



Criteria for the appointment of arbitrators by the Centre approved by the Board of the Arbitration Centre of the Portuguese Chamber of Commerce and Industry

1. Main principles

- a) In cases where the appointment of arbitrators is competence of the Arbitration Centre, the parties shall, to the extent reasonable, be able to participate in the process of choosing sole arbitrators or chairmen, particularly in cases that are highly complex or of high value.
- b) Where one party is foreign, the Centre shall take into account the principle of neutrality and give the parties the opportunity to opt for a sole arbitrator or chairman who is not of the same nationality as any of the parties.
- c) For low value cases, arbitrators with advocacy experience shall be chosen and will agree as a priority to make themselves fully available to the case. With such commitment, beside from gaining experience as arbitrators, they will help the Arbitration Centre to expand its pool of arbitrators.
- d) The previous rule shall apply to one of the three nominees where a multiparty arbitration requires the appointment of all arbitrators by the Centre.
- e) The Centre shall never appoint the members of the Arbitration Centre Board or the Directors of the Portuguese Chamber of Commerce and Industry. There shall be no such limitation when they are appointed by one or more of the parties.
- f) Independence, impartiality and availability are essential features, and these principles shall be applied according to international best practices to the consideration and acceptance of all arbitrators, even if appointed by the parties. Pursuant to the Arbitration Rules, the Centre shall assess compliance with these requirements at the time of the appointment of any arbitrator and throughout the proceedings.
- g) In any event, if neither party challenges the nomination, it shall be possible for the Centre to accept the appointment of arbitrators who declare facts or circumstances which, although they do not affect their independence or impartiality, contain qualifications; but as a rule, the Chairman shall not accept such appointment if faced with a situation included in the non waivable red list of the IBA Rules, and when naming arbitrators shall – unless otherwise agreed by the parties – avoid choosing arbitrators whose situation compromises their independence.
- h) No arbitrator may initiate to exercise his/hers powers without drafting and signing a statement of independence, impartiality and availability, in accordance with the model adopted by the Arbitration Centre.



2. Criteria

- a) Appointments shall preferably be made amongst professionals with experience of arbitration.
- b) Particularly in cases involving complex issues of substantive law, arbitrators shall preferably be chosen with scientific and/or professional experience in the branch of law that is central to resolving the case.
- c) In arbitrations in which there are documents in languages other than Portuguese, or if other languages are considered as working languages or, furthermore, if the language of arbitration is not Portuguese, arbitrators with no proven command of the language cannot be appointed. Command of the language means having practical experience as arbitrator or lawyer in that language.
- d) A further requirement for arbitrators appointed by the Centre shall be proof of training in arbitration, for example by having attended training courses undertaken by the Centre, and proof of experience of arbitration as a counsel or arbitrator.
- e) From 1 July, 2015, no arbitrator shall be appointed by the Chairman unless they have submitted their arbitration curriculum to the Centre, according to the model to be duly published.

3. Appointment process

- a) Whenever there is lack of agreement on the appointment of an arbitrator, the secretariat shall give the parties a period of 8 days to, by mutual agreement, enhance the application with references that best define the desired arbitrator profile, if they have not previously done so.
- b) The Secretariat shall inform the Centre Chairman (or whichever person on the Board replaces him/her in situations of conflict of interests) within 5 days after the completion of the information obtained under the above paragraph, and the decision shall be taken within 8 days.
- c) When cases are valued in excess of 5 million euros, the Centre Chairman shall choose, in accordance with these rules and within 5 days after being informed of the arbitrator's desired characteristics, 5 names to be submitted to the parties, to try to get agreement on one of them and/or to notify names that some or all of them prefer not to appoint. Parties do not need to specify any grounds for their choice. The Centre Chairman, in accordance with the procedure referred to below, shall then appoint the person chosen, or one to which there was no objection or, if this is not possible, appoint another name that is not on the list.
- d) When one of the parties is foreign, the rule of indicating 5 names shall be applied without regard to value and at least 2 of the 5 names shall not be of the same nationality as the parties.
- e) The Centre Chairman shall take decisions on the appointment of arbitrators, and consult the Vice-Chairman.
- f) In the case of impediment due to conflict of interest, they shall be replaced successively by the Vice-Chairmen and in that case one or two Board members shall be heard, so that the person deciding always hears two Board members prior to the decision.