



RIGA INTERNATIONAL COMMERCIAL ARBITRATION COURT
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APPROVED
at the meeting of members
of the society "European lawyers' chamber"
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REGULATIONS ON INDEPENDENCE AND IMPARTIALITY OF ARBITRATORS

Article 1 Subject of regulation and scope of application

- (1) These Regulations provide standards of ethical conduct for arbitrators, individuals offered to act as arbitrators and prospective arbitrators, including requirements relating to their independence and impartiality, disclosure of certain circumstances, as well as their communication rules with the parties to arbitration and their representatives.
- (2) These Regulations shall apply to any arbitration proceedings administered by the Riga International Commercial Arbitration Court (hereinafter referred to as RICAC) with consideration to the arbitration agreement of the parties, RICAC arbitration rules and any other applicable laws and regulations.

Article 2 Basic terms and definitions

For the purposes of these Regulations, the following terms and definitions shall be applied:

- 1) arbitrator - an individual, who has expressed his or her consent to act as an arbitrator and who duly appointed to resolve a dispute;
- 2) individual offered to act as arbitrator - an individual selected to resolve a dispute, who has not duly expressed his or her consent to act as an arbitrator.

Article 3 General requirements for the independence and impartiality of arbitrators

- (1) From the moment of accepting the powers of an arbitrator and during the course of the arbitration, an arbitrator must be and remain independent and impartial regarding to both parties to arbitration.
- (2) An arbitrator is not independent if, from the viewpoint of a reasonable informed person, there are reasonable doubts of absence of such a relationship between the arbitrator and the parties to arbitration, their representatives, experts, advisors, witnesses, that may influence the arbitrator's opinion/judgment on the case.
- (3) An arbitrator is not impartial if, from the viewpoint of a reasonable informed person, there are reasonable doubts that he or she has no direct or indirect interest in the outcome of a case and has no preconceived preferences or former favoritism of a particular party to arbitration, its representative, expert, advisor, witness that may influence the arbitrator's opinion/judgment on the case.

Article 4 Circumstances which unconditionally impede the exercise of arbitrator's duties

The following circumstances are an indisputable indication of lack of independence or impartiality and impede the exercise of the duties of an arbitrator:

- 1) an arbitrator, his or her spouse or close relative acts or has prior acted in the case in question as a party to arbitration, its representative, expert, advisor or witness;
- 2) an arbitrator, his or her spouse or close relative holds a significant amount of shares in the authorised (share) capital or serves as a member of an executive structure or another structure of the legal entity which acts as a party to arbitration or is a parent /holding or a subsidiary/filial company of a party to arbitration or its representative. Such shareholding shall be deemed significant if such an arbitrator, his or her spouse

- or close relative individually or jointly hold an amount of shares exceeding one percent of such an authorised (share) capital;
- 3) an arbitrator is a spouse or close relative of another RICAC arbitrator sitting on the different panel of arbitrators;
 - 4) an arbitrator is employed by a party to arbitration (its parent/holding or a subsidiary/filial company) or its representative, or receives remuneration from them under/according to civil agreements, or represents a party to arbitration in other unrelated case, or acts as an expert or advisor therein;
 - 5) an arbitrator has made public announcements in connection to the case to be settled and, in particular, has publicly given his or her legal evaluation/assessment of it.

Article 5 Circumstances which require disclosure

- (1) An arbitrator must, without delay, disclose any circumstance that may raise arbitration parties doubts about his or her impartiality and independence.
- (2) All doubts must be interpreted in favor of disclosure of relevant circumstances.
- (3) In particular, the following circumstances are to be disclosed:
 - 1) an arbitrator has been employed by a party to arbitration (or by an entity which is such party's parent/holding corporation or a subsidiary/filial company) or its representative, or received remuneration from them under civil agreements within the period of three years preceding the commencement of arbitration proceedings;
 - 2) an arbitrator has represented any of the parties to arbitration in any other unrelated case or acted in another case involving one of the parties to arbitration as a representative, expert or advisor within the period of three years preceding the commencement of arbitration proceedings;
 - 3) over the course of arbitration (or within the period of three years preceding its commencement) an arbitrator is employed by or receives remuneration according to civil agreements from an organization or is a member or shareholder of an attorney-at-law firm, provided that such an organization or law firm (employees of this organization or attorney-at-law firm members or shareholders) provides or within the period of three years preceding the commencement of the arbitration has provided legal assistance (services) to one of the parties to arbitration or its parent/holding corporation or a subsidiary/filial company in the dispute in question or in another unrelated case;
 - 4) an arbitrator and a representative, or an expert, or advisor of one of the parties to arbitration are employed by the same organization or have been employed by the same organization within the period of three years preceding the commencement of arbitration;
 - 5) an arbitrator is or within the period of three years preceding the commencement of arbitration has been in the relationship of legal subordination with another arbitrator from the same panel of arbitrators;
 - 6) an arbitrator, his or her spouse or close relative holds a share in the authorised (share) capital of a party to arbitration or its parent/holding corporation or a subsidiary/filial company even if such share is not significant;
 - 7) an arbitrator has earlier been selected/entitled by a party to arbitration (its parent/holding corporation or a subsidiary/filial company) as an arbitrator in another proceeding or otherwise selected (appointed) as an arbitrator in another proceeding/case involving a party to arbitration provided that such other proceeding is related to the case to be settled by the nature of its claims and such other proceeding did not commence /started at the same time with this arbitration;
 - 8) an arbitrator held discussions with a party to arbitration or its representative on any matter regarding the arbitration proceedings in breach of provisions set forth in the Articles 8-9 of these Regulations;
 - 9) an arbitrator acts or within the period of three years preceding the commencement of arbitration has acted as a research supervisor or research advisor with respect to the preparation of the PhD thesis by the representative of a party to arbitration or the representative of a party to arbitration acts or within the period of three years preceding the commencement of arbitration has acted as a research supervisor or research advisor for the arbitrator's PhD thesis;
 - 10) a close friendship exists between an arbitrator and a representative of one of the parties who are involved in the same arbitration case, in particular, an arbitrator and a representative of a party engage on the ongoing basis into interpersonal communication not related to their professional activities and their involvement into professional associations or non-governmental organizations;

- 11) an arbitrator and a representative of one of the parties involved in the same arbitration are or have been representatives of opposing parties in any other litigation court proceedings or arbitration case;
 - 12) two arbitrators from a panel of arbitrators or an arbitrator and a representative of one of the parties have acted as co-representatives within the period of three years preceding disclosure.
- (4) The fact itself that the arbitrator disclosing the circumstances specified in the present Article does not mean that there are reasonable doubts to his or her independence or impartiality and does not prevent him or her from accepting and fulfilling the duties of an arbitrator as well as does not create an obligation to satisfy a request for the arbitrator's disqualification submitted by the arbitration party.

Article 6 Disclosure procedure for circumstances requiring disclosure

- (1) The circumstances prescribed by the Article 5 of these Regulations shall be disclosed before an individual accepts the role/duties of an arbitrator. If such circumstances emerge or become known to an arbitrator at a later stage of the arbitration proceedings, such circumstances must be disclosed immediately after the arbitrator becomes aware of such circumstances.
- (2) An arbitrator must take in consideration all information available to him or her and must perform a reasonable verification of the available information in order to fulfill his or her obligation to make a disclosure prescribed by the Article 5 of these Regulations.
- (3) An individual offered to act as an arbitrator or an arbitrator must obtain prior consent to such disclosure from an authority or individual authorised to give such consent, if certain circumstances which are to be disclosed correspond to the category of restricted access information (state, commercial, official, professional and other secrets protected under applicable law). An arbitrator shall decline the acceptance of duties of an arbitrator or shall stop to act as an arbitrator and recuse himself/herself if he or she has already accepted such a role, if such consent is not obtained in a reasonable period of time.

Article 7 Circumstances which do not require disclosure

- (1) An arbitrator is not required to disclose any circumstances that cannot raise appearance for parties of justified doubts regarding to his or her impartiality or independence.
- (2) In particular, the following circumstances do not prevent an arbitrator from fulfilling his/her duties and are not subject to disclosure:
 - 1) an arbitrator has presented a general opinion on a legal matter discussed in the case but irrespective of the dispute in question in a public media or over the course of a public lecture;
 - 2) a representative of a party to arbitration is or was a student at an educational institution at which an arbitrator teaches or taught in the past;
 - 3) an arbitrator is or was a member of a bar association, another professional association or non-governmental organization together with a representative of a party to arbitration, expert, advisor, witness or other arbitrators from the same panel of arbitrators;
 - 4) several arbitrators from the same panel of arbitrators work or worked in the past in the same organization provided that the arbitrators are not and have not been in the relationship of legal subordination with each other within the period of three years preceding the commencement of arbitration;
 - 5) several arbitrators from the same panel of arbitrators or an arbitrator and a representative of a party, expert, advisor, witness are independent co-authors of one collective publication or have acted as editors or reviewers of the same publication;
 - 6) several arbitrators from the same panel of arbitrators are or have earlier been members of the same arbitral panel in another case;
 - 7) an arbitrator and a representative of a party, expert, advisor, witness are or have earlier been members of the same arbitral panel in another case unrelated to this dispute to be settled;
 - 8) an arbitrator has been selected as an arbitrator by the same party to arbitration or its parent/holding or subsidiary/filial company in another proceeding/case (proceedings) or otherwise selected (appointed) as an arbitrator in another proceeding (proceedings) involving a party to arbitration provided that such other proceeding (proceedings) is not related to the dispute in question by the nature of its claims or such other proceeding case(proceedings), which is related to the dispute by the nature of its claims, was commenced at the same time with this arbitration case;

- 9) an arbitrator has participated in any public events (conferences, workshops, presentations, etc.) and a party to arbitration or its representative were involved in financing or organizing this event provided that such an arbitrator has not received any remuneration from such a party to arbitration or its representative;
- 10) an arbitrator and a representative of a party to arbitration, expert, advisor, witness are or have earlier been placed on the same list of arbitrators or mediators used by a permanent arbitration institution or another alternative dispute resolution body;
- 11) an arbitrator is or was in the past a consumer of goods (work, services) of a party to arbitration or its parent/holding or subsidiary/filial company provided that the terms of purchase of such goods (work, services) are equivalent to the terms on which other consumers purchase such goods (work, services);
- 12) an arbitrator and a manager, director or a member of a supervisory board or another person exerting influence on one of the parties to arbitration have acted jointly as experts or arbitrators;
- 13) an arbitrator is connected to a party to arbitration or its representative or to an affiliate person through any social media;
- 14) a party to arbitration or its representative has conducted an interview with a prospective arbitrator in accordance with the requirements specified by these Regulations prior to appointment or selection of an arbitrator.

Article 8 Communication between a possible prospective arbitrator and a party to arbitration or its representative

- (1) If a party to arbitration has a right to select an arbitrator, before taking a decision to select the individual who will be offered to act as an arbitrator, the party to arbitration or its representative may offer to a potential prospective arbitrator (the "Prospective arbitrator") to hold an interview subject to the procedure set forth in this Article.
- (2) An interview is conducted/held solely to confirm that there is no reasonable doubt to the Prospective arbitrator's independence and impartiality, to determine the Prospective arbitrator's compliance with requirements to professional qualification and experience as required to act as an arbitrator and to determine that the Prospective arbitrator has sufficient time to participate in arbitration.
- (3) If the Prospective arbitrator agrees to conduct an interview then during such an interview with a party to arbitration or its representative the prospective arbitrator may only discuss the following matters:
 - 1) names of the parties to arbitration and their representatives, names of parent/holding and subsidiary/filial companies of the parties to arbitration and their representatives, names of third parties that are or may be involved in arbitration, names of other selected or appointed members of the arbitral panel and names of experts, advisors and witnesses to be engaged;
 - 2) a general nature of a dispute, type of claims, language of arbitration, applicable law, seat of arbitration and applicable arbitration rules;
 - 3) expected duration of arbitration;
 - 4) the Prospective arbitrator's professional qualifications and experience.
- (4) The Prospective arbitrator must refuse to discuss with a party to arbitration or its representative any other matters exceeding the limits of this Article.
- (5) The Prospective arbitrator may decline to participate in an interview with a party to arbitration or its representative without giving reasons or may interrupt it at any time. Such refusal to participate in an interview or its interruption shall not be deemed as circumstances that may raise reasonable doubts to the arbitrator's independence or impartiality and does not require disclosure if the prospective arbitrator is subsequently appointed as an arbitrator or is selected as an arbitrator by any party to arbitration or RICAC.
- (6) The Prospective arbitrator upon his or her own initiative may request a party to arbitration or its representative who approached him or her to provide the information stipulated in the subparagraphs 2-3 of the paragraph 3 of this Article.
- (7) The Prospective arbitrator may provide to a party to arbitration or its representative who approached him or her, his or her brief biographical details, including his or her educational background, past and present professional activities.
- (8) Provisions of this Article shall apply to any contacts between the Prospective arbitrator and a party to arbitration or its representative in any form and through any means of communication.

Article 9 Prohibition for individuals offered to act as arbitrators and arbitrators to discuss matters regarding arbitration

An arbitrator and an individual offered to act as an arbitrator shall not discuss any matters of such arbitration with any of the parties to arbitration, their representatives, experts, advisors, witnesses issues related to the respective arbitration proceedings and exceed the limits necessary for the implementation of the arbitration proceedings.

Article 10 Effect of the Regulations

These Regulations shall take effect from the date of their approval and shall apply to any arbitration commenced after the approval.