



Regulation of arbitration

SDR France
(Standard Dispute Rules)

The procedure is provided by the Arbitration Committees attached to the Institute of Arbitration. The Arbitration Committee in Paris administers proceedings according to the present regulation SDR France and in accordance with the French law in arbitration.

A – GENERAL CLAUSES

1 - DEFINITIONS & FIELD OF APPLICATION

Article 1: definitions

In this regulation, the followings mean:

“*Agreement of arbitration*”: agreement whereby the parties have decided to subject to arbitration their born or to be born dispute between them; the agreement of arbitration can be either in the form of arbitration clause inserted in the general conditions of sale, the contractual documents or the invoices or the form of arbitration agreement, signed by the parties or resulting from an exchange of letters or telegrams according to the Agreement of the United Nations signed in New York on 10th June 1958.

“*Plaintiff*”: the party that takes the initiative to submit to the arbitration court

“*Defendant*”: the party against whom the procedure is directed at

“*Court*”: the unique arbitrator set by the Institute of Arbitration and in appeal the collegial formation composing the court

“*Institute of Arbitration*”: the authority in charge of organizing the arbitration

“*Secretariat*”: the general secretariat of the Institute of Arbitration

“*Office of the Clerk of the court*”: the secretariat of the court

Article 2: Field of application of regulation

When an agreement of arbitration anticipates resorting to the services of the Institute of Arbitration, the regulation is an integral part of this agreement and the dispute to be solved obeys the rules as defined on the day of submission of a case before the court.

However, resorting to the services of the Institute of Arbitration is only possible as long as the dispute subjected can be legally for arbitration, meaning any matter which does not come within the exclusive competence of a State.

Cases are for arbitration according to the article 2-1 of the agreement of the United Nations signed in New York on 10 June 1958: “all the disagreements or certain of the disagreements which have arisen or may arise between them in respect of a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration”.

B – CONCILIATION MEDIATION & VALUATION

II – PRELIMINARY CONCILIATION

Article 3: conditions of conciliation

Each time that the applicable law to the parties imposes it or one of the parties in the disagreement deems it desirable, a preliminary attempt of conciliation is organized by the Institute.

Article 4: the procedure of conciliation

The application of preliminary conciliation is addressed to the Secretariat on paper or other materials accompanied by payment of fees provided in the tables (K).

The Secretariat acknowledges receipt and informs the other party within ten calendar days from the submission of the case before court.

He receives and transfers the responses and documents of the parties.

In all state of the procedure, the parties can request, by mutual agreement between them, the designation of an expert or a mediator if they consider that by nature, this designation encourages the conclusion of a compromise agreement.

The following procedure is that of chapter III of the present regulation.

Article 5: the end of the conciliation

The conciliation terminates on an agreement, a failure or a refusal.

The agreement interceded within thirty calendar days from the day of the submission of the case to the Secretariat would be the subject of a form of agreement filled by the Secretariat and signed by the parties.

The absence of the form of agreement within the period of thirty calendar days from the day of the submission of the case before the Secretariat means the failure of attempt; each party would be free again to proceed.

III VALUATION & MEDIATION

Article 6: conditions of admissibility of the designation of the expert or mediator

In conjunction with the arbitration court, the parties, by their mutual agreement and at their own expenses by half the rate (K) may apply to the Secretariat for the designation of an expert or the organization of a valuation by a named expert.

In their joint application for the parties, in its award for the arbitration court, whether they have or have not designated specifically by name the expert, the nature and the contents of the mission of the latter should have been defined as null and void.

Only the parties can apply at their own expenses at the rates here-after the designation of a mediator, the arbitration court cannot order the designation by the Secretariat of the court or even proceed to its direct nomination in the pronouncement of its award without provoking the nullity of the decision for denial of justice, since arbitration decisions are supposed to be pronounced for the purpose of conciliation and failing which, a judgment.

In their joint application, no sooner is it received, the parties should define the subject of the mission of mediator with a succinct account of the circumstances having motivated its designation, which can either be left to the Secretariat's care or clarify specifically by name in the body of the application according to what is stated in article 7.

Article 7: the procedure of valuation or mediation

If the expert or the mediator had not been designated specifically by name in the joint application of the parties or the pronouncement of the arbitral award, the Secretariat called to this shortcoming by proceeding himself to his nomination among the experts or mediators registered on the internal lists. The Secretariat informs the expert or the mediator at the latest within 15 working days from the nomination. Within 30 days from his nomination the expert or the mediator should have summoned the parties, verified with them the contents of the mission, having notified them to accept it and in consequence having set up the calendar of the procedure that he intends to apply.

Within 3 months from his nomination, extendable upon mutual agreement of the parties or authorization of the arbitration court, after having verified the regularity of its procedure and after having proceeded to the findings required by his mission, received possibly the documents and statements of case of the parties, the latter contradictorily heard on their requests of means of defense, he gives an official report, technically motivated by the expert, of simple admission of failure or of success for the mediator, but responding in both cases, of the valuation or the mediation, to all and each of the points of the confided mission.

Article 8: The end of the operations of valuation or mediation

The operations of valuation, the mediation, terminate by the deposit of report of the expert or the deposit of report of evidence of mediator who puts an end to their mission.

However the parties, jointly or separately, the court by non motivated decision, can present a petition in interpretation, as a supplement of information or in rectification of material error of the expert or mediator on one or several points of his mission.

The expert's report, the mediator's certified official report, can be freely invoked before all courts as means of proof of their existence but only against the parties who have participated and still, and except measures of adverse public order, are not debatable for the merit and the relevance of their content rather than within the frame of the arbitration procedure.

C – SUBMISSION OF CASE BEFORE COURT AND CONSTITUTION OF ARBITRATION COURT

IV- SUBMISSION OF CASE BEFORE ARBITRATION COURT

Article 9: request of arbitration & deposit of statements of case in defense at the first degree

All parties desiring to resort to arbitration organized by the Institute of Arbitration send the application to the secretariat in Paris or to the European headquarters of the Institute.

The application should consist of:

- Family names, first names, address for the natural persons, company names and headquarters for the legal persons.
- Report of claims of plaintiff clarifying the subject of the application and its sums.
- The documents by virtue of which the application is presented.
- The agreement of arbitration validating the submission of case before the Institute of Arbitration, concerning a compromise signed by the parties in disagreement, this document *in original* if the submission of case before Arbitration Court is required by virtue of an arbitration clause the proof by all means of this clause.
- The proof that these elements have been preliminarily sent to the opposite party.

The defendant of the articulation of the means of defense and/or the deposit of his counter-claim applications is subjected to the same obligations.

Article 10: petition of the appellant and deposit of respondent's statements of case in appeal

The appeal is formed by written petition sent by registered mail to the Secretariat of the Arbitration Court which had pronounced the attacked decision and consists of other than the notes mentioned in the above article.

- a copy of the notification and the attacked decision.
- de facto grounds and rights for which the appeal is lodged.
- the proofs that these grounds have been notified to the opposite party at the same time the documents on which the appeal is based on but for the latter only if they are new in appeal.

The respondent, if he forms an incidental appeal is subjected to the same obligations, and in the absence of incidental appeal, is subjected to the obligations which were his at the first degree.

Article 11 : the receipt of the application

The Secretariat of the Institute of Arbitrage notifies, directly or through the Secretariat of the Court, the defendant or the respondent of the petition of the plaintiff or the appellant.

V – COMPOSITION OF THE ARBITRATION COURT

Article 12: the designation of the court

The Secretariat of the Court proceeds with the designation of the arbitration court which is composed of only one judge at the first degree and of three judges in appeal which means a President and two magistrates' assistants.

Each judge has judicial or legal profession background by training or experience.

He is designated by the Institute of Arbitration on his internal lists, without resorting to parties other than the challenge as defined in article 13.

All persons having participated in whatever position of judgment at first degree, judge, mediator, expert, advisor, cannot be designated as judge in appeal.

Article 13: the challenging

The arbitrator, if he did not indicate the unforeseen circumstances, may be challenged by a party if he is relative, ally, subordinate, or linked by interest to the opposite party, or if he is deprived of his civil rights.

Article 14: replacement

Especially in case of unforeseen circumstances, challenging, resignation, death of arbitrator or consultation or taking side with one of the parties, the Secretariat of the Court after having decided without appeal on the merit of his replacement, proceeds to designate a new arbitrator.

This new designation causes a new period for decision.

Article 15: the acceptance of mission

In the first degree, the arbitration court is truly made up by the letter of acceptance of mission from the arbitrator which the Secretariat of the Court sends to the parties, notifying the dates of the procedure arranged by the court and starts the period during which the arbitrator has to decide the case.

In appeal, the arbitration court is truly made up by the notification of the dates of procedure sent to the parties by the Secretariat of the Court. This notification means acceptance of mission for the whole member of the court. As at first degree this letter of acceptance of mission and procedure starts the period during which the court has to decide the case.

D-PROCEDURE BEFORE THE ARBITRATION COURT

VII - MAJOR PRINCIPLES OF A CASE & APPLICABLE LAWS

Article 16: major principles of a case

The court respects the major principles of a case as defined by the international agreements and the articles 4 to 10, 11, paragraph 1, 13, to 21 of the French New Code of Civil Procedure. (N.C.P.C)

Article 17: law of applicable procedure

The articles 700, 1442 to 1507 of French N.C.P.C are applicable in arbitration session.

The arbitration procedure is for the rest ruled by this regulation.

Article 18: applicable law to the cases

The arbitration court cannot decide in all fairness but solely by following the French in international arbitration and in following the national applicable law

Where the case is settled in other cases, unless the party had signified especially, their willingness to infringe this rule.

In this case, they must state in a separate certificate their will to see the court decide in all fairness or according to the national law they designate.

VII – DURATON & STAGES OF THE PROCEDURE

Article 19: duration of the arbitration

The arbitration court has the obligation to decide within a period of 4 months from the acceptance of its mission, period which can be delayed only with the mutual agreement of the parties or for the causes this regulation allows.

He can shorten the period if he freely judges that the stage of appeal and/or the contradictory character of the procedure don't require such a long period, that the matter of urgency and/or non-seriously contested claims require a shorter period or on the contrary can extend the period if useful for a good dispatch of the lawsuit.

Article 20: stages of the procedure

The court in its letter of acceptance of mission fixes the period of procedure in which the parties will have to notify the arbitration court their claims and means of defense after having sent them to the opposite party.

He fixes the closing date after which all means of proof or claims would be declared inadmissible.

He fixes the date of hearing.

He reminds that failing which for one of the parties to point out his means of defense in the given period an award can be pronounced on the only elements presented by the opposite party.

IX – PLACE & LANGUAGE OF THE PROCEDURE

Article 21: distinction between the national or international character of arbitration

The internationality of arbitration results from the subject of dispute and more precisely from the economic process which occurs: is international economic process implicating a movement of assets, services or a payment beyond the borders no matter where the residence of the parties is or their nationality is or even the place where the contract has been settled.

Article 22: place and language of national arbitration

The place of national arbitration is determined by the Institute of Arbitration according to the defendant's residence or address.

The defendant's address is supposed to be, to the choice of the Institute of Arbitration, that in contractual matter of the respected delivery of the goods or the expected fulfillment of the services and in extra contractual matter of where the damage occurred or the place where the damage has been suffered.

It is sufficient if the place being considered by the Secretariat for the arbitration session is located in the National State of the defendant's residence according to this regulation which means whatever the address or the defendant's real place of dwelling and without needing to summon exactly in the city, the region, federated state of his residence or his presumed or real address.

In case of plurality of defendants dwelling or not in different countries, the place considered will be the residence of whom the principal obligation falls in contractual matter and in extra contractual matter the place where the damage occurred.

When the territorial competence rules designate a country where the Institute of Arbitration has no centre, the place of arbitration will be appointed freely by the Institute.

The language used during the arbitration session is the one used or allowed in front of the National Court where the arbitration takes place.

Article 23: place & language of international arbitration

The place of international arbitration is Paris; its language is French to which English may be added if at least one of the parties is not French-speaking.

X – THE DEBATES

Article 24: the written nature of the procedure

The arbitration court reminds in its letter of acceptance of mission, the written nature of the procedure.

Article 25: relief and representation

The Secretary of the Court reminds the parties in its letter of acceptance of mission that they are free, at any moment in the procedure, but before the closing date to be relieved or represented by anybody chosen by them, who must be authorized specially for it if he is not an advocate, with the obligation for the advisor to reveal himself to the opposite party and to give his details to the arbitration court.

Article 26: freedom of proof

The Arbitration Court doesn't demand any special rule about admissibility of the means of proof and the parties' claims which can, within the period given, be exchanged freely by any means of communication, postal mail or e-mail, and all kinds of materials, with the duty for the parties to keep the proof of their communication which will have to be addressed to the court before the closing date, at the risk of inadmissibility and the latter only by post and on any kinds of materials, in copy or in original, the court can always demand the original documents to be shown during the session.

Article 27: the propriety and the courtesy of the debates

Neither the court nor the parties or their representatives may swerve orally or in written an indispensable courtesy and propriety during the arbitration session without damaging seriously the serenity of the debates.

All breach of duty noted against the court leads to its immediate replacement and against one of the parties the right for the court to conclude from the consequences it judges appropriate relatively to the submitted case.

XI - THE PROTECTIVE DECISIONS AND THE SUSPENSION OF ENFORCEMENT ACTION

Article 28: the protective decisions

The arbitration court can order all steps of preparation of a case before eventual judgment legally acceptable such as a valuation, the hearing of party or a third party, going to the places, which steps of instruction suspends during its proceeding the given period for the court to decide.

Each step of preparation of a case for eventual judgment is ordered by a protective motivated decision which is written in a report or a report of valuation, hearing, transport going to the places, given as soon its writing to each of the parties, this giving recommence the given period for decision.

Article 29: suspension of enforcement action

The submission of a case before court means the suspension of the enforcement action between the parties relatively at

submitted disputes, in all cases at the first degree; and in appeal, when there is no decision ordering immediate execution.

The suspension of enforcement action does not forbid the parties to ask before the national court for the protective measures, or guarantee (mortgage) they deem necessary to protect their interests.

Nevertheless, when the proceeding attempted change during its process, protective measure in the first place transformed in enforcement measure in the second place this regulation considers as soon as the beginning, the proceeding should be assimilated in enforcement measure, such as prohibited, at least for the arbitration session at the first degree; as well as in appeal if the immediate execution of the decision has not been ordered.

E – THE LAST HEARING

Article 30 : presence of the parties at the hearing

The parties are not obliged to attend or to be represented at the hearing but it is their duty to give each other their claims and proofs in the given time and to notify them to the arbitration court before the closing date.

Article 31: order of pleas and discipline of the hearing

The court fixes the discipline of its hearing and the order in which he wishes to listen to the parties' explanations by respecting the following rules:

It verifies the identity of the parties at the hearing.

It proceeds to the preparation of a case for eventual judgment.

The plaintiff pleads first followed by the defendant.

It verifies in all cases that the defendant speaks last.

Article 32: date of deliberation

The court fixes the date of deliberation of its award at the hearing.

F - THE AWARD

Article 33: the court judge of its competence

The court is judge of its competence and judge of its competence at the same time on the case.

Article 34: pronouncement of the claims of the parties and motivation

The court expounds briefly in its award the claims of the parties and gives a motivated decision in fact and in rights.

It cannot decide ultra petita, or on the questions not submitted.

It establishes finally the agreement between the parties.

Article 35: immediate execution

The arbitration court can even order without consultation the immediate execution of the pronounced decision in the first resort.

Article 36: the legal costs

The court decides on the expenses of the legal costs which include in addition to the costs prior to the proceeding, the cost of the arbitration proceeding and the steps of preparation of a case for eventual judgment ordered within the frame of the procedure.

Article 37: form of the award

The arbitral award is written in the language used during the hearing.

It is dated and signed at the first degree by the arbitrator who pronounced it, mentioning his identity on the endpaper of the decision.

In appeal, it is dated and signed by the majority of arbitrators having participated in the deliberation on the endpaper or the last page of the decision.

Article 38 : the obligatory nature of the award

The arbitral award is obligatory between the parties relatively at disputes that it decides between them or the agreement it establishes.

G – EXEQUATUR

Article 39: the exequatur

The arbitration court solicits without consultation the registration and the exequatur of the decision at the competent courts of the arbitration.

The issue of the exequatur puts and ends to the mission of the arbitration court.

Article 40: notification

The arbitral award having the exequatur is notified by the Secretariat of the court in copy to the party which succumbs and in original to the other party.

When the award establishes an agreement, the decision is addressed in copy to the debtor in the agreement and in original to the creditor in the agreement.

Article 41: second copy exequatur

No second copy exequatur of the award is issued.

H - THE MINI-ARBITRATION

Article 42: field of application of mini-arbitration

All determined debts less than € 2000 which has not been disputed by registered letter within the 30 days from its due date comes within the procedure of this chapter.

Article 43: the submission of a case before court

Upon a simple application of the creditor or of his advice of the Secretariat of the Court, or the court in its letter of acceptance of mission, notifies the debtor the procedure by registered letter while respecting all the guarantees offered by this regulation.

Article 44: the award

If the credit remains uncontested or no proof of a previous dispute was forwarded an award at the first degree is pronounced within the 2 months from the constitution of the arbitration court.

Article 45: unexpected plea of a means of defense

When the defendant pleads a means of defense only at the occasion of the arbitration proceeding, it is automatically decided according to the classical arbitration.

I - THE APPEAL

Article 46: the period of appeal

The period of appeal is 30 days within the European Union, 60 days outside the Union.

It belongs to the party who wants to start the period of appeal by notifying the award by registered letter or by bailiff.

In case of plurality of defendants the notification to only one of the parties does not start the period of appeal against the others.

The period starts from the receipt of the notification and not of its issue.

Article 47: the exceptional extension of the period of appeal

When the period expires on a public holiday, it is adjourned until the following first working day.

When the period of appeal expires during the judicial holidays of the Institute it is adjourned until 15 days later commencing from the first working day.

J - FEES AND COSTS OF ARBITRATION

Article 48: costs of valuation

The award ordering a valuation fixes the amount of the retaining fee due to the value who will be consigned by the party who has solicited the steps of preparation of a case for eventual judgment and when this step has been ordered without consultation by the arbitration court or solicited jointly by the parties consigned by half on both parties.

The party which does not consign within the period is reputed to renounce the valuation and relies on justice on the merits of the claims of the opposite party.

Article 49: Fees and disbursement of arbitration

The Institute of Arbitration takes charge of the fees and disbursement of the arbitration which include in the fees of arbitration.

Article 50: Article 700 of N.C.P.C.

The party which wins in his claims, principal or counter-claims, has the rights to compensation on the foundation of the article 700 of N.C.P.C.

The court is bound to give it in case of a special application except to adapt it to half of the arbitration fees, calculated by ranges according to the interest of the dispute as the followings. When each of the parties is declared founded on its respective claims, there is no cause for compensation based on the article 700 of N.C.P.C.

Article 51: Payment of the Arbitration fee

The party which solicits the constitution of arbitration court encloses with his application, at the risk of inadmissibility, the sum of the registration and the costs of arbitration, according to the scale below, by transfer to the following account:

IBAN: BE52 0001 6797 5809
BIC : BPOT BE81

The Institute of Arbitration sends him in return the corresponding bill.

K - SCENE OF THE COSTS & FEES

Article 52: Scale of the costs and ordinary fees

The scale of the costs and ordinary fees is settled as follows:

- a) **Conciliation (in written, without movement):** € 150 in case of financial dispute and at the rates of mediation for the others disputes.
- b) **Valuation:** deposit fixed by the Court or the Secretariat
- c) **Mediation:** half of that of arbitration.
- d) **Mini arbitration of article 42:**
 - In case of an undisputed debt less than € 2000 submitted by mail or email : € 100
 - In case of an undisputed debt less than € 2000 submitted on internet: € 60
- e) **Common arbitration (classic arbitration):**
 - 1/ The registration of the application and the designation of the arbitration court: € 100 for each participating party at the first degree and € 200 in appeal whatever the number of participating parties.
 - 2/ The arbitration fees are calculated according to the amount of the application as the following rates, the plaintiff having to pay in proportion to his application, and the defendant in proportion of his part, both of them having to deposit their own arbitration fees at the risk of inadmissibility of their own application as written in article 51 and in the following manner:
 - 1st range until € 6000 : 10%
 - 2nd range from € 6000 to € 12 000 : 8%
 - 3rd range from € 12000 to € 25000 : 6%
 - 4th range from € 25000 to € 125000 : 3%
 - 5th range from € 125000 to € 250 000 : 1.5%
 - 6th range from € 250 000 to € 625.000 : 1%
 - 7th range from € 625 000 to € 1.250.000 : 0,5 %
 - 8th range above € 1.250.000 : 0.2%

These arbitration fees are doubled in appeal, whether the appellant has or has not participated to the proceeding in appeal and/or the respondent has or has not done so.

In case of the interruption of the arbitration at the first degree before the constitution of the arbitration court comes to effect, the due costs are fixed at the flat fees of 50€.

The rates are mentioned excluding V.A.T. or taxes.

Article 53: The exceptional costs

The exceptional costs notably of hearings, hearing of witness, appearance of the parties, valuation, visit of places, translation, supplementary copies, research, corrections, challenging are not included and therefore billed extra.

All the costs of traveling (extraordinary) and the costs incurred contrary to the clauses normally applicable of this regulation are also exceptional costs.

The exceptional costs are evaluated by the arbitration court and put in the charge of one or a few parties. The most diligent party should consign them to the Secretariat of the court. If the value of the disbursement could not be determined by the court, it is up to the Secretariat of the Court to fix the amount.

The costs are mentioned excluding taxes (V.A.T) and duties.

Article 54: Costs of Exequatur

In the countries where the exequatur of the decision requires a lawyer's intervention and/or the payment of the costs, these disbursements are billed extra of this scale and payable in cash upon first application that the formality of the exequatur had been or not executed.

These disbursements are included in the allocation on the application of the article 700 of N.C.P.C.

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Model of an arbitration clause:

Any dispute shall be settled by the Institute of Arbitration (www.euro-arbitration.org) in accordance with the regulation SDR France.

*If the clause is on the back of a document mention on the recto:
A settlement through arbitration forms part of the conditions mentioned on the back.*