

Contemporary challenges in arbitration

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International arbitration faces several challenges that directly concern Geneva.

The first is that of cost and duration. Arbitration proceedings, designed to be quicker and less costly than court trials, have become, in major cases, lengthy and expensive. The institutions have responded with expedited procedures, rules limiting written submissions and emergency arbitrator mechanisms.¹

The second is that of transparency. Commercial arbitration is confidential, which is attractive to the parties but draws criticism where public interests are at stake, in particular in investment arbitration. Transparency rules have been adopted for the latter.²

The third is that of sanctions. The sanctions regimes adopted since 2022 have raised new questions for arbitrations involving sanctioned parties: the ability of institutions to administer the proceedings, the payment of fees, the enforcement of awards and the independence of arbitrators. The Swiss institutions have had to adapt their practices, under the supervision of the State Secretariat for Economic Affairs.³

The fourth is that of technology. Virtual hearings, which became widespread during the pandemic, electronic document management and, now, artificial intelligence tools are transforming arbitration practice. Geneva's institutions have adopted these tools while taking care to ensure data security and the fairness of proceedings.

The fifth, finally, is that of the diversity of arbitrators. The composition of arbitral tribunals, long dominated by a small number of European and North American practitioners, is the subject of efforts to broaden the pool, in particular to women and to practitioners from emerging countries. Geneva, as an international city, has a diverse pool that constitutes an asset.

Challenge	Response of Swiss institutions and Swiss law
Cost and duration	expedited procedures, emergency arbitrator, active case management
Transparency	specific rules for investment arbitration, confidentiality maintained for commercial arbitration
Sanctions	adaptation of practices under the supervision of the authorities
Technology	virtual hearings, electronic management, framework for artificial intelligence
Diversity	broadening of the pool of arbitrators

1 Notes

1. Kluwer Arbitration Blog (2021): the emergency arbitrator was introduced into the Swiss Rules in the 2012 revision; the 2021 revision maintained the expedited procedure threshold at CHF 1 million and generalised electronic filings and hearings by videoconference. ↩
2. UNCITRAL (uncitral.un.org): Rules on Transparency in Treaty-based Investor-State Arbitration, applicable since 1 April 2014; United Nations Convention on Transparency (Mauritius Convention) adopted on 10 December 2014, opened for signature in Port Louis on 17 March 2015 and in force since 18 October 2017, which allows states to extend the rules to earlier treaties. ↩
3. Federal Supreme Court, judgment 4A_305/2025 of 13 March 2026 (Lenz & Staehelin, note of 23 April 2026): the Swiss sanctions against Russia are overriding mandatory provisions that may bar the enforcement in Switzerland of an arbitral award (in that case an LCIA award obtained by an Angolan company 41 per cent owned and controlled by a sanctioned Russian entity), Art. 15 para. 2 of the Ukraine Ordinance prohibiting funds or economic resources from being made available to sanctioned entities; the claim is deemed deferred for as long as the sanctions apply, and an exemption may be requested from SECO. See Part H. ↩

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