

# Kluwer Arbitration Blog

## The New CAMP Arbitration Rules: Keeping Up with Current Innovations And Trends

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On November 12, 2021, the [new arbitration rules](#) (the “2021 Rules”) of [Paraguayan Arbitration and Mediation Center](#) (“CAMP” for its acronym in Spanish) –the main arbitration institution in Paraguay –came into effect.

The 2021 Rules include new developments that modernize CAMP’s practice, especially with regards to international arbitration. In other cases, the new provisions reflect practices that were already being developed, notably on the use of technology as it was “imposed” during 2020 and 2021. As such, the 2021 Rules include a Model Protocol on Digital Procedures (Appendix V), which reflects best practices on proceedings conducted remotely. Something similar occurs with article 21, which incorporates case management conferences to prepare the first procedural order, which was already standard practice.

The key new features comprise the incorporation of the Emergency Arbitrator, the rules for Expedited Procedure, and procedures for multi-party and multi-contract arbitrations, and consolidation of arbitral procedures (aspects that did not exist in CAMP’s previous rules but have become increasingly common in other arbitration rules around the world). However, there are also important changes regarding confidentiality, time limits for issuing an award, and costs regulation.

### 1. Emergency Arbitrator and Expedited Procedure

#### Emergency Arbitrator

Article 31 of the 2021 Rules allow the parties to request provisional measures to an emergency arbitrator in urgent cases that cannot wait for the constitution of the arbitral tribunal. The Emergency Arbitrator rules are similar to those of article 29 of the [ICC Arbitration Rules \(2021\)](#). Like with the ICC rules, the decision of the emergency arbitrator shall take the form of an order and it must be rendered within 10 days from the date the emergency arbitrator receives the case file (the ICC establishes a 15-days term).

The Emergency Arbitrator procedure has an approximate cost of US\$ 8,000 that can be increased depending on the nature and complexity of the case.

## Expedited Procedure

Appendix IV of the 2021 Rules provides for the Expedited Procedure, which does not apply automatically (unlike what may occur under the ICC rules). Instead, the 2021 Rules provides for situations in which the CAMP “shall invite the parties to modify the arbitration clause” in order to conduct the arbitration under the Expedited Procedure. Pursuant to article 1(1) of Appendix IV, these situations comprise:

- If the parties agreed on one arbitrator to resolve their disputes; or
- If a three-member tribunal was agreed upon, and the dispute does not exceed US\$ 100,000.

If these conditions are met, article 1(2) of Appendix IV indicates that the CAMP should propose the parties to conduct the arbitration under the Expedited Procedure rules, even after the filing of the Answer to the Request for Arbitration and without setting a maximum time limit. In any event, it would seem that it is until the appointment of the arbitral tribunal that it is reasonable to make this invitation and then, eventually, the parties may agree on the timetable, taking into account the deadlines and procedural events of an expedited procedure.

Under the Expedited Procedure rules, the final award must be issued in two months. While the rules do not state when this term starts running, the rule of article 38(3) of the 2021 Rules, applicable to the normal procedure, may be applied analogously, whereby the term to issue the award starts running from the date the proceedings are closed. Under CAMP arbitrations, the proceedings are normally closed after the parties submit their closing arguments.

Like in the ICC expedited procedure, the arbitrator may, after consultation with the parties, decide not to allow requests for document production or to limit the number, length, and scope of written submissions and written witness testimony (for both fact witnesses and experts), and may decide the dispute based solely on the documents submitted by the parties, with no hearing and no examination of witnesses or experts.

## **2. Multi-party, multi-contracts, and consolidation of arbitrations**

The new article 8 of the 2021 Rules provides for the possibility of starting a single arbitration to settle disputes arising out of or relating to more than one contract, regardless of whether the claim is formulated under one or more arbitration agreements.

Under article 12, consolidation must occur prior to the constitution of the arbitral tribunal and may take place in the following cases:

- If the claims arise from the same arbitration agreement; or
- If the claims arise from different arbitration agreements:
  - Those agreements are compatible;
  - That the agreements relate to the same legal transaction; and
  - That the parties to the various arbitrations are the same or, if different, that they have consented to be bound by the arbitration agreement(s).

The 2021 Rules also allow the consolidation of arbitrations *after* the tribunal is constituted, but only if the parties to the various arbitrations file a joint request for consolidation.

Finally, article 11 of the 2021 Rules regulates how to constitute the tribunal in case of multiple parties (only for three-member tribunals). In principle, the claimants on one hand, and respondents on the other hand, must jointly nominate their arbitrators, who will later designate the president of the tribunal. If the joint nomination is not possible, the CAMP will step in and nominate.

This innovation is welcomed because the multiplicity of parties always brings with it problems regarding the appointment of arbitrators, a fundamental right of the parties to an arbitration. However, the CAMP has missed a good opportunity to also contemplate rules on the joinder of additional parties to arbitration proceedings, as the new ICC Rules did. Although paragraphs 3 and 4 of the new article 11 encompasses the situation of additional parties joined before and after the constitution of the tribunal, it only mentions that, in the first case, the additional party may choose the arbitrator jointly with the claimant or respondent; and in the second case, it establishes the presumption that the additional party consented to the constitution of the arbitral tribunal.

### 3. The award: term and publicity

Under article 38(3) of the new 2021 Rules, the term arbitrators will have to issue their award under a normal procedure, is 3 months from the date the proceedings are closed. Failure to comply with this rule may result in sanctions for the arbitrators, including their exclusion from CAMP's arbitrators list.

The confidentiality of the award remains (article 39(5)), however, the CAMP may publish the award or select decisions, with the corresponding redaction to maintain the parties' confidentiality (art. 39.6).

### 4. Costs

Article 45(2)(e) of the new 2021 Rules now includes attorneys' legal fees as part of the arbitration costs a tribunal may order one party to pay. The older rules followed the [Paraguayan Arbitration Act](#), where legal fees could only be recovered as part of the arbitration costs if the parties so agreed. This issue was recently addressed by the Paraguayan Supreme Court in the case *R. R. D. L. v. M. L. and others*,<sup>1)</sup> where the court ruled that the lack of agreement regarding legal fees meant that they were not part of the arbitration costs. The new rule now provides that the tribunal will always include legal fees as part of the arbitration costs.

### Conclusion

In the next year or so, the Paraguayan arbitration community will certainly enter into a learning period, considering the new features of the 2021 Rules and some gaps discussed in this piece. However, the new 2021 Rules are, indeed, a very important step forward in the cost-efficient resolution of disputes, considering the relevance of the CAMP as the main arbitral institution in Paraguay.

The innovations of the 2021 Rules certainly place the CAMP at the forefront in terms of efficiency

and flexibility, following the steps of other important arbitral institutions that renewed their rules in the past couple of years, like the [ICC](#), the [Swiss Arbitration Centre](#), the [Paris Centre for Arbitration and Mediation](#), and the [FAI](#), to name a few.

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### References

*Recurso de queja por recurso denegado en los autos Roberto Ruiz Díaz Labrano c/ Maximino ?1 Lazzarotto y otros s/ Regulación de Honorarios Extrajudiciales*, Supreme Court of Justice of Paraguay, Civil Chamber, Decision No. 6 dated March 8, 2021.

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