

PANORAMIC **ARBITRATION**

Philippines



LEXOLOGY

Arbitration

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Contents

Arbitration

LAWS AND INSTITUTIONS

- Multilateral conventions relating to arbitration
- Bilateral investment treaties
- Domestic arbitration law
- Domestic arbitration and UNCITRAL
- Mandatory provisions
- Substantive law
- Arbitral institutions

ARBITRATION AGREEMENT

- Arbitrability
- Requirements
- Enforceability
- Separability
- Third parties – bound by arbitration agreement
- Third parties – participation
- Groups of companies
- Multiparty arbitration agreements
- Consolidation

CONSTITUTION OF ARBITRAL TRIBUNAL

- Eligibility of arbitrators
- Background of arbitrators
- Default appointment of arbitrators
- Challenge and replacement of arbitrators
- Relationship between parties and arbitrators
- Duties of arbitrators
- Immunity of arbitrators from liability

JURISDICTION AND COMPETENCE OF ARBITRAL TRIBUNAL

- Court proceedings contrary to arbitration agreements
- Jurisdiction of arbitral tribunal
- Distinction between admissibility and jurisdiction of tribunal

ARBITRAL PROCEEDINGS

- Place and language of arbitration, and choice of law
- Commencement of arbitration
- Hearing
- Evidence
- Court involvement

Confidentiality

INTERIM MEASURES AND SANCTIONING POWERS

Interim measures by the courts
Interim measures by an emergency arbitrator
Interim measures by the arbitral tribunal
Sanctioning powers of the arbitral tribunal

AWARDS

Decisions by the arbitral tribunal
Dissenting opinions
Form and content requirements
Time limit for award
Date of award
Types of awards
Termination of proceedings
Cost allocation and recovery
Interest

PROCEEDINGS SUBSEQUENT TO ISSUANCE OF AWARD

Interpretation and correction of awards
Challenge of awards
Levels of appeal
Recognition and enforcement
Time limits for enforcement of arbitral awards
Enforcement of foreign awards
Enforcement of orders by emergency arbitrators
Cost of enforcement

OTHER

Influence of legal traditions on arbitrators
Professional or ethical rules
Third-party funding
Regulation of activities

UPDATE AND TRENDS

Legislative reform and investment treaty arbitration

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LAWS AND INSTITUTIONS

Multilateral conventions relating to arbitration

Is your jurisdiction a contracting state to the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards? Since when has the Convention been in force? Were any declarations or notifications made under articles I, X and XI of the Convention? What other multilateral conventions relating to international commercial and investment arbitration is your country a party to?

The Philippines signed the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) on 10 June 1958 and ratified it on 6 July 1967. Upon ratification, the Philippines made the declaration that the Convention shall apply 'only in the territory of another Contracting State and only to differences arising out of legal relationships, whether contractual or not, which are considered as commercial under the national law of the State making such declaration.'

The Philippines is a party to the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States and the ASEAN Comprehensive Investment Agreement.

Law stated - 15 January 2024

Bilateral investment treaties

Do bilateral investment treaties exist with other countries?

The Philippines is a party to 31 bilateral investment treaties.

Law stated - 15 January 2024

Domestic arbitration law

What are the primary domestic sources of law relating to domestic and foreign arbitral proceedings, and recognition and enforcement of awards?

[Republic Act No. 9285](#) (the ADR Act) is the principal law that governs commercial arbitration in the Philippines. Under the Act:

- international commercial arbitration in the Philippines shall be governed by the UNCITRAL Model Law on International Commercial Arbitration (the UNCITRAL Model Law), adopted on 21 June 1985;
- domestic arbitration shall be governed by [Republic Act No. 876](#) (the Arbitration Law) as amended by Republic Act No. 9285 and applicable provisions of the UNCITRAL Model Law;
- the arbitration of construction disputes shall be governed by [Executive Order No. 1008](#); and
-

the recognition and enforcement of foreign arbitral awards shall be governed by the New York Convention.

The [ADR Act Implementing Rules and Regulations](#) (the ADR Act IRR) lays down the procedure and guidelines for the implementation of the ADR Act.

The Supreme Court issued the [Special Rules of Court on Alternative Dispute Resolution](#), which set out the procedure, among other things, for judicial relief involving the existence; validity or enforceability of the arbitration agreement; application for interim measures of protection; appointment, challenge to and termination of the mandate of the arbitrator; assistance in taking evidence; and confidentiality and protective orders. It also governs the procedure for the recognition and enforcement of domestic arbitral awards, awards rendered in an international commercial arbitration in the Philippines and foreign arbitral awards.

The Philippines follows article 1(3)(5) of the UNCITRAL Model Law with regard to when an arbitration is considered international.

Law stated - 15 January 2024

Domestic arbitration and UNCITRAL

**Is your domestic arbitration law based on the UNCITRAL Model Law?
What are the major differences between your domestic arbitration law and the UNCITRAL Model Law?**

The domestic Arbitration Law is not based on the UNCITRAL Model Law. However, the ADR Act adopted the Model Law, and the ADR Act IRR also incorporated some provisions of the Model Law.

The grounds to vacate a domestic arbitral award under section 24 of the Arbitration Law are more expansive than the equivalent provisions in the Model Law and pertain to the conduct of the arbitrators, the arbitrators' qualifications or the regularity of the arbitration proceedings.

Further, under Rule 19.10 of the ADR Act IRR, the grounds to set aside an award under section 34 of the Model Law also apply to domestic arbitration.

Law stated - 15 January 2024

Mandatory provisions

What are the mandatory domestic arbitration law provisions on procedure from which parties may not deviate?

The Arbitration Law grants autonomy to the parties to determine the procedure that will govern the proceedings. However, certain provisions are mandatorily applicable, such as:

- section 24 of the ADR Act, which requires the court to refer the parties to arbitration unless it finds that the arbitration is null and void, inoperative or incapable of being performed;
-

section 26 of the ADR Act, which provides for the default appointment of an arbitrator by the national president of the Integrated Bar of the Philippines or their representative, in an ad hoc arbitration;

- articles 4.18 and 5.17 of the ADR Act IRR, which provide that the tribunal has a duty to treat the parties with equality and full opportunity to present their case;
- articles 4.16 and 5.15 of the ADR Act IRR, which provide that the arbitral tribunal can rule on its jurisdiction; and
- section 22 of the ADR Act and article 5.41 of the ADR Act IRR, which provide that a party's legal representative must be admitted to the practice of law in the Philippines.

Law stated - 15 January 2024

Substantive law

Is there any rule in your domestic arbitration law that provides the arbitral tribunal with guidance as to which substantive law to apply to the merits of the dispute?

Under article 4.28 of the ADR Act IRR, the arbitral tribunal shall decide the dispute on the basis of the parties' choice of the law. In the absence of a designation by the parties, the tribunal shall apply the relevant law determined by the conflict of laws rules.

Article 5.28 of the ADR IRR provides that Philippine law shall apply in domestic arbitration in the absence of the parties' agreement on the law.

Law stated - 15 January 2024

Arbitral institutions

What are the most prominent arbitral institutions situated in your jurisdiction?

CIAC

The Construction Industry Arbitration Commission (CIAC) is an arbitral institution created under Executive Order No. 1,008 to exercise original and exclusive jurisdiction over construction disputes when the parties agree that they shall submit their dispute to arbitration. Its address is as follows: 369 Sen Gil J Puyat Avenue, Makati City 1209, Philippines.

The parties nominate arbitrators from a list of CIAC accredited arbitrators. Its [Revised Rules of Procedure Governing Construction Arbitration](#) outline the procedure that governs arbitration. Fees are computed on the basis of percentages of the amount in dispute in accordance with the its [Table of Arbitration Fees](#). A CIAC award may be appealed to the Supreme Court on a pure question of law. If there are factual issues based on limited grounds, resort may be made to the Court of Appeals by petition for certiorari under Rule 65 of the [Amended Rules of Civil Procedure](#).

PDRCI

The [Philippine Dispute Resolution Center](#) (PDRCI) was incorporated in 1996 from the arbitration committee of the Philippine International Convention Center. Its address is as follows: PCCI Building, 1030 Campus Avenue, Taguig, Kalakhang Maynila 1634, Philippines.

The procedure for arbitration is outlined in the [2021 PDRCI Arbitration Rules](#) and [Administrative Guidelines](#). The arbitrators' fees comprise a base amount plus a certain percentage depending on the amount. The base amount is adjusted depending on the complexity of the case, the number of disputants and the number of arbitrators.

PICCR

The [Philippine International Center for Conflict Resolution](#) (PICCR) is located at the following address: IBP Building, No. 15 Doña Julia Vargas Avenue, Ortigas Center, Pasig 1600, Philippines. The fees comprise a filing fee of 25,000 Philippine pesos; an administration fee, which comprises a flat fee based on the amount of the dispute and an additional fee based on a certain percentage; and a logistical and administrative services fee. The arbitrators' fees depend on the amount in dispute.

Law stated - 15 January 2024

ARBITRATION AGREEMENT

Arbitrability

Are there any types of disputes that are not arbitrable?

Matters that are not arbitrable include labour disputes, the civil status of persons, the validity of a marriage, any grounds for legal separation, court jurisdiction, future legitimate and criminal liability (Republic Act No. 9285 (the ADR Act), section 6).

Law stated - 15 January 2024

Requirements

What formal and other requirements exist for an arbitration agreement?

Arbitration agreements must be in writing (Republic Act No. 876, section 4; Implementing Rules and Regulations of the ADR Act (the ADR Act IRR), articles 4.7 and 5.6). An arbitration agreement is deemed to be in writing if it is contained in:

- a document signed by the parties;
- an exchange of letters, telex, telegrams or other means of telecommunication that provide a record of the agreement; or
- an exchange of statements of claims and defence in which the existence of an agreement is alleged by a party and not denied by the other.

Besides the foregoing, there are no other particularities required for an arbitration agreement. In [BF Corporation v Court of Appeals](#) (GR No. 120,105, 27 March 1998), the Supreme Court upheld the arbitration agreement despite the fact that one of the parties failed to mark its initials in the main contract between them. In doing so, it referred to several other instruments between the parties that show that they intended to be bound by the contract containing the arbitration clause.

Arbitration agreements may be enforced even if they are made in general terms so long as the agreement is worded in mandatory and not merely permissive terms.

Law stated - 15 January 2024

Enforceability

In what circumstances is an arbitration agreement no longer enforceable?

In [Dupasquier v Ascend AS \(Philippines\) Corporation](#) (GR No. 211,044, 24 July 2019), the Supreme Court ruled that an arbitration clause may not be enforced in the absence of the parties' agreement on its continued applicability upon the expiration or lapse of the underlying contract. It stressed that the decision does not mean an abandonment of the principle of the separability of the arbitration clause; it is merely giving way to the contracting parties' intention.

An arbitration agreement continues to be enforceable even after the death of a party as arbitration may commence or continue upon notice to the executor or administrator (ADR Act IRR, articles 4.43 and 5.43)

An arbitration agreement is in itself a contract that is separate and distinct from the main agreement in which it is contained. This is known as the principle of separability of the arbitration clause under Rule 2.2 of the Special Rules of Court on Alternative Dispute Resolution (the Special ADR Rules). As such, irrespective of the fact that the main contract is invalid, the arbitration clause remains valid and enforceable.

Being a separate agreement in itself, an arbitration clause must be declared null and void for it to be no longer enforceable; under the applicable law, the arbitration agreement must be proven to be invalid, void, unenforceable or inexistent.

Law stated - 15 January 2024

Separability

Are there any provisions on the separability of arbitration agreements from the main agreement?

Rule 2.2 of the Special ADR Rules recognises the principle of separability of the arbitration clause, which means that the clause shall be treated as an agreement independent of the other terms of the contract in which it is contained. A decision that the main contract is null and void shall not entail *ipso jure* the invalidity of the arbitration clause.

In [Cagayan De Oro City Water District v Pasa!](#) (GR No. 202,305, 11 November 2021), the Supreme Court confirmed that the doctrine of separability implies that ‘the arbitration agreement is independent of the main contract. In other words, the supposed invalidity of the main contract does not *ipso facto* render the arbitration clause/agreement itself invalid or unenforceable’.

Law stated - 15 January 2024

Third parties – bound by arbitration agreement

In which instances can third parties or non-signatories be bound by an arbitration agreement?

Under article 1311 of the [Civil Code](#), contracts generally take effect only between the parties, their assignees and their heirs. This applies, with equal force, to arbitration agreements under which a third party, who is not a party to the arbitration agreement, is not bound by the agreement.

In [BCDA v DMCI](#) (GR No. 173,137, 11 January 2016), the Supreme Court ruled that a party (eg, a nominee of a party to and a beneficiary of a contract containing an arbitration clause, who is not otherwise a signatory to the original contract) may nonetheless be a party to a proceeding that has been initiated based on the arbitration clause.

In [Lanuza v BF Corporation](#) (GR No. 174,938, 1 October 2014), directors of a corporation may be compelled to submit to arbitration pursuant to a contract entered into by the corporation they represent if it is necessary to disregard the ‘veil of corporate fiction’ owing to allegations of bad faith and malice on their part.

In [Heirs of Augusto Salas Jr v Laperal Realty Corporation](#) (GR No. 135,362, 13 December 1999), heirs and assignees may be compelled to submit to arbitration.

Law stated - 15 January 2024

Third parties – participation

Does your domestic arbitration law make any provisions with respect to third-party participation in arbitration, such as joinder or third-party notice?

The general laws on arbitration do not expressly state that third-party joinder or intervention are allowed in arbitration proceedings. However, in [Federal Express Corp v Airfreight 2100, Inc](#) (GR No. 225,050, 14 September 2021), the Supreme Court held that Rule 3 of the Amended Rules of Civil Procedure, which defines who may be considered as parties to civil actions, finds application to arbitration proceedings to be covered by the Special ADR Rules. In particular, section 7 of Rule 3 provides for the compulsory joinder of indispensable parties while section 8 provides for the joinder of a necessary party for complete relief to be accorded or for a complete determination or settlement of the subject of the action. It was further held that a motion for intervention by a third party is not among the prohibited submissions explicitly enumerated under Rule 1.6 of the Special ADR Rules; therefore, it is deemed to be permissible in arbitration proceedings.

Law stated - 15 January 2024

Groups of companies

Do courts and arbitral tribunals in your jurisdiction extend an arbitration agreement to non-signatory parent or subsidiary companies of a signatory company, provided that the non-signatory was somehow involved in the conclusion, performance or termination of the contract in dispute, under the 'group of companies' doctrine?

Philippine law treats a corporation with a personality as separate and distinct from its stockholders and from other corporations to which it may be connected. There are circumstances in which the courts will pierce the corporate veil, such as when the corporate legal entity is used as a cloak for fraud or illegality.

The doctrine of piercing the corporate veil has yet to be applied in arbitration to extend the arbitration agreement entered into by the corporation to that corporation's alter ego.

Law stated - 15 January 2024

Multiparty arbitration agreements

What are the requirements for a valid multiparty arbitration agreement?

A multiparty arbitration agreement is allowed subject to modifications that the arbitral tribunal deem appropriate to address the possible complexities of multiparty arbitration (ADR Act IRR, articles 4.44 and 5.44). Modifications may include keeping confidential information on a need-to-know basis only or limiting a party's involvement to issues relevant to it.

Law stated - 15 January 2024

Consolidation

Can an arbitral tribunal in your jurisdiction consolidate separate arbitral proceedings? In which circumstances?

Consolidation and holding of concurrent hearings in arbitral proceedings are allowed if the parties and the arbitral tribunal agree to the same. Unless the parties agree to confer such power on the arbitral tribunal, the tribunal has no power to order consolidation of arbitration proceedings or concurrent hearings (ADR Act IRR, articles 4.45 and 5.45).

Law stated - 15 January 2024

CONSTITUTION OF ARBITRAL TRIBUNAL

Eligibility of arbitrators

Are there any restrictions as to who may act as an arbitrator? Would any contractually stipulated requirement for arbitrators based on nationality, religion or gender be recognised by the courts in your jurisdiction?

In domestic arbitration, Republic Act No. 876 (the Arbitration Law) and the Implementing Rules and Regulations of Republic Act No. 9285 (the ADR Act IRR) require that the arbitrator must have legal capacity and be literate. A person cannot serve as arbitrator if they:

- is related by blood or marriage within the sixth degree to either party;
- has or has had financial, fiduciary or other interest in the dispute or the result of the proceeding; or
- has any personal bias that might prejudice the right of either party to a fair and impartial award.

Retired judges may be appointed as arbitrators as long as they do not possess any of the disqualifications above, or there are no circumstances that would give rise to justifiable doubts on their independence or impartiality.

In construction arbitration before the Construction Industry Arbitration Commission (CIAC), arbitrators must be selected from the list of CIAC accredited arbitrators unless the nominee is the parties' common nominee, possesses the technical or legal competence to handle the construction dispute and has signified their availability or acceptance of their possible appointment.

Under Rule 7.4 of the Special Rules of Court on Alternative Dispute Resolution (the Special ADR Rules), the nationality or professional qualification of an arbitrator is not a ground for challenge unless the parties have specified in their arbitration agreement a nationality or professional qualification for appointment as arbitrator.

Law stated - 15 January 2024

Background of arbitrators

Who regularly sit as arbitrators in your jurisdiction?

In CIAC construction arbitration, arbitrators come from different professions and may include engineers, architects, construction managers, engineering consultants, businesspersons familiar with the construction industry and lawyers with experience in construction disputes.

At the time of writing, there are at least 49 female accredited arbitrators in the arbitral institutions, 45 of whom are lawyers.

Law stated - 15 January 2024

Default appointment of arbitrators

Failing prior agreement of the parties, what is the default mechanism for the appointment of arbitrators?

Failing prior agreement, the appointing authority steps in to appoint an arbitrator in an arbitration with a sole arbitrator if the parties are unable to agree on an arbitrator. Under articles 4.11(c) and 5.10(c) of the ADRR Act IRR, in an arbitration with three arbitrators, the appointing authority shall appoint an arbitrator if a party fails to appoint an arbitrator within 30 days of receipt of a request from the other party to do so, or the two arbitrators appointed by the parties fail to agree on the third arbitrator within 30 days of their appointment.

In ad hoc arbitrations, the appointing authority is the national president of the Integrated Bar of the Philippines (IBP) or their duly authorised representative (ADR Act, section 26). In institutional arbitration, institutional bodies such as the CIAC, the Philippine Dispute Resolution Center (PDRCI) and the Philippine International Center for Conflict Resolution (PICCR) are the default appointing authorities (CIAC Revised Rules of Procedure Governing Construction Arbitration, Rule 9; PDRCI Arbitration Rules, articles 13 and 14; [PICCR Handbook and Arbitration Rules](#), article 12).

Under Rule 6.1 of the Special ADR Rules and articles 4.11(d) and 5.10(d) of the ADR Act IRR, the court shall act as the appointing authority if:

- in an institutional arbitration, the institution fails or is unable to perform its duty as appointing authority within a reasonable time after receipt of the request for appointment;
- in an ad hoc arbitration, the national president of the IBP or its duly authorised representative fails to act within the period allowed under the IBP rules or within the period agreed upon by the parties or, in the absence thereof, within 30 days of receipt of the request for appointment; and
- where the appointing authority fails or refuses to act or appoint an arbitrator within a reasonable time of receipt of the request to do so.

Law stated - 15 January 2024

Challenge and replacement of arbitrators

On what grounds and how can an arbitrator be challenged and replaced? Please discuss in particular the grounds for challenge and replacement, and the procedure, including challenge in court. Is there a tendency to apply or seek guidance from the IBA Guidelines on Conflicts of Interest in International Arbitration?

A party may challenge the appointment of an arbitrator if there are circumstances that exist that give rise to justifiable doubts about an arbitrator's impartiality or independence or if the arbitrator does not possess the required qualifications as agreed by the parties (ADR Act IRR, article 4.12). In domestic arbitration, an arbitrator may be challenged if they are disqualified to act as arbitrator under the Rules, and they refuse to respond to questions by a party regarding the nature and extent of their professional dealings with a party or its counsel (ADR Act IRR, article 5.11).

A party may challenge an arbitrator it has appointed or in whose appointment it has participated only for reasons of which the party became aware after the appointment was made (ADR Act, articles 4.12(b) and 5.12(e)).

If the challenge to the arbitrator is unsuccessful, the challenging party may request the appointing authority to decide on the challenge. Rule 7 of the Special ADR Rules provide that if the appointing authority fails or refuses to act on the challenge within the period allowed under the applicable rule or, in the absence thereof, within 30 days of receipt of the request, a party may escalate the challenge to the courts (ADR Act IRR, articles 4.13 and 5.12).

The IBA Guidelines on Conflicts of Interest in International Arbitration are persuasive and may be taken into account.

Law stated - 15 January 2024

Relationship between parties and arbitrators

What is the relationship between parties and arbitrators? Please elaborate on the contractual relationship between parties and arbitrators, neutrality of party-appointed arbitrators, remuneration and expenses of arbitrators.

Under section 10 of the Arbitration Law, the arbitrators must be independent of the parties and must not champion or advocate a party's cause. Articles 4.18 and 5.17 of the ADR Act IRR provide that the arbitrators must treat the parties with equality and afford full opportunity to each one to present its case.

In principle, the costs of arbitration, which include the arbitrators' fees, are borne by the unsuccessful party. However, the tribunal may apportion the costs if it determines that apportionment is reasonable, taking into account the circumstances of the case (ADR Act IRR, articles 4.46 and 5.46).

Law stated - 15 January 2024

Duties of arbitrators

What are arbitrators' duties of disclosure regarding impartiality and independence throughout the arbitral proceedings?

Arbitrators must disclose any circumstances that are likely to create a presumption of bias, or that might disqualify the arbitrator from being considered to be impartial, irrespective of whether discovery is made after appointment or before the hearing. This is required throughout the arbitral proceedings (Arbitration Law, section 10; ADR Act IRR, articles 4.12 and 5.11).

Law stated - 15 January 2024

Immunity of arbitrators from liability

To what extent are arbitrators immune from liability for their conduct in the course of the arbitration?

There is no specific legal provision conferring overall immunity to arbitrators from legal action: alternative dispute resolution providers and practitioners have the same liability as those of public officers who are civilly liable for acts conducted during the performance of

their duties when there is a clear showing of bad faith, malice or gross negligence (ADR Act, sections 5 and 38.1; [Administrative Code of 1987](#), Chapter 9).

Law stated - 15 January 2024

JURISDICTION AND COMPETENCE OF ARBITRAL TRIBUNAL

Court proceedings contrary to arbitration agreements

What is the procedure for disputes over jurisdiction if court proceedings are initiated despite an existing arbitration agreement, and what time limits exist for jurisdictional objections?

The court shall suspend the action before it and refer the parties to arbitration unless it makes a prima facie determination that the arbitration agreement is null and void, inoperative or incapable of being performed (Republic Act No.9285, section 24). A party can request for a stay of action not later than the pretrial conference; after the pretrial conference, the court shall act on the request only if made with the agreement of all the parties to the case (Special Rules of Court on Alternative Dispute Resolution (the Special ADR Rules), Rule 4.2).

Law stated - 15 January 2024

Jurisdiction of arbitral tribunal

What is the procedure for disputes over jurisdiction of the arbitral tribunal once arbitral proceedings have been initiated, and what time limits exist for jurisdictional objections?

The arbitral tribunal may initially rule on its own jurisdiction, including objections with respect to the existence or validity of the arbitration agreement or any condition precedent to the filing of a request for arbitration. A party must raise the plea on the arbitral tribunal's lack of jurisdiction not later than the submission of the statement of defence. The arbitral tribunal may admit a later plea if the delay is justified (Implementing Rules and Regulations of Republic Act No. 9285 (the ADR Act IRR), article 4.16(b)).

The court must exercise juridical restraint and defer to the arbitral tribunal's preliminary determination of its competence or jurisdiction (Special ADR Rules, Rules 2.2(b) and 2.4)

A party may petition the court for judicial relief within 30 days of receipt of the arbitral tribunal's ruling upholding or declining its jurisdiction (Special ADR Rules, Rule 3.12).

If the arbitral tribunal defers its ruling on the jurisdictional challenge until the final award, the aggrieved party cannot seek judicial relief until the final arbitral award is rendered (Special ADR Rules, Rule 3.20).

Law stated - 15 January 2024

Distinction between admissibility and jurisdiction of tribunal

Is there a distinction between challenges as to the admissibility of a claim and as to the jurisdiction of the tribunal?

There is not much distinction given that the arbitral tribunal has the first opportunity to rule on whether it has jurisdiction, which includes the validity of the contract itself (*Cagayan De Oro City Water District v Pasal* (GR No. 202,305, 11 November 2021)).

In domestic arbitration, an argument that the dispute is outside the scope of the arbitration agreement shall be ruled upon at the first instance by the arbitral tribunal (ADR Act IRR, article 5.15).

Before the commencement of arbitration, the court, upon the request of a party, may determine the existence, validity and enforceability of the arbitration agreement. It shall proceed with judicial restraint and defer to the competence or jurisdiction of the arbitral tribunal by allowing the arbitral tribunal the first opportunity to rule on the issue (Special ADR Rules, Rule 2.4).

Law stated - 15 January 2024

ARBITRAL PROCEEDINGS

Place and language of arbitration, and choice of law

Failing prior agreement of the parties, what is the default mechanism for the place of arbitration and the language of the arbitral proceedings? How is the substantive law of the dispute determined?

The parties are free to agree on the place of arbitration. If there is no such agreement, the place of arbitration shall be in Metro Manila unless the arbitral tribunal decides otherwise, having regard to the circumstances of the case and the convenience of the parties (Implementing Rules and Regulations of Republic Act No. 9285 (the ADR Act IRR), articles 4.20 and 5.19).

The parties are free to agree on the language to be used in the arbitral proceedings. If the parties have not made an agreement in this regard, the language to be used will be English in international arbitration (ADR Act IRR, article 4.22) and English or Filipino for domestic arbitration (ADR Act IRR, article 5.21) unless the arbitral tribunal directs that a different language should be used in the proceedings.

The parties' stipulation on the choice of law governs the substance of the dispute (ADR Act IRR, articles 4.28(a) and 5.28 (a)). In international commercial arbitration, if no such stipulation has been made, the arbitral tribunal shall apply the law determined by the conflict of laws rules that it considers applicable. In all cases, the tribunal shall make a decision in accordance with the terms of the contract and take into account the usages of the trade applicable to the transaction (ADR Act IRR, article 4.28 (b)(d)).

In domestic arbitration, Philippine law shall apply in the absence of an agreement (ADR Act IRR, article 5.28(a)).

Law stated - 15 January 2024

Commencement of arbitration

How are arbitral proceedings initiated?

The parties are free to agree on the procedure governing the commencement of arbitral proceedings.

In institutional arbitration, arbitration is commenced in accordance with the arbitration rules of the institution agreed on by the parties. Under the rules of the Philippine Dispute Resolution Center (PDRCI), Philippine International Center for Conflict Resolution (PICCR) and the Construction Industry Arbitration Commission (CIAC), arbitration is commenced when notice of or a request for arbitration is filed and received by the institution, and the corresponding filing fee is paid (PDRCI Arbitration Rules, article 4; PICCR Handbook and Arbitration Rules, article 4; and CIAC Revised Rules of Procedure Governing Construction Arbitration, section 3.4).

Under article 5.20 of the ADR Act IRR, in an ad hoc domestic arbitration, arbitration is commenced by the delivery to the respondent of a demand for arbitration, which should state:

- the name, address and description of each of the parties;
- a description of the nature and circumstances of the dispute giving rise to the claim;
- a statement of the relief sought, including the amount of the claim;
- the relevant agreements, if any, including the arbitration agreement and a copy thereof; and
- the appointment of arbitrators, which shall include the names of the nominated arbitrators or a demand to appoint.

Law stated - 15 January 2024

Hearing

Is a hearing required and what rules apply?

The rules that apply on the conduct of hearings are determined by the arbitral tribunal with the parties' agreement in ad hoc arbitration and by the applicable procedural rules of the institution in institutional arbitration (ADR Act IRR, article 5.23).

In international commercial arbitration, unless there is a contrary agreement by the parties, the arbitral tribunal decides whether to hold oral hearings for the presentation of evidence or for oral argument, or whether the proceedings shall be conducted on the basis of documents and other materials. However, unless the parties have expressly agreed not to hold hearings, the arbitral tribunal shall hold hearings at an appropriate stage of the proceedings if requested by a party (ADR Act IRR, article 4.24).

In domestic arbitration, the parties may dispense with an oral hearing and instead submit their dispute to the arbitral tribunal through a written statement of facts and argument, with their respective documentary evidence (Republic Act No. 876, section 18).

Law stated - 15 January 2024

Evidence

By what rules is the arbitral tribunal bound in establishing the facts of the case? What types of evidence are admitted and how is the taking of evidence conducted?

The parties are free to agree on the procedure to be followed in the conduct of the proceedings. In the absence of such agreement, the arbitral tribunal may receive the evidence in any manner it considers appropriate, and it has the power to determine the admissibility, relevance, materiality and weight of the evidence (ADR Act IRR, articles 4.19 and 5.18). The UNCITRAL Arbitration Rules and the IBA Rules on the Taking of Evidence in International Commercial Arbitration are usually followed in the Philippines.

Testimonial and documentary evidence are usually given through witness statements, whereby a witness states factual matters within their personal knowledge and identifies documentary evidence in support of the same.

Law stated - 15 January 2024

Court involvement

In what instances can the arbitral tribunal request assistance from a court, and in what instances may courts intervene?

The arbitral tribunal may request the court's assistance in taking evidence for the issuance of a subpoena, deposition taking, site inspection and physical examination of properties, among other things (ADR Act IRR, articles 4.27 and 5.27).

Under Rule 9.5 of the Special ADR Rules, a party to an arbitration may file a petition with the court for assistance to:

- comply with a subpoena *ad testificandum* or a subpoena *duces tecum*;
- appear as a witness before an officer for the taking of their deposition by oral examination or written interrogatories;
- allow the physical examination of the condition of persons or the inspection of things or premises, and, when appropriate, to allow the recording or documentation of the condition of persons, things or premises (i.e., photographs, video and other means of recording/documentation);
- allow the examination and copying of documents; and
- perform any similar acts as those listed above.

Law stated - 15 January 2024

Confidentiality

Is confidentiality ensured?

As a general rule, the arbitration proceedings, including the records, evidence and arbitral award, shall be considered confidential and shall not be published (Special ADR Rules, section 23). The exceptions are (1) when the parties' consent is obtained or (2) for the limited purpose of disclosing to the court relevant documents in cases where resort to the court is permitted.

Under section 3(h) of Republic Act No. 9285, confidential information includes:

- communication, whether oral or written, made in dispute resolution proceedings, including memoranda, notes or work product of the neutral party or third-party participant; and
- pleadings, motions manifestations, witness statements and reports filed or submitted in arbitration or for expert evaluation.

The court may issue a protective order to prevent or prohibit the disclosure of documents containing secret processes, developments, research and other information that may materially prejudice a party (ADR Act IRR, articles 4.41 and 5.42).

Law stated - 15 January 2024

INTERIM MEASURES AND SANCTIONING POWERS

Interim measures by the courts

What interim measures may be ordered by courts before and after arbitration proceedings have been initiated?

Under Rule 5.2 of the Special Rules of Court on Alternative Dispute Resolution (the Special ADR Rules) and articles 4.9(b) and 5.8 of the Implementing Rules and Regulations of Republic Act No. 9285 (the ADR Act IRR), a party may petition the court for interim measures of protection:

- before arbitration;
- after arbitration has been commenced but before the constitution of the arbitral tribunal; or
- after the constitution of the arbitral tribunal and at any time during arbitral proceedings but only to the extent that the arbitral tribunal has no power to act or is unable to act effectively.

A party may make a request for relief to prevent irreparable loss or injury, to provide security for the performance of any obligation, to produce or preserve evidence or to compel the performance of any other appropriate act or omission (Republic Act No. 9285 (the ADR Act), section 28; ADR Act IRR, article 5.8(c)(ii)).

The interim measures that the court may issue include preliminary injunctions, appointment of receivers or detention, preservation, inspection of property that is the subject of the dispute in arbitration, preliminary attachment against property or garnishment of funds in the custody of a bank or a third person, and assistance in the enforcement of an interim measure

of protection granted by the arbitral tribunal that the latter cannot enforce effectively (ADR Act, section 29; Special ADR Rules, Rule 5.6).

Law stated - 15 January 2024

Interim measures by an emergency arbitrator

Does your domestic arbitration law or do the rules of the domestic arbitration institutions mentioned above provide for an emergency arbitrator prior to the constitution of the arbitral tribunal?

Neither the ADR Act nor the ADR Act IRR provide for the appointment of an emergency arbitrator.

In arbitration before the Philippine Dispute Resolution Center (PDRCI), a party may apply for the appointment of an emergency arbitrator concurrently with or following the filing of a notice of arbitration but before the constitution of an arbitral tribunal (PDRCI Arbitration Rules, article 58). In arbitration before the Philippine International Center for Conflict Resolution (PICCR), an emergency arbitrator may be appointed when a party needs urgent interim or conservatory measures that cannot await the constitution of an arbitral tribunal (PICCR Handbook and Arbitration Rules, article 30). There is no similar provision in the Construction Industry Arbitration Commission's Rules of Procedure relating to the appointment of an emergency arbitrator prior to the constitution of a tribunal.

Law stated - 15 January 2024

Interim measures by the arbitral tribunal

What interim measures may the arbitral tribunal order after it is constituted? In which instances can security for costs be ordered by an arbitral tribunal?

An arbitral tribunal may order interim measures of protection, including a preliminary injunction against a party, appointment of receivers or detention, preservation or inspection of property that is the subject of the dispute in arbitration (ADR Act IRR, articles 4.17, 5.8(d), 5.16(a) and 5.24(a)).

The arbitral tribunal has broad powers and may request the parties to deposit an equal amount as advance for costs (ADR Act IRR, articles 4.46(e) and 5.46(f)). There are no specific provisions under the ADR Act or the IRR with regard to when deposit for costs may be required.

Law stated - 15 January 2024

Sanctioning powers of the arbitral tribunal

Pursuant to your domestic arbitration law or the rules of the domestic arbitration institutions mentioned above, is the arbitral tribunal competent to order sanctions against parties or their counsel who use 'guerrilla

tactics' in arbitration? May counsel be subject to sanctions by the arbitral tribunal or domestic arbitral institutions?

There are no specific provisions in the ADR Act or the ADR Act IRR regarding the arbitral tribunal's power to order sanctions against a party or counsel who use guerrilla tactics. However, failure to comply with the arbitral tribunal's order for an interim measure of protection renders the non-compliant party liable for damages resulting from non-compliance, including all expenses and reasonable attorneys' fees (ADR Act IRR, articles 4.17(c)(viii), 5.8(c)(vii) and 5.16 (c)(viii)).

In PDRCI arbitration, article 5 of the PDRCI Administrative Guidelines provides that the parties and their counsel must follow its Code of Ethics for Arbitration, which comprises the (a) Rules of Ethics for International Arbitrators of the International Bar Association (IBA), the 2014 IBA Guidelines on Conflicts of Interest in International Arbitration and the IBA Guidelines on Party Representation in International Arbitration, to the extent that they do not conflict with any provision of Philippine law.

In the event of a violation of the [Code of Professional Responsibility and Accountability](#) promulgated by the Supreme Court, an aggrieved party may file an administrative complaint against the erring counsel with the Integrated Bar of the Philippines.

Law stated - 15 January 2024

AWARDS

Decisions by the arbitral tribunal

Failing party agreement, is it sufficient if decisions by the arbitral tribunal are made by a majority of all its members or is a unanimous vote required?
What are the consequences for the award if an arbitrator dissents?

Awards rendered by arbitral tribunals must be made by a majority of the members unless otherwise agreed by the parties. Procedural questions may be decided by the presiding arbitrator or the chair if so authorised by the parties or members of the arbitral tribunal (Implementing Rules and Regulations of Republic Act No. 9285 (the ADR Act IRR), articles 4.29, 4.31 and 5.29).

Law stated - 15 January 2024

Dissenting opinions

How does your domestic arbitration law deal with dissenting opinions?

There is no prohibition regarding the issuance of dissenting opinions in arbitral awards. Dissenting opinions have no effect on the arbitral award reached by the majority of the members of the arbitral tribunal.

Law stated - 15 January 2024

Form and content requirements

What form and content requirements exist for an award?

The arbitral award must be in writing, be signed by the arbitrators and state the date and place of arbitration and the reasons on which it is based unless the parties have agreed that no reasons are to be given or the award is an award on agreed terms (ADR Act IRR, articles 4.31 and 5.31(e)).

There is no requirement for the arbitral award to be under oath unless such a requirement is expressed in writing by the parties (ADR Act IRR, article 5.31(d)).

Law stated - 15 January 2024

Time limit for award

Does the award have to be rendered within a certain time limit under your domestic arbitration law or under the rules of the domestic arbitration institutions mentioned above?

In domestic arbitration, unless otherwise agreed by the parties, the award must be rendered within 30 days of the closing of the hearings or, if the oral hearings have been waived, within 30 days of the arbitrators declaring the proceedings closed. This period may be extended by mutual consent of the parties (Republic Act No. 876, section 19).

In arbitration before the Philippine Dispute Resolution Center (PDRCI), the award of the arbitral tribunal must be made within one year of the constitution of the arbitral tribunal (PDRCI Arbitration Rules, article 47).

In construction arbitration before the CIAC, the award must be rendered by the arbitral tribunal within 30 days of the submission of the case for resolution but not more than six months after the date of signing of the terms of reference (TOR). In the absence of TOR, the period must not exceed six months after the date of the last preliminary conference called for the purpose of finalising or signing the TOR (Revised Rules of Procedure of the Construction Industry Arbitration Commission, section 16.1).

Law stated - 15 January 2024

Date of award

For what time limits is the date of the award decisive and for what time limits is the date of delivery of the award decisive?

The date of the actual receipt of the award, and not the date of the award, is considered the reckoning point for a request for correction and interpretation of an arbitral award. The request to the arbitral tribunal must be made within 30 days of receipt of the award unless a different period is agreed on by the parties (ADR Act IRR, articles 4.33 and 5.33).

The date of actual receipt is also the reckoning period for a petition to the court for confirmation, correction or vacation of a domestic arbitral award (Special Rules of Court on Alternative Dispute Resolution (the Special ADR Rules), Rule 11) or for the vacation or

setting aside of an international commercial award rendered in an arbitration conducted in the Philippines (Special ADR Rules, Rule 12.2).

Law stated - 15 January 2024

Types of awards

What types of awards are possible and what types of relief may the arbitral tribunal grant?

Aside from the final award, the arbitral tribunal can make a partial award during arbitration proceedings (Republic Act No. 9285, section 3(f)). An award shall not be deemed final for purposes of appeal, vacation, correction or any post-award proceedings pending determination of the costs of arbitration (ADR Act IRR, articles 4.32(d) and 5.32(e)).

An additional award may be made with respect to claims made in the proceedings but omitted from the award (ADR Act IRR, articles 4.33(d) and 5.33(c)).

A consent award or an award based on compromise may be rendered if, during the arbitral proceedings, the parties settle the dispute. This type of award has the same status and effect as an award based on the merits (ADR Act IRR, articles 4.30 and 5.30).

Law stated - 15 January 2024

Termination of proceedings

By what other means than an award can proceedings be terminated?

Besides the case where an award is rendered, arbitration proceedings can be terminated in the following instances:

- withdrawal of the claim, unless the respondent objects to the withdrawal and the arbitral tribunal recognises there is a legitimate interest on the respondent's part in obtaining a final settlement of the dispute;
- agreement of the parties;
- a finding by the arbitral tribunal that the continuation of the proceedings has become unnecessary or impossible (ADR Act IRR, articles 4.32(b) and 5.32(b));
- settlement of the dispute (ADR Act IRR, articles 4.30 and 5.30(a)); or
- non-payment of the required deposit in full (ADR Act IRR, articles 5.32(b)(iv), 4.46 and 5.46).

Law stated - 15 January 2024

Cost allocation and recovery

How are the costs of the arbitral proceedings allocated in awards? What costs are recoverable?

The arbitral tribunal states the costs of arbitration in the award. The costs are, in principle, borne by the unsuccessful party. However, the tribunal may apportion the costs between the parties if it determines that apportionment is reasonable, taking into account the circumstances of the case. Under articles 4.46 and 5.46(c) of the ADR Act IRR, the costs include:

- the arbitral tribunal's fees;
- travel and other expenses incurred by the arbitrators;
- the costs of expert advice and of other assistance required by the arbitral tribunal;
- travel and other expenses of the witnesses, to the extent approved by the arbitral tribunal;
- the costs for legal representation and assistance of the successful party if those costs were claimed during the arbitral proceedings, and only to the extent that the arbitral tribunal determines that the amount of those costs is reasonable; and
- any fees and expenses of the appointing authority.

With respect to the costs of legal representation, the arbitral tribunal, taking into account the circumstances of the case, is free to determine which party shall bear those costs. It may also apportion the costs between the parties if it determines that appointment is reasonable [ADR Act IRR, articles 4.46 (d) and 5.46 (e)].

In [Licomcen Incorporated v Foundation Specialists, Inc](#) (GR No. 167,022, 31 August 2007), the Supreme Court held that the refusal of a just and valid claim can be a valid ground to uphold the arbitral tribunal's award of the costs of arbitration.

In [PNCC v Court of Appeals](#) (GR No. 165,433, 6 February 2007), the Supreme Court adjudged a party to be exclusively liable for arbitration costs on account of 'gross and evident bad faith in delaying the payment of [another party's] claim'.

Law stated - 15 January 2024

Interest

May interest be awarded for principal claims and for costs, and at what rate?

The arbitral tribunal is not prohibited from awarding interests on the principal claims. Under [Lara's Gifts & Decors v Midtown Industrial Sales, Inc](#) (GR No. 225,433, 28 August 2019), which outlines the prevailing rules on the imposition of interest:

- if the dispute involves a loan or forbearance of money, the interest rate should be the rate stipulated by the parties in writing and, in the absence thereof, the interest rate prescribed by the central bank, Bangko Sentral ng Pilipinas, which is to be computed from the time of the judicial or extrajudicial demand for payment until full payment;
- if the dispute does not involve a loan or forbearance of money, the arbitral tribunal can award interest at the prevailing legal interest prescribed by the Bangko Sentral ng Pilipinas.

Under [Monetary Board Circular No. 799](#), Series of 2013, of the Bangko Sentral ng Pilipinas, the legal interest rate is 6 per cent per year.

Law stated - 15 January 2024

PROCEEDINGS SUBSEQUENT TO ISSUANCE OF AWARD

Interpretation and correction of awards

Does the arbitral tribunal have the power to correct or interpret an award on its own or at the parties' initiative? What time limits apply?

The tribunal may correct the award on its own initiative within 30 days of the date of the award or upon request by a party within 30 days of receipt of the award (Implementing Rules and Regulations of Republic Act No. 9285 (the ADR Act IRR), articles 4.33 and 5.33).

Law stated - 15 January 2024

Challenge of awards

How and on what grounds can awards be challenged and set aside?

A petition to vacate a domestic arbitral award may be filed with the court if:

- the arbitral award was procured through corruption, fraud or other undue means;
- the tribunal or any of its members exhibited evidently partial or corrupt behaviour;
- the misconduct or misbehaviour of the arbitral tribunal materially prejudiced the rights of a party;
- one or more arbitrators was disqualified to act as such under the law and wilfully refrained from disclosing their disqualification;
- the tribunal exceeded its powers or executed them in such a way that a complete, final and definite award on the subject matter was not made (Republic Act No. 876 (the Arbitration Law), section 24);
- the arbitration agreement is non-existent, invalid or unenforceable;
- one of the parties is a minor or has been judicially declared incompetent (Special Rules of Court on Alternative Dispute Resolution (the Special ADR Rules), Rule 11.4);
- there was a violation of public policy (Special ADR Rules, Rule 19.10); or
- any of the grounds specified under Rule 34 of the UNCITRAL Model Law are fulfilled (Special ADR Rules, Rule 19.10).

Under Rule 12.4 of the Special ADR Rules, the court may set aside an international commercial arbitral award rendered in the Philippines if:

- one of the party's was under some incapacity;
- the arbitration agreement is not valid under the law to which the parties have subjected it or, in the absence of an applicable law, under Philippine law;

- a party was unable to present its case because it was improperly notified of the arbitrator's appointment or the arbitral proceedings, or other compelling reason;
- the award deals with a dispute outside the arbitral terms or contains decisions or matters beyond the scope of the submission to arbitration;
- the tribunal's composition or the arbitral procedure was not in accordance with the parties' agreements or, in the absence of such an agreement, under Philippine law;
- the award has not yet become binding;
- the subject matter of the dispute cannot be settled by arbitration under Philippine law; or
- the recognition or enforcement of the award is contrary to public policy.

The court may refuse recognition and enforcement of a foreign arbitral award under the New York Convention on the Recognition and Enforcement of Foreign Arbitral Awards (the New York Convention) and Rule 13.4, which is substantially the same as Rule 12.4, of the Special ADR Rules.

Law stated - 15 January 2024

Levels of appeal

How many levels of appeal are there? How long does it generally take until a challenge is decided at each level? Approximately what costs are incurred at each level? How are costs apportioned among the parties?

The decision of the Regional Trial Court on the domestic arbitral award, the international commercial arbitration award or the foreign arbitral award can be appealed through a petition for review with the Court of Appeals (Special ADR Rules, Rule 19.12). A review of the decision of the Court of Appeals is not a matter of right. The Supreme Court may review the decision only for serious and compelling reasons resulting in grave prejudice to the aggrieved party (Special ADR rules, Rule 19.36).

There is no appeal on the merits of the arbitral award (Special ADR Rules, Rule 19.7).

Law stated - 15 January 2024

Recognition and enforcement

What requirements exist for recognition and enforcement of domestic and foreign awards, what grounds exist for refusing recognition and enforcement, and what is the procedure?

Unless grounds exist to vacate a domestic arbitral award, set aside an international commercial award or refuse recognition and enforcement of a foreign arbitral award, the court shall confirm the award as the presumption is in favour of confirmation. The court must not disturb the arbitral tribunal's determination of facts and interpretation of the law (Special ADR Rules, Rules 11.9, 12.12 and 13.11). Errors of fact or law are not acceptable

grounds to set aside or vacate the award as the court cannot substitute its judgment for that of the arbitral tribunal (Special ADR Rules, Rules 19.10 and 19.24).

The petition for confirmation of a domestic arbitral award or for the recognition and enforcement of the international commercial arbitral award or foreign arbitral award is made with the Regional Trial Court (Special ADR Rules, rules 11.3, 12.3).

The grounds to set aside enforcement of an international commercial award under Rule 12.4 of the Special ADR Rules are generally similar to the grounds for refusal or denial of recognition and enforcement of a foreign arbitral award under Rule 13.4 (ADR Act IRR, articles 4.34 and 4.36). In addition, a foreign arbitral award may be refused recognition and enforcement if it has not yet become binding on the parties or has been set aside or suspended by a court of the country in which it was made (Special ADR Rules, Rule 13.4(v)). The New York Convention governs the recognition and enforcement of foreign arbitral award covered by the it (Republic Act No.9285 (the ADR Act), section 42; ADR Act IRR, article 4.35(b)(i)). The court must disregard grounds other than those enumerated under Rules 12.4 and 13.4 of the Special ADR Rules.

Domestic arbitral awards can be vacated on grounds under section 24 of the Arbitration Law, Rules 11.4 and 19.10 of the Special ADR Rules and Rule 34 of the UNCITRAL Model law (Special ADR Rules, Rule 19.10). Any other grounds must be disregarded by the court (ADR Act, section 41).

Law stated - 15 January 2024

Time limits for enforcement of arbitral awards

Is there a limitation period for the enforcement of arbitral awards?

A petition to confirm a domestic arbitral award may be filed any time after the lapse of 30 days from receipt of the arbitral award while the petition for correction may be filed not later than 30 days of receipt of the arbitral award (Special ADR Rules, Rule 11.2(a)(b)).

A petition for recognition and enforcement of an international commercial award or a foreign arbitral award may be filed anytime after receipt of the award (Special ADR Rules, Rules 12.2 and 13.2).

Law stated - 15 January 2024

Enforcement of foreign awards

What is the attitude of domestic courts to the enforcement of foreign awards set aside by the courts at the place of arbitration?

Under Rule 13.10 of the Special ADR Rules, the court may defer or adjourn its decision on the enforcement of the foreign arbitral award if an application has been made for the setting aside or suspension of the award before the competent authority of the country of the place of arbitration.

A ground to refuse recognition and enforcement under the New York Convention, and that is likewise provided under Rule 13.4(a)(v) of the Special ADR Rules, is that the foreign arbitral award has been set aside or suspended by the court at the place of arbitration.

Law stated - 15 January 2024

Enforcement of orders by emergency arbitrators

Does your domestic arbitration legislation, case law or the rules of domestic arbitration institutions provide for the enforcement of orders by emergency arbitrators?

There is no specific provision in the arbitration legislation, the Special ADR Rules or case law that provides for enforcement of orders by an emergency arbitrator. However, an emergency arbitrator does not seem to fall within the definition of an arbitrator under section 3(e) of the ADR Act. The definition of an award under section 3(f) likewise refers only to either a partial or final decision in the resolution of an issue in a controversy.

Law stated - 15 January 2024

Cost of enforcement

What costs are incurred in enforcing awards?

Rule 21 of the Special ADR Rules provide that a party shall submit a statement under oath on the costs it has incurred in the proceedings for the confirmation or vacation of an award or the enforcement or setting aside of the foreign arbitral award. This includes the attorneys' fees.

Law stated - 15 January 2024

OTHER

Influence of legal traditions on arbitrators

What dominant features of your judicial system might exert an influence on an arbitrator from your jurisdiction?

The Philippine judicial system is traditionally an alternate trial type of system whereby the parties take turns in presenting their witnesses, and the witnesses are subjected to direct, cross, redirect and recross examinations. The direct examination of a witness is usually in the form of a judicial affidavit, which is similar to a sworn written witness statement in arbitration proceedings. Witnesses are cross-examined on the basis of the judicial affidavit and their documentary evidence. Further examination of witnesses on redirect and recross are generally permitted, and changes to the order in which the witnesses are presented may be allowed by the arbitral tribunal, similar to a court proceeding.

As in court proceedings, an officer of a corporation who is a party to the arbitration proceedings is expected to testify based on personal knowledge.

Arbitrators may require the production of documents when the materiality of the documents has been demonstrated (Implementing Rules and Regulations of Republic Act No. 9285 (the ADR Act IRR), article 4.27) similar to when the court orders the production of documents that constitute or contain evidential material to any matter involved in the action (Amended Rules of Civil Procedure, Rule 27).

Law stated - 15 January 2024

Professional or ethical rules

Are specific professional or ethical rules applicable to counsel and arbitrators in international arbitration in your jurisdiction? Does best practice in your jurisdiction reflect (or contradict) the IBA Guidelines on Party Representation in International Arbitration?

The arbitration laws do not provide any particular code of conduct that must be followed by arbitrators during arbitration proceedings. However, if an arbitrator is a lawyer in the Philippines, their conduct is governed by the Code of Professional Conduct and Accountability.

Furthermore, since arbitration proceedings in the Philippines are based on the agreed rules of the parties, the rules promulgated by the International Bar Association (IBA) may be applied in arbitration proceedings should the parties agree thereto, including the IBA Guidelines on Party Representation in International Arbitration, the Rules of Ethics for International Arbitrators and the Guidelines on Conflicts of Interest in International Arbitration.

Law stated - 15 January 2024

Third-party funding

Is third-party funding of arbitral claims in your jurisdiction subject to regulatory restrictions?

There is no express prohibition on third-party funding of arbitral claims. Lawyers in the Philippines, however, are not allowed to enter into champertous contracts whereby the lawyer undertakes to carry on the litigation at their own cost and risk in consideration of receiving, if successful, a part of the proceeds or subject sought to be recovered.

Law stated - 15 January 2024

Regulation of activities

What particularities exist in your jurisdiction that a foreign practitioner should be aware of?

There is no prohibition against having foreign individuals as arbitrators in arbitration cases (ADR Act IRR, article 4.11; Special Rules of Court on Alternative Dispute Resolution, Rule 7.4). Foreign individuals are, however, precluded from acting as counsel in arbitration proceedings

(Republic Act No.9285, section 22) under the [Constitution](#), which limits the practice of law to Filipino citizens.

Law stated - 15 January 2024

UPDATE AND TRENDS

Legislative reform and investment treaty arbitration

Are there any emerging trends or hot topics in arbitration in your country? Is the arbitration law of your jurisdiction currently the subject of legislative reform? Are the rules of the domestic arbitration institutions mentioned above currently being revised? Have any bilateral investment treaties recently been terminated? If so, which ones? Is there any intention to terminate any of these bilateral investment treaties? If so, which ones? What are the main recent decisions in the field of international investment arbitration to which your country was a party? Are there any pending investment arbitration cases in which the country you are reporting about is a party?

A hot topic is the application of public policy as a ground to refuse recognition and enforcement of the arbitral award. In [Mabuhay Holdings Corp v Sembcorp Logistics Limited](#) (GR No. 212,734, 5 December 2018), the Supreme Court adopted a narrow approach in determining whether the enforcement of an arbitral award would be contrary to public policy. It explained that not all violations of law would be contrary to public policy, but only those where enforcement of the award would be against the state's fundamental tenets of justice and morality or would be blatantly injurious to the public or the interests of society, such as where the defence of prescription would affect a party but would not injure the public or compromise the society's interest ([Pioneer Insurance & Surety Corp v TIG Insurance Company](#) (GR No. 256,177, 27 June 2022)).

In [Lone Congressional District of Benguet v Lepanto Consolidated Mining Company, Inc](#) (GR No. 244,063, 21 June 2022), the Supreme Court vacated the domestic arbitral award because its enforcement would be contrary to the public policy to protect the rights of indigenous cultural communities and indigenous peoples to their ancestral lands. The arbitral tribunal exempted the respondent mining companies from securing the consent of the indigenous community in the renewal of the mining permit – a requirement under the [Rights of Indigenous Peoples Act](#).

In [Maynilad Water Services, Inc v National Water and Resources Board, et al](#) (GR No. 181,764, 7 December 2021), the enforcement of the arbitral award that allowed Maynilad to include its corporate income tax in the water rates chargeable to consumers is contrary to public policy because it would be injurious to the public and lead to unequal treatment of water consumers in different areas despite the lack of substantial distinction.

There is a pending bill, [Senate Bill No. 1,308 of 12 September 2022](#), introduced by Senator Francis N Tolentino, that seeks to adopt the UNCITRAL Model Law on International Commercial Arbitration, as amended, to align commercial arbitral practices with international standards.

The [Revised Corporation Code](#), as further implemented by the Securities and Exchange Commission's [Memorandum Circular No. 8](#), Series of 2022, now allows arbitration as a mechanism to resolve intra-corporate disputes. However, at the time of writing, local parties have exhibited a prevalent inclination towards resorting to traditional court proceedings rather than opting for arbitration to resolve their disputes.

The table below lists some of the recent international investment arbitration proceedings in which the Philippines was a party:

Case title	Case number	Case status
<i>Prime Energy Resources Development BV (formerly Shell Philippines Exploration BV) v Republic of the Philippines</i>	ICSID Case No. ARB/16/22	Pending
<i>Chevron Overseas Finance GmbH v Republic of the Philippines</i>	PCA Case No. 2019-25	Final award issued 6 October 2020
<i>Baggerwerken Decloedt En Zoon NV v Republic of the Philippines</i>	ICSID Case No. ARB/11/27	Final award issued 23 January 2017
<i>Fraport AG Frankfurt Airport Services Worldwide v Republic of the Philippines</i>	ICSID Case No. ARB/11/12	Final award issued 10 December 2014
<i>SGS Société Générale de Surveillance SA v Republic of the Philippines</i>	ICSID Case No. ARB/02/6	Final award issued 11 April 2008

Law stated - 15 January 2024