

CHISINAU INTERNATIONAL COURT OF
COMMERCIAL ARBITRATION

**RULES ON ARBITRAL
FEES AND COSTS**

2017



CONTENTS

Article 1. General provisions	3
Article 2. Registration fees and arbitration fees	3
Article 3. Rules regarding the arbitration fee	4
Article 4. Advancing the arbitration fee	5
Article 5. Fiscal and currency regulations	6
Article 6. Specifics regarding the application of fees by the Court of Arbitration in relation to certain categories of claims	7
Article 7. Specifics regarding the application of fees in the event of amendments to the request for arbitration	8
Article 8. Costs related to specific arbitrations	9
Article 9. Rules on refunding arbitration fees and costs	10
Article 10. Final provisions	10

RULES ON ARBITRAL FEES AND COSTS

(in effect as of February 6 2017)

Article 1. General provisions

- (1) These Rules on Arbitral Fees and Costs (hereinafter the "Rules") establish the manner of collection of various payments by the Chisinau International Court of Commercial Arbitration of the American Chamber of Commerce in Moldova (hereinafter, the "Court of Arbitration") when administering the settlement of disputes by arbitral tribunals appointed in accordance with the Rules (as defined below), as well as for the overall promotion of arbitration (e.g. fee for appointing an arbitrator in ad hoc arbitrations, etc.).
- (2) The definitions used in the Rules of Arbitration of the Court of Arbitration (hereinafter the "Rules") shall apply herein *mutatis mutandis*.
- (3) The Court of Arbitration shall charge the following fees:
 - (a) registration fee;
 - (b) arbitration fee;
 - (c) expenses related to concrete arbitrations; and
 - (d) fees for other services provided by the Court of Arbitration (e.g., appointment of arbitrators in ad hoc arbitrations, etc.).

Article 2. Registration fees and arbitration fees

- (1) Any request for arbitration submitted by a person under the Rules, as well as requests for the appointment of arbitrators in ad-hoc arbitrations, shall be subject to a registration fee in the amount of USD 100. The registration fee is non-refundable and is intended to cover the costs borne by the Court of Arbitration in relation to administering the submitted request. The person submitting a request for arbitration or any other request within the meaning of this paragraph shall be encouraged to append thereto a proof of the registration fee's payment.

- (2) The arbitration fee is the amount paid by the parties to an arbitration administered under the Rules - and, where the respondent fails to make a payment, paid individually by the claimant - in relation to each request for arbitration received by the Court of Arbitration.
- (3) The arbitration fee shall consist of: (a) the administrative fee of the Court of Arbitration and (b) the arbitrators' fees.
- (4) The administrative fee is intended to cover the costs borne by the Court of Arbitration in relation to administrating the settlement of disputes by arbitral tribunals appointed under the Rules. The administrative fee constitutes 40% of the arbitration fee.
- (5) The arbitrators' fees constitute 60% of the arbitration fee and, where the arbitral tribunal consists of 3 arbitrators, shall be distributed as follows: 40% to the presiding arbitrator and 30% to each of the two arbitrators comprising the arbitral tribunal.
- (6) The arbitrators' fees, excluding the administrative fee, shall be discounted by 20% where the dispute is settled by a sole arbitrator.

Article 3. Rules regarding the arbitration fee

- (1) The arbitration fee shall be determined based on the amount of the claim, as follows:

Amount of claim (hereinafter "AC") (in US Dollars)	Arbitration fee (in US Dollars)
AC < 12 500	500
12 501 – 50 000	500 + 4%(AC - 12 500)
50 001 – 100 000	2 000 + 2.5%(AC - 50 000)
100 001 – 250 000	3 250 + 1.2%(AC - 100 000)
250 001 – 500 000	5 050 + 1.1%(AC - 250 000)
500 001 – 1 000 000	7 800 + 0.8%(AC - 500 000)
AC > 1 000 001	11 800 + 0.6%(AC - 1 000 000)

- (2) The party commencing an arbitration shall state, in its request for arbitration and/or the notice made under Article 8 or, as the case may be, Article 9 of the Rules, the amount of the claim, even where no monetary claims are made. Where the amount of the claim is not stated, the Secretariat of the Court of Arbitration shall itself decide the arbitration fee to be applied, which shall in no event be less than twice the minimum arbitration fee.
- (3) Any statement regarding the amount of the claim made by the party commencing the arbitration shall be confirmed or, where appropriate, adjusted by the Secretariat of the Court of Arbitration in its communication inviting the parties to advance the arbitration fee.
- (4) The amount of the claim shall be equal to:
 - a) the amount claimed - with regard to monetary claims;
 - b) the value of the goods upon submission of the request / notice - with regard to claiming of restitution of goods, establishing or exercising the right of ownership or other real rights;
 - c) the amount stated by the party commencing the arbitration or established by the Secretariat of the Court of Arbitration under para. (2) above - with regard to claims related to the obligation to do or abstain from doing.
- (5) With regard to requests involving multiple claims, the value of each individual claim shall be separately determined, and the amount of the claim shall be the aggregate value of all individual claims.

Article 4. Advancing the arbitration fee

- (1) The arbitration fee shall be advanced in equal shares by the claimant on one side and the respondent on the other. If the respondent refuses to make such payment, upon receipt of a communication to this end from the Secretariat of the Court of Arbitration, the claimant shall advance the arbitration fee in accordance with this Regulation.

- (2) Where a dispute involves multiple parties, the Secretariat of the Court of Arbitration shall establish and communicate the exact percentage to be advanced by each party.
- (3) Counterclaims shall be subject to a separate registration fee and arbitration fee.
- (4) Following receipt of the communication referred to in Article 3 para. (3) above, the claimant shall pay the arbitration fee in the share of 50% of the amount determined under this Regulation, and shall send proof of payment thereof by fax or email to the Secretariat of the Court of Arbitration, at the number or email address indicated on the website of the Court of Arbitration.
- (5) Upon submitting the request for arbitration, the claimant may, at its own discretion, advance the arbitration fee in full.
- (6) Where the respondent fails to pay 50% of the arbitration fee determined hereunder within 14 days following receipt of a communication to this end from the Secretariat, the claimant shall pay the arbitration fee in full within 14 days following receipt of a communication to this end.
- (7) Where within the given time, the claimant fails to provide proof of payment of the arbitration fee in full, the request for arbitration shall be returned and the fees already paid, with the exception of such fees that are non-refundable hereunder, shall be refunded within 15 days from the date the request for arbitration is returned.
- (8) An amendment to the term and manner of fees' payment may be requested in the circumstances set out under the Rules.
- (9) The final allocation of costs in relation to a specific dispute shall be decided by the arbitral tribunal, under the Rules, based on the full or partial grant of the claim.

Article 5. Fiscal and currency regulations

- (1) The amounts due under this Regulation do not include value added tax.
- (2) The arbitrators' fees constitute taxable income.

- (3) If the amount of the claim is expressed in a currency other than US Dollars, the arbitration fee shall be determined by the Secretariat using the exchange rate for such currency and US Dollars, in accordance with the exchange rates published by the National Bank of Moldova (NBM) on the date when the request for arbitration is received by the Secretariat.
- (4) The value of the registration fee shall be paid by the party submitting it in accordance with the USD/MDL exchange rate published by the NBM on the date of payment.
- (5) The fees shall be paid in MDL, and shall be deemed paid upon receipt on the bank account indicated by the Court of Arbitration. Bank transfer costs shall be borne by the party making the payment.
- (6) Notwithstanding the provisions of para. (3) - (5) above, where a party is not residing in the Republic of Moldova, it may make any payments required hereunder directly in US Dollars or, with the permission of the Secretariat, in Euro.
- (7) Unless otherwise allowed by the tax laws of the Republic of Moldova or the international treaties to which the Republic of Moldova is a party, the Court of Arbitration shall treat the fees payable to the arbitrators who are residents as their personal income and, before paying the fees of the respective arbitrators, shall calculate, withhold and pay to the national budget any income tax, mandatory health insurance premiums and state social insurance contributions. In this regard, by accepting his/her appointment as arbitrator, each arbitrator consents to the Court of Arbitration carrying out the aforementioned operations.
- (8) Each arbitrator who is a non-resident consents to the Court of Arbitration withholding his/her tax on income derived from the appointment (where necessary).

Article 6. Specifics regarding the application of fees by the Court of Arbitration in relation to certain categories of claims

- (1) Counterclaims, claims against third parties and requests for joinder made by third parties on their own behalf shall be subject to fees in the same manner as the main request for arbitration.
- (2) Where the claims in question are treated in separate arbitral proceedings, the relevant arbitration fees shall be charged in full.
- (3) Notwithstanding Article 3 para. (5) above, where the request for arbitration includes alternative claims, such as restitution in kind or pecuniary compensation, a single arbitration fee shall be charged, determined based on the amount of the larger claim.
- (4) Claims for the declaration of nullity, annulment, rescission or termination of a pecuniary legal act, as well as claims for the establishment of the existence or non-existence of a pecuniary right shall be subject to an arbitration fee under Article 3 hereof. The request for reinstatement of parties into a prior situation shall be exempt from arbitration fees where it is an accessory to the request for the declaration of nullity, annulment, rescission or termination of a pecuniary legal act.
- (5) Requests for interim measures examined in emergency arbitrator proceedings shall be subject to the minimum arbitration fee.
- (6) Requests for interim measures made under the general proceedings shall be charged 30% of the minimum arbitration fee.
- (7) For assistance in ad hoc arbitrations and other institutional arbitrations, the Court of Arbitration shall charge an appointment fee of USD 500 per each request.
- (8) Requests for the issuance of certificates regarding the status of arbitral proceedings shall be charged 25% of the minimum administrative fee, in MDL equivalent at the date of payment. However, such certificates shall not be issued if there is a risk of compromising the confidentiality of the arbitral proceedings.

Article 7. Specifics regarding the application of fees in the event of amendments to the request for arbitration

- (1) If, during the arbitral proceedings, the claimant increases its claims as previously made in the request for arbitration, he/she shall pay the corresponding arbitration fee for such additional claims. The provisions of Article 4 on advancing arbitration fees shall apply in such cases *mutatis mutandis*.
- (2) If the claimant decreases its claims before the order is given to summon the parties for the first hearing, the arbitration fee shall be recalculated based on the amount of the claim as decreased. The surplus amount is refunded to the parties, in accordance to the proportion of the arbitration fee borne by each party, within 15 days following the recalculation. Where the amount of the claims made in the request for arbitration is decreased at a later moment, the advanced arbitration fee shall not be refunded.

Article 8. Costs related to specific arbitrations

- (1) The parties are required to advance the amount of all costs (expenses) necessary for the proper conduct of the arbitral proceedings, the administration of evidence, expert determinations, translations and any other expenses necessary or ordered during the arbitration, including, but not limited to, the transportation of arbitrators, experts or witnesses.
- (2) The following categories of expenses are not included in any paid registration fees and arbitration fees:
 - a) costs for the communication of procedural documents by international post;
 - b) costs for the collection and administration of evidence;
 - c) costs for the translation of documents related to the arbitral proceedings;
 - d) costs for employing experts;
 - e) travel costs of parties, arbitrators, experts, advisers and witnesses; and
 - f) other costs necessary for the arbitration of the dispute.

- (3) The costs referred to in Article (2) shall be borne by the party that made a request regarding the need to undertake certain actions for the settlement of the dispute that could lead to such costs, or, where such actions were ordered by the arbitral tribunal - by both parties.
- (4) Where the arbitral tribunal deems it necessary to carry out certain procedural acts involving costs, such as appointing experts, interpreters or translators, on-site visits or the relocation of hearings, it shall notify the Secretariat and shall order such potential costs to be covered by the parties.
- (5) The arbitral tribunal may conduct the procedural acts referred to in para. (4) only after the estimated expenses had been covered. The arbitral tribunal shall decide which consequences for the proceedings shall arise from a failure to pay a required advance on costs according to this Article.
- (6) If one of the parties fails to fulfill its obligations regarding the payment of arbitration fees or costs, the other party may fulfill such obligations. The final allocation of costs will be determined in the arbitral award.
- (7) The Court of Arbitration may render to the parties other services (e.g. obtaining Apostille, etc.). The consideration for such services shall be communicated by the Secretariat separately and in advance for each request.

Article 9. Rules on refunding arbitration fees and costs

- (1) The registration fee is not refundable under any circumstances.
- (2) If the arbitral proceedings are terminated without an arbitral award, where the claimant waives the claim before the order is given to summon the parties for the first hearing, the parties reach a settlement, or in any other cases where the Court receives similar requests until the provided date, the claimant shall be refunded 60% of the arbitration fee.
- (3) Where the arbitral proceedings are terminated at the first hearing of the arbitral tribunal, and no arbitral award has been issued, due to a settlement between the parties or a waiver of claim, a share of 30% of the arbitration fee shall be refunded.

- (4) In other cases of arbitral proceedings' termination, the arbitration fees and costs shall not be refunded unless the Steering Committee of the Court of Arbitration decides otherwise, taking into account the stage of the proceedings at the moment of termination.

Article 10. Final provisions

- (1) Any agreement between a party and the arbitrators regarding fees shall be null and void.
- (2) This Regulation shall enter into force upon approval by the Steering Committee of the Court of Arbitration and shall be published on the website of the Court of Arbitration.