



## Frequently Asked Questions on Arbitration Law in Taiwan

The following are frequently asked questions on the arbitration process in Taiwan. Generally, parties must contractually agree to use arbitration as a dispute resolution mechanism, so arbitration procedures will be set out in the agreement at issue. If the agreement provides that arbitration is to take place in Taiwan, but does not specify a certain matter, then the Rules of the Arbitration of the Republic of China (the “Arbitration Law”) will apply. This information is for reference only, and nothing herein is to be construed as providing advice to you in your situation, which may be very different from the general example provided here. Please contact our office for a more detailed assessment of your particular situation.

### 1. How will the venue for arbitration be decided?

If the agreement is silent on the venue for the arbitration, according to Article 20 of the Arbitration Law, the arbitration tribunal will decide the venue. Taipei is usually the preferable venue as most arbitrators are located in Taipei.

### 2. How many arbitrators are needed for arbitration and how are arbitrators selected?

If the agreement does not provide the number and procedure for selecting arbitrators, according to the Article 9 of the Arbitration Rules of the Chinese Arbitration Association (“CAA”), each party must appoint one arbitrator, and these two arbitrators will select a third arbitrator to be the chief arbitrator of the panel.

### 3. How much are arbitration fees?

- A. Filing Fee: According to Article 25 of the Rules of CAA, Mediation Procedures and the Fees (the “Fee Rules”), the applicant must pay NT\$600 for the relevant documentation, application form and filing.
- B. The Arbitration Fee: The applicant must pre-pay the required arbitration fee listed in the table below in advance in accordance with Article 34 of the Fee Rules. These fees are recoverable if the applicant prevails in the proceedings.

	<b>Amount of Claim (NT\$)</b>	<b>Arbitration Fee (NT\$) or Rate (%)</b>
1.	Below 60,000	3,000
2.	From 60,001 to 600,000	4
3.	From 600,001 to 1,200,000	3
4.	From 1,200,001 to 2,400,000	2
5.	From 2,400,001 to 4,800,000	1.5
6.	From 4,800,001 to 9,600,000	1
7.	Above 9,600,001	0.5

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**4. Can CAA select both Chinese and English languages for the arbitration process?**

According to Article 25 of the Arbitration Law, parties to a dispute of an international character may by mutual agreement designate a language to be used in the arbitration proceeding. If there is no such mutual agreement (such as in the agreement at issue), the Chinese language will be used for the arbitration process, but a translation of the Chinese arbitration documents may be requested and a translator may be provided in accordance with Article 25 of the Arbitration Law. The cost for the translator must be pre-paid by the party requesting the translator, but is recoverable from the other party if the requesting party prevails.

**5. What can be claimed in the arbitration process?**

- A. Monetary damages.
- B. Specific Performance.

**6. Can the principle of equity be applied in the arbitration process?**

According to Article 31 of the Arbitration Law, the arbitral tribunal may give an award in accordance with the principles of equity if the parties have expressly authorized the arbitral tribunal to apply such principles. To apply the equity principle means that the arbitrator may give the arbitration award according to their views of fairness and equity. This principle is recommended only when strictly applying the law would cause disadvantages to the parties.

**7. How long will it take before the arbitration award is delivered?**

According to Article 21 of the Arbitration Law, the arbitral tribunal must render an arbitral award within six (6) months from the commencement of the arbitration procedure. This six-month period may be extended for an additional 3 months if necessary.

**8. Can the non-prevailing party appeal an arbitration award?**

No appeal is available to the non-prevailing party. According to Article 37 of the Arbitration Law, the award given by the arbitral tribunal shall be binding on the parties and have the same effect as a final judgment given by a court.

**9. How will an arbitration award be enforced?**

To enforce an arbitration award, the prevailing party must apply to the court to issue an enforcement order. It takes about 2 weeks to obtain the enforcement order from the court.

**10. Can an arbitration award be revoked by the court?**

Yes, an arbitration award may be revoked by the court, as provided in Articles 38 and 40. The main situations where an award may be revoked are as follows:

- A. The arbitration award concerns a dispute not contemplated by the terms of the arbitration agreement.
- B. The arbitration agreement is invalid.
- C. The arbitration tribunal fails to give any party an opportunity to present its case.
- D. The arbitration proceeding is in violation of the law or the arbitration agreement.
- E. Evidence upon which the arbitration award relies has been forged or fraudulently altered or contains any other misrepresentations.

**11. Can the enforcement procedure be stayed during the arbitration revocation process?**

Yes, according to Article 42 of the Arbitration Law, during the court procedure to revoke an arbitral award, the court may issue an order to stay the enforcement of the arbitral award if the party who files such request pays a security bond. The bond is usually the same as the amount decided in the arbitration award.

**12. Is the non-prevailing party automatically liable to pay the prevailing party's legal fees?**

No, unless the agreement specifies that the non-prevailing party must pay the legal fees of the prevailing party, the non-prevailing party is not automatically liable to pay the prevailing party's legal fees.

Please feel free to contact our office if your question is not answered above or if you would like us to assess the particulars of your case.