

THE USE OF ARTIFICIAL INTELLIGENCE IN INTERNATIONAL COMMERCIAL ARBITRATION: LEGAL REGULATION AND PRACTICAL IMPLICATIONS

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ABSTRACT

The rapid integration of artificial intelligence (AI) is transforming international commercial arbitration from a conservative legal field into a digitally augmented dispute resolution ecosystem. AI-based tools are now utilized for advanced legal research, automated document review, predictive case analytics, and procedural optimization. However, this technological shift introduces significant legal risks regarding due process, confidentiality, and the non-delegable duty of arbitrators to exercise independent judgment. This thesis examines the current regulatory landscape, including the 2025 Ciarb Guidelines and institutional responses from VIAC and the AAA-ICDR. It argues that while AI enhances efficiency and accuracy, its use must be governed by strict transparency and human oversight to preserve the legitimacy of arbitral awards.

KEYWORDS

Artificial Intelligence, International Commercial Arbitration, Due Process, Digital Justice, Arbitrator Responsibility.

The evolution of the digital economy has necessitated a transition where traditional dispute resolution mechanisms must adapt to high-frequency, blockchain-based transactions and the sheer volume of data inherent in modern commerce. Smart contracts and digital transactions are increasingly governed by on-chain and AI-augmented justice systems that attempt to bridge the gap between automated execution and legal interpretation. As the complexity of cross-border data grows, traditional manual document review is being replaced by Natural Language Processing (NLP) and predictive modeling to manage massive datasets efficiently. This shift represents a fundamental move toward "embedded justice," where the resolution process is written directly into the transaction's software architecture, yet the central tension remains the balancing of these efficiency gains against the foundational principles of *lex mercatoria* and procedural fairness.

Practical applications of these technologies have moved beyond simple administrative automation to sophisticated decision-support systems that influence the core of the arbitral process. Current AI tools manage large volumes of evidence during e-discovery to identify relevant patterns quickly, while predictive analytics outshine traditional search engines by constructing models of case outcomes and identifying conflicting statements in testimony. Some institutions, such as the AAA-ICDR, have even explored "AI Arbitrator" functions for specific tasks like document-only construction disputes, while real-time AI translation services harmonize proceedings where multiple languages are used. These tools provide a cost-effective alternative to traditional methods but require a sophisticated understanding of how data is processed to ensure the integrity of the factual record.

The year 2025 marked a significant watershed for AI regulation in Alternative Dispute Resolution (ADR) as institutions scrambled to provide necessary guardrails. The Ciarb AI Guidelines of 2025 provided a definitive framework for the responsible use of these technologies, emphasizing that arbitrators must assume full responsibility for the rationale of their decisions regardless of the tools used. Similarly, the VIAC Note on AI established that such technology should facilitate rather than substitute independent analysis, mandating strict compliance with confidentiality standards. These institutional responses are

echoed in national legislation, such as the English Arbitration Act 2025, which forces tribunals to address AI use expressly in Procedural Order No. 1 to guarantee human oversight and maintain the transparency of the process.

Despite these technical and regulatory advancements, critical legal implications regarding due process and the equality of arms remain at the forefront of the debate. A significant "digital divide" creates risks where one party may lack the financial resources to employ advanced AI, potentially leading to a structural inequality that tribunals must actively mitigate. Furthermore, uploading unredacted legal documents to third-party AI platforms like ChatGPT risks breaching confidentiality, a cornerstone of arbitration, which has led to a growing demand for "confidentiality by design" and closed-system AI environments. Ultimately, the principle of non-delegation of authority remains the most vital safeguard; arbitrators cannot delegate their adjudicative function to a machine, as awards based primarily on AI-generated reasoning face high risks of being set aside under the New York Convention for an improper delegation of deliberative functions.

In conclusion, AI serves as a transformative supportive instrument rather than a replacement for the human arbitrator. The practical success of integrating these technologies into international commercial arbitration depends on three pillars: transparency in disclosing AI use, rigorous human oversight to verify outputs, and robust data security. As the legal community moves toward 2026, the ongoing harmonization of institutional rules will be essential to ensure that technological innovation enhances the predictability and stability of international business disputes without undermining the fundamental rights of the parties involved.

REFERENCES

Aceris Law LLC. (2025). *Guideline on the use of AI in arbitration (2025)*.

Agus, A., et al. (2023). The use of artificial intelligence in dispute resolution through arbitration: The potential and challenges. *SASI*, 29(3), 570-578.

Charles Russell Speechlys. (2026, January 15). *Key developments in international arbitration for 2026*.

Chartered Institute of Arbitrators (Ciarb). (2025, September). *Guideline on the use of AI in arbitration*.

Crowell & Moring. (2026, January 5). *Consideration of artificial intelligence in arbitration terms of reference*.

Vienna International Arbitral Centre (VIAC). (2025, April). *Note on the use of artificial intelligence in arbitration proceedings*.

White & Case LLP. (2025). *2025 International arbitration survey: Arbitration and AI*.