



Cour Européenne d'Arbitrage

Europäischer Schiedsgerichtshof

Corte Arbitrale Europea

European Court of Arbitration

Corte Europea de Arbitraje

## **ARBITRATORS' CODE OF ETHICS**

1. The Arbitrator appointed in arbitral proceedings under the Rules of the European Court of Arbitration (the Rules), no matter if appointed by the European Court of Arbitration ("the Court"), by a party or by a State Court or by any other authority, shall comply in addition to the general duty of good faith, and the principles set out by the Rules of Conduct of his/her profession, with this Code of Ethics of which his/her acceptance of appointment as arbitrator will imply acceptance and undertakes to keep to them in the discharge of such role, provided for by the Arbitration Rules of the Court.
2. The Arbitrator undertakes to make at the time of his appointment as arbitrator or whenever the Court should require it, a full disclosure of possible conflict of interests or interference he may have by filling the related form enclosed hereto.  
In case of doubt, it will be appropriate that any and all possibly relevant circumstances be mentioned by the arbitrator in his/her disclosure.
3. Without need for a request by the Court, the arbitrator shall disclose any possible change or new fact which may occur subsequently and which might give rise to doubts as to his/her impartiality, independence or neutrality.
4. The acceptance of the appointment as arbitrator shall include the duty at time of the appointment during the proceedings, and during two years subsequent to the final termination of the arbitral proceedings:
  - to accept the Rules applicable to the proceedings
  - to be independent from the parties to the proceedings, from any party related to them and their third party funders if any, as well as from whoever related to them and, if the parties are legal entities, from their shareholders, their directors, officers and employees, their advisors, consultants and counsel;
  - to be and to remain impartial and also not have any kind of financial or personal interest in the dispute or arising from its outcome;
  - to be neutral and unbiased ;
  - to have adequate knowledge of the field of the dispute;
  - to be in a position to handle each arbitral proceeding personally, reserving to it all the time it requires, without delegating in any way his/her study of the matter and the drafting of the decision;
  - not to be a partner, associate, colleague of a party or of its counsel or of a relative or close friend of any of them, or in any event having any economic, or professional, or personal interest related to any of them, or working himself/herself or any partner or associate of him/her, in the same office,

corporation, entity or activity of any of them, or having acted, himself/herself or someone of his/her office or organisation, for his/her appointing person or legal entity related to it;

5. With the acceptance of the appointment, the arbitrator undertakes to discharge his/her tasks as arbitrator
  - remaining independent, impartial, neutral and unbiased for the above time period
  - acting in a diligent and fair way;
  - conducting the proceedings in compliance with the arbitration agreement and the Rules expeditiously and efficiently;
  - not acting as counsel, advisor, consultant or employer or employee of any of the above persons and entities for two years after the end of such arbitral proceedings
  - applying properly the applicable law (or the principles of *ex aequo et bono* [mitigating strict law] if the parties have so decided);
  - establishing a constructive dialogue with the parties;
  - completing its mandate, and resolving the dispute by making an award which be enforceable in the seat of the arbitral proceedings and at the domicile of the losing party;
  - keeping confidential all and any information obtained during the arbitral proceedings, also after the issue of the award;
  - giving priority to his/her role of service on his/her own benefit of whatsoever nature and giving strict priority to the rights of the parties, by giving them a reasonable opportunity to present and prove their case and to reply to those of the opposite party;
  - strictly respecting the rights of the parties, giving to each of them a reasonable opportunity of presenting and proving her case and of responding to the opposite party;
  - giving priority to the intention of the parties over the merely literal wording of their statements, representations and commitments and of statutory provisions;
  - inviting the parties whenever possible to settle, or to go through mediation proceedings;
  - participating constructively in the deliberations of the arbitral tribunal;
  - remembering that the parties have referred the dispute to arbitration because they want proceedings which be different from and better than court proceedings.
  - refusing any new appointment which does not allow him/her to carry out his/her already accepted appointment with sufficient time and peace of mind
  - not accepting other instructions from the parties during the proceedings and the following two years
  - not having contacts with only one of the parties or its counsel or with only one of its co-arbitrators.
  - taking into consideration the proposals possibly made by the mediator, at the time of allocating costs and fees of the arbitral proceedings.
  - fostering the reduction of costs.
  - not putting to the charge of the parties the possible appointment of a Secretary, unless they have agreed on it.
  - not delegating to any colleague, assistant, secretary to the Tribunal any of his/her tasks as arbitrator.
6. The breach of any of the above duties shall be a justified cause for his/her removal.
7. If the arbitrator is unable to satisfy even one of the hereabove mentioned undertakings, her/she should decline the appointment.
8. In case of doubt as to whether to disclose or not a circumstance, the arbitrator shall disclose it.
9. In case of a reasonable doubt about his/her impartiality, independence or neutrality, the arbitrator is recommended to decline the appointment or resign.

10. If all parties, arbitrators and the Court are aware of a ground for non accepting or resigning from an appointment, and all accept it, then the arbitrator shall not deny or resign from the appointment, unless he/she so wishes.
11. In the event of the arbitrator, breaching or simply not fulfilling any of such undertakings, this will be a ground for his/her dismissal and the Court will be entitled to remove him/her (and as a consequence to put in place a new appointment, to claim the return of any amount paid to him/her, and will be free not to accept any further appointment of him/her as arbitrator), as well as to claim further damages.
12. The arbitrator will attach to his/her statement of acceptance, the Pledge and its Annexures, filled and signed by himself/herself.
13. If an arbitration agreement provides for more arbitrators and each party nominates its own arbitrator and the already appointed arbitrators nominate the third one, all such nominations will be subject to the approval by the Court.
14. The arbitrator is under a duty to respect the parties and their Counsel and their right to present and prove their case, to hear their application and not to confine himself/herself to formalistic positions. He/She must decide within the time limit set out by the Rules, avoiding delays. The arbitrator shall allow amendments to the claims and the production of new documents unless they cause substantial delays to the proceedings. In particular, he/she shall fix the hearings and the development of the proceedings by ensuring that the parties be on an equal footing and shall ensure the loyalty of the debate and absolute compliance with due process.
15. The arbitrator shall take into account, in taxing the fees of the proceedings, the possible proposals made by a mediator, keeping however the discretion not to follow them.
16. The arbitrator shall cooperate to keep the costs of the proceedings as low as possible.
17. The arbitrator/s may appoint a Secretary to the Tribunal, who shall not be involved in the study and/or recommendation of the solutions of legal issues. If the parties do not agree in writing to keep the cost of the Secretary at their charge, its cost will be borne by the arbitrator/s, who shall deduct it from his/her fees.
18. The arbitrator is invited to
  - issue interlocutory measures, except in the legal systems which do not allow this to arbitrators
  - issue in an expedite way a partial award, if a part of the claims is manifestly grounded
  - issue a partial award – if so requested – which puts to the charge of the party, who has not paid its share of the advances or costs of the proceedings, the duty to reimburse them to the party which has advanced it instead of that party.