



AI in IA: a clause for concern?

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Welcome

We are approaching summer, and it’s time for another edition of Reed Smith’s newsletter on international arbitration.

The subject is artificial intelligence (AI) in international arbitration. AI is a subject that has generated extensive discussion in recent years. Like many of its peers, Reed Smith has made significant investments and innovations in AI to support its dispute resolution offerings globally.

We hope that this newsletter will stand out in the ongoing debate, bringing together the insights of Reed Smith partners and associates from around the globe, arbitral institutions and other well-versed professionals familiar with the issues that AI raises in arbitration.

The AI train is already en route, but it can and will accommodate many passengers and drivers as it gathers speed. While the destination is still uncertain, we hope you enjoy this account of the journey so far.



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Note from the Editor

AI is not a modern phenomenon. It was first termed many decades ago. Until recently, no one in arbitral circles was suggesting that special attention needed to be paid to such matters.

However, modern-day advances in the power of AI are presenting new challenges. The first is definitional. The 2025 CIArb Guideline adopts a broad definition of “AI” that includes any machine-based system that receives input and generates output “content” that can influence a physical or virtual environment. An “AI Tool” is then defined as a tool or platform that relies on, incorporates or utilizes some form of AI. On that basis, the spell checker in Microsoft Word is an AI Tool, as is Google Translate. Some of these tools have been around for 40 years or more. I confess to having used them for decades. At the other end of the spectrum, the definition of an “AI Tool” would clearly cover modern generative AI systems such as ChatGPT. The CIArb Guideline provides a separate lengthy definition for a “Gen AI Tool”. This definition is then referenced only once, in Appendix B, as part of the proposed long form procedural order on the use of AI in arbitration. Definitions vary tremendously in this field. But they matter.

Modern AI, unlike its predecessor, evokes a reaction from almost everyone. That in itself is telling. Previously the domain of highly specialized individuals, and hidden from general view, AI is now literally at everyone’s fingertips in the form of ChatGPT, Copilot, Harvey AI and other systems. Some users are evangelical about the benefits of AI, while others are sceptical. It is increasingly rare to find someone who has not tried using AI at least once, if only to confirm their attitude toward it. Since 2022, the uptake of generative AI has been extraordinary. The reasons are not difficult to understand.

But what about AI and arbitration? One thing is certain: it is already being used and it is here to stay. Currently, AI’s capabilities are limited to predictive behaviour based on large data sets. Almost by definition, in its present form, AI cannot be truly innovative in a human sense where intuition and creative risk-taking are routinely deployed. ChatGPT will seek to argue to the contrary, but when properly questioned, it will concede. While setting strategy may be beyond AI for now, it is increasingly becoming an essential part of a lawyer’s toolkit. Leading law firms, including Reed Smith, have already integrated AI into their work routines, with many of our lawyers having used it for years.

And what of the future? For some, human-level artificial general intelligence (AGI) is just around the corner – not a distant, speculative dream. If AGI is with us before the end of the decade, as some predict, what implications are there for arbitration and dispute resolution generally? It is surely not neutral that the upcoming ICC Task Force on Artificial Intelligence in International Dispute Resolution has been so named. Judging by its name, the task force’s mission will be to look broadly at how AI is affecting or will affect international dispute resolution, not simply arbitration. Some blue-sky thinking may be required – just don’t ask ChatGPT.

Among all this change, one thing will remain constant: international disputes will continue for the foreseeable future. However, the manner in which they are resolved is not guaranteed to stay the same. Considered wisdom maintains that international arbitration will remain first and foremost in such matters, offering many features unmatched by other means of dispute resolution. Emphasis is often placed on the fact that parties can choose their tribunal, confidentiality and enforcement advantages. In practice, there is no uniformity in how these matters are delivered as a service to its users, whose experience of an ICSID arbitration can differ significantly from that of an LCIA or GAFTA arbitration in terms of tribunal choice, confidentiality and enforcement. What if a new experience were offered to resolve international disputes? Some of the world’s greatest innovations have emerged seemingly from nowhere to solve problems that few had even identified. In any such debate, where international arbitration is concerned, the role of the 1958 New York Convention cannot be ignored.

More generally, as lawyers, we are increasingly required not just to solve well known problems but rather, identify them among an ever denser array of information, much of it generated by the emergence of new technologies. Once the problem is identified it must be resolved in the client’s best interest. Looking ahead and strategic thinking are critical in this task. AI can help in this, but it is fair to predict that it will not replace lawyers in such task anytime soon. However, if this prediction proves wrong, clients may find themselves having to engage with chatbots and virtual lawyers, or resolving their disputes in ways that, initially, only a few will embrace.

Should the arbitral community bow to the inevitable and embrace AI in all its forms? Perhaps by focusing on AI, the arbitral community is addressing a problem that is more imagined than real. Will the “solution” be more onerous and troublesome than the challenges it purports to meet? There are more questions than answers at this time. For now, one thing remains clear: in any current arbitration, ultimate responsibility remains with the (human) arbitral tribunal. The old adage still holds true – the arbitral process can only be as good as the tribunal that conducts it.

Meanwhile, perhaps the best practical advice is to accept that AI is here to stay, whether it is welcome or not. An arbitral process may have to simply acknowledge this reality, irrespective of how technologically sophisticated the stakeholders are in such matters. To resist AI entirely evokes images of King Canute trying to hold back the tide, but with the caveat that those who refuse to allow AI into their arbitral process risk undermining the integrity of the arbitral process itself. It is almost axiomatic that during an arbitral process someone involved – knowingly or otherwise – will use AI tools, from basic spell checkers to more modern and sophisticated tools.

To help unpack these issues, this edition features thoughtful contributions from across the Reed Smith network and beyond, focused on the present and future of AI in arbitration.

From Singapore, Joyce Fong, Thara Gopalan¹ and ChatGPT share thoughts on AI in arbitration in a discussion-style format.

From the UAE, Antonia Birt, Matthew Harley and Avinash Poorooye look at the current and future role of AI in arbitration. Already, AI enhances efficiency by supporting legal research and streamlining procedural steps. But if AI is to develop from an experimental tool to a trusted fixture in arbitration, parties will need to be confident that its use is both fair and reliable.

From Paris and Dubai, Peter Rosher, Alison Eslick and Alice Jones look at how AI is becoming increasingly integrated into construction projects, and consider whether this will reduce, increase or create new disputes.

From New York, Rebeca Mosquera examines how arbitral institutions in the United States are responding to AI and addresses other areas where AI touches the world of dispute resolution. She offers practical guidance for counsel and arbitrators navigating this fast-moving landscape. As AI advances, the competence of counsel and adherence to core values will remain essential – perhaps even more so than before.

From Hong Kong, Lianjun Li and Jensen Chang offer an overview of the current state of play in China, with the Supreme People’s Court having opined in 2022 on regulating and strengthening the applications of AI in the judicial field. There is also discussion of intelligent adjudication systems that have been in place since 2018.

¹ Vice President, AAA-ICDR

From Paris, Natasha Tardif and Alexandre Shamloo give an overview of the EU AI Act and consider its application to arbitration – an essential read. We learn that although most compliance obligations fall on the providers of high-risk AI systems, users (or “deployers”) cannot escape regulation entirely. Thorny disclosure issues surrounding the use of AI in the arbitral process may need to be viewed through the lens of the Act. Is the AI system in question properly classified as “high-risk” or “limited-risk”? The authors conclude that while the effect may be limited, the EU AI Act will impact arbitration.

Finally, Peter Rosher and Sophie Nappert² engage in an illuminating conversation on the impact of AI in international arbitration and its future potential. The discussion offers many interesting thoughts. Sophie Nappert states, where AI is only being used in the background, “I don’t think we need to make a big deal of it”. Of course, modern AI is a big deal, but how stakeholders react to it will be key. Faced with such a revolutionary advancement in technology, you can choose to join in, opt out, or evolve with it. Sophie Nappert seems to recommend evolution over revolution, with her main advice being “Don’t put your head in the sand!” That sounds like good advice.

Some of the contributions in this newsletter have benefitted from AI-assistance. As of today, that almost goes without saying. Looking ahead, use of AI assistance may not merit mention at all, as its use becomes quasi universal and presumed. In the not-too-distant future, use of AI may even be cognitively forgotten, in the same way as certain inventions take root and become part of life without more. Outside of rarefied circles, no-one today debates the utility of the wheel. And while AI is no doubt a more contentious subject than the wheel, it would not be alone in contentious developments that later become part of daily life. In the coming years, all stakeholders in arbitration and dispute resolution will likely need to embrace AI as part of their daily routine. AI is not going away any time soon.

We hope you enjoy reading this edition of the Reed Smith IA newsletter and that you find time over the summer months to relax and reflect.

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AI decision-making in IA: Exciting evolution or unwelcome distraction?

Introduction

The use of AI by arbitral tribunals is a topic of intense debate. To explore this issue, this article presents a dynamic discussion between three distinct points of view: (i) ChatGPT, offering the perspective of large language models (LLMs);¹ (ii) Joyce Fong, providing insights from the viewpoint of lawyers and the arbitration users they represent; and (iii) Thara Gopalan, Vice President, AAA-ICDR, sharing perspectives from arbitral institutions.

Discussion

What role should AI play in arbitral tribunals?

ChatGPT: AI's role in arbitral tribunals should be to enhance, not replace, human decision-making. I see myself primarily as an assistant and advisor – providing legal research, identifying patterns in case law, generating draft procedural orders and streamlining administrative tasks. This allows arbitrators and counsel to focus on substantive legal and strategic matters.

Could AI ever be a decision-maker? In theory, yes – AI can analyze vast amounts of data without bias, ensuring consistency and efficiency. But arbitration is about more than just logic; it involves judgment, discretion and an understanding of human dynamics. For now, AI is best positioned as an indispensable tool for human arbitrators, rather than a substitute.

Joyce: The current general consensus among arbitration practitioners is that AI is helpful as a tool to enhance the arbitral process, including its efficiency and the quality of the arbitrators' decision-making.² Arbitrators should not, however, relinquish their decision-making powers to AI.

I agree with the general consensus. In principle, the use of AI by arbitral tribunals is not objectionable. This may, in fact, be increasingly expected by the parties, given the potential cost savings resulting from the more efficient conduct of arbitrations. AI's role in this context is, however, similar to that of tribunal secretaries.

I would be more cautious about advocating AI as a decision-maker right now. In addition to the points already made by ChatGPT, a fundamental issue is the lack of insight as to the psyche of an AI arbitrator. When parties select a human arbitrator, they do so with some knowledge of that individual, such as education, experience, reputation and inclinations (where there are publications or reported decisions). Unless institutions disclose the algorithms used to train the AI arbitrator or perhaps allow parties to “build-an-AI-arbitrator” with desired characteristics or knowledge, it will be difficult to convince parties to choose an AI arbitrator over a human one, particularly for high-value and complex disputes.

Thara: At the AAA-ICDR, we've been innovating for a century. From launching one of the first public-facing online arbitration platforms in the early 2000s to now developing AI and generative AI (GenAI) tools for parties, case managers and arbitrators, we've constantly embraced technology as a means of advancing our core mission: expanding access to justice, driving innovation and sharing our expertise globally.

GenAI is no exception – it presents a rare opportunity to scale our impact exponentially.

We're currently in Phase One of our GenAI use: adoption, experimentation and optimization. Our focus is on exploring how GenAI can support our neutrals. And so far, it's proving highly capable. It can help distill large volumes of filings, generate timelines, draft better clauses and streamline administrative workflows. To this end, we have promulgated the [AAAI Standards for AI in ADR](#), which provide a comprehensive framework for responsible AI use grounded in ethical and human-centric values, privacy and security, accuracy and reliability, explainability and transparency, accountability and adaptability.

We're also investing in Phase Two. Our arbitrator data analytics initiative is focused on building a clean, structured foundation to eventually support more innovative, data-driven tools – with human judgment at the core.

For the time being, AI (including GenAI) is still a tool. The judgment, fairness and credibility that define arbitration continue to rest squarely with human professionals.

Are there areas where AI could fully replace human judgment?

ChatGPT: AI could fully replace human judgment in areas where decisions are formulaic or based on clear, objective criteria. For example, in standardized disputes like construction delays, commodities pricing or smart contract enforcement, AI could analyze data, apply preset formulas and make determinations quickly and efficiently. It could also handle procedural and administrative tasks like scheduling or cost allocation, streamlining the process while ensuring consistency and accuracy. In these contexts, AI could manage repetitive, rule-based tasks without error, offering significant time savings.

However, when it comes to matters requiring interpretation, fairness or discretion, AI still falls short. It can't assess things like witness credibility or public policy concerns – areas where human arbitrators use judgment, intuition and experience. AI may also struggle with evolving legal principles or the broader commercial and social context of disputes. So, while AI can handle predictable and data-driven aspects of arbitration, humans are still needed for complex, context-sensitive decisions where judgment and empathy play a critical role.

Joyce: If a dispute can be resolved based on objective criteria (and is therefore arguably a perfect candidate for an AI arbitrator), chances are that parties would be able to resolve this dispute themselves without having to resort to arbitration. The disputes that end up in arbitration tend to involve grey areas where judgment is ultimately needed to resolve the deadlock. In fact, one of the key advantages of arbitration over litigation is the ability for parties to select arbitrators whose judgment they trust to resolve their disputes.

For now, the easiest way for parties to use AI arbitrators might be to agree to carve out certain categories of disputes, such as disputes below a certain threshold, on the basis that the benefits of using an AI arbitrator for those types of disputes outweigh the disadvantages arising from the lack of human judgment.

With that said, I would not be surprised if LLMs are trained in the not-too-distant future to reason and adjudicate disputes like specific arbitrators, including by granting the LLMs access to these arbitrators' collection of awards and publications. Taking this a step further, we might even be able to train up a “super arbitrator”, being an AI arbitrator who amalgamates best practices from any number of well-regarded arbitrators from across the globe.

Thara: In very narrow, highly standardized disputes – where the facts are fixed and the outcome hinges on a formula – sure, parties might choose to use GenAI to decide the matter. But that's rare.

The reality is that most arbitrations today still involve nuance, discretion and judgment. They require someone who can assess credibility, apply legal reasoning and evaluate fairness in context. GenAI isn't capable of doing that yet.

At the AAA-ICDR, our approach reflects this reality. Tools like Clearbrief assist arbitrators with cite-checking and cross-referencing facts, providing consistency across timelines, procedural histories and statements of fact. The result is more accurate outcomes, less time spent on manual tasks and lower costs for the parties.

But the complete replacement of human judgment? That's not where we are at the moment, and it may not be what most users want right now.

¹ The human authors used ChatGPT, OpenAI's large-scale language-generation model, to generate responses in the Discussion section below from the perspective of LLMs. ChatGPT was asked to provide responses to the questions from the LLM's perspective, with the freedom to adopt a pro-LLM approach where justified.
² See, for example, the *Guideline on the use of AI in Arbitration (2025)* published by The Chartered Institute of Arbitrators (CI Arb) - https://www.ciarb.org/media/m5dl3pha/ciarb-guideline-on-the-use-of-ai-in-arbitration-2025-final_march-2025.pdf.



How should AI-driven decision-making be made transparent and accountable?

ChatGPT: Transparency and accountability in AI-driven decision-making start with explainability – that is, AI systems used in arbitration must be able to articulate the reasons behind their outputs in a way that human users can understand. This includes documenting the data sources used, the logic behind specific recommendations and any limitations of the model. If an AI tool contributes

to review by the tribunal and, where appropriate, by the parties. Mechanisms should be in place to allow parties to question the use of AI if it appears to have impacted procedural fairness or substantive outcomes. Institutions may also consider adopting guidelines or ethical standards for AI use in proceedings, ensuring that tribunals disclose AI involvement and that such tools are vetted for bias, security and reliability. Ultimately, the key is to treat AI not as an invisible authority, but as

If AI is used to assist the arbitral tribunal rather than as a decision-maker, the human arbitrators remain the ultimate decision-makers who bear personal responsibility for any errors, whether made by human or machine. From that perspective, the arbitral tribunal’s obligations of transparency and accountability may not be all that different from situations where they rely on the assistance of tribunal secretaries.

At AAA-ICDR, our approach is built around four key pillars:

First, we put parties in control. GenAI is not hardwired into the process. If parties want a tribunal to use tools like Clearbrief, they must opt-in – and they set the parameters. These discussions typically occur during the first procedural hearing, alongside cybersecurity considerations, so that everyone starts on the same page.

Second, our tools are designed to avoid black box outcomes. Clearbrief, for example, doesn’t just spit out timelines or summaries – it links every generated output directly to source documents in the record. Our eCenter AI Assistant only references documents already filed in the arbitration. When parties or arbitrators use these tools, they know exactly what’s being cited – and can verify it themselves.

Third, we provide institutional guidance to our arbitrators, updating it as needed so that they have current information. In March 2025, we released a revised [*Guidance on Arbitrators’ Use of AI Tools*](#). The guidance affirms that AI and GenAI can assist arbitrators – but never replace their professional judgment. It covers:

Accuracy: Arbitrators must critically assess and cross-check AI outputs against primary sources. GenAI is helpful but not infallible.

Due process: AI tools must never undermine the parties’ right to a fair hearing or influence how evidence is evaluated.

Independence: Canon V of the *AAA-ICDR Code of Ethics for Arbitrators in Commercial Disputes* is clear – arbitrators must retain complete control over their reasoning and conclusions. AI may assist with research or drafting, but the decision must reflect the arbitrator’s analysis.

Confidentiality: Arbitrators are reminded not to enter party data into unsecured platforms; arbitrators are also reminded to only use secure tools.

Disclosure: If GenAI has a material impact on how a case is managed or decided, arbitrators are expected to disclose that use to the parties in advance.

And finally, AAA-ICDR safeguards data at every stage. AAA-ICDR exclusively works with secure, enterprise-grade tools that meet strict confidentiality and cybersecurity standards.

So, how do we keep AI and GenAI accountable? By making them visible, auditable and entirely human-directed. There are no black boxes, no shortcuts – just more innovative tools with clear boundaries and full transparency.

to a procedural decision or even assists in drafting an award, there should be a clear record of how and why it was used. Just as arbitrators must provide reasoned decisions, AI should not operate behind a digital curtain.

Accountability also requires human oversight and challengeability. AI tools should always be subject

a transparent, traceable and challengeable part of the arbitral process.

Joyce: It is important that arbitral tribunals are upfront at the outset about the extent to which they plan to use GenAI in performing their duties. This affords parties the opportunity to object or voice any concerns, and for all involved to agree to any necessary safeguards.

Thara: Arbitration should never become a black box – especially if machines do not power it. When GenAI is used, parties should understand what the tech is doing, why it’s being used and where it fits into the process. Accountability isn’t a “nice-to-have” – it’s the foundation of party trust.



Can AI mitigate bias in arbitration, or does it risk reinforcing existing biases?

ChatGPT: AI has the potential to mitigate certain forms of bias in arbitration – particularly unconscious human biases related to nationality, gender or advocacy style. Unlike humans, AI does not get impatient with long submissions or swayed by rhetorical flair. When properly trained on diverse and balanced data, AI can promote greater consistency and neutrality in areas like arbitrator selection, procedural scheduling and even legal reasoning by applying rules impartially, without personal or cultural predispositions.

But here’s the caveat: AI reflects the data it’s fed. If that data includes biased patterns – say, underrepresentation of certain regions or historical leanings in award outcomes – the AI could end up entrenching those very biases under a veneer of objectivity. Worse, without transparency, these embedded biases might go unnoticed or unchallenged. So yes, AI can be a powerful tool for mitigating bias, but only if developed and deployed with active efforts to audit, diversify and correct the inputs and assumptions that drive its outputs. Otherwise, we risk replacing human bias with algorithmic bias – just more efficiently.

Joyce: I agree that AI can helpfully mitigate bias in arbitration, including by acting as an impartial bystander to keep human arbitrators accountable to the parties. AI can do so, for example, by predicting the likely outcome for a particular situation, based on previous decisions and trends. Arbitrators who intend to deviate from a predicted outcome should carefully consider if the departure is merited in the circumstances or if it is influenced by bias.

There are several ways of mitigating the risk of AI reinforcing existing bias. The first point to reiterate is that the onus ultimately remains with the human arbitrators to use the AI tool responsibly. This includes monitoring the AI’s output for risks of bias. There also needs to be increased transparency in respect of the AI tool: Who designed it? What data was used to train the AI? How is the tribunal in a specific arbitration using the AI tool to perform its duties? Arbitrators and parties who understand the AI tool will be better placed to act as checks and balances on the output from the AI.

Thara: AI can do both – mitigate some biases while reinforcing others, which is why institutions must be closely involved in how these tools are built, tested and used.

At the AAA-ICDR, we’ve seen how GenAI can help reduce certain forms of bias – particularly in arbitrator selection, which is one of the most sensitive and consequential parts of any arbitration. Our AAAi Panelist Search tool is a good example. It’s powered by semantic AI, which means it doesn’t just search for keywords – it actually understands the context of a request and surfaces arbitrators based on the substance of their experience as described in their resume.

That means parties get a more objective and accurate pool of candidates – not just those who use a lot of keywords or the most visible or well-networked names. For case managers, the time required to build lists, even with the case managers making the final decisions, has already been reduced by up to 55%. It also opens the door for under-recognized talent: arbitrators with the right experience but less visibility. That’s a quiet but powerful way to improve equity in the system.

But we’re also realistic. GenAI is trained on human data, and that data reflects human biases. If we’re not careful, these tools can replicate – or even amplify – those patterns. That’s why we don’t just deploy AI – we test, pilot and continuously review the outputs to make sure we’re not introducing unintended distortions.

And we don’t treat AI or GenAI results as perfect. These are tools to support human decision-making, not override it. That’s part of the training we provide our teams and arbitrators: engage with the tech, but don’t defer to it uncritically. Bias in arbitration isn’t a new problem. GenAI didn’t create it – but if handled thoughtfully, it can be part of the solution. The key is thoughtful design, human oversight and a commitment to keeping fairness at the center of every step.

How does AI impact the balance between procedural discretion and consistency?

ChatGPT: AI introduces an interesting tension between procedural discretion and procedural consistency. On the one hand, AI promotes consistency by applying rules and past practices in a uniform manner. This can be especially valuable in ensuring equal treatment of parties, reducing arbitrary variations in process and aligning procedural decisions with established norms. It’s a strong antidote to ad hoc decision-making and can help tribunals maintain procedural discipline.

On the other hand, too much reliance on AI may limit the exercise of procedural discretion, which is a cornerstone of arbitration’s flexibility. Human arbitrators tailor procedures to the context of the dispute, the parties’ expectations and cultural nuances – factors an AI may not fully grasp or weigh appropriately. In short: AI can enhance consistency, but if overused, it risks flattening the process into a one-size-fits-all model. The ideal balance lies in using AI to inform discretion, not replace it – providing data-driven insights while preserving the tribunal’s ability to adapt the process to the dispute’s unique contours.

Joyce: On balance, the consistency that AI facilitates probably assists more than it harms. In reality, the default mode is frequently a helpful starting point for arbitral tribunals and parties to brainstorm on the appropriate procedure for their dispute. AI can helpfully level the playing field for parties with different resources and ensure that the tribunal’s procedural orders reflect at least minimum due process standards. Human arbitrators, of course, remain the ultimate decision-makers at all times and retain the discretion and responsibility to ensure that the orders they make are fit for purpose.



Thara: When used deliberately, AI can enhance procedural consistency and discretion. It’s not about choosing one over the other – it’s about applying structure where it adds value and preserving discretion where judgment is essential. The goal isn’t to automate arbitration but to support better decision-making by reducing avoidable friction in the process.

Procedural discretion is one of arbitration’s greatest strengths. It allows tribunals to tailor the process to the dispute – timelines, evidence, hearings. But discretion is most effective when it’s reserved for issues that genuinely require it – not spent resolving problems that smarter tools could have prevented in the first place.

Take ClauseBuilder AI, our GenAI clause-drafting tool. It helps parties draft clear, customized arbitration clauses aligned with the AAA-ICDR’s best practices. By reducing ambiguity and avoiding delays, it provides a stronger procedural foundation from the start.

When discretion is preserved for what matters most – and AI streamlines the rest – you end up with a more efficient process that still upholds party autonomy and procedural fairness.

What are the risks AI poses to confidentiality and cybersecurity in arbitration?

ChatGPT: AI poses significant confidentiality and cybersecurity risks in arbitration, primarily due to the handling of sensitive data. Arbitration often involves commercially or politically sensitive information, and if AI tools process case data, there’s a risk of unauthorized access, data leaks, or hacking – especially if AI models are cloud-based or require external servers for processing. Ensuring that AI tools used in arbitration comply with strict data protection protocols is critical to preventing breaches.

Another major risk is data retention and usage – how and where AI systems store the information they process. If AI tools are trained on arbitration materials, there’s a possibility that confidential case data could be inadvertently retained or even influence future AI outputs. This raises serious concerns about data sovereignty and compliance with institutional confidentiality rules. To mitigate these risks, arbitration practitioners must ensure AI systems operate within closed, encrypted environments, with clear policies on data deletion, access controls and security audits. Simply put, AI’s efficiency must not come at the expense of the privacy and security that arbitration is built on.

Joyce: Confidentiality and cybersecurity issues are possibly the largest hurdles to lawyers using GenAI more readily in arbitration. At the moment, tools such as Jus AI or Harvey AI are hosted on third-party websites, with the attendant concerns about confidentiality and security that ChatGPT has helpfully articulated above. Lawyers are, therefore, very cautious about providing these GenAI tools with client-sensitive information, which is a real shame. Significant cost savings can be made if AI and GenAI are fully integrated into the conduct of arbitrations. Similar concerns and risks should apply to the arbitral tribunal’s use of GenAI in performing its duties.

Thara: AI does pose meaningful risks to both confidentiality and cybersecurity in arbitration, particularly because the process often involves highly sensitive commercial or personal information. The concern isn’t just what the tool does – it’s where it runs, how it handles data and whether those uses are visible or controllable by the parties involved. At AAA-ICDR, we’ve tried to address this by limiting the tools we use to enterprise-grade systems that are explicitly configured not to train on user data, and that meet defined security and privacy standards. The risks are manageable if institutions are intentional about the tools they adopt and the environments in which those tools operate.

Conclusion

While we are not yet at a point where GenAI can or should act as decision-makers in arbitrations, its role in shaping the arbitral process is already significant and is only set to grow. With the rapid advances in technology, it may only be a matter of time before GenAI decision-makers on arbitral tribunals become commonplace. In order for this to become a reality, the concerns discussed above about transparency and accountability, bias, procedural discretion, confidentiality and cybersecurity must first be addressed so that the evolution of AI’s role on arbitral tribunals enhances rather than disrupts the status quo.



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Code-based Justice: The algorithmic arbitrator

Introduction

Generative artificial intelligence (AI) is no longer a concept confined to the realm of science fiction. It has begun to make its way into the practice of law and, increasingly, into the world of international arbitration. While much of the discourse has focused on how law firms and arbitral institutions are adopting AI-driven tools, a quieter but significant shift is also occurring in the work of arbitrators themselves. As AI tools become more accessible, arbitrators are exploring how AI can enhance procedural efficiency, support legal analysis and manage increasingly complex caseloads.

The first part of this article explores how AI is currently being used by arbitrators; what benefits it offers to parties, arbitrators, and the wider arbitration ecosystem; and the emerging efforts to govern its use. The second part of the article gazes into the future.

Part one: The use of artificial intelligence by arbitrators – the present and near future

I. The current role of AI in arbitral work

AI is already capable of assisting arbitrators in a number of practical ways, although adoption remains cautious. Common current uses include tools that help with document review and management – particularly valuable in cases involving voluminous evidentiary records – as well as AI-powered research tools that can scan vast legal databases to identify applicable case law and commentary with unprecedented speed. Drafting support is another area where generative AI is beginning to play a role, with tools capable of producing templates for procedural orders or suggesting structures for procedural directions. Real-time translation and transcription services powered by AI are beginning to help arbitrators navigate multilingual hearings or cross-border cases more smoothly.

These tools, while still in their infancy, are already producing tangible benefits – some of which are beginning to shift expectations across the arbitral landscape.

II. Potential advantages for arbitration users

From the perspective of the parties to arbitration, the incorporation of AI into the arbitrator’s toolkit can create more efficient, accessible and predictable proceedings. Most obviously, AI tools can shorten timelines by automating traditionally time-intensive tasks.

Parties may arguably benefit from higher-quality decisions when arbitrators use AI to support their reasoning or decision-making. AI tools can enable arbitrators to access a wider and more diverse range of legal sources, where appropriate, including case law, doctrine and procedural commentary. This broader base of reference has the potential to yield decisions that are more rigorous, better informed and more consistent across cases.

Similarly, in procedural matters, AI-assisted approaches may enhance fairness. For example, algorithm-generated procedural calendars or tools that flag delays and bottlenecks in real time could help proceedings move forward in a balanced and efficient manner, limiting opportunities for tactical delay or procedural surprise.

Moreover, some parties – particularly those who are less familiar with international arbitration or are operating with fewer resources – may find that AI helps bridge gaps in procedural knowledge or access. With more streamlined processes and clearer structures, these parties may find it easier to participate on a more equal footing. In the long term, this could contribute to greater trust in the arbitral process as a whole, especially if AI tools overcome the “black box” problem and can be used transparently.



III. Potential advantages for arbitrators

For arbitrators, AI offers support in three principal domains: time, accuracy and cognitive clarity. In a typical arbitration, an arbitrator might face thousands of pages of evidence, submissions across multiple phases and a variety of procedural issues requiring management. AI can help manage this complexity by automating or semi-automating time-consuming but necessary tasks – such as identifying defined terms across the record, checking internal consistency in procedural orders or tracking party submissions.

Crucially, used appropriately, AI should not replace judgment but enhance arbitrators’ decision-making processes. By reducing administrative and procedural friction, arbitrators can focus more of their attention on substantive issues. This may be particularly valuable in large or multi-party cases, where the sheer volume of information can present a challenge.

There is also a psychological benefit: arbitrators who feel supported by tools that offer clarity, organization and instant access to information may be less prone to fatigue and the kinds of oversights that can occur in high-pressure environments. In this way, AI is not simply a tool for efficiency, but a safeguard against error. However, this depends on the reliability and maturity of the AI tools themselves, and their prudent use by arbitrators. At present, AI remains prone to factual inaccuracies, lacks context sensitivity and can behave unpredictably in complex legal settings. Until such tools become more dependable, their supportive role must be approached with some caution.

IV. Benefits and tensions in the arbitral ecosystem

At a systemic level, the integration of AI into arbitral practice raises both hopes and concerns. On the positive side, the overall quality of arbitral decisions may improve. If arbitrators are better able to research applicable laws, if procedural consistency is enhanced by AI-assisted drafting and if delays are reduced by automated tracking and scheduling tools, the arbitration process may become more rigorous, fair and cost-effective.

Institutions also stand to benefit. As more administrative functions – from arbitrator appointment to case management – are supported by AI, arbitration centers may be able to process cases more efficiently and with greater procedural consistency, reducing delays and enhancing their reputation.

Yet with these gains comes a new kind of risk. One concern is whether arbitrators, aided by the same tools and drawing from the same datasets, might begin to produce decisions that are increasingly similar in tone, structure or even substance. If AI-supported arbitrators default to the most common formulations or rely too heavily on predictive analytics based on prior awards, there is a danger that arbitral decisions may become less tailored to the specific facts and nuances of individual disputes. The bespoke nature of arbitration – a quality

that many users value – may begin to erode if efficiency begins to outweigh discretion and sensitivity. Preserving diversity and empathy in reasoning, along with clear data governance and human oversight, will be essential if international arbitration is to retain both its adaptability and its legitimacy.

V. Emerging guidelines on AI use for arbitrators

Four guidelines have recently been published that seek to establish basic principles for the responsible use of AI in arbitration: the *Silicon Valley Arbitration and Mediation Center’s Guidelines on the Use of Artificial Intelligence in Arbitration* (2024); the *Chartered Institute of Arbitrators’ Guideline on the Use of AI in International Arbitration* (2025); the *VIAC Note on the use of Artificial Intelligence in Arbitration Proceedings* (2025); and the *AAA-ICDR Guidance on Arbitrators’ Use of AI Tools* (2025). While these are a welcome step forward, they are at an early stage and offer more in the way of general principles than detailed rules.

The guidelines share a common foundation: they affirm that arbitrators must not delegate decision-making authority to AI. The human arbitrator must remain ultimately responsible for all procedural and substantive decisions, including the reasoning underpinning and the outcome of any award. Also, all guidelines call for transparency in AI use, suggesting that arbitrators should address disclosure of reliance on AI-generated insights or tools. The guidelines encourage parties and arbitrators to discuss the scope of permissible AI use at the outset of proceedings.

The CIArb Guideline goes further in offering sample language for procedural orders. It is likely that such language will become increasingly standard in procedural orders as AI use becomes more common.

Still, these guidelines remain nascent. They stop short of regulating specific tools or behaviors. Much will depend on how regulators, institutions and arbitral communities in different jurisdictions develop their own responses to the AI question. Whether this takes the form of national regulatory guidance, institutional protocols or soft law frameworks remains to be seen.

Part two: The use of AI by arbitrators – the far and speculative future

While the present-day use of AI in arbitration remains largely auxiliary – supporting research, managing documents and assisting with drafting – there are clear signals that AI’s role may deepen. If current trends continue, we may be heading toward a future in which AI moves from being an assistant to becoming, in some contexts, the decision-maker itself. Already, experimental tools are being trialed that simulate elements of adjudication, including case outcome prediction and legal reasoning generation. In this second part, we consider not only the likely evolution of AI-supported arbitrators but also how procedural models may shift and what a fully AI-led arbitration might look like.

I. AI-powered insight, human judgment

The next natural evolution in arbitrator AI use is likely to involve the deployment of predictive analytics tools. In this model, arbitrators retain full responsibility for their decisions but use AI systems that analyze large datasets of past awards, court decisions and procedural trends to generate insights into likely outcomes or common trajectories for certain causes of action or types of claims.

For example, in a construction dispute involving a delay claim, an arbitrator might consult an AI model that draws from hundreds of similar past cases to identify average damages awarded, typical legal reasoning and the procedural steps that tend to lead to early settlement. This does not bind the arbitrator to a particular result, but it can help sharpen reasoning, identify outlier patterns and spot procedural inefficiencies.

It is possible to imagine a future where predictive analytics are embedded into every phase of an arbitration. Arbitrators could receive real-time suggestions on procedural measures based on the success rate of similar procedural timetables. Parties could be notified when their arguments diverge significantly from the mainstream in comparable cases. This continuous feedback loop would allow for a more adaptive, data-driven approach to arbitration. Over time, the line between insight and influence may blur. However, this stage remains consistent with the principle that final judgment rests with a human arbitrator, ensuring that AI serves as a tool to support, rather than substitute, human judgment.

II. The “core” AI arbitrator

Looking further ahead, a more radical innovation emerges: the concept of a “core” AI arbitrator. In this hybrid model, a panel may include one or more human arbitrators, as well as an AI arbitrator.

At first glance, the advantages seem compelling from the users’ perspective. An AI arbitrator is inexpensive to deploy, requires no travel, is immune to fatigue or unconscious bias (subject to the quality of the dataset on which the AI tool is trained), and can process immense quantities of information almost instantaneously. But, in practice, this scenario may not yield any supposed gains in speed. Procedural steps in arbitration – such as allowing parties time to prepare submissions, hold hearings or present evidence – are constrained by human pacing. Unless the parties and remaining arbitrators themselves become machines, the timeframe of arbitration may remain tethered to human limitations, regardless of how fast the AI can issue an award.

What remains, then, is a financial advantage. A fully automated arbitrator could be significantly cheaper than a human tribunal, and for certain types of disputes – particularly those that are legally straightforward, factually narrow or high in volume – this might be enough to justify adoption. For high-volume, low-stakes disputes such as certain contract or consumer claims, this AI-driven arbitration model could significantly reduce costs and improve access to justice. But for this system to gain

trust, it would need to be carefully calibrated: transparent in its methodology, explainable in its decision-making and rigorously tested for bias and accuracy. Moreover, mechanisms for oversight would need to be developed to ensure accountability for decisions made by AI arbitrators.

III. Institutional adoption: AI-only expedited proceedings

A more immediately plausible transformation lies not in replacing human arbitrators entirely, but in reimagining the structure of certain types of disputes. Institutional rules, such as those of the International Chamber of Commerce (ICC), could introduce opt-in fast-track proceedings that are fully handled by AI arbitrators. Such a system might be offered for claims below a certain value threshold – say, under \$1 million – or in subject-matter areas that lend themselves to automation, such as late-payment claims or standard-form contract disputes.

Under this model, parties would agree at the contract stage that if a qualifying dispute arises, it would be resolved by AI under a simplified process. Parties could also enter such an agreement after a dispute has arisen. The procedural calendar would be tight and unambiguous. Each party would be permitted to file a single, complete statement of case, followed by one brief reply. There would be no hearing, no witness evidence and no procedural wrangling. The AI would issue a reasoned award, ideally within a fixed number of days. The award would then be scrutinized by the institution, such as the ICC Court of Arbitration. This oversight would serve as a safeguard.

The potential time and cost savings in such a model are significant. Simple disputes that might otherwise require six months of submissions and \$300,000 in tribunal and counsel fees could be resolved in weeks at a fraction of the cost. For businesses, particularly small and medium-sized enterprises, this could make arbitration a more viable option, offering a swift, affordable resolution mechanism for routine legal matters. These “AI tracks” would not replace mainstream arbitration, but would act as an efficient alternative for resolving high-volume, low-value disputes that currently languish in settlement limbo or are abandoned due to prohibitive costs.

IV. The far future: AI in complex and high-value cases

Could this streamlined, AI-only model eventually be extended to complex and high-value disputes?

The answer depends less on technological capability than on legal and psychological acceptability. From a technical perspective, AI systems could eventually be capable of understanding legal nuance, interpreting party conduct and even managing evidentiary complexity. With improvements in large language models, quantum computing and legal knowledge databases, an AI arbitrator could, in theory, handle multi-party construction disputes, treaty arbitrations or long-running joint venture breakdowns.

However, trust is harder to code than logic. Sophisticated parties may resist handing high-stakes disputes to a non-human decision-maker. Concerns would arise around appealability, interpretability of reasoning and the

perceived legitimacy of an award rendered by a system that cannot be questioned. Even the most advanced AI may struggle to replicate the human judgment and emotional intelligence necessary for nuanced decisions in emotionally charged cases. There would also be ethical questions around responsibility and recourse: what happens if the AI arbitrator errs? If parties require redress, a system of appeal may allow them to refer AI awards to (human?) arbitrators for reconsideration.

V. Looking ahead

In the near future, a blended system might emerge. AI may take a greater role in managing the proceedings – scheduling, record keeping and procedural orders – while human arbitrators retain responsibility for ultimate determinations.

Alternatively, parties might accept partial automation, allowing AI to decide specific issues (for example, quantum assessments or allocation of costs) while reserving final liability determinations for human tribunals.



The prospect of AI acting as an arbitrator also raises serious questions about enforcement. The New York Convention, drafted with human arbitrators in mind, assumes a tribunal made up of natural persons capable of legal reasoning and procedural fairness. An award rendered by AI could face challenges – especially on grounds such as due process or procedural irregularity – even if parties have consented to its use. Courts may hesitate to enforce awards that lack clear human attribution. Over time, enforcement frameworks may need to adapt. Until then, uncertainty over enforceability will remain a major constraint on the broader adoption of AI as an arbitrator.

Ultimately, the future of AI in arbitration will depend not only on what is possible but also on what is permitted and trusted. Institutional rule-making, national legislation, professional and legal ethical rules, and soft-law frameworks will need to evolve in tandem. The principles of party autonomy and due process – so central to arbitration – must not be sacrificed in the name of efficiency. However, if deployed carefully, AI has the potential not only to support arbitration but also to reshape it, offering new procedural models that are faster, fairer and more accessible than ever before.

Conclusion

AI is already reshaping the practice of arbitration in subtle but meaningful ways. For now, its use by arbitrators is largely supportive: enhancing efficiency, aiding legal research and streamlining procedural steps. Looking ahead, however, AI may do much more: from offering predictive insights into case outcomes, to potentially acting as an autonomous arbitrator in specific types of disputes, and eventually reshaping the procedural architecture of arbitration itself. Yet with these opportunities come serious questions about oversight, transparency and legitimacy.

The Silicon Valley Arbitration and Mediation Center, the Chartered Institute of Arbitrators, VIAC and the AAA-ICDR have taken important first steps in establishing principles for responsible AI use. But these remain early-stage efforts. If AI is to become a trusted fixture in arbitration – not merely an experimental tool – parties will need confidence that its use is both fair and reliable. That means clearer, more robust guidelines: frameworks

that go beyond aspirational language and offer concrete direction on disclosure, accountability and permissible scope of use. Only then can AI’s promise be realized without compromising the values that make arbitration a credible and attractive forum for dispute resolution.



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AI in construction arbitration – a fast-evolving landscape



In 2025, the construction industry looks different. Following considerable (albeit cautious) enthusiasm about the potential for artificial intelligence (AI) to transform the delivery of infrastructure projects, we are finally seeing some “proof of concept.” While it is still early days, first-mover companies are now using AI to chase efficiency, environmental and safety gains on projects, and governments are driving AI-related policy change from the top down.

What are these developments, and how will they impact construction arbitration, now and in the future?

1. Integrating AI into project delivery to reduce inefficiencies

The extent to which construction companies are currently using AI for project management is hard to gauge. But the opportunity to do so has certainly arrived.

Take, for example, the Israeli construction technology start-up Buildots. In 2024, it launched an AI assistant called “Dots” for site managers on construction projects.

The AI assistant leverages project data to help project and contract managers measure progress, track implementation and proactively resolve issues. The tool is touted to understand industry-specific terminology and project context, allowing staff to ask it questions that generate quick answers that would otherwise be difficult or time-consuming to obtain.¹ It can even generate weekly progress reports and “punch-lists” from site photos uploaded to the platform.² By preventing human errors that could lead to schedule delays and budget discrepancies, Buildots says its GPT-powered technology lessens costs while reducing delays by up to 50%.³ With a \$15 million investment from Intel Capital behind it, Buildots is seeking to “reinvent” the construction industry, by (according to its tagline) “connect[ing] the dots, fill[ing] in the blanks the human eye can’t see, and connect[ing] all aspects of construction.”⁴

1 <https://www.theconstructionindex.co.uk/news/view/buildots-launches-ai-assistant-for-site-managers#:~:text=Buildots%20is%20an%20Israeli%20technology.vision%20to%20optimise%20project%20outcomes.>
2 <https://www.newsobserver.com/news/business/article297505768.html>
3 <https://www.reuters.com/technology/artificial-intelligence/intel-leads-investment-israeli-ai-construction-tech-startup-buildots-2024-07-11/>
4 <https://buildots.com/about-us/>

Meanwhile, governments across the world are making policies to encourage the adoption of AI by the construction industry as a means to innovate project management.

In March 2024, the United Kingdom’s Infrastructure and Projects Authority (IPA) published a policy framework titled “Data Analytics and AI in Government Project Delivery,” which describes the “direction of travel” for AI use in public sector infrastructure projects. The aim? To increase productivity, prevent delays and reduce overspending on taxpayer-funded projects. The policy encourages “responsible experimentation with AI to find solutions to the biggest challenges in public projects,” with the most successful pilot programs to be rolled out more widely.⁵

Meanwhile, European countries, including Germany, have mandated the implementation of Building Information Modeling (BIM) on all public construction projects by 2027.⁶ While BIM has been around since the 2000s and long predates AI, the potential for the integration of AI with BIM means that a BIM mandate across government projects is paving the way for increased AI use.⁷ There are also examples in Germany of AI uptake by the government. In West Germany, the city of Herne has partnered with Edgital, a subsidiary of contractor Hochtief, to analyze its 380km road network via AI, helping ensure timely maintenance.⁸

Key takeaways

- As the construction industry starts to harness AI and data analytics on major projects, over the long term, we could expect to see fewer arbitration disputes fuelled by delays, disruption and design-related causes.
- Conversely, if project teams become overly reliant on AI to do the legwork for them, the efficiencies gained could be offset by errors, hallucinations, gaps and bias in the AI outputs, fueling more disputes in the short term.
- Since major infrastructure projects are incredibly complex, there will still be arbitration disputes in the foreseeable future – there are simply too many human, legal, financial and technical variables for AI to eliminate dispute risks.

5 <https://www.gov.uk/government/news/government-to-harness-the-power-of-ai-to-improve-public-project-delivery-under-new-framework#:~:text=The%20framework%20enables%20civil%20servants.biggest%20challenges%20in%20public%20projects.>
6 <https://www.3dfindit.com/en/engiclopedia/bim-obligation-germany>
7 <https://www.bimoutsourcing.co.uk/how-ai-is-transforming-bim-faster-smarter-stronger/#:~:text=Benefits%20of%20AI%20Powered%20BIM.-AI%20Powered%20BIM&text=Increased%20efficiency%20and%20productivity%3A%20AI.higher%20accuracy%20and%20reducing%20rework.>
8 <https://www.constructionbriefing.com/news/the-future-of-german-road-maintenance-is-ai-says-hochtief/8027640.article>

2. Harnessing AI for safer, greener projects

There are now concrete examples of companies that are using AI on projects to improve safety and address sustainability concerns. In particular:

Shawmut Design and Construction is a \$2 billion U.S. company, headquartered in Boston, offering construction management services. The firm has been using AI supplied by a third-party vendor since 2017 for data collection, risk evaluation and worker safety compliance, with AI helping to identify risks and predict safety-related incidents on its construction sites.⁹

SafetyCulture is an Australian start-up, valued at \$2.5 billion in September 2024 after a \$165 million capital raise. It specializes in workplace safety software that integrates AI into its platform to enable users to create personalized safety checklists, training courses and inspection templates generated in an instant by prompts, images and files uploaded to the platform.¹⁰

Brainbox AI, a Canadian construction consultancy firm headquartered in Montreal, has developed an autonomous AI system to reduce energy consumption in heating, ventilation and air-conditioning systems (HVAC).

9 <https://www.businessinsider.com/ai-for-worker-site-safety-in-construction-2025-4>
10 <https://www.forbes.com.au/news/investing/safetyculture-valued-at-2-5-billion-after-165-million-funding-round/>



The system is now deployed in HVACs in 4,000 buildings across the world. A notable success story for the start-up is the “45 Broadway” office tower in downtown Manhattan built in 1983, which recently converted from basic AC thermostats to Brainbox AI’s AI-driven system, resulting in a reduction of energy consumption “by 15.8%, saving over \$42,000 and mitigating 37 metric tons of carbon dioxide equivalent.”¹¹

Key takeaways

- AI seems to be a valuable tool to reduce “traditional” workplace injuries and will assist asset owners to reduce energy consumption costs, but compliance with health, safety and environment (HSE) obligations – whether contractual or regulatory – cannot be outsourced to an AI tool.
- New types of disputes are likely to emerge from the use of AI to manage HSE risks, including disputes between contractors and operators on the one hand, and AI vendors on the other. Disputes may center on whether an AI system has failed to detect HSE risk or whether a user has misinterpreted or wrongly overruled an AI output. Such disputes may require input from independent experts specialized in AI, causing a growth in this discipline.
- As AI vendors become part of the construction supply chain, their contracts will need to clearly define roles and responsibilities and allocate risk to avoid disputes over liability for AI errors.

3. Constructing AI data centers – a new frontier for disputes

Demand for AI-ready data centers is surging. According to an analysis by global consultancy McKinsey, the global demand for data center capacity could rise at an annual rate of between 19% and 22% from 2023 to 2030, thereby tripling in this period.¹²

Challenges include:

- finding suitable vacant land to situate a data center;
- overcoming technical complexities in the design phase;
- meeting tight timeframes for delivery given high market demand; and
- maintaining the facility to assure 24/7 capability without downtime caused by faults, cyberattacks or staff shortages.

Data centers are indeed complex facilities – they are high energy consumers that require sophisticated mechanical, electrical and plumbing (MEP) systems to protect against high heat loads and fire risks. This raises sustainability-related concerns for owners and operators where applicable net zero targets and carbon

11 <https://time.com/7201501/ai-buildings-energy-efficiency/>
12 <https://www.mckinsey.com/industries/technology-media-and-telecommunications/our-insights/ai-power-expanding-data-center-capacity-to-meet-growing-demand>



reporting regimes apply.¹³ The surge in demand for this new type of facility is therefore a likely source of design and construction-related disputes, especially as the industry drives innovation to seek efficiency gains. As land is cleared to make way for a facility, access issues may interrupt performance, especially in the context of civil unrest, leading to *force majeure* claims. There may also be disputes in the operations phase, as owners hold operators to performance guarantees that attract liquidated damages for breaches.

Key takeaways

- While AI may improve the delivery of infrastructure projects, thereby reducing the scope for disputes, the unprecedented demand for the construction of large-scale AI data centers may be a new frontier for arbitration disputes.
- The growth of data center disputes is also likely to necessitate a new breed of independent technical experts specialized in this area.

13 Ibid.

Conclusion

The integration of AI into the construction industry is rapidly reshaping both project delivery and the landscape of construction arbitration.

As companies and governments embrace AI-driven tools to enhance efficiency, safety and sustainability, the potential for reducing traditional sources of disputes – such as delays, cost overruns and safety incidents – becomes increasingly tangible. However, overreliance on AI systems, the risk of errors or biases in AI outputs and the emergence of new types of disputes mean that arbitration will remain a necessary mechanism for resolving complex issues.

The arbitration community must adapt to this fast-evolving landscape by developing expertise in AI-related issues and ensuring that dispute resolution mechanisms remain fit for purpose in an era of rapid technological change.



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Artificial intelligence in the United States and its impact on arbitration and dispute resolution

Artificial intelligence (AI) is no longer something we talk about in the abstract – it is already changing how we practice law, including in arbitration. In the United States, courts, arbitral institutions and regulators are working through how to integrate these technologies ethically and efficiently. As AI tools become more common in document review, legal research and case management, lawyers involved in arbitration – and dispute resolution more generally – need to consider both the advantages and the responsibilities that come with using them. This article examines how arbitral institutions in the United States are responding to AI; explores recent developments from non-governmental organizations, the courts, and regulators relating to AI; and offers practical guidance for counsel and arbitrators navigating this fast-moving space.

Arbitral institutions in the United States are embracing AI

As technology continues to evolve at a fast pace, arbitral institutions are recognizing the importance of adapting their practices to keep up with new technologies while at the same time safeguarding confidential and sensitive information. But change for the sake of change isn't enough. Institutions are taking a hard look at how these innovations might impact core principles such as fairness, impartiality and the enforceability of awards, to ensure their values are not lost at the expense of modernization.

The American Arbitration Association

The American Arbitration Association (AAA), together with its international arm, the International Centre for Dispute Resolution (ICDR), has engaged with the role AI can play in improving efficiency in arbitration. The AAA-ICDR has framed its AI approach around the guiding principles of competence, confidentiality, advocacy, impartiality, independence and process improvement. The goal is to ensure that any use of AI aligns with the AAA-ICDR's foundational values.¹

¹ AAA-ICDR, *Principles Supporting the Use of AI in Alternative Dispute Resolution* (Nov. 2023), <https://go.adr.org/rs/294-SFS-516/images/Principles%20Supporting%20the%20Use%20of%20AI%20in%20Alternative%20Dispute%20Resolution.pdf>.

In March 2025, the AAA-ICDR issued an updated guidance specifically addressing arbitrators' use of AI tools.² Notably, the guidance encourages arbitrators "to stay informed about AI advancements and their practical applications," emphasizing that "[d]eveloping proficiency with AI tools reflects an arbitrator's commitment to professionalism and continuous improvement." At the same time, the guidance is clear in cautioning arbitrators that "[n]o technology is a replacement for an arbitrator's expertise[.]" and that the responsibility to maintain "the highest standards of professionalism and ethics" ultimately rests with the arbitrator, regardless of the tool being used.

For example, an arbitrator using AI to distill a voluminous party submission can save hours of review time, but the arbitrator still must carefully check legal citations, confirm the facts and ensure no critical information was missed or misrepresented by the tool. That level of oversight is not optional. Rather, it is essential to avoid mistakes that could undermine the fairness and accuracy of the proceedings.

The guidance also urges arbitrators to avoid using open-access or public AI platforms when handling confidential or privileged information.³ It makes clear that arbitrators should "always use secure tools and platforms to handle sensitive case information" and "not put confidential information...into tools that do not guarantee data protection." Many of these platforms lack adequate security protocols, and some – even most – retain user inputs to train their models, raising serious concerns about confidentiality breaches. In arbitration, where privacy is often one of the main reasons parties opt for the process, that kind of risk is difficult to justify.

Ultimately, the AAA-ICDR is signaling that, from an institutional perspective, AI is not just a convenience or trend – it is becoming part of how we work. Nonetheless, its use must be tempered with responsibility.

² AAA-ICDR, *AAA-ICDR Guidance on Arbitrators' Use of AI Tools – March 2025* (Mar. 2025), https://go.adr.org/rs/294-SFS-516/images/2025_AAA-ICDR%20Guidance%20on%20Arbitrators%20Use%20of%20AI%20Tools%20%282%29.pdf?version=0.

³ A warning counsel should also heed when handling confidential, privileged or otherwise sensitive information.



JAMS

The Judicial Arbitration and Mediation Services (JAMS) has taken concrete steps to address the growing intersection between AI and arbitration. On June 14, 2024, it introduced the *JAMS Artificial Intelligence Disputes Clause and Rules* (JAMS AI Rules), offering a tailored procedural framework for handling disputes involving AI systems.⁴ These rules are designed to address the technical and legal complexities that often come with AI.

The framework includes a model arbitration clause, which parties can adopt to bring their disputes under this set of JAMS rules. The model clause reads as follows:

The Parties agree that any and all disputes, claims or controversies arising out of or relating to this Agreement shall be submitted to JAMS, or its successor, for mediation, and if the matter is not resolved through mediation, then it shall be submitted to JAMS, or its successor, for final and binding arbitration. Any dispute, controversy or claim arising out of or relating to this Agreement or the breach, termination, enforcement, interpretation or validity thereof, including the determination of the scope or applicability of this agreement to arbitrate, will be referred to and finally determined by arbitration in accordance with the JAMS Artificial Intelligence Dispute Rules. The seat of the arbitration will be [location]. The language to be used in the arbitral proceeding will be English. Judgment upon the award rendered by the Arbitrator(s) may be entered in any court having jurisdiction thereof.

⁴ JAMS, *Artificial Intelligence Dispute Clauses and Rules* [hereinafter JAMS AI Rules] (effective June 14, 2024), <https://www.jamsadr.com/artificial-intelligence-disputes-clause-and-rules>.

One standout feature of the new JAMS AI Rules is Rule 15(b), which allows for the appointment of arbitrators with specific experience in AI and related technologies. Many AI-related disputes or claims⁵ involve highly technical issues, and proper training and understanding will likely be required in the near future from arbitrators dealing with such claims. Rule 15(b) confirms that if the parties cannot agree on an arbitrator, JAMS will step in and propose panelists with the appropriate technical background to understand the dispute.

The rules also contain strong confidentiality provisions. Appendix A, for example, includes a model protective order that can be tailored by agreement or modified by the tribunal, aimed at protecting proprietary data and privacy.⁶

Silicon Valley Arbitration and Mediation Center

The Silicon Valley Arbitration and Mediation Center (SVAMC) has positioned itself as a key player in shaping how AI is approached in arbitration. While it is not a traditional arbitral institution, the SVAMC has made its mark by, among other things, developing soft law instruments that are influencing the way the legal profession thinks about tech-related dispute resolution.

⁵ The JAMS AI Rules define the term "Artificial Intelligence" as a "machine-based system capable of completing tasks that would otherwise require cognition." JAMS AI Rules, Rule 1(e).
⁶ JAMS, Protective Order, <https://www.jamsadr.com/artificial-intelligence-protective-order>.

In 2024, the SVAMC issued its *Guidelines on the Use of AI in Arbitration* (SVAMC AI Guidelines),⁷ offering practical recommendations for arbitrators, counsel and institutions navigating the growing presence of AI tools in our work. The guidelines prompted significant discussion during the consultation period, and the final version reflects meaningful input from practitioners and institutions across the arbitration community, emphasizing the importance of transparency and encouraging disclosure where AI use could have a material impact on the outcome of proceedings. Furthermore, the guidelines reinforce the fact that decision-making must remain firmly in human hands.

Notably, Benjamin Malek, former Chair of the SVAMC AI Task Force, emphasized that “[t]he goal is to draw awareness of the use of AI, to let parties and arbitrators as well as counsel understand that artificial intelligence is not open-ended...It is important to understand what AI can do and what the consequences are.”⁸

The guidelines underwent a consultation period, inviting input from the arbitration community to ensure they addressed the role of AI in arbitral practice. This open feedback process helped refine the guidelines. Notably, during the consultation period of the SVAMC AI Guidelines and their presentation at Paris Arbitration Week 2024, Guideline 3 was the focus of much discussion. Guideline 3 provides, in relevant part, that:

Disclosure that AI tools were used in connection with an arbitration is not necessary as a general matter.

Decisions regarding disclosure of the use of AI tools shall be made on a case-by-case basis taking account of the relevant circumstances, including due process and any applicable privilege.

Early drafts of Guideline 3 had proposed a more rigid guidance, one that would have required the disclosure of AI use in nearly all circumstances. That approach raised concerns, especially from practitioners who regularly use legal technology and generative AI in more routine or internal ways, such as drafting initial outlines, summarizing arguments or conducting research. Ultimately, the SVAMC AI Task Force opted for a flexible approach, leaving it to practitioners and arbitrators to assess whether disclosure would be appropriate.⁹

⁷ SVAMC, *Guidelines on the Use of Artificial Intelligence in Arbitration* (Apr. 30, 2024), <https://thearbitration.org/wp-content/uploads/2024/04/SVAMC-AI-Guidelines-First-Edition.pdf>.

⁸ *Spotlight on . . . SVAMC AI Task Force Chair Benjamin Malek*, REED SMITH PODCAST (Feb. 6, 2024), <https://www.reedsmith.com/en/perspectives/2024/02/spotlight-on-svamc-ai-task-force-chair-benjamin-malek>. The author also had the opportunity to explore the impact of the SVAMC Guidelines with Benjamin Malek during an episode of Reed Smith’s *Tech Talk* series, *AI Explained: Navigating AI in Arbitration – The SVAMC Guideline Effect*, REED SMITH: TECH LAW TALKS (2025), <https://www.reedsmith.com/en/perspectives/2025/04/ai-explained-navigating-ai-in-arbitration-the-svamc-guideline-effect>

⁹ The discussion is far from settled. As I recently noted in conversation with Antonia Hoesch on a podcast episode recorded in late 2024, striking the right balance between transparency and practicality will continue to be a moving target. But what’s clear is that the arbitration community is already engaging with these questions seriously, and the structure of Guideline 3 gives practitioners and tribunals room to navigate responsibly. Rebeca Mosquera & Antonia Hoesch, *Using AI in Arbitration: Disclosures, Transparency & the SVAMC Guidelines*, SPOTIFY (Dec. 19, 2024), https://open.spotify.com/pisode/33SXZhVYOgPhLFOkvFFKh3?si=FmdDHP1LSrWewcQoc0_blv.

Indeed, Guideline 3 takes a more flexible approach to disclosure in arbitration, one that aligns with the nature of arbitration itself. In an arbitration setting, it is important that the tribunal and counsel address early on whether disclosure of AI use will be required, and, just as importantly, what that disclosure would actually involve. Leaving the extent of disclosure open-ended can lead to unnecessary complications. One party might leverage ambiguity to demand broader disclosure from the other, turning a procedural point into a tactical one.

Without clear boundaries, disclosure of AI use risks becoming overly burdensome. Parties could find themselves needing to catalog every instance of AI use, even when the tool in question has no real impact on the substance of the proceeding. To take a mundane but illustrative example: Microsoft Word’s spelling and grammar tools are driven by AI. Does that count? Maybe, but likely not. Unless the scope of disclosure is precisely defined, the line blurs fast. That’s why, if disclosure becomes part of the process, it should be clearly defined from the outset.

American Bar Association's TechCred Program

The American Bar Association (ABA) has also recognized the growing role of AI in legal practice through its 2025 launch of the TechCred Program. The program is designed with today’s digital landscape in mind, offering modular certification in areas such as AI, cybersecurity, data governance and legal analytics.

At its core, the TechCred Program reflects a broader effort within the U.S. legal community to ensure that lawyers and arbitrators are prepared to engage with emerging technologies responsibly and effectively. The program includes both introductory and advanced training, with modules that cover everything from using AI for case analysis and predictive modeling to understanding the risks of algorithmic bias and the importance of data integrity.

Notably, the certification is awarded jointly by New York Law School in a program developed by the ABA International Law Section and includes:

- 1. Four modules that can be completed online.
- 2. CLE-eligible training focused on cybersecurity, data privacy and legal ethics.
- 3. A verified digital badge that participants can include in their professional bios or marketing materials.

The training also aligns with recent institutional expectations. As discussed, the JAMS AI Rules emphasize that JAMS can propose panelists with the appropriate **technical** background to manage disputes involving technical or AI-related subject matter. Certainly, programs such as TechCred provide a concrete pathway for arbitrators to meet that standard and signal to parties that they are equipped to manage the complexities these cases can present.

Lessons from U.S. courts

U.S. courts have taken a measured approach to the growing use of AI in legal practice. While they have not prohibited its use, they have made clear that AI tools are no substitute for a lawyer’s judgment, diligence and duty of candor.

A widely cited example is *Mata v. Avianca*, where two New York attorneys submitted a brief citing fabricated cases generated by ChatGPT. Judge Kevin Castel of the Southern District of New York sanctioned the lawyers in June 2023, noting that “[t]here is nothing inherently improper about using a reliable artificial intelligence tool... but existing rules impose a gatekeeping role on attorneys to ensure the accuracy of their filings.”¹⁰ This example underscores that, while AI might be a useful tool, it does not relieve lawyers of the duty to check their work.

¹⁰ *Mata v. Avianca, Inc.*, No. 22-cv-1461 (PKC), 678 F. Supp. 3d 443, 448 (S.D.N.Y. June 22, 2023).



A similar outcome followed in *Garrison v. Walmart*, where a federal court in Wyoming fined three attorneys for filing a motion with fictitious citations. In February 2025, Judge Kelly H. Rankin ordered the lawyers to pay a total of \$5,000 in sanctions, emphasizing that attorneys must independently verify any authority cited in pleadings, regardless of the source.¹¹

One of the earliest and most pointed judicial responses in the wake of the *Mata* case came from U.S. District Judge Brantley Starr in Dallas, Texas. On May 30, 2023, Judge Starr issued a judge-specific standing order titled “Mandatory Certification Regarding Generative Artificial Intelligence.” The order requires any attorney appearing before him to certify either (1) that no portion of their filing was drafted by a generative AI tool, or (2) that any AI-generated language was thoroughly checked for accuracy. Judge Starr made clear that failure to file the required certification will result in the court striking the filing.¹²

Following this precedent, several federal courts have issued broader administrative standing orders to reinforce these expectations. The U.S. Bankruptcy Court for the Northern District of Texas, for example, requires a certification that any AI-generated content has been reviewed by a human lawyer.¹³ Indeed, the bankruptcy court’s general order warns attorneys and pro se litigants that:

[a]rtificial intelligence systems hold no allegiance to any client, the rule of law, or the laws and Constitution of the United States and are likewise not factually or legally trustworthy sources without human verification. Failure to heed these instructions may subject attorneys or pro se litigants to sanctions....

The Northern District of California has similarly issued a standing order requiring attorneys to disclose any use of AI tools and affirm that all content has been verified.¹⁴ Judge Araceli Martinez-Olguin assigns responsibility to lead counsel for the accuracy of the pleadings, advising that:

At all times, counsel – and specifically designated lead trial counsel – bears responsibility for any submission made by the party that the attorney represents. Any submission containing AI-generated content must include a certification that lead trial counsel has personally verified the content’s accuracy. Failure to include this certification or comply with this verification requirement will be grounds for sanctions. Counsel is responsible for maintaining records of all prompts or inquiries submitted to any generative AI tools in the event those records become relevant at any point.

¹¹ *Wadsworth v. Walmart Inc.*, No. 2:23-CV-118-KHR, 2025 U.S. Dist. LEXIS 36770, at *14 (D. Wyo. Feb. 24, 2025) (order imposing sanctions).
¹² See, e.g., Lyle Morgan, *Federal Judge Seeks to Prevent Generative AI Mistakes in Briefs*, Legal Dive (June 1, 2023), <https://www.legaldive.com/news/generative-ai-hallucinations-federal-judge-order-on-ai-brantley-starr/651817/>.
¹³ Standing Order for Bankruptcy Proceedings Before Judge Stacey Jernigan, Bankruptcy Court for the Northern District of Texas, Gen. Order No. 2023-03 (June 21, 2023), <https://www.txnb.uscourts.gov/sites/txnb/files/general-ordes/General%20Order%202023-03%20Pleadings%20Using%20Generative%20Artificial%20Intelligence-signed.pdf>.
¹⁴ Standing Order for All Civil Cases Before Judge Araceli Martínez-Olguin, U.S. District Court for the Northern District of California (Nov. 22, 2023), <https://www.cand.uscourts.gov/wp-content/uploads/2023/03/AMO-Civil-Standing-Order-11.22.2023-FINAL.pdf>.

As we have seen, courts across the country have adopted standing orders that set clear expectations for how counsel may – and may not – use AI tools in litigation. The goal is to encourage responsible, informed use of AI tools. For arbitrators and counsel, these developments offer useful guidance. Disclosure and verification requirements, when applied appropriately, can play a vital role in preserving trust in the arbitration process. And, as we have discussed, many institutional rules and guidance documents already speak directly to these concerns (e.g., Guideline 3 of the SVAMC AI Guidelines).

U.S. federal and state regulatory landscape for AI

There is no comprehensive federal law governing AI in the United States. At the federal level, we have seen shifting priorities between administrations. At the same time, some states have stepped in to address specific risks tied to AI, adopting laws that focus on transparency, fairness in automated decision-making and the protection of biometric data. These parallel tracks are creating a regulatory framework that practitioners and businesses will need to monitor, particularly as disputes involving AI tools continue to surface.

On January 20, 2025, President Trump signed Executive Order 14148, rescinding the Biden administration’s Executive Order 14110 on the “Safe, Secure and Trustworthy Development and Use of Artificial Intelligence,” originally issued in October 2023.¹⁵ The earlier order emphasized agency oversight, safety testing and civil rights protections related to the federal government’s use of AI.

Three days later after issuing the order, the Trump administration issued another order, Executive Order 14179, “Removing Barriers to American Leadership in Artificial Intelligence.”¹⁶ The new order reflects a dramatically different approach – one focused on maintaining U.S. dominance in AI development by rolling back regulatory constraints and prioritizing innovation. It calls for the development of a national “Artificial Intelligence Action Plan” and instructs federal agencies to align with that strategy.

To support that effort, the White House Office of Science and Technology Policy (OSTP) issued a Request for Information in February 2025, seeking public input on a broad range of AI-related topics, including technical standards, intellectual property, safety, data use and energy efficiency.¹⁷ The comment period closed in March 2025, and further federal guidance is expected later this year.



15 Exec. Order No. 14110, 88 Fed. Reg. 75191 (Oct. 30, 2023), <https://www.federalregister.gov/documents/2023/11/01/2023-24283/safe-secure-and-trustworthy-development-and-use-of-artificial-intelligence>.
16 Exec. Order No. 14179, 90 Fed. Reg. 1359 1118 (Jan. 23, 2025), <https://www.govinfo.gov/content/pkg/FR-2025-01-31/pdf/FR-2025-01-31.pdf>.
17 Public Comment Invited on Artificial Intelligence Action Plan, WHITE HOUSE OFFICE OF SCI. & TECH. POL’Y (Feb. 25, 2025), <https://www.whitehouse.gov/briefings-statements/2025/02/public-comment-invited-on-artificial-intelligence-action-plan/>.

Meanwhile, at the state level, in May 2024, Colorado passed the Colorado Artificial Intelligence Act (SB 24-205), a comprehensive AI law, which is set to take effect in February 2026.¹⁸ The law focuses on high-risk AI systems used in consequential decisions, such as those affecting employment, education, health care, housing and legal services. It places obligations on both developers and deployers of such systems, including requirements to manage and disclose risks, maintain transparency and prevent algorithmic discrimination.

Other states have taken more targeted approaches, building on existing laws or proposing regulations that touch on narrower areas such as automated decision-making, biometric data use and algorithmic bias. While not comprehensive AI laws, these efforts reflect a growing awareness of the legal and ethical implications of AI tools.¹⁹

Ethical and practical considerations for counsel (and arbitrators)

As AI becomes more embedded in legal practice, lawyers and arbitrators using these tools remain bound by the same ethical rules that have always governed our profession. Among them is the duty of competence under Rule 1.1 of the ABA Model Rules of Professional Conduct. Comment 8 to that Rule makes it clear that staying competent means understanding “the benefits and risks associated with relevant technology.”²⁰

This obligation is not theoretical. In July 2024, the ABA released Formal Opinion 512 (Opinion 512), offering practical guidance on the use of generative AI tools in legal practice.²¹ Opinion 512 doesn’t prohibit the use of AI, but it does make clear that its use must be measured, informed and aligned with a lawyer’s core ethical duties, including competence, confidentiality, candor to tribunals and reasonable billing practices.

Here are a few key practices every practitioner should consider when using AI tools in arbitration:

- **Verification:** AI-generated work product, especially summaries, citations or legal analyses, must be reviewed for accuracy. Overreliance on unverified output could breach both ethical duties and due process expectations.
- **Confidentiality:** Open-access AI platforms cannot guarantee data protection. Opinion 512 cautions against inputting any confidential information into tools that don’t disclose exactly how that data will be stored, reused or shared.

18 S.B. 24-205, *Colorado Artificial Intelligence Act*, 74th Gen. Assemb., 2d Reg. Sess. (Colo. 2024), <https://leg.colorado.gov/bills/sb24-205>.
19 See, e.g., Local Law No. 144, 2021 N.Y.C. Local Laws 1, <https://rules.cityofnewyork.us/rule/automated-employment-decision-tools-updated/>.
20 ABA Model Rules of Pro. Conduct [hereinafter Model Rules] r. 1.1 cmt. 8 (Am. Bar Ass’n 2023).
21 ABA Comm. on Ethics & Prof’l Responsibility, Formal Op. 512 (July 29, 2024), https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/ethics-opinions/aba-formal-opinion-512.pdf.

- **Disclosure:** While not always required, disclosure may be necessary where AI materially influences case strategy or affects a client’s right to make informed decisions. In arbitration, this might include notice to the tribunal or opposing counsel when AI is used in drafting submissions or summarizing large records. See Guideline 3 of the SVAMC IA Guidelines and discussion above.
- **Supervision:** Lawyers must supervise the use of AI by others in their team, just as they would supervise human assistants, paralegals and more junior attorneys. This duty extends to understanding the limitations of the tools themselves.²²
- **Education:** Ethical competence in this context requires continued education, an awareness of new developments and a regular reassessment of the tools being used.²³

The ABA opinion also addresses billing. Lawyers cannot charge clients for learning how to use an AI tool or inflate their hours because the technology makes them faster. On the flip side, when AI tools are billed as expenses, fees must be transparent, reasonable and disclosed in advance.²⁴

Conclusion

AI is here, and likely to stay. From how we manage documents to how institutions set expectations for ethical practice, AI is reshaping the way we work and can enhance what we do. But for all the innovation, the fundamentals still apply. Arbitrators and counsel are expected to lead with judgment, stay on top of evolving standards and uphold the core values that give arbitration its legitimacy.

The U.S. landscape may still be fragmented, but that doesn’t mean we’re operating in a vacuum. Between updated institutional rules, ABA guidance and court-imposed obligations, the clear message is that we, as a profession, must use AI responsibly.

The lawyers and arbitrators who will thrive in this new terrain are not those who resist change, but those who know when to embrace the tools, when to question them, and how to do both without ever losing sight of what the profession demands.

22 Model Rules r. 5.1–5.2.
23 Model Rules r. 1.1 cmt. 8.
24 Model Rules r. 1.5, cmt. 1.



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Recent developments in AI-related laws and regulations in China

Introduction

The use of artificial intelligence (AI) has become more frequent in international commercial arbitration. Similar to other forms of technology, the adoption of AI can enhance the efficiency of arbitral proceedings and help save time and legal costs for the parties. According to the 2025 International Arbitration Survey by White & Case and Queen Mary University of London,¹ AI is currently predominantly used in factual and legal research, data analytics and document review. The adoption of AI, however, also poses challenges and risks, including its inherent bias and lack of transparency.

To ensure the use of AI does not adversely impact the integrity of the arbitral process, there is a need to regulate its use in international arbitration. In this regard, the Chartered Institute of Arbitrators issued a *Guideline of AI in Arbitration* (Ciarb AI Guideline) in March 2025, which (among others) sets out general recommendations on the use of AI in arbitration and addresses the use of AI in arbitration by arbitrators. In its introduction, the Ciarb AI Guideline expressly states that it is “intended for use in conjunction with, and does not supersede, any applicable laws, regulations or policies, or institutional rules related to the use of AI in an arbitration.” As such, domestic legislation and institutional regularization of the use of AI in arbitration are important to provide certainty to the international arbitration community.

As of April 2025, there is no legislation in Mainland China (PRC) or Hong Kong that specifically addresses the use of AI in arbitration. That said, recent developments in AI-related legislations and regulations are able to shed light on how the use of AI may be regulated in arbitration.

Draft Amendment to the PRC Arbitration Law

The PRC Arbitration Law, which took effect from September 1, 1995, underwent amendments in 2009 and 2017, respectively. On November 8, 2024, the Standing Committee of the 14th National People’s Congress released the Draft Amendment to the PRC Arbitration Law (2024 Draft) for public comment. The 2024 Draft contains certain provisions that may potentially be relevant to the use of technology (including AI) in arbitration under PRC law.

Article 11 of the 2024 Draft provides that:

“[w]ith the consent of the parties, arbitration activities may be conducted online through an information network platform. Arbitration activities conducted online through an information network platform shall have the same legal effect as offline arbitration activities.”²

While this provision makes no specific mention of AI, the express recognition of the effect and validity of arbitration conducted by digital means in the domestic legislation of the PRC provides the legal foundation for arbitral institutions to stipulate provisions on the use of technology in their own arbitration rules. For example, Article 10 of the *2024 Arbitration Rules of the Shanghai International Arbitration Center* (SHIAC Rules), titled “Digital and Intelligent Arbitration,” permits the conduct of arbitral proceedings with the assistance of information technology.

However, the implementation of technology in arbitration under PRC law is subject to the state policies of the PRC and the supervision of state organs.

- Under Article 2 of the 2024 Draft, “[a]rbitration activities shall uphold the leadership of the Communist Party of China, implement the guidelines, principles, policies, and decisions of the Party and the State, serve national strategies for opening-up and development, and contribute to the resolution of social conflicts and disputes.”³
- Further, the first paragraph of Article 23 of the 2024 Draft provides that “[t]he judicial administrative department of the State Council shall, in accordance with the law, guide and supervise arbitration work nationwide, improve the supervisory and regulatory system, and organize and plan the development of arbitration.”⁴

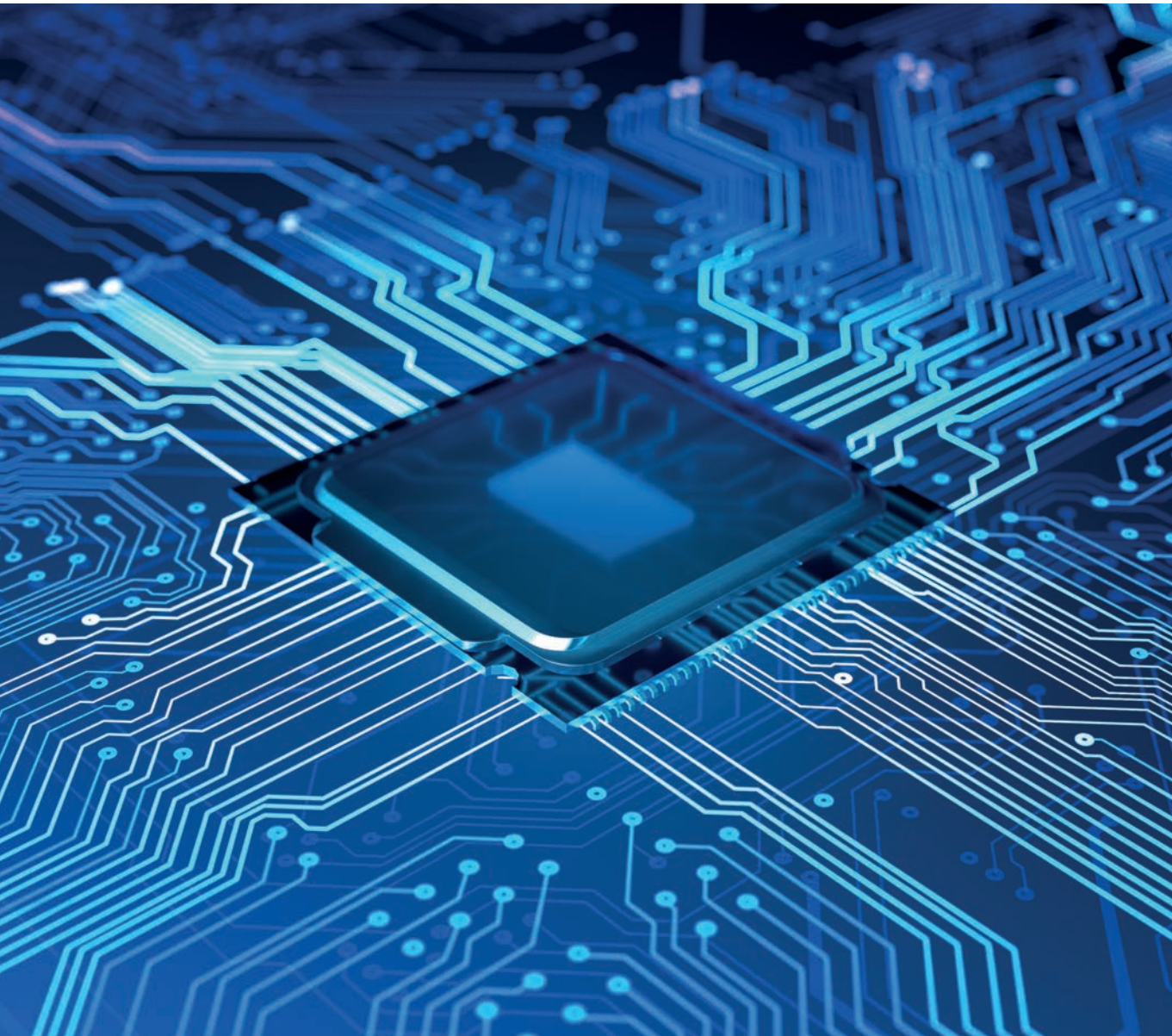
This is echoed in the SHIAC Rules, which require the use of technology to be in compliance with the laws and regulations on network security and data security, and shall not harm national security and state secrets.⁵

2 Original in Chinese: “经当事人同意, 仲裁活动可以通过信息网络平台在线进行。仲裁活动通过信息网络平台在线进行的, 与线下仲裁活动具有同等法律效力。”

3 Original in Chinese: “仲裁工作坚持中国共产党的领导, 贯彻落实党和国家路线方针政策、决策部署, 服务国家开放和发展战略, 发挥化解社会矛盾纠纷的作用。”

4 Original in Chinese: “国务院司法行政部门依法指导、监督全国仲裁工作, 完善监督管理制度, 统筹规划仲裁事业发展。”

5 SHIAC Rules, Article 10(2)



It follows that any relevant laws, regulations and measures promulgated by the PRC government, while not necessarily targeted at arbitration, need to be taken into account when considering how AI may be used in arbitration.

Opinions related to dispute resolution

On December 31, 2018, the State Council promulgated *Several Opinions on Improving the Arbitration System to Strengthen the Credibility of Arbitration*. Part 3 of the Opinions aims to expedite the promotion of the reform and innovation of the arbitration system in the PRC, with Article 12 recommending the development of Internet arbitration, including the exploration of intelligent arbitration in the adaptation of the new economy and new industrial norm. It is suggested that the intelligentization of arbitration in view of technological developments is essential to accommodate ever-evolving social needs for an effective dispute resolution mechanism, especially in the financial sector, which has become increasingly digitized.⁶

6 <http://www.chinaarb.org/Arbitration/Details/56ba40b687de491fa12ad56054f16b54>

On December 9, 2022, the Supreme People’s Court promulgated the *Opinions on Regulating and Strengthening the Applications of Artificial Intelligence in the Judicial Fields*,⁷ with a view to accelerating the modernization of the judicial system and judicial capability of the PRC. Some key features of the Opinions are as follows:

- By 2025, the PRC courts shall construct an improved functional system for the application of AI in the judicial field for effectively alleviating the high administrative workload of judges. And by 2030, the PRC courts shall build an application and theoretical system for the utilization of AI in the judicial field with model rules and demonstrative effects for providing whole-process high-level support for serving the people and justice.

7 <https://fzfyjy.cupl.edu.cn/info/1080/15639.htm>

- There are five general principles governing the use of AI in the judicial field, namely: (i) the principle of security and legality; (ii) the principle of fairness and justice; (iii) the principle of supporting adjudication; (iv) the principle of transparency and credibility; and (v) the principle of abiding by public order and good customs. In particular, the fairness of the judicial processes and outcomes shall not be undermined by the introduction of technology or by any deviations in model or data, and any results/outcomes generated with the assistance of AI shall be for reference only and shall not derogate from a judge's duty to make judicial decisions.
- The scope of application of AI includes assistance with case management process, administrative work and judicial management; servicing diversified dispute resolution and social governance; and expansion of the utilization of AI in the judicial field.
- As regards the construction of AI systems, this includes developing intelligence engines and judicial blockchain platforms designed to virtualize and enhance the judicial data centers and "smart court brains" (i.e., the core drivers of smart courts) and provide the core driving force for AI applications to judicial services. The PRC courts are responsible for promoting the integration of these AI application systems into typical judicial scenarios.
- The Opinions require that AI adoption in the judicial system must promote social justice, as well as robust security management to mitigate any cybersecurity risks.

As mentioned, these Opinions will likely serve as guiding principles for the use and role of AI in arbitration. It is clear that while the adoption of AI is encouraged to reduce workload and enhance efficiency, it should only take a supportive role in any deliberation process by arbitrators, with fairness and justice being the paramount objectives.

Regularization of generative AI

Use of generative AI in arbitration may include review of pleadings and submissions; generation of procedural orders and directions; and summarization and visualization of the parties' cases and evidence. However, there are potential issues and challenges associated with generative AI, including the lack of transparency, cybersecurity and privacy.

On July 13, 2023, various departments, including the State Internet Information Office (now known as the Cyberspace Administration of China), issued the *Interim Measures for the Management of Generative Artificial Intelligence Services*.⁸ These are the first set of legally binding regulations in the world targeted at generative AI. The Measures:

- Encourage the innovative application of generative AI technology in each industry and field;⁹
- Require the employment of effective measures to increase transparency in generative AI services and increase the accuracy and reliability of generated content;¹⁰ and
- Require providers of generative AI services to comply with laws and administrative regulations such as the PRC Cybersecurity Law, the PRC Data Security Law, and the PRC Personal Information Protection Law.¹¹

The abovementioned requirements and standards set out in the Measures will likely apply to the use of generative AI in arbitration.

AI in practice in PRC

The use of AI in dispute resolution in the PRC has become increasingly common. Since late 2018, the Higher People's Court of Zhejiang has collaborated with Alibaba to adopt an intelligent adjudication platform for its case management. As of 2023, in respect of financial cases, rulings could be pronounced at the hearing in more than 90% of the cases, and the completion rate of judgment generation reached 96.5%, with reductions in the duration and litigation costs by 36% and 31.2%, respectively.¹²

In respect of arbitration:

- The "L-Code Arbitration Whole-Process Intelligent Support System" (L-Code仲裁全流程智能辅助系统), developed by the South China University of Technology, assisted the Guangzhou Arbitration Commission in successfully resolving a contractual dispute in an arb-med process. This is the first occasion in China where AI led the successful resolution of a dispute.¹³
- "Zhong Xiaowen" (仲小雯), the first AI tribunal secretary in the world, assisted in the first international arbitral hearing with a non-human tribunal secretary.

⁸ <https://www.chinalawtranslate.com/en/generative-ai-interim/>
⁹ Article 5
¹⁰ Article 4
¹¹ Article 7(5)
¹² http://www.legaldaily.com.cn/newzt/content/2023-10/24/content_8918143.html
¹³ <https://www.china-arbitration.com/index/news/detail.html?id=2580>

AI in practice in Hong Kong

Hong Kong, being a separate jurisdiction from the PRC, has not implemented any legislative reform related to the use of AI in dispute resolution. That said, the Hong Kong International Arbitration Centre (HKIAC), the flagship arbitral institution of Hong Kong, launched an online case management platform named "HKIAC Case Connect" in late 2021 to facilitate case management.¹⁴ Recently, in April 2025, HKIAC announced a new partnership with Jus Mundi under which HKIAC's procedural decisions will be summarized using Jus Mundi's AI technology to ensure the consistent production of high-quality case digests.¹⁵

Conclusion

While no arbitration-specific laws or regulations have been passed in relation to the use of AI in China, there are already a number of measures and guidelines focusing on how AI should be adopted. Given that AI has become commonplace in arbitration, it is envisaged that more comprehensive regulations will be established to provide further clarity and certainty to the role of AI in arbitration in China.

¹⁴ <https://www.hkiac.org/news/hkiac-launches-hkiac-case-connect>
¹⁵ <https://www.hkiac.org/news/free-access-hkiac-case-digest-and-new-jus-mundi-partnership>



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International arbitration and the EU AI Act

The EU has rolled out a red carpet for AI in arbitration, but only those dressed for compliance get to walk it.

Regulation 2024/1689 (the EU AI Act) entered into force on August 1, 2024 and will require companies to comply with progressively more requirements until August 2026.¹ It aims at regulating the development and use of AI to ensure safe, transparent, traceable, non-discriminatory and environmentally friendly AI systems. It is a risk-based regulation that classifies AI systems into risk-based categories (unacceptable, high-risk, limited-risk and minimal-risk), with legal obligations scaling up according to the level of risk. It imposes requirements such as transparency, human oversight, cybersecurity and quality management, particularly for high-risk AI systems.

Its large scope and abstract nature are reminiscent of the EU General Data Protection Regulation. Although the use of AI systems is fairly recent in its latest form, generative AI (Gen AI), all AI systems are affected by this new regulation, with the concept of “AI system” ranging from AI algorithms to complex Gen AI systems. All sectors and users are impacted, including law practitioners.

For arbitrators and arbitration lawyers, understanding the AI Act will be essential, both for navigating disputes involving AI and for using AI tools within arbitration proceedings themselves. More importantly, many are increasingly using AI tools for document review, legal research, case management or even drafting. In the context of international arbitral tribunals, the EU AI Act raises questions on their application and implications.

1. Applying the EU AI Act to international arbitration

Who’s the target?

The EU AI Act applies to any “AI system” as defined in Article 3. An AI system is therefore:

“a machine-based system that is designed to operate with varying levels of autonomy and that may exhibit adaptiveness after deployment, and that, for explicit or implicit objectives, infers, from the input it receives, how to generate outputs such as predictions, content, recommendations, or decisions that can influence physical or virtual environments.”²

In other words, an AI system implies some form of automation or computational process – typically a software system – that uses an “input” to produce an “output,” operating autonomously or under human control but involving some independent functioning.



This definition can therefore include systems such as virtual assistants, risk algorithms or automated scanning software.³ The EU AI Act also specifically defines “general purpose AI systems,” which are “AI models that display significant generality, are capable of competently performing a wide range of distinct tasks and that can be integrated into a variety of downstream systems or applications.” This, for example, refers to widely known AI systems such as ChatGPT or DALL-E.

As a result, the EU AI Act targets a wide variety of AI systems, all of which are time- and resource-saving for law practitioners.

The EU AI Act applies to providers, importers, distributors and deployers of AI systems. Put simply, a “deployer” is a user of an AI system – whether it is a natural or legal person – except when the system is used in the course of a “personal non-professional activity.”⁴

In the context of arbitration, natural and legal persons, such as arbitrators or arbitration tribunals, may use AI systems for professional purposes, whether on substantive, procedural or administrative matters. Arbitrators and tribunals using AI in such capacity may therefore be considered deployers of AI systems.

When does the EU AI Act apply to deployers?

In the context of international arbitration, the EU AI Act raises various questions, including whether it is applicable to specific arbitration proceedings.

Pursuant to Article 2 of the EU AI Act, it applies to deployers using AI systems where they “have their place of establishment or are located within the Union.”⁵

- i. In itself, the notion of “place of establishment” can vary depending on the subject matter at hand (e.g., e-commerce or taxation) and the type of person (natural or legal). The Court of Justice of the European Union has issued decisions on the matter, but none delineate a clear definition in the context of the EU AI Act.⁶ With regard to arbitration tribunals, it seems that the place of establishment refers to the seat of the tribunal chosen by the parties. For arbitrators, the place of establishment would likely be their country of residence (probably by reference to the tax residence). Arbitrators with a sufficient connection to an EU member state will be subject to the application of the EU AI Act, regardless of where they perform their functions.

- ii. The EU AI Act applies when the deployer is “located within the European Union.” Again, in the context of international arbitration, this would refer to the seat of the arbitral tribunal, regardless of whether the arbitrators are themselves established within the EU. Accordingly, non-EU arbitrators working on a case while being on the territory of an EU member state would trigger the application of the EU AI Act.

The EU AI Act goes even further, referring in the alternative to the effects that AI systems may have within the territory of the EU. Under Article 2(c), deployers of AI systems in third countries are subject to the EU AI Act “where the output produced by the AI system is used in the Union.”

The notion of “output” is abstract in itself, and its correlation to its “use within the EU” increases the likelihood of the EU AI Act having a large territorial scope. A wide interpretation of the EU AI Act’s territorial scope seems to have been the goal with recital 22 affirming that “[t]o ensure an effective protection of natural persons located in the Union, this Regulation should also apply to providers and deployers of AI systems that are established in a third country, to the extent the output produced by those systems is intended to be used in the Union.” However, this recital adds the notion of “intent,” so that unforeseen or accidental use of the output within the EU is unlikely to lead to the EU AI Act being applicable.

These terms of the EU AI Act will inevitably lead to difficulties of interpretation, which will be even more exacerbated in the context of international arbitration.

For example, a non-EU arbitrator seated in a third country may use AI to analyze large sets of documents or assist in drafting an award. In this context, arbitral proceedings will need to be conducted in compliance with the EU AI Act:

- where the arbitral award is to be enforced within the EU AI Act;
- where one of the parties is established within the EU;
- where the AI-assisted award has a direct or indirect impact on a natural or legal person established within the EU; and/or
- where the dispute relates to a subject matter (e.g., an asset) that is located within the EU.

¹ EU AI Act, Article 113 “Entry into Force and Application.”

² EU AI Act, Article 3(1).

³ For more information on the definition of AI systems, the EU Commission has provided specific guidance on February 6, 2025 (see *communication C(2025) 924 final*).

⁴ EU AI Act, Article 3(4).

⁵ EU AI Act, Article 2.

⁶ Case C-230/14, *Weltimmo* s. r. o. and Case C-232/22, *Cabot Plastics Belgium* SA.

What if an award only mentions an EU natural or legal person? It is hard to know at this stage, and we could imagine many more AI systems that could be used in the context of arbitration that would raise additional questions.

One thing is certain: The EU AI Act should be lurking in the back of our minds, whether the seat of the arbitral tribunal is inside or outside the EU, whether arbitrators are established within or outside the EU or whether one party has direct or indirect interest within the EU.

2. Arbitration implications of the AI Act

Assuming there is no doubt that the EU AI Act applies to either an arbitrator or to the arbitral tribunal, what would the consequences be? As set out above, the EU AI Act applies differently depending on the risks posed by the AI system at hand, and in the context of arbitration, from high-risk to limited-risk AI systems.⁷

From High-risk AI systems...

Alternative dispute resolution is specifically mentioned in the EU AI Act.

Article 6 of the EU AI Act provides for classification rules for “high-risk” AI systems, referring *inter alia* to the AI systems listed in Annex III. The latter refers to the use of AI systems in “alternative dispute resolution” proceedings, which includes arbitration. To quote recital 61: “[I]t is appropriate to qualify as high-risk AI systems intended to be used by a judicial authority or on its behalf to assist judicial authorities in researching and interpreting facts and the law and in applying the law to a concrete set of facts. AI systems intended to be used by alternative dispute resolution bodies for those purposes should also be considered to be high-risk.” In addition, while the EU AI Act acknowledges that AI tools may support judicial decision-making, it provides that the “final decision-making must remain a human-driven activity.”

In practice, most of the compliance requirements are borne by the provider of a high-risk AI system. However, the deployer also has a role to play and rules to comply with.

As a result, an arbitrator using an AI system to “research and interpret facts and the law” will be subject to the framework for high-risk AI systems, notably set out under Article 26 of the EU AI Act, to:

- Establish appropriate technical and organisational measures to ensure they use the high-risk AI system in compliance with instructions for use from the provider;
- Assign suitable human oversight with appropriate skills, training and authority;

⁷ Note that in any case, the use of an AI system should not lead to prohibited practices under Article 5 of the EU AI Act. These practices are not in the forefront of possible use in the context of arbitration, as they generally refer to specific prohibitions for AI systems that are more likely to apply to providers rather than deployers of AI systems: social scoring, compiling facial recognition databases and subliminal, manipulative or deceptive techniques to distort or impair informed decision-making.

- Ensure that the “input” data is relevant and sufficiently representative for the intended purpose of the high-risk AI system;
- Monitor the performance of the high-risk AI system in accordance with its instructions for use and inform the provider where such use could present a risk at a national level, as well as potential incidents to the provider, importer, distributor and relevant market surveillance authority;
- Retain automatically generated logs where these are under their control for a period of at least six months, or such period appropriate to the intended purpose (unless provided otherwise under EU law, in particular data protection law);
- Finally, insofar as the individuals subject to decisions assisted by the AI system are natural persons, they must be informed of the use of a high-risk AI system.

...To Limited-risk AI systems

Despite a general qualification of high-risk AI systems in Annex III, certain uses of AI systems in arbitral proceedings are not deemed high-risk. Article 6 of the EU AI Act expressly provides a derogation in relation to a system that “does not pose a significant risk of harm to the health, safety or fundamental rights of natural persons, including by not materially influencing the outcome of decision-making.”

As a result, the classification of AI systems as high-risk does not extend to AI systems “intended for purely ancillary administrative activities that do not affect the actual administration of justice in individual cases.”⁸ The EU AI Act specifically provides examples, such as “anonymisation or pseudonymisation of judicial decisions, documents or data, communication between personnel, [and] administrative tasks”.⁹

⁸ EU AI Act, recital 61.
⁹ *Ibid.*



As long as the AI system does not perform profiling of natural persons, Article 6(3) provides four alternative conditions for such derogation to apply:

- **The AI system is intended to perform a narrow procedural task:** This would extend to the abovementioned anonymization or pseudonymization in documents, or even automatic notetaking during hearings and document translation.
- **The AI system is intended to improve the result of a previously completed human activity:** This would include functions such as spell-checking or the detection of clerical errors.
- **The AI system is intended to detect decision-making patterns or deviations from prior decision-making patterns and is not meant to replace or influence the previously completed human assessment without proper human review:** This would include, for example, systems used by arbitrators to compare a draft ruling against previous similar cases, which would not fall under the high-risk classification. Similarly, the use of AI-powered legal research tools or databases would generally fall outside the high-risk category, provided that a prior human assessment is conducted and the AI system does not replace human reasoning in the decision-making process.
- **The AI system is intended to perform a preparatory task to an assessment relevant for the purposes of the use cases listed in Annex III:** In the context of drafting an arbitral award – one of the tasks included in Annex III – it is permissible to use AI to generate standardized parts of the decision. Likewise, AI systems may be employed to assist with the logistical organization of proceedings, such as scheduling meetings between parties and arbitrators or making lists of required documentation.

When this derogation applies, the arbitrator and arbitral tribunal would still need to assess whether the AI system used is a “limited-risk” AI system. This is the case where the AI system directly interacts with an individual in the EU (e.g., a chatbot), generates content (in any form, including text), is used for emotional recognition, or generates deepfakes or text that informs the public about matters of public interest.

For deployers, an AI system that qualifies as limited-risk entails transparency requirements (e.g., the output is labeled as AI-generated), but various exceptions apply. Pursuant to one exception, which is relevant in the context of arbitration, text generation, such as drafting an award, is not subject to such transparency requirements if the AI-generated text has been subjected to human review or editorial control, and someone holds editorial responsibility for the publication of the content.

A case-by-case analysis is, again, inevitable to understand intricacies around the anticipated uses of AI systems in arbitration.

3. Key takeaways

The EU AI Act will have substantial effects on the use of AI systems. Arbitration will be impacted, albeit in a limited way.

In any event, arbitrators, arbitration tribunals and institutions should increasingly think about how the EU AI Act will apply to them. In particular, it is recommended to:

- Be mindful of the EU AI Act’s broad territorial scope – ensure compliance if the arbitration or its outcomes may affect the EU;
- Assess the risk level of each AI tool before use; for example, tools assisting with legal analysis may be high-risk, while those for scheduling are likely limited-risk;
- Ensure robust human oversight for high-risk AI systems – an experienced arbitrator should always review AI-generated legal analysis or draft awards;
- Clearly inform parties when high-risk AI tools are used in proceedings, specifying the nature and extent of AI involvement;
- Prioritize AI for ancillary or administrative tasks (e.g., anonymizing documents, scheduling) to minimize compliance burdens.



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Q&A with Sophie Nappert

Peter Rosher, Global Chair of International Arbitration at Reed Smith, welcomes Sophie Nappert, Co-founder of ArbTech and an independent arbitrator at 3VB in London, for a conversation on AI in international arbitration.

Dual qualified as an Avocat of the Bar of Quebec and a Solicitor of the Supreme Court of England and Wales, Sophie brings a wealth of experience as an arbitrator, former Head of International Arbitration at a global law firm and a passionate advocate for AI. Her early interest in AI led to her co-founding ArbTech, a global online community that fosters cross-disciplinary dialogue on technology, dispute resolution and the future of justice. In 2022, ArbTech was nominated for the GAR Award for “Best New Development.”

A leading voice in the integration of AI into legal practices, Sophie delivered the keynote at the 2024 Reed Smith Paris Arbitration Week event, “Innovating Justice: The Rise of AI in International Arbitration.”

In this conversation, Sophie shares her perspectives on the impact of AI in international arbitration and its future potential.

Can you share your background and what sparked your interest and passion for AI in arbitration?

Absolutely. My interest in AI really took off around 2017, when I co-authored an article called “The March of the Robots” with Paul Cohen. At the time, I was working on a case where these new technological tools were just starting to appear, and it struck me for the first time that something non-human – a machine, an algorithm or a piece of code – could actually influence my decision-making as an arbitrator. That was a real turning point for me. I became fascinated by how technology, and AI in particular, could disrupt our field and force us to rethink some of the most basic principles of arbitration and dispute resolution. What really excites me is not the idea of AI replacing us, but rather how it can work in partnership with us to make the arbitral process more efficient, accessible and cost-effective, while still preserving the essential human elements of judgment and oversight.

What are the most significant ways that AI is currently being used in arbitration?

Right now, the most significant use of AI in arbitration is definitely in document disclosure. AI tools are helping us manage and analyze huge volumes of documents, which is a real game changer in terms of efficiency. That said, the process isn’t very transparent – often, we don’t know

exactly how counsel are using AI, just that it’s being used. I think we’re still at the very beginning of what AI can do for the legal system. The tools available today aren’t quite sophisticated enough for us to rely on them as much as we might in the future. Looking ahead, I see a lot of potential for AI in the presentation and analysis of expert evidence, especially in technical cases like construction or energy disputes. There’s a spectrum: some cases are ripe for automation, but the more complex ones will always need significant human involvement.

What do you see as the most pressing ethical concerns relating to AI’s role in arbitration?

Bias is the obvious one, and it’s on everyone’s mind, but for me, the bigger issue is how we need to rethink our processes to accommodate AI. For example, if I wanted to use an AI tool to analyze data for patterns – say, in a corruption case – when and how would I do that? What safeguards would be in place? How would the parties share their data? None of these questions have really been settled yet. Transparency and trust are absolutely critical, and I sense a real reluctance in the arbitration community to fully embrace AI until we’ve addressed these issues. I actually think the courts, especially in places like England, might lead the way here and help set the standards that will reassure us all.

How do you respond to scepticism about AI, especially concerns about bias and trust, given recent high-profile developments in the tech industry?

I completely understand the scepticism. But I actually see this as an opportunity for arbitration. Because we’re a private and adaptable system, we can really set ourselves apart by showing that we can maintain high ethical standards and build trust, even as public court systems face their own challenges. I think arbitration has a chance to step up and demonstrate its resilience and commitment to fairness in this new landscape.

How important is transparency regarding the use of AI by parties in arbitration, and should there be protocols for disclosure?

Transparency is a big concern, especially for clients. Some people argue for strict protocols and disclosure requirements, but I tend to take a more pragmatic approach. I think it’s more important for tribunals to stay alert, ask questions and verify what’s put in front of them, rather than burdening everyone with endless checklists. If AI use is actually relevant to a party’s case theory or submissions, then yes, it should be disclosed. But if it’s just being used in the background, like a research tool, I don’t think we need to make a big deal out of it.

Should parties be required to disclose the extent to which they use AI in legal submissions or evidence?

If AI is playing a key role in shaping a party’s reasoning or the theory of their case, then I think it’s helpful – and actually adds credibility – to be upfront about it. It helps the tribunal understand where the arguments are coming from. But if AI is just being used in the background, as we do with legal research tools, I don’t see a need for mandatory disclosure. The main thing is relevance: if AI is influencing the arguments or evidence, then it should be disclosed.

Do you see more scope for AI in the work of independent party experts, especially in complex cases like construction delay analysis?

Absolutely, I see huge potential here. Take delay analysis in construction disputes, for example – it’s often a very expensive and time-consuming part of the process. AI could really help streamline things, reduce costs and focus everyone’s attention on the core issues. Of course, it’s important for the tribunal to manage the process proactively, but I think AI could make a real difference in how we handle expert evidence.

Does AI challenge the principle of human judgment in arbitration?

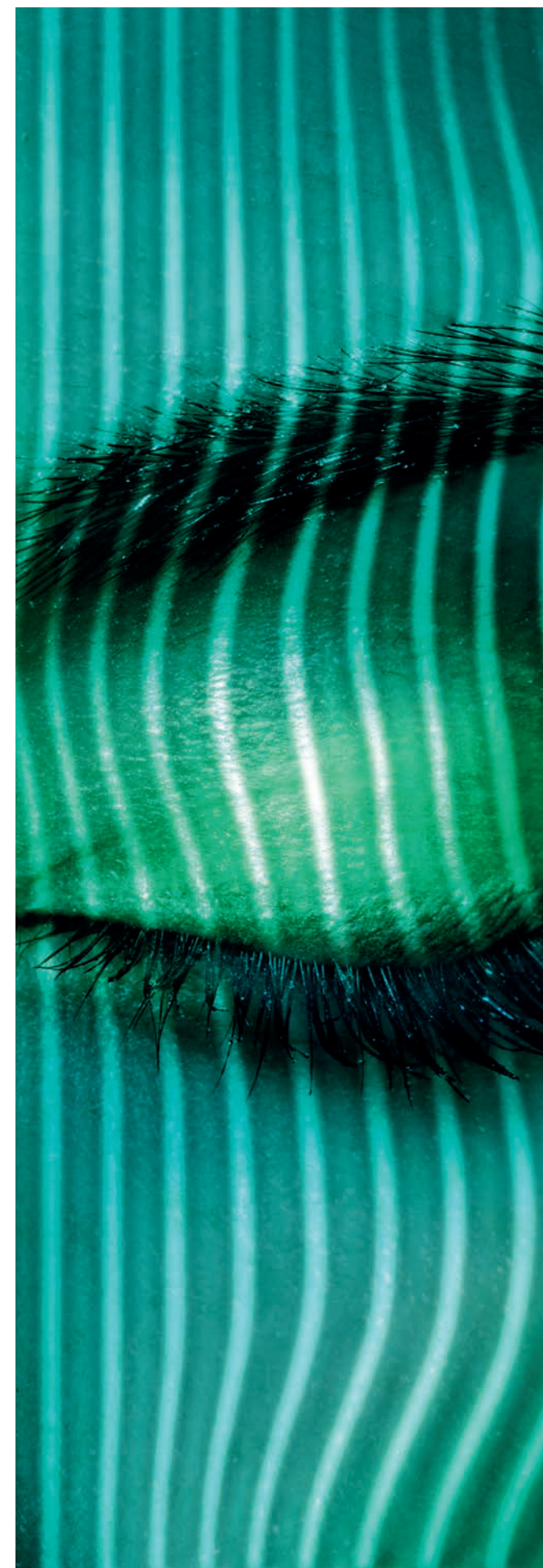
In some ways, yes. AI can do things we used to think only humans could do, and that can be a bit overwhelming. But it’s crucial to remember that AI is just a tool – it’s not a substitute for legal reasoning or human judgment. As decision-makers, we need to train ourselves to stay vigilant, double-check what the machine is telling us and always remember that, at the end of the day, it’s a human who has to stand behind the decision and sign it off.

How do cultural differences in international arbitration affect the use of AI, and does AI neutralize or complicate these differences?

Right now, the landscape is very fragmented. There are parts of the world that simply don’t have access to the technology, and others where there’s a strong cultural preference for human-driven dispute resolution. So, AI adoption is going to vary widely, and we need to be sensitive to those differences. AI doesn’t necessarily neutralize cultural differences – in some cases, it might even make them more pronounced.

How do you see AI shaping the future of arbitration in the next 5 to 10 years?

I think we’ll see a gradual process of familiarization and adoption. Recent events in the U.S. tech sector might slow things down a bit, but I’m hopeful that other players will step up and drive innovation. I expect we’ll see incremental integration of AI tools, with courts possibly leading the way and arbitration institutions adapting in response. I also think countries like Canada, with their strong traditions in dispute resolution, could play a really positive role in shaping this evolution.



What steps should arbitration institutions take to regulate or guide the use of AI?

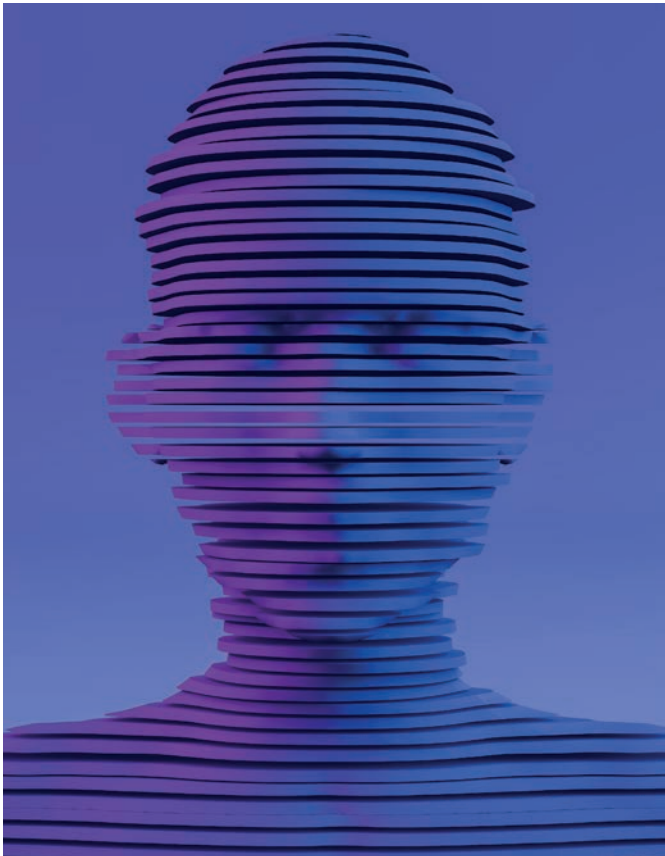
To be honest, I think institutions have been a bit slow to take up this challenge. Some, like the ICC and the Vienna International Arbitration Centre, are starting to address it through working groups and rule revisions, which is encouraging. I'm a big believer in soft law and best practice guidelines that can evolve organically, rather than rigid rules. I also appreciate balanced, non-partisan guidelines – like those from Silicon Valley – that emphasize the importance of human oversight.

Have you seen the Silicon Valley guidelines on AI being used in practice?

I haven't seen them invoked directly in any of my cases yet, but they're definitely out there as a useful starting point. They're balanced and stress the importance of human oversight, which I think is the right approach. Of course, the real challenge is in the practical implementation, but I expect we'll see a lot of progress on this front in the coming year.

Do you think AI could ever entirely replace human arbitrators?

In certain repetitive, binary cases – like administrative matters where the facts are very similar – AI has already shown it can be very effective. There's a system in Argentina, for example, that handles things like taxi license disputes with a high success rate. But for the complex, varied disputes we see in international arbitration, I don't think AI will replace human arbitrators any time soon. There will always be a need for human judgment, especially in the more nuanced cases.



What advice would you give to arbitrators and legal professionals on adapting to AI in arbitration?

My main advice is: don't put your head in the sand! AI is here, and the market is demanding that we adapt. There's so much reliable information available now, so there's really no excuse not to get up to speed. You don't have to be a tech disruptor, but you do need to understand what AI can and can't do. Training and hands-on experience are key to overcoming fear and building confidence in using these new tools.

Where do you see the key areas needing further research or policy development?

I think we need to focus on how AI fits into our existing arbitral processes and rules. We need to answer some tough questions: When and how should AI be used? How do we handle data sharing and privacy? How do we ensure procedural fairness and maintain the integrity of the adversarial process? These are big issues, and getting them right is essential if we want technology to enhance, rather than undermine, arbitration.



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About Reed Smith's international arbitration practice

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We are a recognized leader in international arbitration, and are ranked in the elite GAR 30, *Global Arbitration Review's* ranking of the world's leading international arbitration practices. We have substantial experience representing both claimants and respondents, and a strong track record of obtaining successful results. Our deep knowledge of industry sectors including energy, natural resources, life sciences, transportation, telecoms, insurance, and banking enables us to understand the industry-specific factors and environments affecting our clients' disputes. This combination of deep arbitration experience, our lawyers' advocacy skills, and industry knowledge gives us a competitive advantage when representing our clients.

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