

Is arbitration too costly for small contracts?

Arbitration, while offering neutrality and international enforceability, can become economically impractical for low-value disputes. Small contracts often avoid arbitration due to the relatively high costs compared to the claim value.

Estimated Cost Thresholds (Based on Common Practice):

Ser.	Claim Value (USD)	Arbitration Cost Level	Is Arbitration Cost-Efficient?
1	Under \$50,000	High relative cost	Generally, not recommended
2	\$50,000 - \$250,000	Moderate to high-cost	Depends on complexity and arbitration center.
3	\$250,000 - \$1 million	Reasonable to moderate	Often justified
4	Over \$1 million	Proportionally efficient	Arbitration is typically preferred

Main Cost Drivers in Arbitration:

1. Arbitrator(s) fees – often charged hourly or as a percentage of the claim amount.
2. Administrative fees – paid to the arbitration institution (e.g., ISTAC, ICC, DIAC).
3. Legal fees – often higher than in court cases, as arbitration may involve more detailed procedures.
4. Hearing costs – renting venues, translation, expert witnesses, etc.

Alternatives for Small Disputes:

1. Litigation in Local Courts - If court procedures are efficient and impartial.
2. Small Claims Arbitration Programs - Some centers offer streamlined, low-cost rules.
3. Mediation or Conciliation Clauses - Used before resorting to arbitration.
4. Ad-Hoc Arbitration - Using a sole arbitrator with capped fees.

Forcing Conditions to Arbitrate Even for Small Amounts:

1. Binding Arbitration Clause - Enforceable even for very low-value disputes.
2. International or Commercial Contracts - Arbitration preferred for enforceability abroad.
3. Third-Party Litigation Funding - Contingency fee arrangements (up to 25% under TC law).
4. Security for Costs - In disputes with foreign parties, claimants may need to deposit 20-30% of the claim value.
5. Cost-Follow-the-Event Rule - Losing party bears both court and attorney costs.

DIAC cost structure for small disputes (Dubai International Arbitration Centre):

DIAC arbitration costs include a flat AED 5,000 registration fee plus sliding-scale administrative and tribunal fees based on the dispute amount, arbitration does not proceed without full payment of the preliminary costs.

While arbitration offers neutrality and enforceability, parties should carefully weigh these costs against potential recovery—especially for lower-value disputes—and explore alternatives like local courts or mediation when appropriate.

1. Registration Fee

A fixed, non-refundable registration fee of AED 5,000 applies to every arbitration request or counterclaim.

2. Administrative & Tribunal Fees (Advance on Costs)

Both administrative costs and tribunal fees are calculated based on a **sliding scale** tied to the amount in dispute, and they must be paid upfront as an **advance on costs**.

Here's a snapshot from DIAC's official fee schedule (under Decree No. 11 of 2007):

Disputed Amount (AED)	Admin Fees (min)	Tribunal Fees Example
Up to 200,000	AED 2,000	AED 5,000 or up to 8% of dispute value
200,001 – 500,000	AED 4,000	AED 5,000 + 1.5% over AED 200,000
500,001 – 1,000,000	AED 7,000	AED 9,500 + 1% over AED 500,000

... and so on, scaling up with the claim amount.

3. Cost Sharing & Adjustments

- These costs are split evenly between claimant and respondent.
- If one party fails to pay, the other must cover it or provide a bank guarantee.
- The Arbitration Court may adjust tribunal fees during proceedings based on complexity, pace, or changing claim amounts.

Example Estimates for Small Claims

Let's illustrate estimated costs for three claim sizes:

Claim / AED	Registration/ AED	Admin fee / AED	Tribunal fee/ AED	Total / AED
100,000	5,000	2,000	5,000 (up to 8%)	12,000+
300,000	5,000	4,000	5,000 + 1.5% of AED 100,000 (i.e., +AED 1,500) = AED 6,500	15,500+
800,000	5,000	7,000	9,500 + 1% over AED 500,000 (i.e., +AED 3,000) = AED 12,500	24,500+

- These sums **exclude legal counsel and other ancillary expenses**.
- For small claims, total costs may significantly exceed the amount claimed.

DIAC vs. Dubai Courts — Cost Comparison Table

Here’s a comparative cost breakdown in table form, highlighting how DIAC arbitration stacks up against Dubai Courts litigation **for** different claim amounts:

Claim Amount (AED)	DIAC Arbitration Cost*	Dubai Courts Litigation Fee**	Key Highlights
100,000	- Registration: AED 5,000 - Admin + Tribunal: est. AED 7,000–10,000 Total: ~AED 12,000–15,000	- Court Fee: 6% → AED 6,000 (min AED 500, cap 20,000)	Arbitration significantly more expensive; courts likely more cost-effective.
300,000	- Registration: AED 5,000 - Admin + Tribunal: est. AED 10,000–15,000 Total: ~AED 15,000–20,000	- Court Fee: 6% → AED 18,000 (within AED 20,000 cap)	Arbitration may be slightly cheaper, depending on actual DIAC fee bracket.
600,000	- Registration: AED 5,000 - Admin + Tribunal: est. AED 15,000–20,000 Total: ~AED 20,000–25,000	- Court Fee: 6% → AED 36,000 (cap of AED 30,000 applies)	Again, arbitration may offer savings depending on DIAC specifics.

* **DIAC estimate:** Based on known structure: AED 5,000 registration fee + sliding-scale admin & tribunal fees paid in advance.

** **Dubai Courts fee:** 6% of claim value with min AED 500 and caps — AED 20k if ≤500k; AED 30k if between 500k–1M.

“caps” usually means the **maximum fee limit** you can be charged — even if the percentage-based calculation would result in a higher amount.

It’s basically a ceiling to prevent costs from becoming excessive for very large disputes

Key Insights

- **Lower-value claims (<~300,000 AED):** **Dubai Courts** tend to be **more cost-effective** with clear, capped fees.
- **Mid-range claims (500,000–1 million AED):** **DIAC arbitration** may become competitive or even cheaper, depending on administrative and arbitrator fees.
- **Arbitration Pros:** Confidentiality, neutrality, and international enforceability — valuable qualities especially in cross-border or complex commercial matters.
- **Litigation Pros:** More straightforward, lower upfront costs for smaller claims, and clear fee structure.

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