SQUIRE PATTON BOGGS

Reform and modernization of Germany's arbitration law

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I. Introduction

Germany is amid a reform of its arbitration framework. On 10 June 2026, the German Federal Cabinet approved the government draft of the Act on the Modernization of Germany's Arbitration Law and Further Amendments to the German Code of Civil Procedure in the Area of International Civil Procedure Law (the "2026 Government Draft Bill"). More than 25 years after Germany comprehensively revised its arbitration law, the 2026 Government Draft does not seek to reinvent the wheel. Its proclaimed aim is to introduce targeted amendments to Germany's arbitration law that are intended to align the legal framework to contemporary needs, enhance its effectiveness and strengthen Germany's attractiveness as arbitration venue.

This article introduces the topic on the reform and modernization of Germany's arbitration law (I.), examines the background to the reform (II.), outlines the reform process leading up to the 2026 Government Draft Bill (III.), illustrates the key features of the 2026 Government Draft Bill (IV.) and concludes with an outlook on the further legislative process, the reform's impact on Germany's arbitration law and its practical implications (V.).

II. Background to the reform

Germany's current arbitration framework as laid down in Book 10 of the German Code of Civil Procedure essentially dates back to 1998, when Germany fundamentally reformed its arbitration law based on the 1985 United Nations Commission on International Trade Law (UNCITRAL) Model Law on International Commercial Arbitration. Since then, Germany's arbitration law has largely proven to be effective.

The need for a targeted reform of Germany's arbitration law arose from several developments in the field of arbitration. These developments include the 2006 revision of the UNCITRAL Model Law on International Commercial Arbitration, legislative reforms in neighboring European countries such as France, Austria and Switzerland, targeted revisions to the arbitration rules of many leading arbitration institutions, national, international and EU case law, as well as the ongoing digitalization of procedural law. The 2026 Government Draft Bill's goal is designed to capture these international trends.

The current reform of Germany's arbitration law builds on the 2025 Act to Strengthen Germany as a Venue for Dispute Resolution, which modernized the German state civil judicial system by introducing commercial courts and English as a court language in civil proceedings. With the reform of Germany's arbitration law, the German government intends to complement this development by providing a high-quality and internationally competitive arbitration regime, thereby contributing to the legislative goal of strengthening Germany's attractiveness as a dispute resolution venue.

On a broader level, as the Explanatory Memorandum to the 2026 Government Draft Bill states, the current reform of Germany's arbitration law is intended to contribute to achieving Sustainable Development Goal 16 of the United Nations 2030 Agenda for Sustainable Development, which calls for promoting the rule of law, ensuring equal access to justice for all and building effective institutions at all levels.

III. Reform process

The 2026 Government Draft Bill is the result of a reform process going back several years. In 2016, the German Federal Ministry of Justice established a working group to evaluate Germany's arbitration law and examine it for specific needs of modernization. After a reform initiative initially did not materialize, the German Ministry of Justice resumed legislative work in 2023, and published a paper on the modernization of Germany's arbitration law in April of that year, outlining the essential reform goals and key points of a proposed reform. The ministry's paper served as a basis for discussion, which in February 2024 led to a draft bill of the German Federal Ministry of Justice on the modernization of Germany's arbitration law, and in June 2024, to a respective government draft (the "2024 Government Draft Bill"). Albeit politically uncontroversial, the 2024 Government Draft Bill was not adopted due to the collapse of the government coalition at the end of 2024.

Under a new government, on 27 January 2026, the German Federal Ministry of Justice and Consumer Protection published an eagerly anticipated draft bill on the modernization of Germany's arbitration law (the "2026 Ministerial Draft Bill"), thereby relaunching the reform process.

The 2026 Ministerial Draft Bill essentially revived the 2024 Government Draft Bill, with only minor modifications. Following consultations with stakeholders and experts, on 10 June 2026, the German Federal Cabinet approved the 2026 Government Draft Bill, which confirms the core policy choices of the 2026 Ministerial Draft Bill, while implementing some adjustments.

IV. Key features of the 2026 Government Draft Bill

The legislative amendments to Germany's arbitration law as laid down in the German Code of Civil Procedure proposed in the 2026 Government Draft Bill primarily address the following areas: the introduction of English language in German arbitration-related court proceedings (1.), greater flexibility in the formal requirements of arbitration agreements (2.), digitalization of arbitration proceedings (3.), increased transparency (4.) and stronger court support in arbitration proceedings (5.).

1. Introduction of English language in German arbitration-related court proceedings

One of the most significant reform proposals is the introduction of English language in German arbitration-related court proceedings.

The respective proposed amendments to Germany's arbitration law build on the creation of commercial courts at certain higher regional courts and the introduction of English as a court language in civil proceedings through the 2025 Act to Strengthen Germany as a Venue for Dispute Resolution. Under this act, the German federal states may determine that the commercial courts conduct their proceedings entirely in English, subject to an agreement between the parties.

Pursuant to proposed Section 1062(6) of the 2026 Government Draft Bill, federal states may transfer jurisdiction over all or some arbitration-related proceedings as listed in Section 1062(1) of the German Code of Civil Procedure including set-aside, recognition, enforcement and constitution of tribunal proceedings from the currently competent higher regional court at the seat of the arbitration to a commercial court or a joint commercial court. With this amendment, the 2026 Government Draft Bill aims at leveraging the commercial courts' high specialization in the resolution of complex commercial disputes for arbitration. In turn, the newly proposed Section 1063a(1) of the 2026 Government Draft Bill provides that the commercial courts may conduct these proceedings entirely in English, provided that the concerned federal state permits the use of English as a court language and the parties have so agreed.

This introduction of English language in German arbitration-related court proceedings conducted before commercial courts was already foreseen in the 2026 Ministerial Draft Bill. In addition, the 2026 Government Draft Bill now under the newly proposed Section 1063a(2) provides that the federal states in which arbitration-related proceedings have been concentrated in specialized senates at the higher regional court level, but that have not created commercial courts may determine that such arbitration-related arbitration proceedings before these senates are conducted in English, provided that the parties agree. With this, the 2026 Government Draft Bill ensures that arbitration-related court proceedings may be conducted in English, regardless of whether a commercial court has been established in the federal state concerned and regardless of whether the federal state has transferred jurisdiction over arbitration-related proceedings to this commercial court.

Pursuant to proposed Section 1063a(5) of the 2026 Government Draft Bill, decisions by the commercial courts and English-enabled senates in these arbitration-related matters must be published, with English language decisions accompanied by a German translation.

English language in arbitration-related proceedings is also introduced under the newly proposed Section 1065(3) of the 2026 Government Draft Bill for any subsequent appeal proceedings on points of law before the German Federal Court of Justice (BGH). These appeal proceedings on points of law may be conducted in English if the underlying arbitration-related court proceedings were conducted in English and if the Federal Court of Justice grants a respective application.

Beyond fully English proceedings, Section 1063b of the 2026 Government Draft Bill allows parties to arbitration-related proceedings conducted in German to file documents in English without a translation. A court may order a translation only if necessary in the specific case at hand.

These proposed amendments to the German Code of Civil Procedure highlight the international orientation of Germany's arbitration law and recognize the practical importance of English language in international arbitration proceedings. The mandatory publication of arbitration-related decisions by commercial courts and English-enabled senates significantly raises the visibility of German case law in arbitration-related matters and is expressly intended to showcase the arbitration-friendly stance of German courts. The reforms would also result in a significant reduction of costs of the proceedings as the need to translate English-language documents into German would practically be eliminated. The proposed reforms would thereby increase Germany's attractiveness as seat of international arbitration.

2. Greater flexibility in the formal requirements of arbitration agreements

A further significant reform proposal is the greater flexibility in the formal requirements of arbitration agreements.

Under current German law, pursuant to Section 1031(1) of the German Code on Civil Procedure, arbitration agreements must be set out either in a document signed by the parties, or in letters, telefax copies, telegrams or other forms of communication exchanged between them that ensure documentary proof of the agreement. As the reference to telefax and telegrams shows, the provision – which is essentially based on the 1985 UNCITRAL Model law – is no longer up to date.

The 2026 Government Draft Bill proposes an amendment of Section 1031(1) of the German Code on Civil Procedure, pursuant to which the arbitration agreement must be concluded or documented in writing or by any other means of communication that allows the information to be accessed at a later date. Section 1031(1) as proposed in the 2026 Government Draft Bill is based on Option I of Article 7 of the 2006 UNCITRAL Model Law, which maintains the requirement for written form, but provides for certain simplifications and allows for the use of modern electronic means of communication. It remains necessary that there be evidence of the arbitration agreement, which is intended to prevent the risk of lengthy disputes regarding the conclusion and content of any arbitration agreements.

The approach taken in the 2026 Government Draft Bill is in stark contrast to what was envisaged in the 2024 Government Draft Bill, which proposed that arbitration agreements for commercial transactions could be concluded without any formal requirement– as in Option II of Article 7 of the UNCITRAL Model Law, and as was the case under German arbitration law up to 1997. The 2024 Government Draft Bill had drawn criticism in this respect, particularly among the business community, who feared a flood of disputes arising from alleged arbitration agreements. Accordingly, the 2026 Government Draft Bill now provides for a technology-neutral form requirement that preserves evidentiary certainty – a middle ground that is to be welcomed.

3. Digitalization of arbitration proceedings

The digitalization of arbitration proceedings is a further cornerstone of the reform proposal that is reflected in several aspects.

Proposed Section 1047(2) of the 2026 Government Draft Bill addresses the ongoing digitalization of procedural law by expressly clarifying that an arbitral tribunal may, after consulting the parties in this respect, conduct hearings remotely in the form of video hearings, provided that the parties have not agreed otherwise. In exercising its procedural discretion, an arbitral tribunal has to consider the parties' due process rights, while considerations such as climate neutrality, data protection, the substance of the specific arbitration proceedings and the tribunal's duty to conduct the proceedings efficiently are also relevant.

Under these conditions, an arbitral tribunal may even order a virtual hearing over a party's objection.

A further aspect of the reform that reflects the ongoing digitalization of arbitration proceedings is the concept of electronic awards. Instead of a document bearing the handwritten signatures of the arbitral tribunal members, under the proposed Section 1054(1) of the 2026 Government Draft Bill, an arbitral tribunal may also issue an award electronically, provided that no party objects. Section 1054(1) of the 2026 Government Draft Bill provides that the electronic award must list the names of all members of the arbitral tribunal and must bear their qualified or advanced electronic signature. A party's right to object the issuance of an electronic award pursuant to the proposed Section 1054(1) of the 2026 Government Draft Bill, as well as a party's right to request an award bearing the handwritten signatures of the arbitral tribunal after an electronic award has already been issued as provided for under Section 1054(5) of the 2026 Government Draft Bill not only strengthens party autonomy, but also ensures that the parties can obtain an award in the form that may be necessary for its recognition or enforcement in a foreign jurisdiction.

4. Increased transparency

The proposed reform of Germany's arbitration law further introduces measures aimed at enhancing transparency.

In this regard, Section 1054a of the 2026 Government Draft Bill explicitly allows dissenting and concurring opinions in multimember tribunals with a German seat, unless the parties agree otherwise. This clarification is in line with established practice in international arbitration and would dispel doubts about the compatibility of dissenting and concurring opinions with German public policy.

Moreover, proposed Section 1054b of the 2026 Government Draft Bill increases transparency by authorizing arbitral tribunals, with the parties' consent, to publish awards and any dissenting opinions in anonymized or pseudonymized form or arrange for such publication. A party's consent may be given expressly or may be deemed to have been given if the party does not object to the publication within three months after receiving a respective request from the arbitral tribunal, while having been advised of this consequence.

Proposed Section 1054b of the 2026 Government Draft Bill builds on a development in arbitral institutions such as the ICC International Court of Arbitration (ICC), the Vienna International Arbitral Centre (VIAC) and the German Arbitration Institute (Deutsche Institution für Schiedsgerichtsbarkeit, DIS) whose rules provide for the possibility of publishing awards, always subject to the parties' consent. Furthermore to increasing transparency, publication of arbitral awards as envisaged under Section 1054b of the 2026 Government Draft Bill would promote the development of the law by making the arbitral tribunals' analyses publicly available.

5. Stronger court support in arbitration proceedings

The current reform proposal further provides for stronger court support in arbitration proceedings in several aspects.

First, stronger court support is envisaged with respect to arbitral decisions declining jurisdiction. Under proposed Section 1040(4) of the 2026 Government Draft Bill, if an arbitral tribunal concludes that it lacks jurisdiction, a respective decision may be set aside if the applicant demonstrates that the tribunal wrongly declined jurisdiction. With this, the reform would close a gap in the current German judicial review system in arbitration matters. Until now, under Section 1040(3) of the German Code on Civil Procedure, parties to arbitral proceedings could only challenge decisions in which an arbitral tribunal confirmed its jurisdiction. They, however, lacked an effective mechanism for obtaining judicial review of arbitral decisions declining jurisdiction. This led to German legal commentators calling for provisions enabling courts to review such negative decisions – a request addressed by this proposal.

Stronger court support is further foreseen regarding enforcement of foreign interim measures. A proposed amendment of Section 1025(2) of the German Code of Civil Procedure clarifies that interim measures ordered by an arbitral tribunal seated abroad, or by a tribunal whose seat has not yet been determined, may be recognized and declared enforceable by German courts. Under the current legal framework, the admissibility of such enforcement has been subject to debate. A redrafted Section 1041(2) of the German Code of Civil Procedure sets out an exhaustive list of grounds on which enforcement of such interim measures may be refused, which is based on Article 17 I of the 2006 UNCITRAL Model Law, providing legal clarity and eliminating a court's current discretion in this regard.

The reform further envisages stronger court support by proposing a new extraordinary legal remedy – a motion for restitution introduced by proposed Section 1059a of the 2026 Government Draft Bill. This proposed motion for restitution enables a court to set aside an arbitral award upon a party's application even after expiry of the three-month time limit provided for under Section 1059(3) of the German Code of Civil Procedure, where the award suffers from the most serious defects. The principle of finality, which is fundamental to arbitration, remains safeguarded by the narrowly circumscribed grounds for restitution which are similar to those applicable to state court judgments and include exceptional circumstances such as forged documents, perjury, criminal acts by parties or arbitrators or reliance on a later-annulled award. The remedy is further constrained by a one-month time limit from the time the applying party obtains knowledge of the ground for restitution and an absolute five-year cut-off from the date of the award's finality. In addition, the remedy is only admissible where the applying party could not rely on the ground for restitution in earlier proceedings, including the arbitration proceedings and set-aside proceedings pursuant to Section 1059 of the German Code of Civil Procedure.

V. Outlook

With the 2026 Government Draft Bill's adoption by the German Federal Cabinet on 10 June 2026, the reform proposal has formally entered the parliamentary legislative process. This process, including involvement of the German Bundesrat, readings in the German Bundestag and committee deliberations, will determine the final shape of the reform. As the core elements of the proposed reform enjoy broad support in doctrine and practice, fundamental changes appear unlikely. If the political consensus regarding the 2024 Government Draft Bill carries over, adoption in late 2026 or early 2027 appears plausible.

The 2026 Draft Government Bill provides for its entry into force on the day after its promulgation, with transition rules governing the temporal application to existing arbitration agreements and pending arbitration proceedings. The 2026 Government Draft Bill in this respect provides that existing arbitration agreements and ongoing arbitration proceedings remain governed by the law currently in force. Parties to ongoing arbitration proceedings may however agree on the application of the new regime.

Adoption of the 2026 Government Draft Bill would consolidate Germany's position as a modern and arbitration-friendly jurisdiction. While the reform does not fundamentally alter the existing framework, it introduces a series of amendments that align Germany's arbitration law more closely with current international standards. The proposed introduction of English-language arbitration-related court proceedings, greater flexibility regarding the form requirements for arbitration agreements, digitalization of arbitration proceedings, increased transparency and stronger judicial support mechanisms for arbitration proceedings would strengthen Germany's position as an attractive and competitive seat of arbitration.

Parties should consider the practical implications of the proposed amendments when drafting arbitration agreements and planning dispute resolution strategies. In particular, parties should assess whether arbitration clauses should be adapted or arbitral proceedings shaped to take advantage of greater procedural flexibility offered by the reform, including the options of English-language arbitration-related court proceedings, virtual hearings, electronic awards, dissenting opinions and publication of awards. If adopted, the reform of Germany's arbitration law presents an opportunity for users to benefit from an increasingly modern and internationally oriented while also reliable legal framework.

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