according to which a declaration by the user that is of special importance is deemed to have been received by the other party to the contract is considered ineffective (section 308 No. 6 BGB).

Section 1028 ZPO, as quoted above, only refers to written notices sent to a physical mailing address, so electronic communication to a last known e-mail address is not considered received thereunder (BeckOK ZPO/Baumann, 59<sup>th</sup> ed. 1.12.2025, ZPO section 1028 para. 3, beck-online; Anders/Gehle/Anders, 84<sup>th</sup> ed. 2026, ZPO, section 1028 para. 2, beck-online). Otherwise, namely where the whereabouts of a party are known, it is doubtful whether the parties can agree that a request for arbitration sent to the last-known postal or even e-mail address is deemed to be received. Although the statutory rules for receipt of declarations are generally waivable, an agreement on deemed delivery of a request for arbitration might potentially violate the respondent’s non-waivable due process rights under section 1042 (1) ZPO (equivalent to Art. 18 UNCITRAL Model Law). Accordingly, while section 1028 ZPO

is also subject to other agreements by the parties (see, e.g., Anders/Gehle/Anders, 84<sup>th</sup> ed 2026, ZPO, section 1028 para. 2, beck-online; MüKoZPO/Münch, 6. Aufl. 2022, ZPO, section 1028 para. 16, beck-online), such party agreement cannot overrule mandatory due process rights.

### **c) Case law / jurisprudence**

There seems to be hardly any relevant case law.

In one case concerning the effect of the commencement of ADR proceedings on the statute of limitations, the Higher Regional Court of Celle confirmed that there is no stipulated form for the commencement of arbitration or ADR proceedings under German law and that provisions regarding the form of statements of claim before state courts would not apply (OLG Celle, judgment of 16 January 2007 – 16 U 160/06, NJOZ 2007, 648, 656). However, in that case, the applicable rules of ADR procedure stipulated written form, a stipulation considered to be valid and binding by the court. The statute of limitations, in particular section 204 (1) BGB (which refers to commencement of arbitral proceedings in No. 11 as a ground for suspension), does not stipulate any form requirements.

In general, the connection between actual receipt and deemed receipt under section 1028 ZPO is highlighted by a decision of the Higher Regional Court of Dresden (OLG Dresden, decision of 15 March 2005 - 11 Sch 19/05, SchiedsVZ 2006, 166). The court held that an arbitral award was enforceable and that there had not been any due process violation although the respondent had not participated in the arbitral proceedings and argued to have only been made aware of such proceedings upon receipt of the award. Since the notice of arbitration and the notice of the oral hearing had been sent – in writing by registered letter - to both the business address of the respondent and the last known address of the respondent's CEO and since according to the arbitration agreement the parties had to notify any changes of address to the other side, the court considered the efforts to notify the respondent sufficient. However, the case only concerned the (deemed) receipt of a written notice of arbitration by registered letter, not that of an electronic notice of arbitration. Potentially, if parties agreed explicitly to notify the other side of any changes regarding their e-mail address and if the email system of the recipient allows for safe document receipt, authenticity and integrity of the communication, the legal reasoning may potentially be transferable.

### **d) Institutional practice**

Under the Arbitration Rules of the German Arbitration Institute (DIS), requests for arbitration are to be filed in paper form and in electronic form (Art. 4.2 DIS Rules). Submissions in paper form shall be sent by delivery against receipt, registered letter, courier, facsimile, or by any other means that provides a record of receipt (Art. 4.6 clause 2 DIS Rules). The arbitral tribunal shall determine the form of transmission of submissions between the parties and the arbitral tribunal (Art. 4.4 DIS Rules). In practice, the DIS delivers requests for arbitration almost always by courier. Only if delivery by courier fails or claimant explicitly demands another form of delivery, the DIS will pursue other means of delivery including personal delivery, delivery by registered letter, via diplomatic channels etc. Delivery via the special

electronic lawyer mailbox (besonderes elektronisches Anwaltspostfach – beA) is potentially possible, but rarely used. Only in a minority of cases, parties would name the (potential) lawyers of the respondent and even if this was the case, there could be issues regarding power of attorney.

DIS only uses e-mail as a last resort, if other means of delivery that provide a record of receipt fail or claimant requests such delivery. In that case, the risk of proving receipt of the notice in arbitration and potential court proceedings is up to the claimant.

### **Responses submitted by Israel**

Electronic notices on the submission of documents to courts is regulated in the Civil Procedure Regulations, 2018. The Israel International Commercial Arbitration Law, 2024, the Arbitration Law, 1968 and the Regulations for Procedures for Arbitration, 1968 do not regulate electronic notices. Accordingly, Regulation 2 of the Regulations for Procedures for Arbitration speculates that the rules governing electronic notices in the Civil Procedure Regulation apply, *mutatis mutandis* to electronic notices in arbitration, unless the regulations specifically address electronic submission to the courts.

The applicable regulations are as follows:

#### **Reg. 161(1) - Electronic Service of Documents**

(a) Electronic service of an electronic document by the court to a recipient shall be effected by sending an electronic notice<sup>14</sup> to the e-mail address specified by the recipient in the heading of his pleading. If the address specified is a secure e-mail address, the service may also be effected by sending the electronic document itself. However, where the recipient is represented by a law firm whose e-mail address is registered in the *Net HaMishpat* (CourtNet<sup>15</sup>) system, service of the notice or of the electronic document shall be effected to that address. If the recipient is not represented by counsel, such service may also be effected by sending an electronic notice to the mobile phone number stated by the recipient in the heading of his pleading.

(b) Electronic service of an electronic document upon the court shall be effected via the *Net HaMishpat* system. A person seeking to serve an electronic document upon the court shall provide the court with an e-mail address or a secure e-mail address for the purpose of such electronic service as set out in sub-regulation (a).

(c) Electronic service of an electronic document from one attorney to another shall be effected by sending the document to the e-mail address of the receiving attorney as stated in the heading of his pleading. The sending attorney shall verify that the receiving attorney has indeed received it.

(d) The time of dispatch of the electronic document or electronic notice, as indicated by the internal clock of the sender's computer system calibrated according to accepted standards, shall constitute the time of service of the electronic document. However, where an electronic

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<sup>14</sup>The difference between "electronic notice" and "electronic document" lies in their purpose and functionality: an "electronic notice" simply informs the recipient about the existence of a document within the *Net HaMishpat* system and provides a link for access, whereas an "electronic document" refers to a legally signed electronic message, which can be stored and retrieved electronically, carrying the same legal weight as a traditional document (Reg. 159).

<sup>15</sup> A computer system through which courts operate and legal proceedings are conducted.

notice is sent by the court to a recipient not represented by counsel as provided in sub-regulation (a), the time of opening the electronic document, as recorded by such internal clock, shall constitute the time of service. If the time of service falls after 17:00 (5:00 p.m.) on Sunday through Thursday, or on Friday or a statutory rest day, the document shall be deemed served on the next working day.

(e) Dispatch of the electronic notice or document pursuant to sub-regulations (a) or (c) shall not be deemed lawful service at the time of dispatch if the recipient files an affidavit attesting to non-receipt or to receipt at a later date.

### **Reg. 162 - Exceptions to Electronic Service**

Electronic service shall not apply in the following cases:

(1) Where the document is the first document filed in the case, or a statement of claim; it shall be served upon a recipient other than the court by mail or by personal delivery, unless the recipient has given written consent to another mode of service.

(2) Where the sender is not the court and the recipient is a litigant who is not represented by counsel, unless the recipient has given written consent thereto.

(3) Where, by its nature, the document cannot be served electronically.

(4) Where the document is the first document filed in a case pending before the Supreme Court.

### **Reg. 163 - Execution of Service**

(a) Service shall, insofar as possible, be effected upon the recipient personally. If the recipient is represented by counsel, service shall be made upon the counsel; if an agent for service has been duly appointed, service may be made upon the agent.

(b) ...

(c) If the recipient resides outside the State and has within the State a representative who regularly represents him in matters concerning his affairs in Israel, service may be effected upon that representative if the claim concerns that matter. Regulation 169 shall apply, *mutatis mutandis*, to this sub-regulation.

(d) ...

(e) If the recipient is a corporation, service shall be made at the corporation's office or registered address; for a statutory corporation, service shall be made at the office of its director.

(f) If the recipient is a local authority, service shall be made to the office of the head of the authority or to the office of the authority's legal adviser.

(g) If a guardian has been lawfully appointed for the recipient, service shall be made upon that guardian.

(h) If the recipient is imprisoned, service shall be effected through the Prison Service's inmate department.

(i) If the recipient is a foreign state as defined in the Foreign States Immunity Law, 5769-2008, including a diplomatic or consular mission thereof, or an employee thereof entitled to diplomatic or consular immunity, service shall be effected in accordance with that Law.

### **Reg. 164 - Substituted Service**

(a) Where the court is satisfied that it is impossible to serve a document upon a recipient in the prescribed manner, it may order service to be effected in any other manner it deems appropriate in the circumstances.

(b) A request for substituted service shall be filed in writing, accompanied by an affidavit verifying the reason that prevents service in the prescribed manner, and the following provisions shall apply:

(1) Where the recipient is an Israeli resident whose address is unknown, the applicant shall state in the affidavit that, to the best of his knowledge, the recipient is in Israel, though his exact address is unknown, and shall attach an extract of the recipient's particulars from the Population Registry.

(2) Where the recipient is an Israeli resident with an address in Israel but service could not be effected, the applicant shall state in the affidavit that, to the best of his knowledge, the recipient is in Israel and shall attach a Population Registry extract. The affidavit shall also detail the actions taken to serve the document.

(3) Where the recipient is not an Israeli resident but is located within Israel, the applicant shall state in the affidavit that, to the best of his knowledge, the recipient is in Israel and shall attach supporting evidence, as well as a description of the steps taken to serve the document.

### **Reg. 165 - General Provisions on Service**

(a) A fax transmission confirmation, postal delivery confirmation, or electronic delivery verification notice shall be retained by the sender, and a copy shall be submitted to the court as necessary or upon the court's direction.

(b) The Director of the Courts may publish technical directives concerning the submission of electronic documents, including specifications of electronic documents and their attachments, hardware and software requirements, formal requirements, and methods for paying court fees or other payments due to the court under these Regulations, for the purposes of this Chapter.<sup>16</sup>

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<sup>16</sup> Reg. 2 of the Instructions regarding the submission of electronic documents to the courts and labor tribunals according to the Civil Procedure Regulations, 2018 (5779): Conditions for submitting a document, including its format and requirements are::

1. **Document Type:** The Civil Procedure Regulations regarding the characteristics and form of a document will apply to an electronic document with the necessary changes.
2. **File Format:** The document must be submitted in a **PDF** format.
3. **File Size:** The document size should not exceed 30 MB. If the document is submitted to the Supreme court, it should not exceed 70 pages.
4. **Submission Process:** For the purpose of submitting an electronic document for which a signature is required, the submitter will sign by indicating his/her name at the end of the document, and the affidavit will also include the handwritten signature of the declarant and the person approving the affidavit.

## **Reg. 166 - Service Outside the Jurisdiction**

A litigant may serve a pleading outside the State if one of the following applies, subject to Regulations 167 and 168:

- (1) A statutory provision confers international jurisdiction upon an Israeli court, or the parties have agreed to such jurisdiction.
- (2) Relief is sought against a person domiciled within the State.
- (3) The subject matter of the action concerns immovable property located within the State.
- (4) The action concerns a contract, and one of the following applies:
  - (a) The contract, in whole or in part, was made or breached within the State, or performance thereof became impossible within the State;
  - (b) The contract is governed by the law of the State of Israel.
- (4A) The action is based on an act or omission that occurred within the State.
- (5) The action is based on harm suffered by the plaintiff in Israel arising from a product, service, or conduct of the defendant, provided that the defendant could reasonably have foreseen that the harm would occur in Israel and that the defendant, or a related person, engages in substantial international trade or services. For this purpose, "related person" means:
  - (1) A person controlling the defendant corporation;
  - (2) A corporation controlled by such a person; or
  - (3) A corporation controlled by any of the foregoing.
- (6) An injunction is sought concerning an act occurring or to occur within the State, or to prevent or remove a nuisance within the State, whether or not damages are also sought.
- (7) Recognition or enforcement is sought of a foreign judgment, as defined in the Foreign Judgments Enforcement Law, or of a foreign arbitral award, as defined in the Arbitration Law.
- (8) An order is sought to refuse enforcement of a foreign arbitral award, as defined in the Arbitration Law, rendered against an Israeli resident, if the court is satisfied that the applicant cannot obtain justice in the courts of the state in which the award was rendered.
- (9) The person outside the State is a necessary or proper party to a claim duly filed against another person.
- (10) The person outside the State is a party to a claim where at least one cause of action against him has a connecting factor listed in this Regulation.

## **Reg. 167 - Procedure for Service Outside the State**

(a) A litigant seeking to serve a pleading outside the State shall file a written application requesting the court to determine the manner of service. The supporting affidavit shall specify the facts establishing the cause of action, the facts establishing the basis for service outside the State, and details of the location where the recipient is or may be found.

(b) The court shall prescribe the manner of service, including the filing of pleadings, and may determine that, in the circumstances, service outside the State shall not be effected.

### **Reg. 168 - Request to Challenge Jurisdiction Based on Service Outside the Country**

If a party is served with pleadings outside the country, they may challenge the court's jurisdiction to hear the case or claim that the Israeli forum is not the appropriate forum to hear the case. If the defendant wishes to challenge or make such a claim, they must file a written request no later than the deadline for submitting the defense statement. If they do so, the deadline for submitting the defense statement will be counted from the date of the court's decision on the request.

### **Reg. 169 - Service of Process on a Defendant Who Denies Jurisdiction**

If the defendant denies the international jurisdiction of the court, claims that the Israeli forum is an inappropriate forum, or appoints an attorney in Israel for this purpose, it will not be possible to serve him with pleadings within the country if he arrives in Israel and is present here for the hearing. Similarly, service cannot be made on the attorney representing him, and no action taken by him or his attorney will be considered a waiver of the objection to the court's international jurisdiction, until fourteen days after the court rules on the defendant's claims regarding this matter, or another date as determined by the court when issuing the ruling.

### **Responses submitted by Morocco**

En réponse à la demande de contributions du Secrétariat de la CNUDCI, formulée suite aux travaux de la 82<sup>ème</sup> session du Groupe de Travail II sur le règlement des différends, le Ministère de la Justice du Royaume du Maroc présente la note suivante.

Cette contribution expose le dispositif juridique marocain en réponse à l'un des défis majeurs identifiés par le Groupe de Travail II : la conciliation entre, d'une part, l'efficacité et la célérité des procédures dématérialisées et, d'autre part, la protection impérative de l'ordre public procédural, notamment les droits de la défense.

Le Maroc, afin d'adapter son cadre juridique aux exigences du commerce international et de renforcer l'efficacité de l'arbitrage, a entrepris une réforme d'envergure. Cette modernisation s'est largement inspirée des meilleures pratiques internationales, notamment des travaux de la CNUDCI et de la Loi type sur l'arbitrage commercial international de 1985. Dans cette perspective, le législateur marocain a mis en place un dispositif juridique complet, reposant sur une architecture à plusieurs niveaux, visant précisément à équilibrer la modernité procédurale et la sécurité juridique :

- **La Loi n° 95-17 relative à l'arbitrage et à la médiation conventionnelle (Publiée au Bulletin Officiel n° 7099 du 13 juin 2022) :**

Elle constitue la *lex specialis* qui consacre le principe de la dématérialisation et la primauté de la volonté des parties en matière d'arbitrage.

- **La Loi n° 53-05 relative à l'échange électronique de données juridiques** (Publiée au Bulletin Officiel n° 5597 du 30 Novembre 2007) :

Cette loi demeure le texte de référence en la matière pour ses dispositions non expressément abrogées, ayant consacré le principe fondamental de l'équivalence entre l'écrit électronique et l'écrit papier.

- **La Loi n° 43-20 relative aux services de confiance pour les transactions électroniques** (Publiée au Bulletin Officiel n° 6951 du 11 Janvier 2021) :

Cette loi moderne vient préciser et mettre à jour ce cadre. Elle abroge et remplace des dispositions de la loi 53-05, spécifiquement son Titre préliminaire et sa Section II, pour instituer le régime actuel et détaillé des services de confiance (tels que la signature électronique qualifiée, le cachet électronique et l'horodatage qualifié), qui constituent les outils de preuve sécurisés garantissant l'intégrité et l'identification requises.

L'analyse de l'interaction de ces deux textes est fondamentale. Elle révèle une articulation subtile où la liberté contractuelle, fondement de l'arbitrage, est confrontée aux exigences de l'ordre public probatoire. L'application de ce cadre législatif est, in fine, précisée par les autorités judiciaires, dont la jurisprudence établit une distinction capitale entre la *légalité* de la transmission et la *preuve* de la réception.

## **1. La Consécration du Principe par la Loi n° 95-17**

La Loi n° 95-17 a résolument modernisé le droit marocain de l'arbitrage en normalisant l'usage des moyens électroniques à chaque étape clé de la procédure. L'intention du législateur est claire : consacrer une approche fonctionnelle, où l'équivalence entre le support papier et le support électronique est le principe.

### **1.1. Validation Explicite des Actes Fondateurs et Procéduraux**

La loi valide la forme électronique pour les actes les plus essentiels, achevant ainsi la dématérialisation de l'ensemble de la procédure, de sa naissance à sa conclusion:

- **La Convention d'Arbitrage :**

L'article 3 de la même loi stipule que l'acte fondateur, qui établit la compétence arbitrale, à savoir la convention d'arbitrage, peut être consigné dans une *communication électronique*. Cette disposition est cruciale car elle valide la saisine d'un tribunal arbitral sur la base d'un simple échange de consentements par voie électronique. La loi prend soin de préciser que cet acte doit être *établi conformément aux textes juridiques en vigueur*, opérant ainsi un renvoi direct à la Loi n° 53-05.

- **Les Actes de l'Instance :**

La loi normalise le déroulement de la procédure par voie dématérialisée. Le demandeur peut soumettre une *requête d'arbitrage écrite ou électronique* (Article 35), et le défendeur peut y répondre par un *mémoire écrit ou électronique* (Article 36).

- **La Sentence Arbitrale :**

L'article 51 précise que la décision finale elle-même, qui revêt une dimension juridictionnelle et tranche le litige, peut être prononcée *sous forme d'un document en papier ou électronique*.

## 1.2 Autorisation d'une Transmission Flexible

Concernant spécifiquement la transmission des notifications, la Loi n° 95-17 adopte un principe de grande souplesse, en phase avec la nature contractuelle de l'arbitrage.

- L'Article 35 dispose que la requête d'arbitrage est *transmise aux autres parties à l'arbitrage par tous les moyens disponibles*.

De même, l'Article 52 prévoit que la décision du tribunal sur les honoraires est *notifiée [...] par tous les moyens de signification disponibles*.

Cette terminologie n'est pas anodine. Elle traduit une délégation législative aux parties : celles-ci sont libres de définir, dans leur convention ou par référence à un règlement d'institution, les modalités de communication qui constitueront la loi de leur procédure. La loi spéciale de l'arbitrage autorise donc explicitement la voie électronique (courriel simple, plateforme dédiée, etc.) et n'impose aucune forme spécifique, s'en remettant à l'autonomie de la volonté. C'est précisément cette flexibilité qui soulève la question de la sécurité probatoire en cas de contestation.

## 2. L'Encadrement Probatoire

La validité d'une notification d'arbitrage électronique, si elle est autorisée en principe par la Loi 95-17, doit, pour produire ses pleins effets juridiques, satisfaire aux exigences du droit commun de la preuve électronique. Le renvoi opéré par ladite loi rend le régime de la Loi 53-05 directement applicable pour déterminer la force probante d'une notification et, surtout, pour établir la preuve de sa réception.

Ce cadre général établit une véritable hiérarchie de la fiabilité des preuves électroniques.

### 2.1. Le Principe d'Équivalence Conditionnelle

La loi établit une équivalence fonctionnelle : *L'écrit sur support électronique a la même force probante que l'écrit sur support papier*. Toutefois, cette équivalence, qui permet à un courriel de valoir écrit, n'est pas automatique. L'article 417-1 la subordonne à deux conditions cumulatives strictes :

- ✓ **Identification** : La personne dont émane le document doit pouvoir être *dûment identifiée*.
- ✓ **Intégrité** : Le document doit être *établi et conservé dans des conditions de nature*

*à en garantir l'intégrité.*

En cas de contestation sérieuse portant sur l'originalité ou l'intégrité de la communication, un simple courriel, en raison de sa vulnérabilité technique inhérente, peut difficilement satisfaire seul ces deux exigences. Juridiquement, s'il échoue à remplir ces conditions, il perd sa qualité d'acte sous seing privé et ne vaut, au mieux, que comme commencement de preuve par écrit.

## **2.2. La Présomption de Fiabilité : La *Signature Électronique Qualifiée***

Conscient de l'incertitude probatoire de l'écrit électronique standard, le législateur a institué une voie sécurisée. L'Article 417-3 du DOC, introduit par la Loi n° 53-05 et modifié par la Loi n° 43-20 relative aux services de confiance pour les transactions électroniques, crée une "présomption de fiabilité pour les actes utilisant une *signature électronique qualifiée*, délivrée par un prestataire de services de confiance agréé, et un horodatage électronique qualifié.

L'effet juridique de ce mécanisme est majeur : il inverse la charge de la preuve. Un document doté de ces attributs acquiert la même force probante qu'un acte *dont la signature est légalisée et qui est muni d'une date certaine*. Dès lors, ce n'est plus à l'expéditeur de prouver la fiabilité et la réception de son envoi, mais au destinataire de rapporter la preuve, très difficile, de la défaillance du système qualifié. Ce procédé constitue la référence en matière de preuve électronique dans le cadre du droit marocain.

### **III. L'application Jurisprudentielle**

L'interprétation de ce cadre législatif par les juridictions est duale. Elle révèle une distinction claire entre l'approche de la Cour de Cassation, et celle des Cours d'appel.

#### **3.1. La Cour de Cassation : Primauté de la Volonté des Parties**

La plus haute juridiction du Royaume, adopte une approche libérale d'une qui privilégie l'autonomie de la volonté. Dans un arrêt de principe du 19 mai 2022 (Dossier n° 2020/1/3/656), la Chambre Commerciale a statué sur un refus d'exequatur fondé sur une notification par courriel jugée non conforme à la Loi 53-05 par la Cour d'appel.

La Cour de Cassation a censuré cette décision. Elle a jugé que dès lors que les parties avaient conventionnellement soumis leur litige aux règles GAFTA, et que ce règlement autorisait la notification par courriel sans exiger les formes de la loi marocaine, *la loi choisie par les parties primait sur les exigences probatoires de la loi nationale*. Cet arrêt fondamental valide le principe de la notification par simple email lorsque celle-ci résulte de la volonté contractuelle des parties.

#### **3.1. Les Cours d'Appel : Contrôle de la Réception Effective**

Si la légalité de principe est acquise, l'application pratique la plus critique se situe au niveau des Cours d'appel de commerce, qui agissent en tant que juge de l'annulation. Leur perspective est différente : ils sont les gardiens de l'ordre public procédural marocain et des droits de la Défense.

Leur contrôle s'exerce au regard de l'Article 62 de la Loi 95-17, qui permet l'annulation de la sentence si une partie *n'a pas été en mesure d'assurer sa défense en raison d'une notification irrégulière [...] de la procédure arbitrale*. Ce motif est une violation directe du principe du contradictoire, pierre angulaire des droits de la défense.

Dans ce contexte, l'enjeu n'est plus la légalité de l'envoi, mais la preuve de sa réception effective. En cas de contestation, la charge de la preuve pèse sur la partie qui a notifié. Un simple email n'ayant pas de force probante intrinsèque quant à sa réception, contrairement à un exploit d'huissier, le risque d'annulation est réel si la preuve de la réception n'est pas irréfutable.

Cette rigueur est toutefois tempérée par la conduite des parties. Dans un arrêt du 30 mars 2023 (Réf. 36463), la Cour d'Appel de Commerce de Casablanca a rejeté un moyen d'annulation fondé sur une prétendue notification irrégulière par email dans un arbitrage CCI. La Cour a jugé que la partie qui avait participé à la procédure sans soulever cette objection en temps utile avait renoncé tacitement à s'en prévaloir, et ne pouvait s'en servir "in extremis" pour tenter de faire annuler la sentence.

### **Responses submitted by the Netherlands**

Article 1072b of our Code of Civil Procedure. This provision reads as follows (in the English translation provided by the Netherlands Arbitration Institute):

1. Insofar as any provision of this Title requires an agreement, a submission, a notice, a request or an action to take written form, these may also take electronic form if the addressee has communicated that it may be reached for these purposes by such means and the arbitral tribunal agrees thereto. The availability by such means shall be valid for the duration of the arbitral proceedings, unless the addressee communicates that it modifies, or, insofar as the parties have agreed to this possibility, withdraws this possibility. This paragraph does not apply to actions in judicial proceedings.
2. Documents as referred to in this Title shall also be understood to be data on a data carrier as well as data presented by electronic means.
3. The award as referred to in Article 1057(2) may also be made in electronic form by providing it with a qualified electronic signature as referred to in Article 3(12) of EU Regulation No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and trust services for electronic transactions in the internal market repealing Directive 1999/93/EC (OJ EU 2014, L 257).
4. Instead of a personal appearance of a witness, an expert or a party, the arbitral tribunal may determine that the relevant person have direct contact with the arbitral tribunal and, insofar as applicable, with others, by electronic means. The arbitral tribunal shall determine, in consultation with those concerned, which electronic means shall be used to this end and in which manner this shall occur.
5. A notice or action that occurs by electronic means or a procedural document which is presented by electronic means shall be deemed to have been sent at the time at which the message has reached a data processing system for which the sender is not responsible

As far as I can oversee the electronic communications provided in this article do not cause any problems in practice.

Some arbitration institutions provide additional rules. For example, the Netherlands Arbitration Institute provides a platform for electronic communications (cf. <https://nai.nl/nai-platform/>).

## **Responses submitted by Poland**

### **EU regulation**

<https://ec.europa.eu/digital-building-blocks/sites/spaces/DIGITAL/blog/2025/03/19/887382100/EUDI+Regulation+eDelivery+in+2025+ERDS+and+other+upcoming+changes>

### **And Polish regulations**

<https://www.gov.pl/web/e-doreczenia>

Poland and EU have in place the rules concerning e-delivery of correspondence between citizens and authorities including courts

More about Polish solution:

e-delivery - <https://www.gov.pl/web/e-doreczenia/czym-sa-e-doreczenia>

This is the electronic equivalent of registered mail with acknowledgment of receipt. Thanks to this service, public entities, citizens, and businesses can benefit from convenient and secure electronic delivery. It is legally equivalent to traditional registered mail with acknowledgment of receipt.

With your e-Delivery mailbox, you can send and receive electronic documents at any time and from anywhere. All you need is an internet connection. There's no need to wait for the postman or go to the post office. Offices will communicate with you via electronic delivery and manage your documents digitally. When you send documents via e-Delivery, they always reach the right person. When you receive them, you know who sent them and are assured that no one is impersonating that person or institution. Sent documents remain intact. You can also download legally valid proof of who sent and received them, and when.

To facilitate integration with the National e-Delivery System, the Ministry of Digital Affairs (MC) is providing a test environment (INT). The e-Delivery service can be integrated with electronic document management systems. This integration allows for the full use of the e-Delivery service and enhances the functionality of office systems.

## **Responses submitted by Spain**

La Delegación del Reino de España ante el GTII se complace en facilitar a la Secretaría de la CNUDMI información relativa al envío y recepción de comunicaciones electrónicas o notificaciones en el ámbito arbitral.

## Índice:

- I. Ley 60/2003 de Arbitraje
- II. Normativa procesal: la Ley 1/2000 de Enjuiciamiento Civil
- III. Los Reglamentos de las distintas instituciones arbitrales
- IV. La práctica del modelo

### I. Ley 60/2003 de Arbitraje<sup>17</sup>

1. La Ley de Arbitraje encuentra su “principal criterio inspirador”<sup>18</sup> en la Ley Modelo de la CNUDMI sobre Arbitraje Comercial Internacional, en su versión originaria de 1985.

2. El artículo 5 de la Ley de Arbitraje aborda la problemática de las “Notificaciones, comunicaciones y cómputo de plazos”, señalando en su letra a) que “Salvo acuerdo en contrario de las partes y con exclusión, en todo caso, de los actos de comunicación realizados dentro de un procedimiento judicial”: “Toda notificación o comunicación se considerará recibida el día en que haya sido entregada personalmente al destinatario o en que haya sido entregada en su domicilio, residencia habitual, establecimiento o dirección”. Igualmente se entenderá válida la notificación o comunicación realizada por “télex, fax u otro medio de telecomunicación electrónico, telemático o de otra clase semejante que permitan el envío y la recepción de escritos y documentos dejando constancia de su remisión y recepción y que hayan sido designados por el interesado”.

3. El precepto añade que “En el supuesto de que no se descubra, tras una indagación razonable, ninguno de esos lugares, se considerará recibida el día en que haya sido entregada o intentada su entrega, por correo certificado o cualquier otro medio que deje constancia, en el último domicilio, residencia habitual, dirección o establecimiento conocidos del destinatario”.

4. Con relación a los plazos establecidos en la Ley de Arbitraje, la letra b) de este artículo 5 precisa que “se computarán desde el día siguiente al de recepción de la notificación o comunicación”, añadiendo que en el supuesto de que el último “día del plazo fuere festivo en el lugar de recepción de la notificación o comunicación, se prorrogará hasta el primer día laborable siguiente”. El precepto concluye señalando que en aquellos casos en que “dentro de un plazo haya de presentarse un escrito, el plazo se entenderá cumplido si el escrito se remite dentro de aquél, aunque la recepción se produzca con posterioridad. Los plazos establecidos por días se computarán por días naturales”.

5. Como se observa, la normativa de la Ley de Arbitraje nada dice específicamente sobre las comunicaciones electrónicas. Ello contrasta con la posición mantenida por (II) la normativa procesal española y (III) por lo dispuesto en los reglamentos de las diversas instituciones de arbitraje del país.

### II. Normativa procesal: la Ley 1/2000 de Enjuiciamiento Civil<sup>19</sup>

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<sup>17</sup> Ley 60/2003, de 23 de diciembre, de Arbitraje, *Boletín Oficial del Estado (BOE)* de 26 de diciembre de 2003

<sup>18</sup> Ley 60/2003, *cit.*, Exposición de Motivos, I, tercer párrafo.

<sup>19</sup> Ley 1/2000, de 7 de enero, de Enjuiciamiento Civil, *BOE* de 8 de enero de 2000.

6. El artículo 162 de la Ley de Enjuiciamiento Civil, relativo al “Actos de comunicación por medios electrónicos, informáticos y similares” fue modificado en el año 2023<sup>20</sup> abordando ahora las comunicaciones por medios distintos al papel.

7. El numeral 1 del precepto refiere a la utilización de “medios electrónicos, infotelecomunicaciones o de otra clase semejante, que permitan el envío y la recepción de escritos y documentos, de forma tal que esté garantizada la autenticidad de la comunicación y de su contenido y quede constancia fehaciente de la remisión y recepción íntegras y del momento en que se hicieron”.

8. En relación con estos medios, y en los supuestos cubiertos por el artículo 162, su numeral 2, precisa que, como regla general, “cuando constando la correcta remisión del acto de comunicación por dichos medios técnicos ... transcurrieran tres días sin que el destinatario acceda a su contenido, se entenderá que la comunicación ha sido efectuada legalmente desplegando plenamente sus efectos. En este caso, los plazos para desarrollar actuaciones procesales comenzarán a computarse desde el día hábil siguiente al tercero”.

9. La regla cuenta con diversas excepciones, entre ellas, aquella referida a ciertos “supuestos en los que el destinatario justifique que no pudo acceder al sistema de notificaciones durante ese periodo”. Considerando que “(S)i la falta de acceso se debiera a causas técnicas y éstas persistiesen en el momento de ponerse en conocimiento de la Administración de Justicia, el acto de comunicación se practicará mediante entrega de copia de la resolución”. No obstante, añade, en el caso de producirse el acceso transcurrido dicho plazo, pero antes de efectuada la comunicación mediante entrega, “se entenderá válidamente realizada la comunicación en la fecha que conste en el resguardo acreditativo de la recepción electrónica”.

### **III. Los Reglamentos de las distintas instituciones arbitrales**

10. También los Reglamentos de distintas instituciones arbitrales españolas recogen la posibilidad de comunicaciones y notificaciones por medios electrónicos, primando, de hecho, esta vía frente a la del papel.

11. Así, por ejemplo, el artículo 3 –“Comunicaciones”- del [Reglamento de Arbitraje del Centro Internacional de Arbitraje de Madrid](#) (CIAM), en vigor desde el 1 de enero de 2024, precisa en su número 1 que “Toda comunicación de las partes con el Centro, así como los documentos que la acompañen, se presentará en formato digital y será remitida por vía electrónica, salvo que el Centro autorice lo contrario por causas excepcionales y justificadas”. Añadiendo el apartado 8 de este mismo precepto, que “Las comunicaciones se practicarán por correo electrónico, pero también podrán realizarse mediante entrega contra recibo, correo certificado, servicio de mensajería, fax o cualquier otro medio que deje constancia de la emisión y recepción”.

12. El numeral 9 del apuntado artículo 3 del Reglamento del CIAM afirma que “Se considerará correctamente practicada una comunicación el día en que haya sido: a) recibida o intentada su entrega por el emisor en la dirección electrónica del destinatario, o; b) recibida personalmente por el destinatario, o; c) recibida o intentada su entrega en el domicilio, residencia habitual,

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<sup>20</sup> Vid. artículo 103.29, [Real Decreto-ley 6/2023](#), de 19 de diciembre, por el que se aprueban medidas urgentes para la ejecución del Plan de Recuperación, Transformación y Resiliencia en materia de servicio público de justicia, función pública, régimen local y mecenazgo, *BOE* de 20 de diciembre de 2023, con aplicación desde el 20 de marzo de 2024.

establecimiento o dirección conocida, o último domicilio, residencia habitual, establecimiento o dirección conocida del destinatario”.

13. Por su parte, el apartado 1 del artículo 3 –“Comunicaciones”- del Reglamento del [Tribunal Arbitral de Barcelona](#) (TAB), de 2025, precisa que “Salvo acuerdo en contrario, todas las comunicaciones y documentación anexa serán remitidas por vía electrónica al TAB, a través de correo electrónico o utilizando la plataforma de comunicación habilitada al efecto”.

14. El apartado 4 de este artículo 3 señala que “Si una parte no hubiera designado una dirección a efectos de comunicaciones, o si no la hubiera estipulado en el contrato o convenio arbitral, las comunicaciones a esa parte se dirigirán a su domicilio, establecimiento o residencia habitual”. Estableciendo el apartado 5 del precepto que, “En el supuesto de que no fuera posible averiguar, tras una indagación razonable, ninguno de los lugares a que se refiere el apartado 4, las comunicaciones del Centro a esa parte se dirigirán al último domicilio, residencia habitual, establecimiento o dirección conocida del destinatario”.

15. Finalmente, y entre otros ejemplos posibles, el artículo 6.2 del vigente Reglamento de Arbitraje de la Corte de Arbitraje y Mediación de Valencia, precisa que “Las comunicaciones se podrán realizar mediante entrega contra recibo, correo certificado, servicio de mensajería o comunicación electrónica que dejen constancia de su emisión y recepción. El uso de la comunicación electrónica tendrá carácter preferente”.

16. En tal sentido, el numeral 1 del apuntado artículo 6 imputa a las partes, especialmente a aquella que inicia el arbitraje, la obligación de “consignar una dirección postal, número de teléfono y correo electrónico a efectos de comunicaciones”. Añadiéndose que “Mientras una parte no haya designado una dirección postal o correo electrónico a efectos de comunicaciones, ni ésta se deduzca claramente de la documentación del expediente arbitral, las notificaciones a esa parte se dirigirán a su domicilio, establecimiento o residencia habitual”.

17. Toda notificación o comunicación se entenderá recibida, afirma el artículo 6.3 del Reglamento de Valencia, “el día en que haya sido entregada personalmente al destinatario o en que haya sido entregada en su domicilio, residencia habitual, establecimiento o dirección”. Asimismo, añade, “será válida la notificación o comunicación electrónica o de otra clase semejante que permitan el envío y la recepción de escritos y documentos, dejando constancia de su remisión y recepción y que hayan sido designados por el interesado”. En el caso de que de que, tras una indagación razonable, no se descubra “ninguno de esos lugares, se considerará recibida el día en que haya sido entregada o intentada su entrega por correo certificado o cualquier otro medio que deje constancia, en el último domicilio, residencia habitual, dirección o establecimiento conocidos del destinatario”.

#### **IV. La práctica del modelo**

18. El conocimiento de la práctica del modelo es limitado debido a las características que acompañan al arbitraje. Llamativamente, la cuestión es fundamentalmente abordada en relación con el ejercicio de la acción de anulación; con una jurisprudencia que va en aumento en número y cuyos resultados, dependientes de las circunstancias concretas de los casos planteados, suele acabar en la desestimación de la acción de anulación.

**COMPLEMENTARY – NON-OFFICIAL – ENGLISH VERSION provided by the Spanish delegation to WGII.**

The Spanish delegation to the Working Group II is pleased to provide the UNCITRAL Secretariat with information on delivery and receipt of electronic communications or notices of arbitration.

## Index

I. Act 60/2003 on Arbitration

II. Act 1/2000 on Civil Procedure

III. The rules of various arbitration institutions

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### **I. Act 60/2003 on Arbitration**

1. The Spanish Arbitration Act is “primarily inspired” by the UNCITRAL Model Law on International Commercial Arbitration in its original 1985 version.

2. Article 5 of the Arbitration Act addresses the issue of “Notifications, communications and calculation of time limits”, stating in letter (a) that “Unless otherwise agreed by the parties and excluding, in any case, communications made within the framework of legal proceedings”: “Any notification or communication shall be deemed to have been received on the day it was delivered personally to the addressee or to their domicile, habitual residence, establishment or address”. Notifications or communications made by “telex, fax, or other means of electronic, telematic, or similar telecommunication that allow the sending and receiving of letters and documents, providing proof of dispatch and receipt, and which have been designated by the interested party” are also considered valid.

3. The provision adds that, if none of these locations can be found after reasonable inquiry, it shall be deemed to have been received on the day it was delivered or attempted to be delivered by certified mail or any other means that leaves a record at the recipient's last known address, habitual residence or establishment.

4. Regarding the time limits set forth in the Arbitration Act, letter (b) of Article 5 states that “they shall be calculated from the day after the notification or communication is received”, and adds that “if the last day of the time limit falls on a public holiday in the place where the notification or communication is received, the time limit shall be extended to the next working day”. The provision concludes by saying that, “in cases where a document must be submitted within a time limit, the time limit is deemed to have been met if the document is sent before the end of the time limit, even if it is received afterwards. Time limits established in days shall be calculated in calendar days”.

5. As can be seen, the Arbitration Act does not specifically mention electronic communications. This is in contrast to the position taken by Spanish procedural law and the regulations of the various arbitration institutions in the country.

### **II. Act 1/2000 on Civil Procedure**

6. Article 162 of the Civil Procedure Act on “Acts of communication by electronic, computer and similar means”, was amended in 2023 to address communications by means other than paper.

7. Paragraph 1 of the provision refers to the use of “electronic means, info telecommunications, or other similar means that allow for the sending and receiving of letters and documents in such a way that the authenticity of the communication and its content is guaranteed, and reliable proof exists of the complete sending and receiving, as well as the time at which these actions occurred”.

8. In relation to these means and cases covered by Article 162(2), it specifies that, as a general rule, “when the correct transmission of the communication by these technical means has been verified and three days have elapsed without the recipient accessing its content, the communication shall be deemed to have been legally effected with full effect”. In this case, “the time limits for carrying out procedural actions shall begin to run from the working day after the third day”.

9. There are several exceptions to this rule. One of them refers to "cases where the recipient can prove that he or she was unable to access the notification system during that period". In such cases, "if the lack of access was due to technical reasons that persisted at the time of notification to the Administration of Justice, the communication will be made by delivering a copy of the decision". However, it adds that if access occurs after this period but before the communication is delivered, "the communication shall be deemed to have been validly made on the date stated on the electronic receipt".

### **III. The rules of various arbitration institutions**

10. The rules of various Spanish arbitration institutions also allow for communications and notifications to be sent electronically, prioritizing this method over paper.

11. For instance, Article 3 of the Arbitration Rules of the Centro Internacional de Arbitraje de Madrid (Madrid International Arbitration Centre – CIAM), which came into force on 1 January 2024, specifies in paragraph 1 that "All communications from the parties to the Centre, as well as any accompanying documents, shall be submitted in digital format and sent electronically, unless the Centre authorizes otherwise for exceptional and justified reasons". Paragraph 8 adds that "Communications shall be made by email, but may also be made by delivery against receipt, certified mail, courier service, fax, or any other means that provides proof of transmission and receipt".

12. Paragraph 9 of Article 3 of the CIAM Rules states that "a communication shall be deemed to have been properly delivered on the day on which it has been: (a) received or attempted to be delivered by the sender at the recipient's email address; (b) received personally by the recipient; or (c) received or attempted to be delivered at the addressee's domicile, habitual residence, establishment or known address, or last domicile, habitual residence or establishment".

13. Section 1 of Article 3 of the Rules of the Tribunal Arbitral de Barcelona (Barcelona Arbitration Court – TAB) of 2025, entitled "Communications" specifies that "Unless otherwise agreed, all communications and attached documentation shall be sent electronically to the TAB by email or using the communication platform set up for this purpose".

14. Paragraph 4 of Article 3 stipulates that, "if a party has not specified an address for communication purposes or this has not been set out in the contract or arbitration agreement, communications to that party shall be sent to their domicile, place of business or habitual

residence". Additionally, paragraph 5 adds that, if none of the places referred to in paragraph 4 can be ascertained "after reasonable inquiry, communications from the Centre to that party shall be sent to the last known domicile, habitual residence, place of business or address of the addressee".

15. Finally, among other possible examples, Article 6.2 of the current Arbitration Rules of the de la Corte de Arbitraje y Mediación de Valencia (Court of Arbitration and Mediation of Valencia) specifies that "Communications may be made by delivery against receipt, certified mail, courier service, or electronic communication that provides proof of transmission and receipt. The use of electronic communication shall be preferred".

16. In this regard, paragraph 1 of the aforementioned Article 6 obliges the parties, particularly the party initiating the arbitration, to "provide a postal address, telephone number and email address for communication purposes". It adds that, "until a party has designated such an address, or it can clearly be deduced from the arbitration file documentation, notifications to that party shall be sent to their domicile, place of business or habitual residence".

17. According to Article 6(3) of the Court of Arbitration and Mediation of Valencia Rules, any notification or communication shall be deemed to have been received "on the day it is delivered personally to the addressee or delivered to their domicile, habitual residence, establishment, or address". The Rules add that "electronic or other similar notifications or communications that allow for the sending and receiving of letters and documents, providing proof of their dispatch and receipt, and that have been designated by the interested party, shall be valid". If, after reasonable inquiry, "none of these places are found, it shall be deemed to have been received on the day it was delivered or attempted to be delivered by certified mail or any other means that leaves a record at the addressee's last known domicile, habitual residence, address or establishment".

#### **IV. Application of the model**

18. Due to the characteristics of arbitration, knowledge of the application of the model is limited. Notably, this issue is primarily discussed in the context of exercising the right to annulment. A growing number of decisions have been issued on this issue; the outcomes of which, depending on the specific circumstances of the cases brought, usually result in the annulment action being dismissed.

#### **Responses submitted by Türkiye**

In Turkish law, there are two major regulations concerning arbitration. Disputes falling within the scope of domestic arbitration are regulated under Article 407 of the **Code of Civil Procedure** No. 6100 (CCP), whereas disputes falling within the scope of international arbitration are regulated under Article 1 of the **Turkish Act on International Arbitration** No. 4686 (TAIA). If the dispute does not have a foreign element and the place of arbitration is Türkiye, CCP shall apply. If the dispute has a foreign element and the place of arbitration is Türkiye, or if the parties or the arbitral tribunal choose TAIA to be applied where there is a foreign element, TAIA shall apply. Arbitral awards rendered under both the CCP and TAIA are considered "national" arbitral awards. Any award falling outside of the scope of CCP and TAIA is considered a foreign arbitral award.

In Turkish law, there are no explicit provisions exclusively regulating the form of *delivery* or *receipt* of the **notices of arbitration**. Both Article 426 of the CCP and Article 10/A of the TAIA, which regulate the commencement of arbitral proceedings, provide in summary that *an arbitral proceeding shall be deemed to have been commenced on the date on which an application is made to the civil court of first instance for the appointment of the arbitrator(s), or to the person, institution, or body designated by the parties' agreement to appoint the arbitrator(s); and, where the arbitration agreement provides that the appointment of the arbitrators shall be made by the both parties, on the date on which the claimant appoints its arbitrator and notifies the other party to appoint its own arbitrator. Neither of these Articles specify the form of the notification which contains the name of the arbitrator, which is usually the notice of arbitration*. Also, Article 429 of CCP and Article 11/A of TAIA states that “*Petitions, information, and other documents submitted to the arbitral tribunal or to an arbitrator shall be notified to the parties.*” However, the Article does not specify the form of the notification. **Therefore, the delivery and receipt of notices arbitration or other petitions (i.e. statement of claim) are subject to the general provisions on notifications set out in either CCP or TAIA.**

Article 438 of the CCP regulates the general communication and notification regime in domestic arbitration proceedings. The Article states that “*Unless otherwise agreed by the parties, notification shall be made in accordance with the provisions of the Notification Law No. 7201 dated 11/2/1959.*”

- a. As stated in the abovementioned Article, parties are free to decide the method and form of the notifications. Based on such freedom, parties may agree that all the notifications will be made electronically, including notices of arbitration. Additionally, when parties resort to institutional arbitration, they accept the notification provisions of the institutional rules, which often contain provisions permitting notifications to be made electronically.
- b. If parties resort to ad hoc arbitration and fail to agree on a specific notification rule, the notification regime in Notification Law No. 7201 will apply. The notification regime of Notification Law No. 7201 is examined below (*see. paragraph 6 and the following.*)

TAIA regulates the general notification and communication regime in international arbitration proceedings. TAIA provides a different regime than CCP regarding notifications. Article 14/C is as follows:

*Article 14/C*

*Unless otherwise agreed by the parties, any written notice shall be deemed to have been received if it is delivered personally to the addressee or to the addressee's place of residence, habitual residence, place of business, or mailing address.*

*Where, despite the necessary inquiries, none of the above places of notification can be found, a written notice sent to the addressee's last known place of residence, habitual residence, place*

*of business, or mailing address by registered letter or by any other means by which the attempt at delivery is documented shall be deemed to have been received.*

*A written notice shall be deemed to have been received on the date on which it is delivered in the prescribed manner.*

*The provisions of this paragraph shall not apply to notifications made by the courts.*

Article 14/C of the TAIA sets forth its own regime for notifications (*including electronic communications*) and does not make a direct reference to Notification Law No. 7201.

- a. According to the Article 14/C, parties are free to decide the method and form of the communications and notifications. Therefore, where parties agree that notification may be made in electronic form, notice of arbitration may be sent electronically. When parties resort to institutional arbitration, they accept the notification provisions of the institutional rules, which often contain provisions permitting electronic notifications.
- b. If parties do not agree on a specific rule on notification and resort to ad hoc arbitration, the notification is made in written form as a rule. Accordingly, a written notice is deemed to have been received if it is delivered personally to the addressee or to the addressee's place of residence, habitual residence, place of business, or mailing address.
- c. It is important to point out that, when state courts get involved in the arbitral proceedings (*i.e. court assistance in the appointment of arbitrators, challenges to arbitrators, court-ordered interim measures, judicial assistance in taking evidence, set aside procedure after the award*), they are not subject to the 14/C of TAIA. In other words, state courts will follow the notification regime regulated under Notification Law No. 7201. (*see. paragraph 6 and the following.*)

Notification Law No. 7201 constitutes a general framework norm in Turkish procedural law with regards to notifications. The scope of application of the Notification Law (*Article 1*) extends broadly to encompass all notifications, **including those made by electronic means**, carried out by judicial authorities and a wide range of public and quasi-public entities (*i.e. foundation universities, provincial special administrations, municipalities, village legal entities, bar associations, and notaries*). The list of entities that are subject to the Notification Law are listed in its annexes. All notifications of the entities that are subject to the Law must be made in accordance with the provisions of the Notification Law, **either through the General Directorate of the Post and Telegraph Organization (PTT) or by a duly authorized officer.**

In principle, the entities that are not listed in the Notification Law and its annexes cannot be subject to and benefit from the provisions of the Law. It is important to point out that arbitral tribunals and arbitral institutions are not listed as an authorized entity to make official notifications under Article 1 of the Law. Therefore, the provisions of Notification Law do not apply *ex officio* to the arbitral proceedings. Having said that, because of the reference of the

Article 438 of the CCP, the arbitral tribunal may make notifications *mutatis mutandis* in accordance with the Notification Law.

Under the Turkish Notification Law, there are several methods for notification. Notification may be made **i)** Through postal service *as a rule* (via the PTT) or, **ii)** where necessary, by an authorized officer, **iii)** by **electronic means for certain persons and entities**, **iv)** by publication where the addressee's address cannot be ascertained, and **v)** by affixing the notice to the door where the addressee is not present at the address or refuses to accept notification.

Under the Notification Law, electronic notification is divided into **discretionary electronic notification** and **mandatory electronic notification**. The fundamental criterion underlying this distinction is whether the addressee of the notification falls within the scope of mandatory electronic notification. In this context, electronic notification is mandatory for the natural and legal persons listed in **Article 7/A** of the Law. As a rule, electronic notification is not mandatory for persons who are not listed in Article 7/A. For persons outside the scope of Article 7/A, an electronic address is assigned only upon their own request, and in such cases, electronic notification becomes mandatory with respect to those persons. Moreover, **the Regulation on Electronic Notification No. 30617 entered into force as of 1 January 2019**. The purpose of this Regulation is to set out the procedures and principles regarding notifications to be made electronically.

Mandatory electronic notification is regulated in the **Article 7/A** of the Notification Law. The electronic notification procedure regulated under Article 7/A establishes a special notification regime under which notification **must be made by electronic means** on a mandatory basis for certain natural and legal persons. The same provision is regulated under **Article 5 of the Regulation on Electronic Notification**. Accordingly, for the public institutions, certain private legal entities, lawyers that are admitted to bars, notaries, and other professional groups enumerated in the provision, notification is made through the **National Electronic Notification System (UETS)** established and operated by **PTT**, by transmission to the electronic notification address assigned to the addressee. It should be stated that **UETS** system is a qualified service which is different than merely sending an e-mail. Therefore, only the entities that are listed in the Article 1 of the Law have access to the **UETS** system and can send mandatory electronic notifications. The state courts that are intervening in arbitral proceedings will make their notifications subject to Article 7/A of the Notification Law provided that the addressee is a member of one of the groups enumerated in Article 7/A. Since arbitral tribunals and arbitral institutions are not *ex officio* subject to the Notification Law, they do not have a direct access to the **UETS system** as a rule.

Whether it is mandatory or discretionary, an electronic notification sent by **UETS** system is deemed to have been made at the end of the fifth day following the date on which it reaches the addressee's electronic address, irrespective of whether the addressee actually opens or reads the notification. Where electronic notification cannot be made due to a mandatory reason, notifications may be made by other methods provided under the Turkish Notification Law.

In addition to the UETS system, there is another system known as **Registered Electronic Mail (KEP)** which is not regulated under Notification Law. Pursuant to Article 4 of the **Regulation on the Procedures and Principles Regarding the Registered Electronic Mail System**, KEP is defined as a qualified form of electronic mail that provides legal evidence with respect to the use of electronic messages, including their transmission and delivery. KEP ensures reliable information through a secure electronic signature infrastructure and time-stamping. Accordingly, the KEP system is used, in general, for electronic communications where proof is required, without being limited to electronic notification carried out within the framework of the Notification Law No. 7201. However, it must be underlined that KEP addresses cannot be used for the purposes of electronic notification made in accordance with the Notification Law No. 7201. Because UETS system is uniquely and exclusively created by the PTT and UETS addresses are registered in the UETS database. Having said that, arbitration institutions and arbitral tribunals may use the KEP system, provided that both they and the addressee have KEP addresses, in order to create an additional layer of security alongside the ordinary email system. In this context, the electronic notices of arbitration may be sent through KEP system to create further proof that the document is safely received by the addressee.

### **Responses submitted by the United States**

In response to your call for information, we note that while there is no federal U.S. statute and little case law directly on point, we believe general considerations of due process under the U.S. constitution would guide how electronic notices of arbitration and electronic communications would be treated by U.S. courts. In that regard, we note the following:

#### **1. Federal Arbitration Act (FAA) (9 U.S.C. § 1)**

- o Under the FAA, there are strict procedural requirements for certain post-arbitration actions. For example, 9 U.S.C. § 12 requires that a motion to vacate an arbitration award be served within three months after the award is filed or delivered.
- o The FAA does not explicitly prescribe electronic service (e.g., by e-mail) for arbitration-related court filings; rather, courts often look to the applicable Federal Rules of Civil Procedure (FRCP) for service rules in vacatur/confirmation actions.
- o Under Fed. R. Civ. P. 5(b)(2)(E), service “by other electronic means” is permitted only if the person being served has expressly consented in writing to that method.

#### **2. American Arbitration Association (AAA)**

The AAA Commercial Arbitration Rules (and other AAA rules) permit service of “papers, notices, or process...by electronic (e-mail)” – but only if all parties and the arbitrator agree.

- o For the AAA Employment Arbitration Rules, there is similar language: notice may be by e-mail “with the prior agreement of the party being served.”

o But notably, some post-arbitration motions (e.g., motions to vacate) may not be covered by those email-permission provisions, depending on the rule (see case law below).

### **3. U.S. Government “Alternative Means” Arbitration (5 U.S.C. § 579)**

o For certain federal administrative arbitrations, 5 U.S.C. § 579 authorizes conduct of hearings “by telephone, television, computer, or other electronic means, if each party has an opportunity to participate.”

o However, Section 579 is focused on the hearing process itself rather than on formal “service” of arbitration-demand notices.

### **4. U.S. federal case law**

- *Lockette v. Morgan Stanley*, No. 18-cv-00876 (S.D.N.Y. 2018): Here, Morgan Stanley sent an e-mail to employees notifying them of a mandatory arbitration process (the “CARE” program). The court compelled arbitration. The court held that even if the employee claimed he never read the e-mail, the fact that the e-mail appeared in his inbox, combined with the workplace expectation that he monitor his e-mail, was sufficient to infer notice. Relatedly, in *Schmell v. Morgan* (D.N.J.) (same program), the court similarly found that appearance of the e-mail in the plaintiff’s inbox plus the expectation that he review work e-mails gave him notice, even though he denied reading it. (Note: Morgan Stanley’s system required employees to opt out within a prescribed window; failure to do so (and continued employment) triggered acceptance of the arbitration plan). These two cases support the notion that e-mail can satisfy notice to form an arbitration agreement, when paired with workplace norms and a mechanism to opt out.

- *O’Neal Constructors, LLC v. DRT America, LLC*, 957 F.3d 337 (11th Cir. 2021): This case dealt with service of a motion to vacate an arbitration award. The Eleventh Circuit held that a “courtesy copy” of a memorandum emailed to the opposing party’s counsel was not sufficient service of the actual motion to vacate under 9 U.S.C. § 12. The court required express written consent to accept e-mail service under Fed. R. Civ. P. 5(b)(2)(E). It found that the adverse party had not given such written consent. The court also rejected the argument that the arbitration rules (AAA Construction Rule 44) implicitly provided e-mail service consent. Rule 44 allows e-mail service “only for notices required by these rules,” but the motion to vacate (and its statutorily required service) was not a “notice required by” AAA’s internal procedural rules. Because there was no valid e-mail service, the three-month statutory period for vacating the award under Section 12 of the FAA was not met, and the award was confirmed. Therefore, strict FAA timing and service rules may still apply for certain notices and e-mail service without explicit written consent may fail.

- *Guarino v. Productos Roche S.A.*, 839 Fed App’x 334 (11th Cir. 2020) and *Shanghai Liyu Optoelectronics v. Brite Lite Tribe LLC*, 2025 WL 1040836 (D. S. Fl. 2025). In both, for purposes of due process, email notification of arbitration proceedings was one but not the sole means of notice.

The following principles can therefore be inferred from the above:

- Consent is critical: As O’Neal shows, U.S. courts have stressed that when you rely on e-mail (or other electronic service), the recipient must have expressly consented in writing. Implied or contractual reference to arbitration rules that permit email does not always suffice.
- Notice v. Service: There’s a distinction between notice of an arbitration agreement (formation) and service of court-related motions (such as motions to vacate or confirm). The same may be true for electronic notices of arbitration and other electronic communications. Different standards/rules may apply.
- Context matters: U.S. Courts will consider the employment context, the arbitration agreement terms, and procedural rules (both the FAA and underlying arbitration rules).

The notice of arbitration serves a vital due process function: to apprise the respondent that arbitral proceedings have been initiated, thus giving the respondent an opportunity to participate and to defend itself.

## **Responses submitted by the Beijing Arbitration Commission/Beijing International Arbitration Court’s**

### **I. Background and Purpose**

This report is prepared by the Beijing Arbitration Commission/Beijing International Arbitration Court (BAC/BIAC) in response to the questionnaire issued by UNCITRAL Working Group II concerning the legal treatment, enforcement, and recognition of electronic arbitral awards in China. It aims to:

- Provide an overview of current Chinese legislation, judicial practice, and institutional approaches concerning electronic arbitral awards;
- Identify areas of consistency and divergence among different Chinese courts;
- Offer insights and recommendations for enhancing the enforceability and recognition of both domestic and foreign electronic awards under Chinese law; and
- Contribute to the Working Group’s ongoing discussions on digitalization in arbitration.

### **II. Foreign Arbitral Awards in Electronic Form**

#### **1. Legal Effect of Electronic Foreign Arbitral Awards**

China’s courts recognize the legal effect of foreign arbitral awards in electronic form, with relevant legal frameworks and judicial practices providing full support. The fundamental legal basis is the Civil Procedure Law and the Convention on the Recognition and Enforcement of Foreign Arbitral Awards (hereinafter referred to as the “New York Convention”), and China’s courts have consistently upheld a stance of respecting and supporting the New York Convention. For example, Article 8 of the Several Opinions of the Supreme People’s Court on Providing Judicial Services and Guarantees for the Belt and Road Initiative (FAFA [2015] No.9) emphasizes: It is necessary to correctly understand and apply the New York Convention,

promptly recognize and enforce foreign commercial and maritime arbitral awards related to the Belt and Road Initiative in accordance with the law, and promote mutual recognition and enforcement of arbitral awards between countries along the Belt and Road that have not yet joined the New York Convention. It is also necessary to explore and improve the judicial review procedures for revoking, refusing to enforce Chinese foreign-related and Hong Kong, Macao, and Taiwan-related arbitral awards, as well as refusing to recognize and enforce foreign arbitral awards, to unify judicial standards and support the development of arbitration.

Article 15 and Article 16 of the “Provisions of the Supreme People’s Court on Evidence in Civil Litigation” clearly stipulate that electronic data formed outside a jurisdiction, if directly derived from its printed copies or other displayable and identifiable output media, shall be deemed as the original electronic data. Notarized and authenticated public documents from outside a jurisdiction shall be deemed to meet the formal requirements of the original, and this provision is universally applicable in courts nationwide. The “Provisions of the Supreme People’s Court on Several Issues Concerning the Trial of Cases by Internet Courts” and the “Rules for Online Litigation by People’s Courts” explicitly state that electronic data submitted by parties, which can be verified as authentic through technical means such as electronic signatures, trusted timestamps, hash value verification, blockchain, or through authentication via an electronic evidence collection and preservation platform, shall be confirmed by internet courts. This reflects the inclusiveness and recognition of China’s judicial system toward digital evidence documents. The latest “Decision of the Supreme People’s Court on Amending the Provisions on the Classification of Civil Cases” (Judicial Interpretation [2025] No.226) has added relevant case classifications, further demonstrating Chinese judicial respect and support for foreign rulings and promoting the development of electronic data in the judicial field.

## **2. Electronic Signatures on Foreign Arbitral Awards**

Chinese legal framework recognizes the validity of electronic signatures in foreign arbitration awards. The core of judicial review lies in whether the award has undergone formal authentication and whether the arbitration procedure complies with the principles of due process, rather than the form of the signature or technical standards.

According to the principle of the Electronic Signature Law of the People’s Republic of China and the United Nations Commission on International Trade Law Model Law on Electronic Commerce, the electronic signature which meets the requirements of identity identification, content recognition and data integrity has the same effect as the traditional handwritten signature.

Chinese courts typically rely on signature verification systems that comply with national standards when reviewing domestic electronic signatures. However, electronic signatures in foreign arbitration awards may use internationally recognized algorithms or their digital certificate architectures may not conform to Chinese “Administrative Measures for Electronic Authentication Services.” Currently, courts have not established an “online verification platform” and cannot directly verify foreign digital certificates, failing to achieve genuine “mutual recognition.” Nevertheless, courts adhere to the principles of “functional equivalence” and “technical neutrality,” and will not refuse to recognize or enforce awards solely on the

grounds of “electronic form signatures” or “failure to use China’s national cryptographic algorithms,” focusing instead on the authenticity and integrity of electronic signatures.

In accordance with Article 4, Paragraph 1 of the New York Convention, the courts verification of the “official authentication” of a ruling essentially constitutes judicial confirmation of the authenticity of the signature. As long as the ruling is genuine and meets the requirements of "authentication," the court should accept it. The key to the recognition and enforcement of the ruling lies in its substantive validity, not in the signature carrier.

### **3. Submission of Foreign Arbitral Awards to Chinese Courts**

#### **A. How should a foreign arbitral award be submitted to a Chinese court?**

Under the current legislative framework and judicial practice, when applying to the China court for recognition and enforcement of foreign arbitral awards bearing electronic signatures, the applicant must still undergo the “electronic-to-paper” conversion procedure. The applicant needs to print the electronic award into a paper document and submit it together with the notarized and authenticated paper documents and the original Chinese translation.

When a party applies for recognition and enforcement of an international arbitration award, the submitted documents must meet notarization or authentication requirements. Article 4 of the New York Convention specifies the materials required for enforcement applications. According to Article 275 of Chinese Civil Procedure Law and other relevant provisions, the application should include a written application, proof of subject qualification, the original or “official copy” of the arbitration award, the original or official copy of the arbitration agreement, translated documents, and other materials, which are necessary conditions for initiating the procedure

With the entry into force of the Convention on the Abolition of the Requirement for Certification of Foreign Public Documents by China on November 7, 2023, the certification materials related to the rulings made by the contracting states only need to be processed as supplementary certificates, without the need for further embassy or consulate certification. Although Chinese courts have promoted the electrification of case handling procedures, the filing stage still requires the submission of paper originals to meet the needs of system archiving and in-person verification by the court. Submitting only electronic documents cannot meet the physical verification requirements.

#### **B. Is this procedure consistent across all courts in China?**

The above material forms and procedural requirements are the unified norms of the China court system, in accordance with Article 6 of the “Provisions of the Supreme People’s Court on Several Issues Concerning the Trial of Arbitration Judicial Review Cases” (Judicial Interpretation [2017] No.22). The application and the original or certified duplicate of the award shall be submitted, with the application specifying the legally required matters. During specific reviews, the review standards and legal application are consistent across courts in various regions. For example, the “Guiding Opinions of the Zhejiang Provincial High People’s Court on Handling Cases of Recognizing and Executing Foreign Arbitration Awards and

Arbitration Awards from Hong Kong, Macao, and Taiwan” (Zhejiang High Court [2010] No.105) and the “Guiding Opinions of the Hubei Provincial High People’s Court on Standardizing Arbitration Judicial Review to Support the Healthy Development of the Arbitration Cause (Trial)” both clarify relevant application rules. The “Notice of the Supreme People’s Court on Issues Concerning the Centralized Handling of Arbitration Judicial Review Cases” (Supreme People's Court [2017] No.152) stipulates that specialized business divisions are responsible for handling arbitration judicial review cases and requires the establishment of a centralized data management platform to ensure correct legal application and uniformity in adjudication standards.

#### **4. Judicial Handling and Practice**

##### **A. How will Chinese courts handle the submission and enforcement of foreign arbitral awards in electronic form?**

The Chinese courts adopt a limited review and procedural leniency attitude toward foreign arbitration institutions using electronic means to serve arbitration notices and awards. The core principle is that the legal effect of the award depends on the legitimacy of the arbitration institutions procedures themselves, rather than the form of the medium.

Given that Article 4 of the New York Convention requires the submission of “the original or an official copy of the arbitral award,” in the practice of filing cases in China, judges cannot perform the traditional “original verification” operation for purely electronic awards. They usually require the parties to print the electronic award and then notarize it as a paper document. Currently, there are no public cases showing that courts directly accept “paperless” foreign electronic arbitral awards and admit and enforce them. However, this does not mean that electronic signatures or electronic awards are invalid, but rather that the electronic signatures are “converted” to a paper carrier.

##### **B. Judicial Views in Typical Cases**

Most cases indicate that Chinese courts respect and support the electronic service methods of foreign arbitration institutions, and will not deny their equal validity with traditional paper-based awards simply because they are in electronic form. At the level of judicial practice, courts generally support the validity of foreign arbitration awards in electronic form. As long as the authenticity and reliability of the content and electronic signatures of the electronic awards are confirmed during the notarization process, they provide strong support for their legal validity.

In Case (2024) Zhe 02 Xie Wai Ren No.1, the court ruled that service of process falls under arbitration procedures and should be subject to the law’s of Singapore, the arbitration venue. The court determined that the arbitration notice was served via email, which complied with the Singapore Arbitration Rules, and thus constituted valid service. In Case (2021) Lu 02 Xie Wai Ren No.3, the court ruled that the arbitration tribunals email delivery of relevant documents complied with arbitration rules and should be deemed valid service. In the third typical case of Shanghai court arbitration judicial review (2020-2024) — the case where an Indian company and a Shanghai-based electrical company sought recognition and enforcement of an award by

the Singapore International Arbitration Centre — the court rejected the respondents defense that “the inability to verify the authenticity of the evidence due to non-receipt of mailed documents” and ruled to recognize and enforce the award.

## **5. Relevant Judicial Precedents**

China’s current legal provisions are primarily designed for paper-based awards, lacking direct and specific domestic legislation regarding the submission of foreign arbitral awards in electronic form, which leads to uncertainties in the application and enforcement process. The lack of uniform technical standards makes it difficult for Chinese courts to quickly verify the authenticity of electronic awards, affecting the efficiency of enforcement applications. Although Chinese Electronic Signature Law and related judicial interpretations recognize data messages, the standards for electronic service and electronic evidence preservation of special legal instruments such as cross-border arbitral awards are not sufficiently detailed in judicial interpretations.

## **6. Future Development Trends**

China has always actively promoted the rule of law in digital dispute resolution, showing clear support for the validity of electronic foreign arbitration awards in terms of legal revision, alignment with international rules, and judicial practice.

The application of electronic foreign arbitration awards in China is still in its developmental stage. The Civil Procedure Law and related judicial interpretations have provided a certain legal basis for their recognition and enforcement. The newly revised Arbitration Law, which came into effect on March 1, 2026, explicitly states that arbitration activities can be conducted online via information networks and have the same legal effect as offline arbitration. This provides the highest-level domestic legal basis for digital arbitration in China, and has improved the arbitration legal system in line with internationally accepted rules.

In the future, China may further clarify relevant recognition and enforcement standards by issuing judicial interpretations or guiding cases. This not only reflects the fulfillment of international treaty obligations and the adaptation to the development needs of the digital economy era, but also provides a clearer legal basis for the recognition and enforcement of foreign electronic judgments in China III. Domestic Arbitral Awards in Electronic Form

## **7. Legal Effect of Domestic Electronic Arbitral Awards**

Electronic arbitration awards are not strictly legal concepts but practical descriptions that emerged with the development of the digital economy, referring to arbitration awards made in the form of data messages. Chinese Arbitration Law and related supporting regulations and judicial interpretations do not include them within the scope of legal concepts, but instead use general terms such as “award” and “award document” to construct the institutional system. Electronic arbitration awards are typically associated with online arbitration, but there is no necessary logical connection between the two, as online arbitration awards can be made in either electronic or paper form. Article 11 of the latest revised Arbitration Law explicitly states

that online arbitration has the same legal effect as offline arbitration, but it should not be simply interpreted as the law's direct recognition of the validity of electronic arbitration awards.

In China, from the perspective of systemic interpretation, the legal effect of electronic arbitration awards is recognized by law. The core dispute regarding the legal effect of electronic arbitration awards lies in the legal validity of signatures or seals. Article 67 of the Arbitration Law stipulates that the award must be signed by the arbitrator and stamped with the seal of the arbitration institution, but it does not specify the legal form of the signature or seal, which can be interpreted to include electronic forms. Article 14 of the Electronic Signature Law states that a reliable electronic signature has the same legal effect as a handwritten signature or seal. The Electronic Seal Management Measures explicitly define electronic seals as belonging to the category of electronic signatures. Therefore, it can be inferred that an arbitrator's signature and the seal of the arbitration institution, as stipulated by the Electronic Signature Law, can serve as evidence for the award to have legal effect.

The commercial arbitration is a kind of private arbitration, and the arbitration rules indirectly recognize the legal effect of the electronic arbitration award by recognizing the legal effect of the electronic signature.

(1) China International Economic and Trade Arbitration Commission: Article 52 of the 2024 edition of the Arbitration Rules clearly states that an arbitrator's electronic signature has the same effect as a handwritten signature;

(2) Beijing Arbitration Commission/Beijing International Arbitration Court (BAC/BIAC): Article 83 of the 2026 Domestic Arbitration Rules stipulates that electronic signatures and seals have the same legal effect as handwritten signatures or seals.

(3) Guangzhou Arbitration Commission: Article 110 of the 2023 Arbitration Rules stipulates that case closure documents shall be electronically signed by arbitrators and bear the Commissions electronic seal, with electronic format being the standard and paper format being the exception.

## **8. Electronic Signatures on Domestic Awards**

Electronic signatures are widely recognized and applied in Chinese commercial arbitration activities, serving as a key element stipulated by law's and arbitration rules. According to incomplete statistics, approximately 20 arbitration commissions, including the China International Economic and Trade Arbitration Commission, BAC/BIAC, and Guangzhou Arbitration Commission, have incorporated provisions on electronic signatures into their arbitration rules. Some rules only recognize electronic signatures as having the same legal effect as handwritten signatures/seals, while others further specify that arbitration awards are in principle signed electronically by arbitrators and stamped with the electronic seal of the arbitration commission (except when parties request paper awards).

Electronic signatures serve as the key criterion distinguishing electronic arbitration awards from paper-based ones, and constitute a fundamental prerequisite for their legal validity. These signatures encompass both arbitrators' digital signatures and the arbitration committee's

official seal. Article 4 of the Electronic Signature Law recognizes data messages that can tangibly represent content and be retrieved at any time as written documentation. Since electronic arbitration awards are presented in data message format, both arbitrators' and the arbitration committee must fulfill their signing and stamping obligations through electronic signatures, whereas paper-based awards require physical signatures. Printed electronic arbitration awards with attached electronic signatures lose their original legal status, while the enforceability of such awards is determined by the validity of their electronic signatures.

Article 14 of the Electronic Signature Act stipulates that only a reliable electronic signature shall have the same legal effect as a handwritten signature or seal. Article 13 specifies the four constitutive elements of a reliable electronic signature, which are derived from the provisions of Article 6(3) of the Model Law on Electronic Signatures, signed by the United Nations Commission on International Trade Law on July 5, 2000, regarding reliable electronic signatures.

First, the exclusivity: the data used for electronic signature is the exclusive property of the electronic signer, and the determination depends on the ownership of the data.

Second, controllability: the data of electronic signature is only controlled by the electronic signer, which emphasizes the substantial control based on free will.

Third, verifiability: any alteration to the electronic signature after signing can be detected;

Fourth, the integrity of the document content: any changes to the content and form of the data message after signing can be detected.

The arbitration rules of some local arbitration commissions specify the requirements for reliable electronic signatures, with most provisions according to the four essential elements outlined in the Electronic Signature Law. Certain rules also recognize electronic signatures authenticated by legally established electronic certification service providers as reliable. In judicial practice, courts typically assess the reliability of electronic signatures through a comprehensive evaluation of third-party certification reports and the qualifications of third-party institutions. Electronic signatures certified by legally accredited institutions are generally presumed to be reliable.

## **9. Submission to Courts**

In China, parties may submit electronic arbitration awards to the court in scenarios such as enforcing an arbitration award, applying for its revocation, or submitting evidence. According to the Arbitration Law, parties applying to the court for enforcement of an arbitration award must comply with the general provisions on enforcement under the Civil Procedure Law, submitting materials such as an application for enforcement, effective legal documents (i.e., the arbitration award), and personal identification documents.

### **A. Submission Form**

In the past, courts required parties to submit arbitration awards in paper format, such as when a Beijing People's Court mandated A4 paper copies with handwritten or printed content.

However, the digitalization of enforcement procedures is an emerging trend. In 2022, the Supreme People's Court issued the "Online Operation Rules for People's Courts", proposing the development of a smart enforcement system, which may enable parties to submit electronic arbitration awards remotely in the future. Additionally, according to Article 15 of the "Several Provisions of the Supreme People's Court on Evidence in Civil Litigation", parties may submit original electronic arbitration awards via electronic media such as mobile storage devices.

Under the Digital Economy Arbitration Rules implemented by the BAC/BIAC on January 1, 2026, parties may submit electronic arbitration awards through remote access, application programming interfaces (APIs), or tamper-proof technologies such as trusted timestamps, hash value verification, and blockchain. The submission must be based on universal technical standards and adhere to the principle of accessibility.

### **B. Competent Court**

According to the article 2 of the Provisions of the Supreme People's Court on Several Issues Concerning the Handling of Arbitration Award Execution Cases by the People's Court, the people's court at the intermediate level at the domicile of the person subjected to execution or the place where the property to be executed is located shall have jurisdiction over the application for execution of the arbitration award, and the submission of the electronic arbitration award shall also follow the same rule.

### **C. Submission Time**

Under Article 250 of the Civil Procedure Law, the two-year enforcement application period begins on the last day of the performance period specified in the legal document, the expiration date of the final performance deadline, or the effective date of the document. The suspension and interruption of this limitation period follow the statute of limitations rules, which also apply to the submission of electronic arbitration awards.

## **10. Judicial Practice and Handling**

The court shall examine the electronic arbitration award in accordance with the general rules for reviewing arbitration awards, with special attention to its authenticity, particularly the authenticity of the electronic signature or seal.

In China, on the one hand, courts reviewing electronic arbitration awards also need to follow the general provisions for reviewing arbitration awards. According to Article 3 and Article 4 of the Supreme People's Courts Provisions on Several Issues Concerning the Handling of Arbitration Award Enforcement Cases by People's Courts, the content of the arbitration award reviewed by the court includes whether the parties rights and obligations, the amount of monetary payment, the delivery of specific items, and the performance standards of actions are clear, as well as whether there are any textual or calculation errors or omissions in the arbitration award. If the electronic arbitration award has relevant issues that can be corrected or explained, the court shall inform the arbitration tribunal in writing or obtain the case findings from the arbitration institution; in other cases, the court may rule to reject the enforcement application.

On the other hand, courts should pay special attention to the authenticity of electronic arbitration awards. They may assess the reliability of electronic signatures through third-party authentication reports and institutional credentials, or employ technical measures such as hash value verification, trusted timestamp validation, digital certificate authentication, and blockchain evidence verification. Alternatively, courts may commission qualified forensic institutions to conduct professional technical evaluations.

If the court determines the electronic signature to be invalid upon review, and the party applies for revocation of the arbitration award on this ground, the court shall rule to revoke the award if it supports the application. If the party does not apply for revocation but the court discovers the invalidity of the electronic signature during the enforcement proceedings, the court shall rule against enforcement.

## **11. Case Law Review**

Article 67 of the Arbitration Law stipulates that “arbitration awards shall be signed by arbitrators,” where the signature may be either a handwritten one or an electronic one. In judicial practice, courts neither refuse to enforce arbitration awards simply because arbitrators use electronic signatures instead of handwritten ones, nor do they automatically regard “printed signatures” as valid electronic signatures.

### **A. The arbitrator may complete the signature procedure in the award by electronic signature.**

In the case where Zhongshan Qianjing Catering Co., Ltd. and Zhongshan Zhongyuan Property Development Co., Ltd. applied to revoke the arbitration award, the applicants argued that the arbitrators use of electronic signatures instead of handwritten signatures constituted a procedural violation. The court held that the Arbitration Law does not stipulate that signatures must be handwritten, and the arbitrators electronic signatures complied with the “Guangzhou Arbitration Commission Arbitration Rules,” thus rejecting the applicants claims. This case directly recognized the legal validity of electronic arbitration awards, promoted the digital transformation of arbitration procedures, reduced costs for parties, improved dispute resolution efficiency, and provided guidance for the standardized operation of related procedures.

### **B. The “Printed Font” signature of the arbitrator violates the signing procedure.**

In the case of Zhidun Technology (Fuzhou) Co., Ltd. versus Liu Mou regarding the application for non-enforcement of a domestic arbitration award, the Fuzhou Arbitration Commission issued an award document with the arbitrator’s signature printed from a computer file. The court ruled that the printed signature failed to reflect the arbitrator’s genuine intent and lacked the attributes of a reliable electronic signature, thereby violating legal procedures. The ruling explicitly stated that unreliable electronic signatures cannot serve as valid signatures of arbitrators, imposing strict requirements on arbitration institutions to ensure the authenticity of award signatures and safeguarding the parties reliance on the arbitration process.

## **IV. Enforcement and Recognition of Electronic Arbitral Awards in China**

### **12. Existing obstacles**

## **A. International electronic arbitral award**

First, the legal framework is incomplete. The 1958 New York Convention serves as the core basis for the recognition and enforcement of cross-border arbitral awards, but it was formulated long ago and does not provide clear regulations on matters related to electronic arbitration. China established the legal status of online arbitration with the newly revised Arbitration Law in 2025, but the supporting rules are inadequate. Key issues such as the formal requirements for electronic awards and the effective standards for electronic service lack systematic legislative norms and judicial interpretations, leading to inconsistent standards in judicial practice. The existing legislation does not fully align with the requirements for cross-border data transmission under the Cybersecurity Law and the Data Security Law, creating compliance barriers for cross-border recognition and enforcement.

Second, the issue of the legitimacy of electronic arbitration procedures. The adoption of online hearings in international electronic arbitration may involve procedural flaws, such as unstable network connections and the lack of effective identity verification for online witness cross-examination. China courts need to determine whether such flaws constitute a “substantive violation of due process.” If foreign arbitration institutions fail to retain complete hearing records or fail to rectify procedural flaws, it may be deemed as depriving parties of their rights to statement and debate, thereby invalidating the arbitral award.

## **B. Domestic electronic arbitral award**

First, the issue of authenticating electronic signatures. While Articles 1 of the Judicial Interpretation of the Arbitration Law of the People’s Republic of China and the Electronic Signature Law explicitly recognize the legal validity of electronic signatures, practical verification remains challenging. In certain cases, parties may use electronic signatures in contracts but submit only printed copies during arbitration proceedings. Alternatively, they may provide electronic contracts bearing signatures but fail to furnish identity verification documents. When the authenticity of such signatures cannot be confirmed, the arbitral tribunals reliance on these electronic contracts for adjudication becomes legally invalid.

Second, electronic service of process carries inherent limitations. While widely adopted for its efficiency and convenience, electronic arbitration may involve procedural flaws that could render the process unlawful. In some cases, even if the contractually designated email or phone number is deactivated, the mere display of “sent successfully” may be deemed valid service, resulting in absentia rulings without the parties knowledge and depriving them of rights such as defense and cross-examination. Article 58(3) of the Arbitration Law stipulates that parties may petition to revoke rulings when arbitration procedures violate statutory requirements. The Supreme People’s Courts Reply on Legal Application Issues Regarding the Filing and Enforcement of Arbitration Institutions “Pre-Arbitration” Awards or Mediation Agreements explicitly states: “If an arbitration institution fails to safeguard parties fundamental procedural rights under the Arbitration Law—such as applying for arbitrator recusal, submitting evidence, or defending themselves—it shall be deemed a violation of statutory procedures as defined in Article 237(2)(3) of the Civil Procedure Law.” The lawful delivery of arbitration documents is essential to protecting parties rights. If electronic service fails to effectively deliver documents,

preventing parties from exercising statutory rights like court attendance and in-court defense, this constitutes a procedural violation under the Civil Procedure Law.<sup>form</sup>

### **13. Improvement Path**

#### **A. Improvement paths for international electronic arbitration awards**

First, legislative enhancement. Building upon the 2025 revision of the Arbitration Law, specialized judicial interpretations for online arbitration should be enacted. These should define the “written form” criteria for international electronic awards, recognize the legal validity of electronic seals and signatures compliant with international standards, standardize the formal requirements of electronic award documents, and specify conditions for recognizing purely electronic awards. Rules for reviewing cross-border electronic evidence should be refined, with clear application scenarios for notarization, authentication, and technical verification as methods of authenticity verification. In conjunction with relevant law’s, a dedicated compliance guide for cross-border electronic arbitration data transmission should be issued, specifying legal channels and data anonymization standards to balance data security and arbitration efficiency.

Second, standardize the legitimacy of electronic arbitration procedures. Refine the review standards for the legitimacy of online trial procedures, distinguishing between “substantive defects” and “formal defects,” and clarifying that “depriving parties of the right to statement and debate” constitutes a substantive violation of due process, while brief network lag is a formal defect and does not constitute grounds for refusal to recognize or enforce. Establish a mechanism for rectifying procedural defects, requiring arbitration institutions to promptly take remedial measures and retain supporting documents. Strengthen alignment with international rules, participate in the formulation of international electronic arbitration rules, promote adaptive interpretations of the New York Convention, coordinate legislative differences through bilateral or multilateral judicial assistance treaties, and encourage Chinese arbitration institutions to engage in rule coordination with international bodies.

#### **B. Improvement paths for domestic electronic arbitration awards**

First, expand the channels for authenticating electronic signatures. The BAC/BIAC Arbitration Rules stipulate that electronic signatures and seals shall have the same effect as handwritten signatures or affixed stamps. The Digital Economy Arbitration Rules further specify that parties may submit materials using technologies such as trusted timestamps, hash value verification, and blockchain. Arbitration tribunals may either independently investigate evidence or require appraisers to authenticate digital materials. These arbitration rules provide clear legal basis for the validity and authentication of electronic signatures.

Second, clarify the requirements for electronic service. Article 90 of the Civil Procedure Law stipulates that with the recipients’ consent, courts may serve legal documents electronically while providing paper copies. The BAC/BIAC Domestic Arbitration Rules explicitly prioritize electronic service of arbitration documents, with delivery deemed effective upon reaching the recipients designated system. To address the issue of unverifiable receipt of electronic service, it is necessary to standardize electronic service channels and technical standards for

acknowledgments, establish a “received-as-accepted” verification system, designate core service channels, require generation of tamper-proof acknowledgments, upgrade identity verification technologies, and solidify the evidence chain.

## **14. Case Analysis**

### **A. The Recognition and Enforcement of Domestic Electronic Arbitration Award**

In a lease contract dispute case, the Ningbo Arbitration Commission issued all arbitration documents electronically without verifying the parties’ receipt of the electronic documents, and there was no evidence to prove that the judgment debtor had received the relevant documents. The Hechi Intermediate People’s Court of Guangxi Zhuang Autonomous Region ruled that the Ningbo Arbitration Commissions approach violated the Supreme People’s Courts guidelines on breaching statutory procedures by failing to safeguard the parties fundamental procedural rights, and thus denied enforcement of the award.

In judicial practice, courts apply the principle of “agreement takes precedence but substantive compliance is required” when adjudicating electronic service of arbitration awards. Where parties have expressly agreed on electronic service methods and designated addresses or systems, the court recognizes the validity of such service provided that the arbitration institution proves successful delivery to the agreed address. In the absence of such agreements, the service must satisfy the electronic service requirements stipulated in arbitration rules and applicable law’s. The evidence of service constitutes a critical basis, with courts requiring arbitration institutions to provide a complete chain of evidence. Where no evidence proves the parties receipt, the service is deemed invalid. Courts distinguish between “formal defects” and “substantive violations”: minor procedural irregularities, provided the parties participated in the arbitration, may not affect procedural legitimacy; however, a fundamental defect of “absence of any service evidence” shall be deemed a substantive violation.

### **B. The Recognition and Enforcement of International Electronic Arbitration Awards**

In the case where Maoda Company and Beijing Hemei Han Yi Company sought recognition and enforcement of a foreign arbitration award, a key issue was whether the delivery of the arbitration notice to employee Qi Yi’s personal email constituted proper service. The court held that Qi Yi, as the authorized representative of the respondent in signing the contract, received the arbitration notice via the email address used by Maoda Company and the British Coffee Association during the contract signing process, which met the standard of reasonable care. Considering that the respondent was aware of the unpaid goods payment as established in another case, the court ruled that the respondent had received proper service and granted recognition and enforcement of the arbitration award.

This case demonstrates that in cross-border arbitration service, courts adopt the principle of reasonable connection plus actual likelihood of knowledge as the core criterion, recognizing the validity of service via the authorized representatives’ email without mechanically requiring service to the companies registered address or legal representatives’. This standard extends to international electronic arbitration methods such as email and electronic platform service, meaning electronic service must demonstrate a substantive connection between the service

address and the parties, along with evidence showing the parties capacity to understand the proceedings.

#### **IV. Electronic Notice in Arbitral Proceedings**

Electronic notices (i.e., electronic delivery) are a core component in the digitization and efficiency enhancement of arbitration procedures, and their standardization and practice directly relate to the legitimacy, predictability, and enforceability of final awards in arbitration. This section systematically elaborates on the current implementation status, validity assessment, institutional operational standards, tracking mechanisms, and archival preservation requirements of electronic notices based on Chinese existing legal framework, judicial practices, and common practices of major arbitration institutions. In Chinese arbitration practice, electronic notices have formed a mature system guided by rules, supported by technology, and guaranteed by judicial recognition. It has significantly improved the efficiency and convenience of arbitration procedures while effectively safeguarding procedural legitimacy and the rights of parties through refined operational standards, tracking mechanisms, and archival systems.

#### **15. Current Status of Implementation**

Currently, electronic notices have become the routine and preferred method of service in China arbitration practice. The arbitration rules of major arbitration institutions generally stipulate that arbitration documents (including notices, statements, evidence, decisions, and awards) should be delivered preferentially through electronic means such as online arbitration platforms, email, and SMS.

In judicial practice, both the Civil Procedure Law of the People's Republic of China and relevant judicial interpretations by the Supreme People's Court recognize the legal validity of electronic service, affirming its equivalence to traditional service methods. During arbitration judicial review and enforcement procedures, courts nationwide accept electronic service conducted in accordance with parties agreements or arbitration rules, provided that the service has been effectively completed.

In practice, most of the arbitration institutions have established a well-functioned online case management system, which realizes the electronic operation and management of the whole process of arbitration procedure.

#### **16. Timeliness and Validity Determination**

The effective time of electronic announcement usually follows the principle of "arrivalism", that is, when the arbitration documents enter the specific electronic system (such as email server, online platform user account) designated or usually used by the addressee, it is considered to be delivered, and the legal effect is produced immediately.

The core of validity determination lies in proving the "arrival" of service, primarily based on the following comprehensive criteria: (1) Party consent: The prior agreement in the arbitration agreement or subsequent written confirmation by the parties regarding specific electronic service methods and addresses serves as the primary basis for validity determination; (2)

System records and feedback: Successful delivery records generated by the sender's system (e.g., arbitration institution platforms, email servers) and status reports (e.g., service receipts, read receipts) constitute direct evidence of "arrival"; (3) Reasonableness and customary use of addresses: In the absence of explicit stipulations, service to electronic addresses routinely used by parties in contract performance or routine business communications is generally deemed reasonable and valid; (4) Presumed service: If electronic service fails to be actually received due to the recipients own reasons (e.g., incorrect provided address, failure to update promptly, or system configuration issues), it may still produce legal effects of service under conditions specified by the rules.

## **17. Institutional Standards and Practices**

To ensure the standardization and reliability of electronic announcements, arbitration institutions have generally established clear operational standards:

First, the tiered service method: The priority order of electronic service shall be clearly defined. When no special requirements are specified by the parties, the preferred method is internal service via the institutions online platform, supplemented by external means such as email. For instance, Article 6 of the Domestic Arbitration Rules issued by the BAC/BIAC stipulates that arbitration documents shall be delivered electronically first, and deemed served upon reaching the recipients designated system.

Second, address management and obligations: The parties are required to provide and maintain accurate and valid electronic service addresses, and any address changes must be promptly notified in writing to avoid adverse consequences such as deemed service. Article 13 of the BAC/BIAC Domestic Arbitration Rules mandates that applicants must specify contact details, including email addresses, when filing for arbitration.

Third, supplementary and alternative service: When electronic service encounters obstacles or to ensure evidentiary sufficiency, institutions may concurrently or alternatively employ traditional methods such as mail or express delivery, thereby establishing a dual safeguard. For instance, Chapter 6 of the Guangzhou Arbitration Commissions Arbitration Rules specifies multiple service methods, allowing flexible selection with the first arrival time as the criterion.

Fourth, special considerations for cross-border service: In arbitration involving parties from different jurisdictions, the institution will exercise greater prudence in verifying whether the chosen electronic service method complies with the law's of both the arbitration venue and the potential enforcement jurisdiction.

## **18. Mechanisms for Tracking Notices**

To ensure traceability and verifiability of the electronic announcement process, the following technologies and systems are primarily employed:

First, platform auto-logging: The online arbitration platform automatically generates and stores complete logs for all document transmissions, including sending, receiving, and viewing, with precise timestamps and user operation records to ensure full traceability.

Second, the receipt confirmation mechanism: For critical procedural documents, the system can implement mandatory reading confirmation or request email receipts to obtain the recipients feedback of “received” or “read”.

Third, status notification: The system automatically alerts the sender (arbitration institution/arbitration tribunal) of delivery status (e.g., successful, failed, read), enabling timely follow-up.

Fourth, hybrid communication reminders: These may include SMS, WeChat messages, or emails to notify recipients to check important documents sent through primary channels.

## **19. Preservation and Archiving of Notices**

The integrity and secure storage of electronic announcement records is the basis for ensuring the transparency and auditability of the procedures.

First, storage medium: all electronic announcement-related documents, including files, sending records, status reports, and acknowledgments, are securely stored in encrypted electronic format on the arbitration institutions dedicated servers or trusted cloud storage environments.

Second, integrity assurance: using digital signature, timestamp and other technical means to ensure the integrity and non-tamperability of the electronic delivery record from the date of generation.

Third, systematic archiving: the electronic delivery record is an organic part of the electronic archives of the arbitration case, and it is systematically archived and kept according to the archives management policy and time limit stipulated by the institution.

Fourth, evidentiary validity and retrieval: Properly preserved electronic announcement records shall maintain full evidentiary validity during subsequent arbitration internal reviews, judicial reviews (including procedures for revoking or refusing to enforce arbitration awards), or award enforcement proceedings. Parties and competent courts may apply for access to or retrieval of such records through statutory procedures.

With the continuous development of digital technology and the integration of international arbitration practice, the electronic announcement mechanism will be continuously optimized, further strengthening the advantages of arbitration as an efficient and reliable dispute resolution method.

## **VI. Summary**

### **1. An analysis of the evolving legal recognition of electronic arbitral awards and notices under Chinese law**

The legal recognition of electronic arbitration awards and notices in China originated from the practical needs driven by the development of the digital economy. In the early stage, the legal system centered on paper-based arbitration and lacked explicit provisions targeting electronic forms, leaving the legal effect of electronic arbitration awards and notices without direct

legislative basis. As a result, parties faced considerable uncertainties when applying for the recognition and enforcement of such awards.

With the acceleration of digitalization, the promulgation of the Electronic Signature Law marked a crucial turning point. It clarified that reliable electronic signatures have the same legal effect as handwritten signatures and seals, and defined four constituent elements, namely “exclusivity, controllability, verifiability, and content integrity”, laying the core legal foundation for the validity of electronic arbitration awards.

The Civil Procedure Law and relevant judicial interpretations have also gradually recognized the evidentiary qualification of electronic data. The Several Provisions of the Supreme People's Court on Evidence in Civil Proceedings specified that overseas electronic data meeting specific conditions can be regarded as original documents. The Rules of People's Courts on Online Litigation further confirmed the authenticity of electronic data fixed through technologies such as electronic signatures and blockchain, forming a preliminary legal support system.

During this phase, Chinese courts upheld an attitude of respecting the New York Convention towards foreign electronic arbitration awards, accepting their submission through the conversion procedure of “electronic-to-paper”. A typical example is Case No. (2021) Lu 02 Xie Wai Ren No.3, where the court ruled that the service of relevant documents by the arbitral tribunal via email complied with the arbitration rules, signifying the initial judicial recognition of electronic forms.

The issuance of the newly revised Arbitration Law in 2025 and its implementation on March 1, 2026, have elevated the legal recognition of electronic arbitration to a new stage. Article 11 of the law explicitly stipulates that online arbitration has equal legal effect with offline arbitration, serving as the highest-level domestic legal basis for electronic arbitration.

Major arbitration institutions have successively revised their rules in response. The 2024 version of the Arbitration Rules of the China International Economic and Trade Arbitration Commission (CIETAC) and the 2026 version of the Domestic Arbitration Rules of the BAC/BIAC both clarify that electronic signatures and electronic seals have the same legal effect as handwritten signatures or seals. The 2023 version of the Arbitration Rules of the Guangzhou Arbitration Commission (GAC) even adopts electronic form as the principle for issuing arbitral awards, forming a recognition system where law's and arbitration rules mutually corroborate each other.

In judicial practice, the attitude of courts towards electronic arbitration has shifted from “limited acceptance” to “active recognition”. The case of Zhongshan Qianjing Catering Co., Ltd. positively confirmed the legality of arbitrators' electronic seals, while the Zhidun Technology case clarified that “printed signatures” do not constitute reliable electronic signatures, refining the application standards for electronic signatures through judicial precedents.

Electronic announcements (electronic service of process) have evolved from a supplementary service method to a commonly prioritized one. Its practical rules, such as the “receipt principle” for entry into force and system record verification, have been gradually standardized. The

construction of an intelligent enforcement system proposed in the Rules of People's Courts on Online Operation further indicates the trend of full-process digitalization in the submission and review of electronic arbitration awards.

## **2. Recommendations for Aligning Domestic Practices with International Electronic Arbitration Standards**

To effectively align domestic practices with international electronic arbitration standards, efforts should first be made in legislative improvement and technical adaptation.

Based on the newly revised Arbitration Law, special judicial interpretations on online arbitration should be issued to clarify the criteria for determining the “written form” of international electronic awards. Electronic signatures and seals that comply with the principles of the UNCITRAL Model Law on Electronic Commerce should be included in the scope of recognition, and the formal requirements for electronic arbitral awards should be specified, such as core technical parameters including PDF/A format and metadata fields.

Meanwhile, it is necessary to align with the Cybersecurity Law and Data Security Law, formulate special compliance guidelines for cross-border electronic arbitration data transmission, clarify data desensitization standards and legal transmission channels, and resolve compliance obstacles in cross-border data flows.

At the technical level, internationally accepted standards should be adopted, including unified encryption algorithms (2048-bit RSA and SM2 national cryptographic algorithm), storage specifications (judicial exclusive cloud and 3-copy off-site disaster recovery), and verification methods (SHA-256/SM3 hash verification and RFC3161 timestamp). A platform for mutual recognition and verification of domestic and foreign electronic signatures should be established to address the problem of inability to directly verify foreign digital certificates, thereby achieving international compatibility of technical standards.

Second, it is essential to strengthen procedural norms and international coordination, and build an electronic arbitration procedural system in line with international practices.

In terms of procedural norms, unified standards for determining the validity and operation of electronic service of process should be established, along with a dual verification system of “party consensus + deemed service upon arrival”. Arbitration institutions should be required to retain complete evidentiary chains such as service logs and receipts. Clear criteria should be set to distinguish between formal defects (e.g., network delays in electronic hearings) and substantive defects (e.g., deprivation of parties' right to present their cases), and a mechanism for rectifying procedural defects should be established.

On the international coordination front, China should actively participate in the adaptive interpretation process of the New York Convention, promote the inclusion of provisions related to electronic arbitration in the Convention, and fill the gaps in existing international rules regarding electronic forms. Chinese arbitration institutions should be encouraged to carry out rule coordination and cooperation with international counterparts, and learn from mature international practices to optimize their own procedural design.

Through bilateral or multilateral judicial assistance treaties, efforts should be made to coordinate legislative differences among countries in the recognition and enforcement of electronic awards. Meanwhile, channels for authenticating the validity of electronic signatures should be expanded, and the application of technologies such as trusted time stamps, hash value verification, and blockchain should be promoted to provide unified rule expectations and practical safeguards for cross-border electronic arbitration.

### **3. Practical Significance of Ongoing Discussions on Arbitration Electronization for UNCITRAL**

Ongoing discussions on arbitration electronization have provided UNCITRAL with rich empirical support, facilitating the keeping of international arbitration rules in pace with the times. As a jurisdiction with rapid development in electronic arbitration, China has accumulated substantial practical experience in areas such as the determination of legal validity of electronic awards, application of electronic signatures, and mechanism of electronic service of process.

From the definition of “reliable electronic signature” in the Electronic Signature Law, to the specific application of electronic seals in the rules of various arbitration institutions, and to the judicial determination of the validity of electronic service of process in court cases, these practical details serve as crucial references for UNCITRAL in revising the UNCITRAL Model Law on International Commercial Arbitration.

Chinese proposals for revising Articles 31 and 35 of the Model Law directly address the inadequacy of the Model Law in covering electronic awards and electronic signatures. Its provisions on “data message form” and “electronic seal”, as well as normative suggestions on the submission and authentication of electronic awards, can effectively enhance the adaptability of international rules to digital arbitration practices and fill the gaps in international rules.

In addition, Chinese explorations in technical parameters of electronic awards, such as standards for basic formats, encrypted storage, and verification and traceability, can provide a blueprint for UNCITRAL to formulate globally unified technical specifications for electronic arbitration, promoting the refinement and operability of international electronic arbitration rules.

At the same time, ongoing discussions help UNCITRAL coordinate common issues in the global development of electronic arbitration and promote the formation of a unified international dispute resolution system. Currently, cross-border electronic data transmission compliance, cross-border mutual recognition of electronic signatures, and standards for reviewing procedural legitimacy are common challenges faced by countries in the development of electronic arbitration.

Chinese explorations and dilemmas in these fields—such as how to balance data security and arbitration efficiency, and how to distinguish between formal defects and substantive violations in electronic hearings—can provide UNCITRAL with diversified perspectives on these issues. By integrating practices from various countries including China, UNCITRAL can establish

specific application standards for core principles such as functional equivalence, technological neutrality, and non-discrimination, reducing uncertainties in cross-border electronic arbitration caused by conflicts among national laws.

Furthermore, Chinese mature practices in electronic arbitration announcements, such as tracking notification mechanisms and archiving specifications, can serve as practical references for UNCITRAL in formulating operational guidelines for electronic arbitration procedures. This will help global arbitration institutions improve the standardization and transparency of electronic procedures, thereby enhancing the credibility of arbitration as a cross-border dispute resolution method and promoting the improvement and development of the global digital dispute resolution system.

## **VII. Clarification of Issues Debated During the 82nd Session**

### **1. Definition of “Electronic Form”**

The term “electronic form of arbitration award” is not a strict legal term. It refers to legally binding dispute resolution decisions generated, transmitted, and stored in electronic data messages. The formal requirements for electronic data messages, including original format and preservation standards, must comply with the provisions of the Electronic Signature Law. Electronic awards apply to commercial arbitration disputes, excluding: (1) those involving personal relationships such as marriage, adoption, or inheritance; (2) those concerning the suspension of public utility services like water, heating, or gas supply; and (3) other circumstances where electronic documents are prohibited by law’s or administrative regulations.

The core features of e-arbitration are digitization, high efficiency and standardization, which are demonstrated as follows:

#### **A. Carrier digitization**

First, digital information storage: Disputed materials (e.g., applications, defense statements, evidence) are uploaded to the arbitration system as electronic documents, stored in the cloud or local servers, and can be precisely retrieved through permission management.

Second, full-process digitization: all procedures—from case filing, acceptance, evidence submission and cross-examination, trial, document review, service, signature, to storage—are completed through electronic channels, with all communication methods among arbitration participants being fully digitized.

Third, the results are presented in digital form: unlike paper arbitration awards, the final award is generated as a data message, bearing an electronic signature, and holds the same legal validity as a paper award.

#### **B. Efficiency and high performance**

First, automated notification: Upon uploading materials, the system instantly notifies all arbitration participants via pre-stored contact information on data media, eliminating the time-

consuming process of paper-based document transmission and reducing administrative costs through its preset functions.

Second, automated node reminders: The system matches arbitration procedures based on the disputed subject and complexity level, setting key milestones within the overall case cycle—such as deadlines for submitting trial outlines, initial draft rulings, and court term reminders—to achieve full automation of the case-handling process.

Third, intelligent decision support: The electronic arbitration system incorporates features like case retrieval and legal text matching to assist arbitrators in referencing relevant precedents and statutes when drafting

## 2. Technical Parameters of Electronic Adjudication

### A. Basic Format Parameters

This is the core parameter to ensure the long-term readability and cross-system compatibility of electronic judgments, which must comply with the standards of judicial documents and the requirements for electronic file archiving.

Technical item	Core parameters	Compliance standards/Value requirements
file format	Basic Format	Use PDF/A-2b or PDF/A-3b format, supporting embedded electronic signatures and timestamp metadata
	Layout requirements	Resolution $\geq 300$ dpi, supports black and white/color rendering, and allows text selection (not just image scans) to ensure OCR recognition accuracy $\geq 99\%$
structural data	Metadata field	The fields must include case number, party information, issuing authority, issuance date, ruling type, hash value, and digital certificate serial number.
	data format	Metadata is encapsulated in XML or JSON format, supporting integration with court case management systems and judicial blockchain platforms.

### B. Encryption and signature parameters

This parameter determines the tamper-proof and non-repudiation capabilities of electronic adjudication, and must strictly comply with the Electronic Signature Law and the GB/T38540-2020 Information Security Technology-Electronic Signature and Seal Cryptographic Technical Specification.

Technical item	Core parameters	Compliance standards/Value requirements
digital signature algorithm	signature algorithm	Use RSA-2048 or higher, or SM2 (a Chinese national cryptographic algorithm), with a signature hash algorithm corresponding to SHA-256 or SM3.
	Signature validity	The signature must be bound to a trusted third-party digital certificate issued by a legally established electronic certification service provider.
data encryption	Transmission encryption	The system employs TLS1.3 protocol with ECDHE key exchange algorithm to ensure secure transmission without interception or tampering.
	Storage encryption	Encrypt file content using AES-256 or SM4 (National Cryptography Standard) with key management at different levels
time stamp	timestamp standard	Complies with RFC3161, issued by a national legal timestamp service provider, with a time accuracy of $\leq 1$ second
	Bind timestamp	The timestamp value must be stored in association with the file hash and signature values and cannot be modified independently.

### C. Storage and transmission parameters

To ensure data security, prevent loss, and maintain traceability throughout the entire lifecycle of electronic adjudications, it must meet judicial-grade disaster recovery and compliance requirements.

Technical item	Core parameters	Compliance standards/Value requirements
medium	storage class	Use a judicial dedicated cloud or consortium chain node for storage. Do not store in non-compliant public clouds or local single machines.
	disaster recovery requirements	Supports 3 copies of remote storage, with data backup frequency $\leq 24$ hours, disaster recovery time objective (RTO) $\leq 4$ hours, and recovery point objective (RPO) $\leq 1$ hour

Technical item	Core parameters	Compliance standards/Value requirements
transport protocol	transmission channel	Use a dedicated encrypted channel for court/arbitration institutions, supporting HTTPS/SSL protocols. Do not transmit through unencrypted emails or instant messaging tools.
	service return receipt	The transfer must retain delivery proof, including the recipients IP, device information, receipt time, and read status. The receipt cannot be altered after generation.
sensitive information processing	desensitization rule	Sensitive information such as the ID number and phone number of the party involved must be masked (e.g., showing the first 6 digits and the last 4 digits). The desensitized data cannot be reversed.

#### D. Verification and traceability parameters

Ensure that any entity can independently verify the authenticity and integrity of electronic adjudications, and trace the entire process of operation records.

Technical item	Core parameters	Compliance standards/Value requirements
hash check	hash algorithm	Generate a unique file hash using SHA-256 or SM3. Any file modification will change the hash value.
	Verification method	Provide an online verification interface that supports case number, hash value, or certificate serial number queries, with a response time of $\leq 3$ seconds
blockchain notarization	chain data	Upload key data such as file hash values, signatures, timestamps, and case numbers to the blockchain. The block height on the chain is queryable, and once uploaded, the data cannot be tampered with.
	link node requirement	Access to a judicial consortium blockchain (e.g., blockchain platforms of internet courts in various regions), with $\geq 3$ nodes and consensus mechanism using PBFT or Raft

Technical item	Core parameters	Compliance standards/Value requirements
Operation log	Log record dimension	Record all operations, including generation, signing, modification, transmission, review, and verification, with details such as the operator, operation time, IP address, and operation content.
	log storage	The log must be read-only storage, with a retention period of at least the statutory retention period for the ruling (usually 30 years), and must support judicial audit retrieval.

### E. System performance parameters

The system ensures high concurrency and high availability throughout the entire electronic adjudication process, meeting the demands of large-scale judicial operations.

Technical item	Core parameters	Compliance standards/Value requirements
concurrent processing capability	Signatures are concurrent	Supports electronic signature requests at $\geq 1000$ per second with a response time $\leq 500$ ms
	verification and concurrent	Supports up to 5,000 online verification requests per second without system crashes or data errors.
system availability	Annual availability	$\geq 99.99\%$ , annual downtime $\leq 52.56$ minutes
	compatibility	Supports mainstream operating systems such as Windows, Linux, Android, and iOS, and is compatible with major browsers (Chrome, Edge, Firefox, etc.)

### 3. Functional Equivalence and Non-Discrimination Principles

The principle of functional equivalence is manifested in three key aspects: (1) Signature equivalence: Article 3(2) of the Electronic Signature Law stipulates that “documents requiring electronic signatures or data messages shall not be invalidated solely due to their digital format,” demonstrating that electronic records and signature services hold equal legal validity to paper-based counterparts. The Domestic Arbitration Rules and International Arbitration Rules

adopted by the BAC/BIAC on October 29, 2025 explicitly recognize the validity of electronic awards and signatures. (2) Procedural equivalence: Electronic awards achieve the same functional objectives as traditional court proceedings in “fact-finding, legal application, and award issuance” through video hearings, electronic service, blockchain-based evidence storage, and asynchronous adjudication. (3) Service equivalence: Article 62(2) of the International Arbitration Rules, approved at the 16th Session of the 8th Beijing Arbitration Commission on October 29, 2025, mandates that award documents may be served electronically. Such electronically delivered documents carry identical legal weight as paper versions. If the recipient requests a paper copy, the BAC/BIAC shall provide it. In case of discrepancies between electronic and paper formats, the electronic version shall prevail.

The principle of non-discrimination manifests in two key aspects. First, the principle of technical neutrality: Given the significant disparities in technical standards and judicial/arbitration practices across nations, Article 6(3) of the UNCITRAL Model Law on Electronic Signatures stipulates that any signature must establish a one-to-one correspondence with the “signature,” demonstrate the signers control over the “signature,” and allow detectable modifications to the signature and related documents. This implies no preference for specific technologies, and all methods achieving equivalent purposes should be treated equally. Second, in cross-border and mutual recognition contexts, Chinese legislation grants domestic equivalent validity to certificates issued by foreign electronic certification service providers (Article 16 of the Electronic Signature Law). The Supreme People’s Courts Provisions on Several Issues Concerning the Trial of Arbitration Judicial Review Cases (Judicial Interpretation [2017] No.22) established the principle for courts to apply the Convention on the Recognition and Enforcement of Foreign Arbitral Awards when reviewing applications for the recognition and enforcement of foreign arbitral awards.

#### **4. Proposed Revisions to Articles 31 and 35 of the UNCITRAL Model Law on Arbitration**

The UNCITRAL Model Law on International Commercial Arbitration (1985) and its 2006 amendment established only two fundamental requirements for arbitration awards: (1) the award must be issued in writing; (2) the award must bear the signatures of the arbitrators. Although Article 7 of the Model Law mentions that parties may conclude arbitration agreements through “data messages” and “electronic communications,” the Model Law and its amendments do not explicitly address electronic awards or electronic signatures. In other words, the Model Law and its amendments have not adequately addressed the rapid development of paperless and digital trends in litigation/arbitration in recent years. Consequently, Working Group II of UNCITRAL included the recognition and enforcement of electronic awards as a key agenda item in this session.

BIAC provides feedback and recommendations on potential amendments to relevant clauses to enhance their clarity, consistency, and adaptability to digital arbitration practices. A. Article

##### **A. Article 31 Proposed Revision**

Form and content of adjudication

(1) The award may be issued in written form or as a data message, signed or electronically sealed by one or more arbitrators. In arbitration proceedings with one or more arbitrators, the majority signature or electronic seal of all members of the arbitral tribunal is sufficient, provided that any reasons for non-signature are stated.

(2) The award shall state the reasons on which it is based, unless the parties agree that no reasons need to be stated or the award is a settlement award under Article 30.

(3) The award shall specify the date and the arbitration venue as determined under Article 20(1). The award shall be deemed to have been made at that venue.

(4) Upon issuance of the award, the arbitral award duly signed or electronically sealed by the arbitrator pursuant to paragraph (1) of this Article shall be served on each party in duplicate.

## **B. Article 35 Proposed Revision Draft**

### Recognition and enforcement

1) An arbitral award shall be binding regardless of the country in which it was rendered, and upon written application to the competent court, it shall be enforced in accordance with this Article and Article 36.

(2) The party invoking the award or applying for enforcement shall submit either: (a) the original or duly certified copy of the award; (b) an electronically certified version of the award; or (c) the original or duly certified copy of the arbitration agreement specified in Article 7. Where the award or agreement is not issued in the party's official language, the party shall additionally provide a duly certified translation into that language.

## **Responses submitted by the Center for Arbitration and Mediation, Chamber of Commerce Brazil-Canada**

### **1. Introduction**

#### **a. Arbitration in Brazil**

Brazil's legal framework for arbitration has proven to be robust and reliable, establishing the foundations that, in just a few decades, transformed the country from a non-player in the field into one of the world's leading users of arbitration. Today, Brazil is widely recognized by practitioners as an arbitration-friendly jurisdiction.

The Brazilian Arbitration Act (BAA), Law No. 9.307 enacted in 1996 and inspired by the UNCITRAL Model Law, marked a turning point in the country's approach to dispute resolution. Its constitutionality was later confirmed by the Brazilian Supreme Federal Court (STF) in a landmark 2001 decision, reinforcing the legitimacy and autonomy of arbitration in Brazil.

The country's arbitration framework was further strengthened by the ratification of the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention) through presidential decree No. 4.311 on 23 July 2002, aligning national practice

with international standards. Today, according to available statistics, approximately 1,000 arbitration proceedings are conducted annually in Brazil before the country's 08 main arbitral institutions, and CAM-CCBC administers around 40% of these cases.

b. Electronic Notices in Arbitration

Within the Brazilian arbitral legal framework, party autonomy constitutes the prevailing principle governing procedural communications. Pursuant to the Brazilian Arbitration Act (Federal Law No. 9,307/1996, or "BAA"), the parties are vested with broad discretion to define and agree upon the means by which notices and communications shall be conducted throughout the arbitral proceedings.

In practice, such procedural agreement is most commonly embodied in the underlying contract or the arbitration clause. Article 5 of the Brazilian Arbitration Act<sup>21</sup> provides that when an arbitration clause refers to the rules of an arbitral institution or specialized entity, the arbitration shall be instituted and conducted under those rules, without prejudice to the parties' ability to stipulate, either in the arbitration clause itself or in a separate instrument, the agreed form for the institution of the arbitration. The arbitral tribunal also has broad powers to regulate all aspects of the proceedings that have not been agreed to by the parties or are not contemplated in the applicable rules, as per article 21, § 1 of the BAA.

In the absence of a prior agreement regarding the manner in which the arbitration is to be instituted, Article 6 of the BAA<sup>22</sup> establishes that the interested party shall notify the other party of its intention to commence arbitration by postal service or by any other means of communication capable of providing proof of receipt.

For reference, the 2025 Arbitration Rules of the Center for Arbitration and Mediation of the Chamber of Commerce Brazil–Canada (CAM-CCBC) establishes a detailed framework for procedural communications. Article 3 of the CAM-CCBC Rules establishes a structured regime for written communications, expressly privileging electronic means while preserving safeguards for the initiation of proceedings.

As a general rule, Article 3.1<sup>3</sup> provides that all written communications (including submissions, notices, and subpoenas) shall be transmitted electronically, provided that such transmission allows for proof of delivery or receipt, and unless the parties agreed otherwise. This provision reflects the institutional preference for a paperless procedure and aligns with contemporary standards of efficiency and technological neutrality in international arbitration.

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<sup>21</sup> Brazilian Arbitration Act, Article 5 | If the arbitration clause makes reference to the rules of a particular arbitral institution or specialised entity, the arbitration shall commence and be conducted in accordance with such rules. The parties may also agree in the arbitration clause or in a separate document, the procedure for the commencement of arbitral proceedings.

<sup>22</sup> Brazilian Arbitration Act, Article 6 | Article 6. In the event of absence of provision as to the method of commencing the arbitration, the interested party shall notify the other party, either by mail or by any other means of communication, with confirmation of receipt, of its intention to commence arbitral proceedings, and to set up a date, time and place for the execution of the submission agreement. <sup>3</sup> CAM-CCBC 2025 Arbitration Rules | 3.1 Written communications (submissions, notices, subpoenas) regarding the arbitral proceedings shall be sent electronically with proof of delivery or receipt, unless parties expressly agree otherwise.

At the same time, Article 3.1.1<sup>23</sup> introduces a significant qualification with respect to the first notice addressed to the Respondent. Recognizing the procedural and jurisdictional relevance of the initial summons, the Rules expressly authorize, when necessary, the use of alternative means of communication (particularly physical delivery by registered mail or courier) as long as such means ensure reliable proof of receipt or attempted receipt. This distinction underscores the institutional concern with safeguarding due process and access to the proceedings.

Article 3.3<sup>24</sup> further articulates a regime of “deemed receipt”, pursuant to which communications are considered validly received when delivered to the electronic or physical address indicated by the party for that purpose. In the absence of an express indication, delivery to the party’s registered office, primary residence, or to the address designated in the contract or arbitration agreement is deemed sufficient. This provision mitigates the risk of evasive conduct and reinforces the principle that procedural effectiveness must not be frustrated by a party’s failure to cooperate in the designation or updating of contact information.

In practice, however, CAM-CCBC applies Article 3.3 with extreme caution. With respect to electronic notices, the Secretariat uses email-tracking functionalities available in Microsoft platforms in all email communications, in order to verify whether the notice reached the parties’ inbox and, where possible, whether it was accessed or read. This information is particularly important when it becomes necessary to rely on the presumption of deemed receipt.

After the first notice of the proceedings via email, or alternatively via registered mail, all participants receive an invitation to join the CAM-CCBC case management platform regulated by Administrative Guidance n° 06/2025.<sup>25</sup> All further notices and communications are carried out electronically.

It is important to mention that the case law of the Superior Court of Justice (“STJ”), Brazil’s highest court of law on non-constitutional matters, is very open to recognizing the validity of electronic notices in general, if the electronic address of the notified party is mentioned in the respective contract or is in any way proven to belong to that party.<sup>26</sup>

### **Extrajudicial and Judicial Notices**

Where electronic communications or standard postal means prove insufficient to confirm effective delivery, particularly in relation to the initial notice of arbitration, the party may resort

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<sup>23</sup> CAM-CCBC 2025 Arbitration Rules | 3.1.1 According to necessity, particularly for the first notice, written communications may be sent by any other means with proof of delivery or receipt, including physical (such as, but not limited to, delivery by registered mail and/or courier).

<sup>24</sup> CAM-CCBC 2025 Arbitration Rules | 3.3 Communication delivered to the address (electronic or physical) informed by the party shall be deemed received. In the absence of an indication by the party itself, the communication shall be deemed received if it is delivered: i) directly to the addressee or their representative; ii) at the registered office, primary residence, or postal address of the party or their representative; or iii) at the addresses (electronic or physical) informed in the contract or in the arbitration agreement for receiving communications between the parties.

3.3.1 If reasonable steps have been taken to deliver the communication to the party, then the notification with proof of attempted delivery, which has been made to the addresses in article 3.3, shall be considered received.

<sup>25</sup> Available at: <https://www.ccbc.org.br/cam-ccbc-centro-arbitragem-mediacao/orientacaoadministrativa-no-06-2025/>

<sup>26</sup> There are various decisions of the the STJ in this respect. For example, AgInt no REsp 2214662 / RS, 4th Panel, reporting Justice João Otávio Noronha, decided on 27 October, 2025, available at: [https://scon.stj.jus.br/SCON/GetInteiroTeorDoAcordao?num\\_registro=202501829073&dt\\_publicacao=30/10/2025](https://scon.stj.jus.br/SCON/GetInteiroTeorDoAcordao?num_registro=202501829073&dt_publicacao=30/10/2025)

to supplementary procedural mechanisms provided under Brazilian law in order to safeguard due process and preserve the enforceability of the arbitral proceedings and any resulting award.

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One such mechanism is the extrajudicial notarial notice, effected through a *Registry of Deeds and Documents (Cartório de Títulos e Documentos)*. Under this procedure, the notice is formally presented for service by the registry, and delivery is attempted by an authorized clerk (*escrevente*), who subsequently issues a certificate endowed with a legal presumption of validity (*fé pública*).

This certificate attests to both the content of the notice and the date of its delivery or attempted delivery, thereby generating documentary evidence of heightened evidentiary value. From a procedural standpoint, this mechanism is particularly effective in dismissing future allegations by the respondent that it lacked knowledge of the arbitral proceedings, as the notarial certification enjoys a presumption of veracity under Brazilian law.

In addition to extrajudicial mechanisms, Brazilian law permits recourse to “judicial assistance in support of arbitration”. Within this framework, the arbitral tribunal or the interested party may seek judicial intervention for the instrumental purpose of effecting service of notice.

Articles 238 to 259 of the Brazilian Code of Civil Procedure govern the service of process and procedural notices, establishing the legal requirements for valid service, the admissible methods of notification, and their respective procedural effects.

Among the means expressly contemplated by the Code for service of process are personal service by a court officer (*oficial de justiça*), service by publication (*citação por edital*), admissible only as a measure of last resort where the respondent’s whereabouts are unknown or where there is evidence of deliberate evasion of service, and service by electronic means, which the Code increasingly prioritizes as the main means to be used, in light of the Brazilian Judiciary’s advanced level of informatization.

In 2021, Law No. 14,195 amended Article 246 of the Code of Civil Procedure by introducing new provisions that expressly establish electronic service as the preferred method of service, to be carried out through electronic addresses registered in the Judiciary’s official systems, thereby reinforcing the policy favoring digitalization.

In this context, particular emphasis must be placed on the electronic judicial domicile (*domicílio judicial eletrônico*)<sup>27</sup>, that was instituted within the scope of the *Programa Justiça 4.0* and constitutes an official digital mechanism designed to centralize and standardize the first service of process upon parties throughout the Brazilian Judiciary. The platform provides each registered user with a single, secure, and reliable electronic address through which courts may transmit initial notice of a civil proceeding. Such electronic communications fully replace traditional methods of “physical” service, such as postal correspondence and service by court

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<sup>27</sup> Regulated by Resolution No. 455, issued by the Conselho Nacional de Justiça (CNJ), dated April 27, 2022. Available at: <https://atos.cnj.jus.br/atos/detalhar/4509>

officers, and produce the same legal effects, provided that access and acknowledgment occur within the legally prescribed time limits.

It is also worth mentioning that according to the National Council of Justice (*Conselho Nacional de Justiça*, “CNJ”<sup>28</sup>) 2024 report, about 99% of new cases filed in 2023 were digital, and around 90% of all ongoing cases are now processed electronically by the courts’ respective electronic case management systems. For reference, by the end of 2023, Brazilian state courts recorded 35.3 million new cases, with a total caseload reaching 83.8 million<sup>29</sup><sup>10</sup>. Accordingly, once the parties are duly served and legal counsel is appointed, all subsequent citations, summonses, notices, and other procedural acts are routinely carried out through the courts’ digital platforms.

As a matter of legal obligation, registration on the electronic judicial domicile is mandatory for legal entities, including private companies, state-owned enterprises, foundations, associations, and all bodies of the public administration at the federal, state, and municipal levels. These entities bear the duty to regularly monitor the platform and to confirm receipt of communications, under penalty of presumed service and the consequent commencement of procedural deadlines.

Natural persons (individuals), however, are not subject to mandatory registration. Their adherence to the platform is optional and voluntary. In the absence of voluntary registration, individuals are still usually served by registered mail.

The STJ, at times, has adopted a notably flexible approach to the service process, privileging the effectiveness of the procedural act over strict formalism. Although courts and administrative bodies such as the “*Conselho Nacional de Justiça*” have encouraged the use of technological tools to modernize procedural communications, there remains no express federal statutory authorization for service of process through instant messaging applications, for example, WhatsApp.

Notwithstanding this lack of explicit legal authorization, the STJ has held that the validity of service must be assessed in light of its essential purpose: to provide the defendant with clear, unequivocal, and effective notice of the judicial proceeding. Where it is demonstrably established that the communication reached the correct recipient, that its content was intelligible, and that no prejudice to the right of defense ensued, the service may be deemed validated. Accordingly, the Court has affirmed that procedural form must not prevail over substantive due process, and that allegations of nullity must be examined on a case-by-case basis, with particular attention to whether the defendant’s right to be informed was genuinely preserved.<sup>30</sup>

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<sup>28</sup> Brazilian the body that oversees the functioning of the Judiciary

<sup>29</sup> Available at: <https://www.cnj.jus.br/wp-content/uploads/2024/05/justica-em-numeros-2024.pdf>

<sup>30</sup> REsp 2.030.887/PA. Available at: <https://www.stj.jus.br/websecstj/cgi/revista/REJ.cgi/ATC?seq=215357089&tipo=5&nreq=202201670893&SeqCgrmaSessao=&CodOrgaoJgdr=&dt=20231107&formato=PDF&salvar=false>

Nonetheless, Judicial approaches to the issue remain somewhat inconsistent across Brazilian courts. The STJ designated, under the repetitive appeals procedure (Theme 1345), the issue of whether service of process in civil actions may validly be carried out through messaging applications or social media platforms, based on case REsp No. 2,160,946/SP, with a binding judgment expected by May 2026. The controversy arose after lower courts rejected service via WhatsApp for lack of prior electronic registration, prompting the STJ to seek a uniform nationwide standard that reconciles procedural efficiency and technological innovation with due process guarantees, without staying pending cases, and with the potential to significantly modernize and expedite judicial communications if appropriate safeguards are observed.

### **Final Remarks**

Brazilian arbitration has reached a consolidated stage in which electronic communications are the prevailing standard. In institutional arbitration, particularly under the practice of the CAM-CCBC, all procedural communications are conducted electronically, primarily through email and dedicated case management platforms, with well-established safeguards to ensure proof of delivery and due process.

In CAM-CCBC's practice, electronic communications and notices are reliable and function efficiently, saving time and money for all involved in the arbitration. It is very rare that a relevant issue related to a party's alleged failure of receipt of an electronic communication or notice arises in cases administered by CAM-CCBC.

By contrast, the Judiciary is still in a phase of transition regarding the first service of process. Although state courts have not yet harmonized standards for electronic service of process, in particular for individuals (natural persons), the system is undergoing an important moment of consolidation. The creation of the electronic judicial domicile for legal entities already represents a significant step toward uniformity and digitalization, while higher courts continue to define the requirements for the validity of electronic summons.

That being said, CAM-CCBC remains at your disposal for any further inquiries regarding this topic.

### **Responses submitted by the Santiago Arbitration and Mediation Centre (CAM Santiago)**

#### **i) Information on their existing legislation concerning the delivery and receipt of electronic communications or notices of arbitration:**

- a. 2002 Law on Electronic Documents, Electronic Signatures and Certification Services for Said Signature: [bcn.cl/2eyo7](http://bcn.cl/2eyo7).
- b. 2015 Law on Digital Processing of Judicial Procedures (it does not apply to arbitrations): [bcn.cl/2iyzj](http://bcn.cl/2iyzj).
- c. 2006 CAM Santiago International Commercial Arbitration Rules: [stablobccsprod.blob.core.windows.net/cam/2020/03/reglamento\\_arbitraje\\_internacional\\_en-2.pdf](http://stablobccsprod.blob.core.windows.net/cam/2020/03/reglamento_arbitraje_internacional_en-2.pdf).

i. **These Rules addresses, among other things, notifications and time limits (Article 2.3) and the form and content of the award (Article 33).**

i. **2.3: All notifications or communications may be delivered or sent** personally, by certified mail, by fax, **by e-mail** or by any other means that leaves a record of dispatch.

ii. **33.6:** Once the final award has been issued, the arbitral tribunal shall send the original version of it to the CAM Santiago for its deposit and this latter **shall notify to each party the text of the final award signed by the arbitral tribunal, in accordance with article 2 of these Rules**, provided always that the expenses and costs of the arbitration have been fully paid by the parties or by one of them. Save written agreement of the parties otherwise, the present provision implies the waive of any other form of communication or deposit of the final award.

d. **2021 CAM Santiago Domestic Arbitration Rules:**

i. These Rules address, among other things, notifications (Article 5), the use of technological means (Article 11), the submission of written documents (Article 24), the content of the arbitral award (Article 39), and the enforcement of the arbitral award (Article 40). At CAM Santiago, there are several international arbitrations that, despite their nature, apply these rules.

i. **5:**

i. The **decisions** issued during the arbitration proceedings **shall be notified to the parties by email**, and proof of sending shall be recorded in the electronic file.

ii. The Arbitral Tribunal may order that **any notification** or communication made during the proceedings, including in the event of default by one of the parties, be served personally, by “cédula”, by certified mail, by notice, or **by any other means agreed upon by the parties and recorded in the electronic file.**

iii. Such notifications shall be sent to the last known address of the recipient party or its representatives as recorded in the proceedings. In the case of notification by certified mail, it shall be deemed received on the third day following the date of dispatch.

iv. The decisions rendered at an arbitration hearing shall be deemed served on the parties who attended or were

required to attend at that same hearing, without prejudice to the requirement that the minutes of the respective proceedings be included in the electronic file.

- v. **The first decision issued by the Arbitral Tribunal shall be served on the applicant by email at the address indicated in their request and on the other parties personally, unless they have previously provided an email address or physical address, in which case they shall be served at that email address or by “cédula”, as appropriate.**
- vi. **In cases of international commercial arbitration, the provisions of Law No. 19,971 [on International Commercial Arbitration] shall prevail.**
- ii. **11:**
  - i. **The Arbitral Tribunal shall use the technological resources of the CAM Santiago [*id est* e-CAMSantiago and videoconferencing platforms] for the management of the proceedings.**
  - ii. If necessary, hearings and the taking of evidence may be conducted through systems such as **videoconferencing**, telephone, or similar means of communication that allow for continuous and simultaneous communication among all participants. For this purpose, the technological resources of the CAM Santiago, other compatible resources, or those with the prior authorization of both the Arbitral Tribunal and the CAM Santiago shall be used.
- iii. **24:**
  - i. The parties' **documents**, as well as any accompanying documents, **shall be submitted through the CAM Santiago technological platform [*id est* e-CAMSantiago].**
- iv. **39:**
  - i. The arbitral award must contain:
    - i. (...) The (...) **advanced electronic signature of the arbitrator(s)** (...), authorized by CAM Santiago.
- v. **40:**

- i. Once the arbitral award has been served, and until six months have elapsed since it became final, **the parties may resort to the Arbitral Tribunal to carry out all actions necessary to achieve compliance with and enforcement of the award**, the lifting of precautionary measures, or any other pertinent action. The Arbitral Tribunal shall have special jurisdiction and competence for a period of one year from the date of the request for compliance or enforcement made by either party.
- vi. If, during the enforcement proceedings, a claim has been filed to determine the nature and amount of damages, and a reservation has been duly made in accordance with the law, or if the objections raised by the party against whom enforcement has been deemed admissible, these proceedings shall be considered a new lawsuit for the purposes of arbitration fees.
- vii. If the parties resort to the **Ordinary [Civil] Courts** requesting compliance with the arbitral award, it will be understood that the commitment has ended, ceasing the obligation of the Arbitral Tribunal to execute the commission.

**ii) Legal author and authorities concerning the delivery and receipt of electronic communications or notices of arbitration:**

- a. Undergraduate thesis by Ms. Camila Hernando, directed by Prof. Lorena Donoso at the University of Chile (2015): “Online Arbitration and Due Process”: [repositorio.uchile.cl/bitstream/handle/2250/135411/Arbitraje-en-l%C3%ADnea-y-debido-proceso.pdf?sequence=1](https://repositorio.uchile.cl/bitstream/handle/2250/135411/Arbitraje-en-l%C3%ADnea-y-debido-proceso.pdf?sequence=1).
  - i. The objective of this research was to determine the essential elements that an online arbitration system must fulfil to satisfy the due process principles required by our legislation regarding the use of various available technological tools. Using the legal dogmatic method, the author reviewed general premises on international commercial arbitration and due process, as well as specific concepts on online arbitration, in order to understand this phenomenon and determine its proper use in accordance with procedural guarantees. The chosen topic is of vital importance because the independence and impartiality of the arbitrator, the right of the parties to be treated with full equality in the proceedings, the existence of an adversarial process, the right to a procedure that allows the parties to present evidence, among other aspects studied, are necessary conditions for the validity and recognition of online arbitral awards in our country.

- b. Article “Electronic documents in Chilean civil law. Analysis of Law 19.799” by Mr. Fernando J. Fernández Acevedo (2004): [www.scielo.cl/scielo.php?script=sci\\_arttext&pid=S0718-00122004000200005](http://www.scielo.cl/scielo.php?script=sci_arttext&pid=S0718-00122004000200005).
- i. This article analyses the legal treatment of electronic documents in the Digital Signature Act, N 19.799. The nature and characteristics of the electronic document are defined, and the effects of the Act and its practical fields of application examined. Additionally, the author suggests some practical questions involved in the presentation of electronic documents as evidence.
- c. Article “Public Administration Certification of Advanced Electronic Signatures for Authorities and Public Servants” by Mr. Jorge Alzamora Contreras and Ms. Karla Cid Villalobos (2016): [www.scielo.cl/scielo.php?script=sci\\_arttext&pid=S0719-25842016000200225](http://www.scielo.cl/scielo.php?script=sci_arttext&pid=S0719-25842016000200225).
- i. This article analyses the sentence dictated by the Supreme Court of Justice related to an economic action interposed by a certification services provider against the Ministry Secretary General of the Presidency. The Court ruled that certification of a public servant advanced electronic signature could be certified by the certifying officer of each public administration, without the need of being accredited before any authority, but fulfilling similar requirements to those required of certification service providers. Exceptionally, certificated service providers could perform such certification with a resolution based on technical and economic convenience for the public administration.

**iii) How such legislation/authority has been applied:**

- a. Since 2013, the Santiago Arbitration and Mediation Centre (CAM Santiago) has operated a digital platform, “e-CAM Santiago,” which enables the online administration of both national and international arbitrations and mediations. Arbitral awards and settlement agreements resulting from mediations are signed using advanced electronic signatures.
- b. Chilean courts accept arbitral awards rendered with advanced electronic signatures for enforcement.
- c. A Spanish version summarizing the legal points covered in this document can be found in the following slides: [www.canva.com/design/DAGQXdnbEOU/8hUI9D7dnCpaSHhsoKsX4A/edit](http://www.canva.com/design/DAGQXdnbEOU/8hUI9D7dnCpaSHhsoKsX4A/edit)
- d. Book «*El Arbitraje en la Jurisprudencia de las Cortes Superiores de Justicia de Chile: Período 2002–2020*» [Arbitration in the Case Law of the Superior Courts of Justice of Chile: Period 2002–2020] (CAM Santiago, 2020). Edited by Mr. Claudio Osses and Ms. Laura Aguilera. Directed by Ms. Macarena Letelier. Two cases were identified that deal with the issue but limited to ad hoc

arbitrations and not applicable to institutional arbitrations. The CAM Santiago has an interconnection agreement with the Judiciary that is unique in the country and possibly worldwide.

- i. The new wording of Articles 200 and 201 of the Code of Civil Procedure does not apply to cases processed before arbitration tribunals. These tribunals are not covered by paragraph 2 of Article 5 of the Code of Civil Procedure, nor do they form part of the Judicial Branch. This limitation is not temporary, but rather relates to material conditions such as the [ad hoc arbitral tribunals] capacity for digitization and the use of suitable electronic media, as well as the necessary interconnection between the computer systems of the various courts in the country, which is what, in practice, allows for the electronic transmission of communications.