



Arbitration in Brazil: Outlook 2026

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Arbitration in Brazil is expanding beyond traditional sectors. While M&A and infrastructure disputes still dominate, the next wave will center on fund structures and wealth-related conflicts – especially as agribusiness families adopt more sophisticated governance models. Clauses must evolve to avoid judicial interference and preserve confidentiality.

Because arbitration in Brazil is governed by federal law, the Superior Court of Justice (STJ) is the highest authority on arbitral jurisprudence. Studying its recent docket offers a clear view of how the country interprets and supports arbitration.

Recent STJ decisions remain strongly pro-arbitration: upholding clauses, preserving tribunal autonomy through kompetenz-kompetenz, limiting judicial intervention to narrow exceptions, validating virtual seats, rejecting extensions to unrelated contracts, and confirming arbitral primacy in judicial recovery cases.

The table below summarizes these decisions:



CASE	HOLDING (STJ)	REF.
Judicial check on Kompetenz-Kompetenz	The STJ held that courts may void an arbitration clause when its illegality is evident, even before arbitral review. Adhesion contracts must show the clause in bold or in a separately signed document.	REsp 2.911.102 (Sep 25)
When Regulation Meets Arbitration	The STJ reaffirmed that arbitration covers only disposable patrimonial rights. Questions involving police power or regulatory excess fall to the Judiciary, allowing review of fines.	REsp 1.945.210 (Sep 25)
Arbitration does not extend to related contracts	Arbitration applies only to disputes under the contract containing the arbitration clause. The agency agreement was autonomous with a judicial forum, unlike the operational agreement that contained an arbitration clause.	AREsp 2.261.087 (Sep 25)
When Enforcement Meets Arbitration	The existence of an arbitration clause does not automatically suspend judicial enforcement (“ <i>execução</i> ”). Enforcement and arbitration may coexist, but suspension of court proceedings depends on initiating arbitration.	REsp 2.167.089 (Aug 25)
When the Seat Goes Virtual	The validity of an arbitral award is not affected by the fact that it was rendered in a virtual setting. The seat defined in the arbitration agreement does not require the physical issuance of the award at that place.	REsp 2208537 (May 25)



Governing Law ≠ Procedural Law	Choosing Brazilian law to govern the merits does not make the Civil Procedure Code subsidiarily applicable to the arbitral procedure, as that would undermine arbitration's procedural flexibility.	REsp 1.851.324 (May 25)
Arbitrator Withdrawal = Annulment	Withdrawal of one arbitrator due to a supervening impediment and failure of the remaining two to inform the parties—violated due process and nullified all acts after pleadings phase.	REsp 2.160.576 (May 25)
Arbitration Prevails over RJ (“Rec. Jud.”)	Arbitration takes precedence over the judicial recovery court for non-executory contractual disputes. Where a valid clause exists, the arbitral tribunal retains jurisdiction to decide the merits. Once an award is rendered, however, the resulting credit is then submitted to the bankruptcy court's collective authority.	CC 203.888 (May 25)
Union not bound by Petrobras arbitration	The Union, as Petrobras' controlling shareholder, cannot be compelled to arbitrate absent statutory authorization. Also, indemnity claims exceed clause's scope.	CC 177.436 (Feb 25)
