

2018 REVISION OF THE VIAC RULES OF ARBITRATION AND MEDIATION

KNOWHOW

ARBITRATION

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HIGHLIGHTS

- Efficient conduct of the proceedings will have an impact on the determination of arbitrator's fees and cost decisions
- Security for costs
- Electronic case management
- Overhauled registration and administrative fees

As of 1 January 2018, the Vienna International Arbitral Centre ("VIAC") has revised its Rules of Arbitration ("Vienna Rules") and Rules of Mediation ("Vienna Mediation Rules"), which apply to all proceedings that commence after 31 December 2017.

The revision of the Rules was called for after the amendment of the Austrian Federal Economic Chamber Act in June 2017, allowing VIAC to administer not only arbitrations with an international aspect but also purely domestic disputes. This legislation change gives Austrian companies the possibility to resort to VIAC, a highly regarded and experienced arbitral institution, for the resolution of Austrian domestic disputes without the need to demonstrate the international character of the dispute.

In addition to the implementation of the broader competence of VIAC, several new elements were introduced to the Rules, accommodating the needs of the users and reflecting the international trend towards efficiency and cost-effectiveness in arbitration and mediation proceedings:

- The new Vienna Rules expressly stipulate that the arbitrators, parties and their representatives have the duty to conduct the proceedings in an efficient and cost-effective manner (Articles 16 (6), 28 (1), 38 (2) Vienna Rules).
- Pursuant to Article 38 (2) Vienna Rules, the contribution of the parties and their representatives to the efficient conduct of the proceedings can be

taken into consideration by the arbitral tribunal in its decision on costs.

- Pursuant to Article 44 (7) and (10) Vienna Rules, the VIAC Secretary General has the discretion to increase the arbitrators' fees up to a maximum of 40%, in particular in very complex matters, or to reward the arbitrators for their efficient conduct of the proceedings. The fees may also be reduced by 40% if the proceedings were not conducted in the prescribed efficient way.
- Article 33 (6) and (7) Vienna Rules provides that respondent(s) can request security for costs if there is a sufficient degree of probability that the recovery of a potential cost claim is at risk. This feature aims at protecting respondent(s) against frivolous claims and/or impecunious claimant(s).
- An electronic case management system will be set up to administer all proceedings. The provisions relating to the submission of the statement of claim and the service of the file were revised accordingly (Articles 7, 12 and 36 Vienna Rules and Articles 1 and 3 Vienna Mediation Rules). Proceedings now may be commenced and become pending with the electronic submission of the statement of claim.
- The adaptation of the schedule of fees leads to a reduction for disputes up to EUR 75,000 and to a marginal increase of the administrative fees for the disputes over EUR 5,000,000. Despite this, VIAC fees still remain moderate compared to other international arbitral institutions.

The revision of the Vienna Rules extends the benefits of VIAC, an established arbitral institution administering cases on a high international standard to dispute resolution in a pure domestic context. Careful adaptation of the Rules ensuring efficiency and fairness increases the attractiveness of VIAC for domestic and international business.

CONTACT

Florian Haugeneder / Emmanuel Kaufman / Patrizia Netal /
Natascha Tunkel
E: office@knoetzl.com
T: + 43 1 34 34 000

KNOETZL