

NATIONAL LAW PROVISIONS ON NUMBER AND APPOINTMENT OF ARBITRATORS

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ITALIAN ARBITRATION LAW (CODE OF CIVIL PROCEDURE)

ART. 809 – NUMBER OF ARBITRATORS

1. There may be **one or more arbitrators**, provided their number is **uneven**.
2. The arbitration agreement must contain the appointment of the arbitrators or establish their number and the manner by which they are to be appointed.
3. Where an even number of arbitrators is indicated, an additional arbitrator shall be appointed by the president of the tribunal in the manner specified by Article 810, unless the parties have agreed otherwise. **Where the number of arbitrators is not indicated** and the parties do not agree in that regard, **there shall be three arbitrators**; failing their appointment, the president of the tribunal shall proceed to such appointment in the manner specified in Article 810, unless the parties have agreed otherwise.

ART. 810 – APPOINTMENT OF ARBITRATORS

1. Where in accordance with the arbitration agreement the arbitrators are to be appointed by the parties, **each party, by written notice, shall inform the other party of its appointment of an arbitrator or arbitrators and request said other party to name its own arbitrators**. The party so requested shall, within the following twenty days, serve written notice of the personal data of the arbitrator or arbitrators appointed by it.
2. Failing this, the party which has made the request may, through a recourse, petition the president of the tribunal in whose district the arbitration has its seat to make the appointment. If the parties have not yet determined the seat of the arbitration, the petition shall be to the president of the tribunal of the place where the arbitration agreement has been concluded or, if such place is abroad, to the president of the tribunal of Rome.
3. The president of the competent tribunal shall make the requested appointment unless the arbitration agreement is manifestly non-existent or provides manifestly for a foreign arbitration. The appointment shall be made in accordance with criteria that ensure transparency, rotation and efficiency, and to this end, notice of the appointment shall be posted on the website of the judicial office.

4. The same provisions shall apply in case the arbitration agreement has entrusted the appointment of one or more arbitrators to the judicial authority or where, if entrusted to a third person, that third person has failed to act.

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SPANISH ARBITRATION LAW (ACT 60/2003 OF 23 DECEMBER ON ARBITRATION)

ARTICLE 12 – NUMBER OF ARBITRATORS

The parties are free to determine the number of arbitrators, subject only to appointing an odd number thereof. Unless otherwise agreed, a single arbitrator will be appointed.

ARTICLE 15 – APPOINTMENT OF ARBITRATORS

1. Unless otherwise agreed by the parties, in arbitration not to be decided *ex aequo et bono* and conducted by a single arbitrator, such person will be required to be an attorney if acting as such.

When arbitration is to be conducted by three or more arbitrators, at least one must be an attorney.

2. The parties are free to agree on a procedure for appointing the arbitrator or arbitrators, providing the principle of equality is honoured. Failing such agreement, the following rules will apply.

a) In arbitration with a sole arbitrator, he will be appointed by the court at the request of a party.

b) In arbitration with three arbitrators, each party will appoint one arbitrator, and the two arbitrators thus appointed will appoint the third arbitrator, who will preside the proceedings. If a party fails to appoint the arbitrator within 30 days of receipt of a request to do so from the other party, or if the two arbitrators fail to agree on the third arbitrator within thirty days of the latest acceptance, the appointment will be made by the court at the request of a party.

Where more than one claimant or respondent is involved, the latter will appoint one arbitrator and the former another. If claimants or respondents cannot agree on the appointment, all arbitrators will be appointed by the court at the request of a party.

c) In arbitration with more than three arbitrators, they will be appointed by the court at the request of a party.

3. If arbitrators cannot be appointed under the procedure agreed to by the parties, any party may apply to the competent court to appoint the arbitrators or, as appropriate, to adopt the necessary measures therefor.

4. Any claims lodged in connection with the provisions of the preceding items will be processed in oral hearings.

5. The court may dismiss a request for appointment only when, in light of the documents furnished, it deems that no arbitration agreement exists.

6. Where arbitrators are to be appointed by the court, it will draw up a list of three names for each arbitrator to be appointed. When drawing up the list, the court will have due regard to the requirements established by the parties and to such considerations as are likely to secure the appointment of an independent and impartial arbitrator. Where a sole or a third arbitrator is to be appointed, the court will also have regard to the advisability of appointing an arbitrator of a nationality other than those of the parties and, as appropriate, of those of the arbitrators already appointed, in light of the circumstances prevailing. The arbitrators are subsequently appointed by lot.

7. The final decisions adopted on the questions attributed hereunder to the competent court will not be subject to appeal.

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FRENCH ARBITRATION LAW (CODE OF CIVIL PROCEDURE)

ARTICLE 1444

An arbitration agreement shall designate, including by reference to arbitration rules, the arbitrator or arbitrators, or provide for a procedure for their appointment. Alternatively, Articles 1451 through 1454 shall apply.

ARTICLE 1451

1. An arbitral tribunal shall be composed of a sole arbitrator or an uneven number of arbitrators.

2. If an arbitration agreement provides for an even number of arbitrators, an additional arbitrator shall be appointed.

3. If the parties cannot agree on the appointment of the additional arbitrator, he or she shall be appointed by the other arbitrators within one month of having accepted their mandate or, if they fail to do so, by the judge acting in support of the arbitration (*juge d'appui*) referred to in Article 1459.

ARTICLE 1452

If the parties have not agreed on the procedure for appointing the arbitrator(s):

(1) where there is to be a sole arbitrator and if the parties fail to agree on the arbitrator, he or she shall be appointed by the person responsible for administering the arbitration or, where there is no such person, by the judge acting in support of the arbitration;

(2) where there are to be three arbitrators, each party shall appoint an arbitrator and the two arbitrators so appointed shall appoint a third arbitrator. If a party fails to appoint an arbitrator within one month following receipt of a request to that effect by the other party, or if the two arbitrators fail to agree on the third arbitrator within one month of having accepted their mandate, the person responsible for administering the arbitration or, where there is no such person, the judge acting in support of the arbitration, shall appoint the third arbitrator.

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UK ARBITRATION LAW (UK ARBITRATION ACT 1996)

15. THE ARBITRAL TRIBUNAL

The parties are free to agree on the number of arbitrators to form the tribunal and whether there is to be a chairman or umpire.

Unless otherwise agreed by the parties, an agreement that the number of arbitrators shall be two or any other even number shall be understood as requiring the appointment of an additional arbitrator as chairman of the tribunal.

If there is no agreement as to the number of arbitrators, the tribunal shall consist of a sole arbitrator.

16. PROCEDURE FOR APPOINTMENT OF ARBITRATORS

(1) The parties are free to agree on the procedure for appointing the arbitrator or arbitrators, including the procedure for appointing any chairman or umpire.

(2) If or to the extent that there is no such agreement, the following provisions apply.

(3) If the tribunal is to consist of a sole arbitrator, the parties shall jointly appoint the arbitrator not later than 28 days after service of a request in writing by either party to do so.

(4) If the tribunal is to consist of two arbitrators, each party shall appoint one arbitrator not later than 14 days after service of a request in writing by either party to do so.

(5) If the tribunal is to consist of three arbitrators —

(a) each party shall appoint one arbitrator not later than 14 days after service of a request in writing by either party to do so, and

- (b) the two so appointed shall forthwith appoint a third arbitrator as the chairman of the tribunal.
- (6) If the tribunal is to consist of two arbitrators and an umpire—
- (a) each party shall appoint one arbitrator not later than 14 days after service of a request in writing by either party to do so, and
 - (b) the two so appointed may appoint an umpire at any time after they themselves are appointed and shall do so before any substantive hearing or forthwith if they cannot agree on a matter relating to the arbitration.
- (7) In any other case (in particular, if there are more than two parties) section 18 applies as in the case of a failure of the agreed appointment procedure.

22. DECISION-MAKING WHERE NO CHAIRMAN OR UMPIRE

Where the parties agree that there shall be two or more arbitrators with no chairman or umpire, the parties are free to agree how the tribunal is to make decisions, orders and awards.

If there is no such agreement, decisions, orders and awards shall be made by all or a majority of the arbitrators.

INSTITUTIONAL ARBITRATION RULES ON NUMBER AND APPOINTMENT OF ARBITRATORS

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ARBITRAL CHAMBER OF MILAN (CAM RULES 2023)

ART. 14 – NUMBER OF ARBITRATORS

1. The parties may determine the number of arbitrators.
2. Where the parties have not agreed upon the number of the arbitrators, the Arbitral Tribunal shall consist of a sole arbitrator unless the Arbitral Council considers a panel of three arbitrators to be appropriate because of the complexity or the economic value of the dispute.
3. If the agreement to arbitrate provides for an even number of arbitrators, the Arbitral Council shall appoint an additional arbitrator unless otherwise agreed by the parties.

ART. 15 – APPOINTMENT OF ARBITRATORS

1. The arbitrators shall be appointed in accordance with the procedures established by the parties in the arbitration agreement and the Rules.
2. Unless otherwise agreed in the arbitration agreement, the sole arbitrator shall be appointed by the Arbitral Council.
3. Where the parties have agreed to appoint the sole arbitrator jointly without indicating a time limit, this time limit shall be set by the Secretariat. If the parties fail to reach an agreement, the sole arbitrator shall be appointed by the Arbitral Council.
4. Unless otherwise agreed in the arbitration agreement or provided by any mandatory rule, the Arbitral panel shall be appointed in the following manner:
 - a. Each party shall appoint an arbitrator in the request for arbitration and in the reply to the request for arbitration; if a party fails to do so, the arbitrator shall be appointed by the Arbitral Council;
 - b. The president of the Arbitral Tribunal shall be appointed by the Arbitral Council. The parties may, however, provide for the president to be appointed by agreement of the arbitrators appointed by the parties. If the arbitrators fail to reach an agreement within the time limit set by the

parties - or, failing that, by the Secretariat - the president shall be appointed by the Arbitral Council.

5. Where the parties have different nationalities or registered offices in different countries, the Arbitral Council shall appoint as sole arbitrator or president of the Arbitral Tribunal a person of a nationality other than those of the parties, unless otherwise agreed by the parties. Under particular circumstances, and provided that none of the parties objects thereto within the time limit set by the Secretariat, the Arbitral Council may appoint a sole arbitrator or a president sharing the nationality of one of the parties.

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SWISS RULES ON INTERNATIONAL ARBITRATION

ARTICLE 9 – NUMBER OF ARBITRATORS

1. If the parties have not agreed upon the number of arbitrators, the Court shall decide whether the case shall be referred to a sole arbitrator or to a three-member arbitral tribunal, taking into account all relevant circumstances.

2. The Court shall refer the case to a sole arbitrator, unless the complexity of the subject matter, the amount in dispute or other relevant circumstances justify that the case be referred to a three-member arbitral tribunal.

3. If the Arbitration Agreement provides for an arbitral tribunal composed of more than one arbitrator, and this appears inappropriate in view of the amount in dispute or of other circumstances, the Court shall invite the parties to agree to refer the case to a sole arbitrator.

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ARTICLE 10 – APPOINTMENT OF A SOLE ARBITRATOR

1. Where the parties have agreed that the dispute shall be referred to a sole arbitrator, they shall jointly designate the sole arbitrator within 30 days from the date on which the Notice of Arbitration was received by the Respondent, unless the parties' agreement provides otherwise.

2. Where the parties have not agreed upon the number of arbitrators and the Court decides that the dispute shall be referred to a sole arbitrator, the parties shall jointly designate the sole arbitrator within 30 days from the date of receipt of the Court's decision.

3. If the parties fail to designate the sole arbitrator within the applicable time limit, the Court shall proceed with the appointment.

ARTICLE 11 – APPOINTMENT OF ARBITRATORS

1. Where a dispute between two parties is referred to a three-member arbitral tribunal, each party shall designate one arbitrator, unless the parties have agreed otherwise.

2. If one party in a two-party dispute fails to designate an arbitrator within the time limit set by the Court or resulting from the Arbitration Agreement, the Court shall appoint the arbitrator. Unless the parties' agreement provides otherwise, the two arbitrators so appointed shall designate, within 30 days from the confirmation of the second arbitrator, a third arbitrator who shall act as the presiding arbitrator of the arbitral tribunal. Failing such designation, the Court shall appoint the presiding arbitrator.

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ICC RULES 2021

ARTICLE 12 – CONSTITUTION OF THE ARBITRAL TRIBUNAL NUMBER OF ARBITRATORS

1. The disputes shall be decided by a sole arbitrator or by three arbitrators.
2. Where the parties have not agreed upon the number of arbitrators, the Court shall appoint a sole arbitrator, save where it appears to the Court that the dispute is such as to warrant the appointment of three arbitrators. In such case, the claimant shall nominate an arbitrator within 15 days from receipt of the notification of the decision of the Court, and the respondent shall nominate an arbitrator within 15 days from receipt of the notification of the nomination made by the claimant. If a party fails to nominate an arbitrator, the appointment shall be made by the Court.

Sole Arbitrator

3. Where the parties have agreed that the dispute shall be resolved by a sole arbitrator, they may, by agreement, nominate the sole arbitrator for confirmation. If the parties fail to nominate a sole arbitrator within 30 days from the date when the claimant's Request for Arbitration has been received by the

other party or parties, or within such additional time as may be allowed by the Secretariat, the sole arbitrator shall be appointed by the Court.

Three Arbitrators

4. Where the parties have agreed that the dispute shall be resolved by three arbitrators, each party shall nominate in the Request and the Answer, respectively, one arbitrator for confirmation. If a party fails to nominate an arbitrator, the appointment shall be made by the Court.

5. Where the dispute is to be referred to three arbitrators, the third arbitrator, who will act as president of the arbitral tribunal, shall be appointed by the Court, unless the parties have agreed upon another procedure for such appointment, in which case the nomination will be subject to confirmation pursuant to Article 13. Should such procedure not result in a nomination within 30 days from the confirmation or appointment of the co-arbitrators or any other time limit agreed by the parties or fixed by the Court, the third arbitrator shall be appointed by the Court.

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9. Notwithstanding any agreement by the parties on the method of constitution of the arbitral tribunal, in exceptional circumstances the Court may appoint each member of the arbitral tribunal to avoid a significant risk of unequal treatment and unfairness that may affect the validity of the award.

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SIAC RULES 2016

9. Number and appointment of arbitrators

9.1 A sole arbitrator shall be appointed in any arbitration under these Rules unless the parties have otherwise agreed; or it appears to the Registrar, giving due regard to any proposals by the parties, that the complexity, the quantum involved or other relevant circumstances of the dispute, warrants the appointment of three arbitrators.

9.2 If the parties have agreed that any arbitrator is to be appointed by one or more of the parties, or by any third person including by the arbitrators already appointed, that agreement shall be deemed an agreement to nominate an arbitrator under these Rules.

9.3 In all cases, the arbitrators nominated by the parties, or by any third person including by the arbitrators already appointed, shall be subject to appointment by the President in his discretion.

9.4 The President shall appoint an arbitrator as soon as practicable. Any decision by the President to appoint an arbitrator under these Rules shall be final and not subject to appeal.

9.5 The President may appoint any nominee whose appointment has already been suggested or proposed by any party.

9.6 The terms of appointment of each arbitrator shall be fixed by the Registrar in accordance with these Rules and any Practice Notes for the time being in force, or in accordance with the agreement of the parties.

10. **Sole Arbitrator**

10.1 If a sole arbitrator is to be appointed, either party may propose to the other party the names of one or more persons to serve as the sole arbitrator. Where the parties have reached an agreement on the nomination of a sole arbitrator, Rule 9.3 shall apply.

10.2 If within 21 days after the date of commencement of the arbitration, or within the period otherwise agreed by the parties or set by the Registrar, the parties have not reached an agreement on the nomination of a sole arbitrator, or if at any time either party so requests, the President shall appoint the sole arbitrator.

11. **Three Arbitrators**

11.1 If three arbitrators are to be appointed, each party shall nominate one arbitrator.

11.2 If a party fails to make a nomination of an arbitrator within 14 days after receipt of a party's nomination of an arbitrator, or within the period otherwise agreed by the parties or set by the Registrar, the President shall proceed to appoint an arbitrator on its behalf.

11.3 Unless the parties have agreed upon another procedure for appointing the third arbitrator, or if such agreed procedure does not result in a nomination within the period agreed by the parties or set by the Registrar, the President shall appoint the third arbitrator, who shall be the presiding arbitrator.

NATIONAL LAW PROVISIONS ON GROUNDS AND PROCEDURES OF CHALLENGE OF ARBITRATORS

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ITALIAN ARBITRATION LAW (CODE OF CIVIL PROCEDURE)

ART. 815 – CHALLENGE OF ARBITRATORS

1. An arbitrator may be challenged:
 - 1) if he or she does not have the qualifications expressly agreed by the parties;
 - 2) if he or she or an entity, association or company of which he or she is a director, has an interest in the case;
 - 3) if he or she or his or her spouse is a relative up to the fourth degree or a cohabitant or a habitual table companion of a party, one of its legal representatives or counsel;
 - 4) if he or she or his or her spouse has a pending suit against or a serious enmity to one of the parties, one of its legal representatives or counsel;
 - 5) if he or she is linked to one of the parties, to a company controlled by that party, to its controlling entity or to a company subject to common control by a subordinate labor relationship or by a continuous consulting relationship or by a relationship for the performance of remunerated activity or by other relationships of a patrimonial or associative nature which might affect his or her independence; furthermore, if he or she is a guardian or a curator of one of the parties;
 - 6) if he or she has given advice, assistance or acted as legal counsel to one of the parties in a prior phase of the same case or has testified as a witness;
 - 6-bis) if there are other serious reasons of convenience, such as to affect the independence or impartiality of the arbitrator.
2. A party may not challenge the arbitrator appointed by it or that it has contributed to appoint unless for reasons which become known after the appointment.
3. The challenge shall be made by recourse to the president of the tribunal indicated in Article 810, paragraph 2, within the peremptory time limit of ten days after the notification of the appointment or the supervening knowledge of the ground for the challenge. The president shall decide by an order which is not subject to recourse, after having heard the challenged arbitrator and the parties and, where necessary, after having acquired summary information.
4. The president shall decide on costs by an order. In case of manifest inadmissibility or groundlessness of the application for challenge, the

president shall condemn the party having made the application to the payment, in favor of the other party, of a sum to be equitably determined but not higher than three times the compensation to which a single arbitrator is entitled based on the lawyers' tariff.

5. The application for a challenge does not suspend the arbitral proceedings, except in case the arbitrators decide otherwise. However, if the application is granted, the activity performed by the challenged arbitrator or with his or her cooperation is without effects.

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SPANISH ARBITRATION LAW (ACT 60/2003 OF 23 DECEMBER ON ARBITRATION)

ARTICLE 17 – GROUNDS FOR ABSTENTION AND CHALLENGE

1. All arbitrators must be and remain independent and impartial throughout arbitration. They may not maintain any personal, professional or commercial relationship with the parties.

2. Persons proposed to act as arbitrators must disclose any circumstances likely to give rise to justifiable doubts as to their impartiality or independence. From the time of their appointment, arbitrators will without delay disclose any such circumstances to the parties.

At any time during arbitration, a party may ask arbitrators to clarify their relationships with any of the other parties.

3. An arbitrator may be challenged only where circumstances are forthcoming that give rise to justifiable doubts as to his impartiality or independence, or if he does not possess the qualifications agreed to by the parties. A party may challenge an arbitrator appointed by him, or in whose appointment he has participated, only for reasons of which he becomes aware after the appointment was made.

4. Except as otherwise agreed by the parties, the arbitrator may not have intervened as a mediator in the same dispute.

ARTICLE 18 – CHALLENGE PROCEDURE

1. The parties are free to agree on a procedure for challenging arbitrators.

2. Failing such agreement, a party who intends to challenge an arbitrator will state the grounds for the challenge within fifteen days after becoming aware of the acceptance or of any circumstance that may give rise to justified doubts about the arbitrator's impartiality or independence. Unless the challenged arbitrator withdraws from his office or the other party agrees to the challenge, the arbitrators will decide on the challenge.

3. If the challenge under any procedure agreed upon by the parties or laid down in the preceding item is not successful, the challenging party may submit the challenge as grounds for objecting to the award.

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FRENCH ARBITRATION LAW (CODE OF CIVIL PROCEDURE)

ARTICLE 1456

1. The constitution of an arbitral tribunal shall be complete upon the arbitrators' acceptance of their mandate. As of that date, the tribunal is seized of the dispute.

2. Before accepting a mandate, an arbitrator shall disclose any circumstance that may affect his or her independence or impartiality. He or she also shall disclose promptly any such circumstance that may arise after accepting the mandate.

3. If the parties cannot agree on the removal of an arbitrator, the issue shall be resolved by the person responsible for administering the arbitration or, where there is no such person, by the judge acting in support of the arbitration to whom application must be made within one month following the disclosure or the discovery of the fact at issue.

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UK ARBITRATION LAW (UK ARBITRATION ACT 1996)

24 – POWER OF COURT TO REMOVE ARBITRATOR.

(1) A party to arbitral proceedings may (upon notice to the other parties, to the arbitrator concerned and to any other arbitrator) apply to the court to remove an arbitrator on any of the following grounds:

- (a) that circumstances exist that give rise to justifiable doubts as to his impartiality;
- (b) that he does not possess the qualifications required by the arbitration agreement;
- (c) that he is physically or mentally incapable of conducting the proceedings or there are justifiable doubts as to his capacity to do so;
- (d) that he has refused or failed

(i) properly to conduct the proceedings, or

(ii) to use all reasonable despatch in conducting the proceedings or making an award,

and that substantial injustice has been or will be caused to the applicant.

(2) If there is an arbitral or other institution or person vested by the parties with power to remove an arbitrator, the court shall not exercise its power of removal unless satisfied that the applicant has first exhausted any available recourse to that institution or person.

(3) The arbitral tribunal may continue the arbitral proceedings and make an award while an application to the court under this section is pending.

(4) Where the court removes an arbitrator, it may make such order as it thinks fit with respect to his entitlement (if any) to fees or expenses, or the repayment of any fees or expenses already paid.

(5) The arbitrator concerned is entitled to appear and be heard by the court before it makes any order under this section.

(6) The leave of the court is required for any appeal from a decision of the court under this section.