

NATIONAL ARBITRATION LAWS

Article 818 Italian Code of Civil Procedure

The parties, also through a reference to arbitration rules, may confer on the arbitrators the power to grant interim measures in the arbitration agreement or in a written act preceding the commencement of the arbitration. The arbitrator's jurisdiction to grant interim measures shall be exclusive. Before the acceptance of the sole arbitrator or the constitution of the arbitral tribunal, the request for interim measures is filed with the competent judge pursuant to Article 669-quinquies.

Article 1468 French code of civil procedure

The arbitral tribunal may order the parties, under the conditions it shall determine and if necessary, under penalty of a fine, to take any protective or provisional measure it deems appropriate. However, the State court alone shall have jurisdiction to order protective attachments and judicial securities. The arbitral tribunal may modify or supplement the provisional or protective measure it has ordered (This provision is applicable to international arbitration by reference to Article 1506(1) of the FCCP)

Article 1449 French code of civil procedure

The existence of an arbitration agreement shall not prevent a party, as long as the arbitral tribunal has not been constituted, from bringing an action before a court of the State for the purpose of obtaining a measure of inquiry or an interim or protective measure. Subject to the provisions governing protective attachments and judicial securities, the application shall be brought before the president of the judicial or commercial court, who shall rule on the investigative measures under the conditions provided for in Article 145 and, in case of urgency, on the interim or protective measures requested by the parties to the arbitration agreement (This provision is applicable to international arbitration by reference to Article 1506(1) of the FCCP)

Article 374(1) Swiss Code of civil procedure

The state court or, unless the parties have otherwise agreed, the arbitral tribunal can upon application by a party order provisional measures including orders relating to the securing of evidence.

Article 183(1) Swiss Private International Act

Unless the parties have agreed otherwise, the arbitral tribunal may, at the request of a party, order provisional or conservatory measures.

Section 1033 ZPO

It is not incompatible with an arbitration agreement for a court to order, before or after arbitral proceedings have commenced and upon request by a party, an interim measure or measure of protection concerning the subject matter of the dispute submitted to arbitration.

Section 1041 ZPO

(1) Unless otherwise agreed by the parties, the arbitral tribunal may order at the request of a party, such interim measures or measures of protection as it considers necessary in respect of the subject matter of the dispute. The arbitral tribunal may require either party to provide reasonable security in connection with such a measure.

(2) On request by a party, the court may permit the enforcement of a measure pursuant to subsection (1), unless an application for a corresponding measure of temporary relief has already been filed with a court. It may recast the order if this is necessary for the enforcement of the measure.

(3) On request, the court may set aside or amend the order pursuant to subsection (2).

(4) Where a measure ordered pursuant to subsection (1) proves to have been unjustified from the outset, the party that has obtained its enforcement is under obligation to compensate the opposing party for the damage the latter has suffered as a result of the measure being enforced or as a result of their having provided security in order to avert the enforcement. The claim may be asserted in the pending arbitral proceedings.

Article 11 Spanish Arbitration Act

1. The arbitration agreement binds the parties to its terms and prevents courts from hearing disputes submitted to arbitration, where invoked by the party concerned as a plea to the jurisdiction of the court. Where claims are filed in ordinary court proceedings, the time limit for lodging the plea to the jurisdiction will be the first ten days within the period envisaged for submitting the defence, and for cases involving oral proceedings, within the first ten days after receipt of the summons for the hearing.

2. A plea to the jurisdiction will be no hindrance to the commencement or continuation of arbitral proceedings.

3. The arbitration agreement will not prevent a party, prior to or during the arbitral proceedings, from applying to a court for interim measures, or the court from granting such measures

Article 23 Spanish Arbitration Act

1. *Subject to any contrary agreement by the parties, the arbitrators may, at the request of a party, grant any interim measures deemed necessary in connection with the object of the dispute. The arbitrators may require the claimant to furnish sufficient security.*

2. *Irrespective of the form adopted by arbitral decisions on interim measures, the rules on setting aside and enforcement of awards will apply thereto.*

Art 722 Ley de Enjuiciamiento civil

Whoever may prove to be a party to an arbitration agreement may seek injunctions from the court prior to the arbitration proceedings. Whoever may prove to be a party in pending arbitration proceedings in Spain may also seek them; or, as appropriate, whoever may have sought the court's certification referred to in Article 15, Act 60/2003 of 23 December on Arbitration; or, in the event of institutional arbitration, whoever may have duly filed an application or commission to the relevant institution according to their regulations. Notwithstanding any special rules set forth in treaties and conventions or any European Union rules that may apply, whoever can prove to be party to any jurisdictional or arbitration proceedings being conducted in a foreign country may seek injunctions from a Spanish court should the legally required prerequisites be met, except in cases where the main matter at issue should solely lie within the competence of Spanish courts.

INSTITUTIONAL RULES

ARTICLE 26 UNCITRAL ARBITRATION RULES

1. *The arbitral tribunal may, at the request of a party, grant interim measures.*
2. *An interim measure is any temporary measure by which, at any time prior to the issuance of the award by which the dispute is finally decided, the arbitral tribunal orders a party, for example and without limitation, to: (a) Maintain or restore the status quo pending determination of the dispute; (b) Take action that would prevent, or refrain from taking action that is likely to cause, (i) current or imminent harm or (ii) prejudice to the arbitral process itself; (c) Provide a means of preserving assets out of which a subsequent award may be satisfied; or (d) Preserve evidence that may be relevant and material to the resolution of the dispute.*
3. *The party requesting an interim measure under paragraphs 2 (a) to (c) shall satisfy the arbitral tribunal that: (a) Harm not adequately reparable by an award of damages is likely to result if the measure is not ordered, and such harm substantially outweighs the harm that is likely to result to the party against whom the measure is directed if the measure is granted; and (b) There is a reasonable possibility that the requesting party will succeed on the merits of the claim. The determination on this possibility shall not affect the discretion of the arbitral tribunal in making any subsequent determination.*
4. *With regard to a request for an interim measure under paragraph 2 (d), the requirements in paragraphs 3 (a) and (b) shall apply only to the extent the arbitral tribunal considers appropriate.*
5. *The arbitral tribunal may modify, suspend or terminate an interim measure it has granted, upon application of any party or, in exceptional circumstances and upon prior notice to the parties, on the arbitral tribunal's own initiative.*
6. *The arbitral tribunal may require the party requesting an interim measure to provide appropriate security in connection with the measure.*
7. *The arbitral tribunal may require any party promptly to disclose any material change in the circumstances on the basis of which the interim measure was requested or granted.*
8. *The party requesting an interim measure may be liable for any costs and damages caused by the measure to any party if the arbitral tribunal later determines that, in the circumstances then prevailing, the measure should not have been granted. The arbitral tribunal may award such costs and damages at any point during the proceedings.*
9. *A request for interim measures addressed by any party to a judicial authority shall not be deemed incompatible with the agreement to arbitrate, or as a waiver of that agreement.*

CAM MILANO RULES 2023

1. **Unless otherwise agreed by the parties**, at request of a party, the Arbitral Tribunal has the power to grant all urgent and provisional measures of protection, also of anticipatory nature, that are not barred by mandatory provisions applicable to the proceedings.
2. Upon the request of the applicant party, the Arbitral Tribunal may grant the **order even without notice to the other party**, if such notice may seriously harm the applicant's interests. In this case, with the decision granting the application, the Arbitral Tribunal schedules a hearing within 10 days of the decision in order to discuss the case with the parties and set deadlines for the submission of briefs, if any. At the hearing, or in any case within 5 days of the hearing, the Arbitral Tribunal, having heard the parties, issues an order confirming, modifying or revoking the measure already granted.
3. The Arbitral Tribunal may order the party requesting an interim measure to provide appropriate security for costs as a condition to issue the measure.
4. Any request for interim measures made by a party to a judicial authority does not imply any waiver of the effects of the arbitration agreement or of the request for arbitration, if any.
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Article 28 ICC

- 1) **Unless the parties have otherwise agreed**, as soon as the file has been transmitted to it, the arbitral tribunal may, at the request of a party, order any interim or conservatory measure it deems appropriate. The arbitral tribunal may make the granting of any such measure subject to appropriate security being furnished by the requesting party. Any such measure shall take the form of an order, giving reasons, or of an award, as the arbitral tribunal considers appropriate.
- 2) Before the file is transmitted to the arbitral tribunal, and in appropriate circumstances even thereafter, the parties may apply to any competent judicial authority for interim or conservatory measures. The application of a party to a judicial authority for such measures or for the implementation of any such measures ordered by an arbitral tribunal shall not be deemed to be an infringement or a waiver of the arbitration agreement and shall not affect the relevant powers reserved to the arbitral tribunal. Any such application and any measures taken by the judicial authority must be notified without delay to the Secretariat. The Secretariat shall inform the arbitral tribunal thereof

Article 29 Swiss Arbitration Rules

1. At the request of a party, **the arbitral tribunal may grant any interim measures it deems necessary or appropriate.** Upon the application of any party or, in exceptional circumstances and with prior notice to the parties, on its own initiative, the arbitral tribunal may also modify, suspend or terminate any interim measures granted.
2. Interim measures may be granted in the form of an interim award. The arbitral tribunal shall be entitled to order the provision of appropriate security.
3. **In exceptional circumstances, the arbitral tribunal may rule on a request for interim measures by way of a preliminary order before the request has been communicated to any other party,** provided that such communication is made at the latest together with the preliminary order and that the other parties are immediately granted an opportunity to be heard.
4. The arbitral tribunal may rule on claims for compensation for any damage caused by an unjustified interim measure or preliminary order.
5. By submitting their dispute to arbitration under these Rules, the parties do not waive any right that they may have under the applicable laws to submit a request for interim measures to a judicial authority. A request for interim measures addressed by any party to a judicial authority shall not be deemed to be incompatible with the Arbitration Agreement, or to constitute a waiver of that agreement.

EMERGENCY ARBITRATOR

Article 29 ICC

1 A party that needs urgent interim or conservatory measures that cannot await the constitution of an arbitral tribunal ("Emergency Measures") may make an application for such measures pursuant to the Emergency Arbitrator Rules in Appendix V. Any such application shall be accepted only if it is received by the Secretariat prior to the transmission of the file to the arbitral tribunal pursuant to Article 16 and irrespective of whether the party making the application has already submitted its Request for Arbitration.

2 The emergency arbitrator's decision shall take the form of an order. The parties undertake to comply with any order made by the emergency arbitrator.

3 The emergency arbitrator's order shall not bind the arbitral tribunal with respect to any question, issue or dispute determined in the order. The arbitral tribunal may modify, terminate or annul the order or any modification thereto made by the emergency arbitrator.

4 The arbitral tribunal shall decide upon any party's requests or claims related to the emergency arbitrator proceedings, including the reallocation of the costs of such proceedings and any claims arising out of or in connection with the compliance or non-compliance with the order.

5 Articles 29(1)-29(4) and the Emergency Arbitrator Rules set forth in Appendix V (collectively the "Emergency Arbitrator Provisions") shall apply only to parties that are either signatories of the arbitration agreement under the Rules that is relied upon for the application or successors to such signatories.

6 The Emergency Arbitrator Provisions shall not apply if:

- a) the arbitration agreement under the Rules was concluded before 1 January 2012;
- b) the parties have agreed to opt out of the Emergency Arbitrator Provisions; or
- c) the parties have agreed to another pre-arbitral procedure that provides for the granting of conservatory, interim or similar measures.

7 The Emergency Arbitrator Provisions are not intended to prevent any party from seeking urgent interim or conservatory measures from a competent judicial authority at any time prior to making an application for such measures, and in appropriate circumstances even thereafter, pursuant to the Rules. Any application for such measures from a competent judicial authority shall not be deemed to be an infringement or a waiver of the arbitration agreement. Any such application and any measures taken by the judicial authority must be notified without delay to the Secretariat.

ARTICLE 44 CAM

1. Unless otherwise agreed by the parties, **prior to the constitution of the Arbitral Tribunal**, any party may file an application, **even without notice to the other party**, for the appointment of a sole emergency arbitrator in order to and grant urgent and provisional measures of protection, also of an anticipatory nature, that are not barred by mandatory provisions of the law applicable to the proceedings. The application shall contain the names of the parties and the arbitration agreement, the factual elements and the juridical grounds on which the request relies, and proof of payment of the amount referred in the annexed schedule.
2. As soon as possible, and in any event within 5 days of receipt of the file, the Chamber of Arbitration appoints the emergency arbitrator and collects his/her acceptance and statement of independence.
3. Within 15 days from receiving the file, having heard the parties and having adopted the most appropriate measures, the emergency arbitrator issues the requested interim, urgent and provisional measures by way of a procedural order, where he/she deems that the application is grounded.
4. **At the request of the applicant, within 5 days of receipt of the file, the emergency arbitrator may issue the procedural order without notice to the other party, if such notice would seriously prejudice the applicant's interests.** In this case, with the decision granting the application the emergency arbitrator schedules a hearing within 10 days of the decision to discuss the case with the parties and set deadlines for the submission of briefs, if any. At the hearing, or in any case within the following 5 days, the emergency arbitrator, having heard the parties, issues an order confirming, modifying or revoking the measure already granted.
5. The order of the emergency arbitrator may provisionally allocate the costs of the proceedings determined by the Chamber of Arbitration and the legal costs borne by the parties, without any prejudice to the decision made by the Arbitral Tribunal in the award.
6. Any party may file with the Secretariat a reasoned challenge against the emergency arbitrator within 3 days from receiving his/her statement of independence or from the date when it becomes aware of the ground for challenge. The Arbitral Council decides on the challenge as promptly as possible after having heard the emergency arbitrator. Where the challenge is upheld, any measure taken by the emergency arbitrator becomes ineffective.
7. The emergency arbitrator may subject the granting of any interim relief to the provision of an adequate guarantee.
8. The order can be, amended and revoked before the Arbitral Tribunal once constituted. Until the Arbitral Tribunal is constituted, the emergency arbitrator remains competent for any request for amendment or revocation of the order.

9. *Where needed, the request for arbitration shall be filed within the Secretariat within the mandatory time limit of 60 days from the filing of the application, or within the time limit set by the emergency arbitrator that in case can not be shorter than 15 days.*

10. *The emergency arbitrator shall not act as arbitrator in any arbitration related to the disputes that gave rise to the application.*