

Why Institutional Tensions May Accelerate Israeli Companies' Turn to Arbitration

AYR - Amar Reiter Jeanne Shochatovitch & Co.

Israel May 2 2026

Beyond security-related challenges, Israel is experiencing a period of pronounced and visible institutional tension, which some describe as a constitutional backlash. The Knesset (Israel's Parliament) and the Supreme Court are engaged in a public dispute over the permissible scope and limits of judicial review, and over which institution should have final, determinative authority on a range of pending matters. Public debate on separation of powers and on the relationship between the political branches and the judiciary has been intense and sustained. In fact, these issues are expected to be central in this year's elections.

One of the principal issues at the core of the public debate concerns the procedure for the appointment of new judges. While one side contends that the procedure should be insulated from undue influence by the majority, others argue that the existing procedure perpetuates the control of a particular sector over the judiciary. Be that as it may, since the appointment of new judges requires cooperation between the branches, the committee for the election of judges has not been convened to appoint new judges to the different instances since May 2024.

Israeli courts, which were already operating under significant caseload pressures, now face an acute shortage of judges and a reduced capacity to process and adjudicate civil claims within reasonable timeframes. This is not merely a background inconvenience: it is a direct downstream consequence of the current institutional standoff, which has limited the system's ability to replenish judicial capacity. For commercial parties, the pathway is straightforward - institutional friction translates into slower courts, greater timing uncertainty, and higher litigation risk, which in turn increases the relative attractiveness of arbitration as a default forum for resolving disputes.

Unless a dispute raises material public-law issues that warrant judicial determination, arbitration's advantages - speed, procedural efficiency, and party autonomy in selecting the decision-maker - become more compelling. As more commercial disputes move to arbitration and courts focus on matters of public importance, judicial specialization may concentrate in those areas, while commercial disputes increasingly become, in practice, the domain of arbitrators rather than public judges.

Arbitration is already prevalent in Israeli legal practice. Sophisticated parties - particularly in international commerce - already include arbitration clauses in commercial agreements. Many Israeli businesses are cross-border by default: technology, defense, energy, infrastructure, life

sciences, and venture-backed commerce routinely involve foreign counterparties, foreign capital, and multi-jurisdictional performance. In these settings, parties are often already negotiating for dispute-resolution mechanisms that deliver confidentiality, expedited relief, industry expertise, and a neutral forum. The current political climate is likely to reinforce this trend.

Israel is arbitration-ready. Its legislative framework is mature and its courts are generally supportive. Recent reforms - including the International Commercial Litigation Act, 2024 - signal continued institutional investment in cross-border dispute resolution. While arbitration is a private, party-driven process, it depends on courts for limited but critical functions, including interim relief in aid of arbitration, assistance with evidence-taking where appropriate, and enforcement of arbitral awards. A solid statutory framework combined with reliable judicial support increases predictability and makes arbitration a practical and effective mechanism for both domestic and cross-border transactions.

Of course, the migration of commercial disputes from court litigation to arbitration proceedings is unlikely to be abrupt; rather, it is expected to develop as a gradual and persistent trend. This evolution is also not free of legal and practical friction. Because arbitration is consensual, claimants may still face objections from respondents that delay or complicate an otherwise efficient process. Also, [as we have detailed elsewhere](#), parties may also encounter complexity in multi-party or multi-contract scenarios (including consolidation and joinder), especially where non-signatories are needed to participate meaningfully in the proceedings. In cross-border matters, additional issues can arise around service, evidence-taking, and the recognition and enforcement of interim measures and awards across jurisdictions.

In light of these challenges, arbitration clauses should be treated as deliberate risk-management tools rather than boilerplate. They should be tailored on a case-by-case basis, with a forward-looking view of likely dispute contours, including timing, seat and rules, tribunal expertise, confidentiality, and enforceability. As arbitration becomes more central to resolving Israeli-related commercial disputes in practice, careful clause design will increasingly determine whether parties achieve the speed and predictability they are seeking - or instead recreate, in a private forum, the delay and complexity they sought to avoid, with corresponding impact on transaction value.

AYR - Amar Reiter Jeanne Shochatovitch & Co. – Gidon Even-Or

Resources

[Daily newsfeed](#) | [Panoramic](#) | [Research hubs](#) | [Learn](#) | [In-depth](#) | [Lexy: AI search](#) | [Scanner](#) |
[Contracts & clauses](#)

Lexology Index

[Find an expert](#) | [Reports](#) | [Research methodology](#) | [Submissions](#) | [FAQ](#) | [Instruct Counsel](#) |
[Client Choice 2025](#)

More

[About us](#) | [Legal Influencers](#) | [Firms](#) | [Blog](#) | [Events](#) | [Popular](#) | [Lexology Academic](#) |
[Lexology Talent Management](#)

Legal

[Terms of use](#) | [Cookies](#) | [Disclaimer](#) | [Privacy policy](#)

Contact

[Help centre](#) | [Contact](#) | [RSS feeds](#) | [Submissions](#)

[Login](#) | [Register](#)

[X](#) [Follow on X](#) | [in](#) [Follow on LinkedIn](#)



© Copyright 2006 - 2026 Law Business Research