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INTERNATIONAL COUNCIL FOR COMMERCIAL ARBITRATION

ICCA
PROJECTS

Research Group on
Arbitrator Immunity

FRANCE

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SURVEY RESPONSES ON ARBITRATOR IMMUNITY – FRANCE

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FRANCE			
I. Definitions		Yes/No/NA	Comments, if any
I.1.	<p>“Arbitrator”</p> <p>For the purpose of this survey, an “arbitrator” is a person appointed by the parties, on behalf of the parties, or by an institution to adjudicate a dispute under an arbitration agreement, either alone or as one member of an arbitral tribunal. When answering the questions in this survey, please include all regulations, standards, or duties that apply to or include arbitrators but not those that apply solely to mediators.</p>	N/A	
I.2.	<p>“Legislation”</p> <p>For the purpose of this survey, “legislation” includes laws in force and any draft bills or legislative initiatives that are currently at an advanced stage, including for example if the proposal is before a legislative body for vote or approval. It is helpful to signal the content and status of any such legislative initiatives in this survey, so that readers can also be aware of changes that may be forthcoming.</p>	N/A	

II. General		Yes/No/NA	Comments, if any.
II.1.	<p>What standards or duties (including ethical standards or duties) apply to arbitrators in your jurisdiction? Please briefly describe these standards or duties and cite to their legislative, regulatory, jurisprudential, or other basis.</p> <p>[Examples of such standards or duties may include:</p> <ul style="list-style-type: none"> - Duty to disclose potential conflicts of interest. - Duty of impartiality. - Duty of care/competence. - Duty to respect and maintain the confidentiality of the arbitration. - Duty to conduct the proceeding in an appropriate/fair/judicious manner. 	Yes	<p>Arbitrators in France are subject to a set of duties and ethical standards, drawn from French legislation, case law, and institutional guidelines:</p> <ul style="list-style-type: none"> - Duty to disclose any circumstances that might affect their independence or impartiality. This obligation is ongoing throughout the proceedings (Article 1456(2) of the Code of Civil Procedure, applicable to international arbitration pursuant to Article 1506(2) of the Code of Civil Procedure). - Duty to act with celerity and fairness during the arbitral proceedings (Article 1464(3) of the Code of Civil Procedure, applicable to international arbitration pursuant to Article 1506(3) of the Code of Civil Procedure). - Duty to ensure equal treatment between the parties and due process (Article 1510 of the Code of Civil Procedure). - Duty to preserve the arbitral proceedings by conducting them within the prescribed time limits, including the obligation to apply for an extension of the time limit for making the award (TGI Paris, 29 November 1989, <i>Omnium de Travaux v. République de Guinée</i>; Paris Court of Appeal, 31 March 2015, No. 14-05436, <i>Delubac</i>). - In domestic arbitration, duty of confidentiality unless the parties agree otherwise (Article 1464(4) of the Code of Civil Procedure). - Duty of confidentiality in international arbitration is under discussion in view of a possible new arbitration law. <p>In addition, lawyers serving as arbitrators are also bound by the French professional ethical rules.</p> <p>Finally, some arbitral institutions have also adopted ethical rules and guidelines for arbitrators (e.g. ICC Note to Parties and Arbitral Tribunals on the Conduct of the Arbitration), which are applicable to France-seated arbitrations.</p>

<p>II.2.</p>	<p>In cases of potential arbitrator misconduct of a civil (as opposed to criminal) nature, what remedies or disciplinary measures are available in your jurisdiction <i>vis-à-vis</i> the arbitrator?</p> <p>Please provide citations to any relevant legislation, regulations, jurisprudence, or other secondary sources of law.</p>	<p>Yes</p>	<p>Arbitrator liability under French law is primarily contractual, based on the arbitration agreement between parties and arbitrators. Liability claims may be brought under general contract law or tort law (Articles 1231-1 or 1240 of the Civil Code). French courts hold that arbitrators are immune from liability for errors in adjudication due to their judicial function but remain liable only in cases of fraud, gross negligence, willful misconduct, or denial of justice. If the arbitrators’ actions are outside of their jurisdictional mission, a claimant can seek compensation under Article 1231-1 of the Civil Code for a contractual claim, or Article 1240 of the Civil Code for a tort claim. However, the two liability regimes cannot cumulate.</p> <p>Where a claim is brought against the arbitrators on the basis of their civil liability, the arbitrators’ fees paid by the parties during the arbitral proceedings can be recovered in part or in total, especially when the award is set aside. (TGI Paris, 9 December 1992, <i>Annahold</i>).</p> <p>The arbitrators can also be ordered to pay the institution’s fees to the claimant for breach of the “arbitration contract”. (TGI Paris, 12 May 1993, <i>Raoul Duval</i>).</p> <p>When an award has been set aside, a claimant cannot seek compensation for the loss of opportunity to win the case since such a result is not established. Arbitrators can be ordered to pay the institution’s fees to the claimant for breach of the “arbitration contract” (TGI Paris, 12 May 1993, <i>Raoul Duval</i>).</p> <p>A claimant cannot seek compensation for the loss of opportunity to win the case since it was able to argue its case before a court but chose not to (Paris Court of Appeal, 31 March 2015, No. 14-05436, <i>Delubac</i>). Some authors consider that loss of opportunity could be claimed in case if the action can no longer be introduced, e.g. time barred, but there is no reported case law to date (Ph. Stoffel-Munck, ‘<i>La responsabilité de l’arbitre</i>’, <i>Revue de l’Arbitrage</i>, pp. 1123 – 1145).</p> <p>A claimant cannot seek compensation for the difference between the damages awarded by the arbitrator in the award set aside and the amount finally determined by the courts. (Cass. 1ère civ., 14 February 2024, No. 22-22.469 – in this case the Court of Appeal ruled on the dispute following after the annulment of the award rendered in domestic arbitration and reduced the amount of the damages awarded).</p>
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II.3.	Is there anything in the <u>legislation</u> of your jurisdiction recognizing a general principle of arbitrator liability and/or a principle that could provide a basis for an arbitrator to be subject to suit or found liable personally for breaches of any of the duties/standards described above?	No	There is no explicit legislative provision regarding the general principle of arbitrator liability. As explained in II.4 below, the general principle of arbitrator liability comes from case law.
II.4.	Is there anything in the <u>jurisprudence/ other secondary sources of law</u> of your jurisdiction recognizing a general principle of arbitrator liability and/or a principle that could provide a basis for an arbitrator to be subject to suit or found liable personally for breaches of any of the duties/standards described above?	Yes	<p>French case law recognizes a general principle of limited arbitrator liability applicable for breaches of procedural, ethical, and disclosure duties, distinct from jurisdictional missions which are protected by immunity. See the arbitrators’ duties explained in II.1. above.</p> <p>French courts ruled that the failure to make a proper disclosure could establish the arbitrators’ civil liability based on a breach of the arbitration contract (Paris Court of Appeal, 12 October 1995, <i>Raoul Duval</i>).</p> <p>In relation to the duty to conduct the arbitral process within prescribed time limits, arbitrators may be held personally liable if the deadline expires before an award is rendered and they have failed to request an extension of time from the parties or the supporting judge (“<i>juge d’appui</i>”) (Cass. 1ère civ., 6 December 2005, No. 03-13.116; Cass. 1ère civ., 17 November 2010, No. 09-12352).</p> <p>Jurisprudence also confirms that the duty to request an extension was a duty to achieve a specific result whereas the duty to comply with the arbitral deadlines was a duty of best efforts (Paris Court of Appeal, 31 March 2015, No. 14-05436, <i>Delubac</i>).</p> <p>In two recent decisions, the Paris Court of Appeal set aside awards based on the arbitrators’ lack of independence and impartiality while emphasizing that this finding was made “without calling into question the integrity of the arbitrator” which may limit any subsequent liability claims (Paris Court of Appeal, 10 January 2023, No. 20/18330, <i>PAD</i>; Paris Court of Appeal, 2 May 2024, No. 21/08610, <i>Opportunity Fund</i>).</p>
II.5.	Is there anything in the <u>jurisprudence/ other secondary sources of law</u> of your jurisdiction that could provide a basis for an arbitrator generally to be subject to suit or found liable personally for acts or omissions in relation to an arbitration?	Yes	<p>French case law established a basis for arbitrators to be subject to suit and potentially found personally liable for acts or omissions in relation to an arbitration provided that such acts or omissions are serious enough to go beyond their judicial immunity.</p> <p>The principle is laid out in the <i>Azran</i> case: “Owing to their judicial mandate, the arbitrator benefits from jurisdictional immunity, so that he is liable only for his personal wrongdoings, which result in liability where they amount to willful misconduct, fraud, gross negligence or denial of justice” (Cass. 1ère civ., 15 January 2014, No. 11-17.196).</p>

II.6.	If your answer to question II.3, II.4 or II.5 is yes, is there a corresponding statute of limitations or similar time-limit in your jurisdiction for the initiation of a claim against an arbitrator?	Yes	As the arbitrators' liability is a civil liability (Cass. 2ème civ., 29 January 1960), the general statute of limitations applies (Ch. Seraglini, J. Ortscheidt, <i>'Droit de l'arbitrage interne et international'</i> , para. 311). Accordingly, claims can be brought within 5 years from the day on which the party knew or should have known the facts enabling the exercise of its right of action (Article 2224 of the Civil Code).
II.7.	If your answer to question II.3, II.4 or II.5 is yes, is there anything in the <u>legislation</u> or <u>jurisprudence/other secondary sources of law</u> of your jurisdiction that addresses the possibility of joint liability among the members of the tribunal, either <i>vis-à-vis</i> the parties or among themselves?	Yes	<p>No specific case law or legislation directly addresses or recognizes such principle. Certain general principles from contract and tort law, supported by case law, can in principle provide a basis for joint (and several) liability in practice. In the event of a breach of a procedural duty, joint and several liability could be imposed on each arbitrator, since although each holds an individual contract with the parties, the service performed is indivisible (Ph. Stoffel-Munck, <i>'La responsabilité de l'arbitre'</i>, Revue de l'Arbitrage, para. 58).</p> <p>In 2019, the Paris Court of Appeal partially overruled a first instance judgment that held two arbitrators and an institution jointly liable ("<i>in solidum</i>") for the damages suffered by the claimant. The Court reasoned that because both arbitrators did not serve on the same panel – each acting as a sole arbitrator – and because the misconduct of the first arbitrator was independent from that of the second, they should not be held jointly liable. However, the Court found that the misconduct of the second arbitrator and the institution – <i>i.e.</i> respectively the failure to request an extension of time to issue the award and the failure to properly manage the financial aspects of the case – resulted in the same damage that should be compensated jointly by the second arbitrator and the institution. The first arbitrator was ordered to compensate the claimant for the counsel fees incurred during the second arbitration and caused by his lack of impartiality (Paris Court of Appeal, 2 April 2019, No.16/00136).</p>

III. Limitations of Liability		Yes/No/NA	Comments, if any.
III.1.	<p>Is there a general principle of arbitrator immunity (<i>i.e.</i>, whereby an arbitrator is immune from civil liability for his or her activities undertaken as arbitrator) in your jurisdiction? If yes, is this immunity less than, equivalent to, or greater than the immunity, if any, afforded to judges or members of the judiciary?</p> <p>Please provide citations to any relevant legislation, regulations, jurisprudence, or other secondary sources of law.</p>	Yes	<p>Judicial immunity is traditionally a common law concept. However, the principle of limited liability (“responsabilité aménagée”) recognized by French law results in an immunity for errors of law, errors of fact, or mere errors in the adjudication of disputes, which is limited to the arbitrator’s jurisdictional mission (Paris Court of Appeal, 22 May 1991, <i>Bompard</i>). French case law even refers to the concept of immunity to describe this mechanism (Paris Court of Appeal, 31 March 2015, No. 14-05436, <i>Delubac</i>; TJ Paris, 22 May 2017, No. 14/14717; Douai Court of Appeal, 20 March 2025, No. 23-00306).</p> <p>No immunity applies to the arbitrators’ contractual obligations towards the parties (<i>e.g.</i> preserve the arbitral proceedings by conducting them within the prescribed time limits, including the obligation to apply for an extension of the time limit for making the award, Paris Court of Appeal, 31 March 2015, No. 14-05436, <i>Delubac</i>).</p> <p>The arbitrator’s immunity is more limited than the immunity afforded to judges or members of the judiciary as the latter benefits from the public service mission, <i>e.g.</i> the arbitrator’s failure to make a proper disclosure is a fault for which he or she remains personally liable, unlike judges whose faults performed in their official capacity are typically covered by their immunity (S. Guinchard, <i>Rép. proc. civ.</i>, V° “Responsabilités encourues pour fonctionnement défectueux du service public de la justice”, No. 103; TGI Paris, 12 May 1993, <i>Raoul Duval</i>).</p>
III.2.	Is there anything in the <u>legislation</u> of your jurisdiction that otherwise limits an arbitrator’s personal civil liability?	No	
III.3.	Is there anything in the <u>jurisprudence/ other secondary sources of law</u> of your jurisdiction that otherwise limits an arbitrator’s personal civil liability?	Yes, see II.2 above	A claimant cannot obtain compensation either for the loss of opportunity to win the case, if it had the chance to present its arguments before the court but chose not to, or for the difference between the damages awarded in the annulled arbitral award and those subsequently determined by the national courts (Paris Court of Appeal, 31 March 2015, No. 14-05436, <i>Delubac</i> ; Cass. 1ère civ., 14 February 2024, No. 22-22.469).

<p>III.4.</p>	<p>If your answer to question III.1, III.2, or III.3 is yes, are there any exceptions to that immunity or limitation of liability?</p> <p>For example, is there any exception to an arbitrator’s immunity from suit or limitation of liability where the arbitrator’s alleged misconduct involves fraud, bad faith, negligence, or intentional wrongdoing (to the extent these concepts are recognized in your jurisdiction’s legal framework)?</p> <p>Please provide citations to the relevant legislation, regulations, jurisprudence, or other secondary sources of law.</p>	<p>Yes</p>	<p>As explained in III.1. above, arbitrators’ immunity is lifted in case of personal wrongdoings amounting to willful misconduct, fraud, gross negligence or denial of justice (Cass. 1ère civ., 15 January 2014, No. 11-17.196, <i>Azran</i>; Paris Court of Appeal, 31 March 2015, No. 14-05436, <i>Delubac</i>; Douai Court of Appeal, 20 March 2025, No. 23-00306).</p>
<p>III.5.</p>	<p>Is there any <u>jurisprudence/other secondary sources of law</u> in your jurisdiction which considers the effectiveness of limitation of liability clauses found in arbitral institution rules?</p> <p>If yes, please provide a brief description of the case(s) or secondary source(s), limited to one paragraph per case/secondary source, including, if applicable:</p> <ul style="list-style-type: none"> – The type of misconduct alleged. – The relevant limitation of liability language and its source (<i>i.e.</i>, UNCITRAL Arbitration Rules 2010, American Arbitration Association Commercial Arbitration Rules, etc.). 	<p>Yes</p>	<p>Paris Court of Appeal, 22 January 2009, No. 07/19492, <i>SNF SAS c/ Chambre de Commerce Internationale (CCI)</i>: The case was brought against the arbitral institution. SNF claimed that the ICC failed to properly scrutinize the award in breach of the 1998 ICC Rules. The Paris Court of Appeal found the limitation of liability clause in Article 34 of the 1998 ICC Rules unenforceable (“<i>réputée non écrite</i>”) under French law because it contradicted the purpose of the “arbitration contract” by allowing the ICC to avoid performing its essential obligation as a service provider.</p> <p>Paris Court of Appeal, 31 March 2015, No. 14-05436, <i>Delubac</i>: The Paris Court of Appeal found that since compliance with the time limit does not fall within the exercise of their jurisdictional mission but falls within the scope of the arbitrator’s contract, the arbitrator cannot rely on jurisdictional immunity nor on the exclusive liability clause of the ICC Rules.</p> <p>Paris Court of Appeal, 23 March 2021, No. 18/14817, <i>Garoubé</i>: The case was brought against the arbitral institution. Garoubé claimed that the ICC failed to organise the arbitration proceedings in breach of the ICC Rules 1998. The Paris Court of Appeal found the arbitrator’s exclusion of liability clause in Article 34 of the 1998 ICC Rules could not prevent a contractual claim based on gross or willful misconduct against the ICC.</p>

	<ul style="list-style-type: none"> - A summary of the court's findings as to the effectiveness of the limitation of liability clause in limiting or excluding an arbitrator's liability. 		<p>The authors agree that limitation of liability clauses are effective but subject to the conditions existing in French contract law (Ch. Seraglini, J. Ortscheidt, '<i>Droit de l'arbitrage interne et international</i>', para. 311; Th. Clay, <i>L'arbitre</i>, Dalloz, Nouvelle Bibliothèque de Thèses, 2001, no. 948, p. 715; E. Loquin, JCl. Procédure Civile, Fasc. 1800-35, para. 111).</p>
<p>III.6.</p>	<p>Is there any <u>jurisprudence/other secondary sources of law</u> in your jurisdiction which considers the effectiveness of limitation of liability clauses or indemnity clauses (<i>i.e.</i>, clauses by which the parties to the arbitration agree to cover any losses or damages suffered by the arbitrators in a potential suit, or to otherwise hold the arbitrators harmless) found in an arbitration's procedural materials – <i>i.e.</i>, Terms of Reference, Terms of Appointment, Procedural Order No. 1, etc.?</p> <p>If yes, please provide a brief description of the case(s) or secondary source(s), limited to one paragraph per case/secondary source, including, if applicable:</p> <ul style="list-style-type: none"> - The type of misconduct alleged. - The limitation of liability or indemnity language found in the relevant procedural material (if available). - A summary of the court's findings as to the effectiveness of the limitation of liability or indemnity clause in limiting or excluding an arbitrator's liability. 	<p>No reported case law</p>	

<p>III.7.</p>	<p>Is there any <u>jurisprudence/other secondary sources of law</u> in your jurisdiction which considers the effectiveness of a clause limiting the arbitrators' liability found in the parties' arbitration agreement?</p> <p>If yes, please provide a brief description of the case(s) or secondary source(s), limited to one paragraph per case/secondary source, including, if applicable:</p> <ul style="list-style-type: none"> – The type of misconduct alleged. – The relevant limitation of liability language in the parties' arbitration agreement. – A summary of the court's findings as to the effectiveness of the limitation of liability clause in limiting or excluding an arbitrator's liability. 	<p>Yes</p>	<p>Paris Court of Appeal, 31 March 2015, No. 14-05436, <i>Delubac</i>: As explained in III.6. above, the arbitration agreement stipulated the same limitation as in Article 34 of the ICC Rules.</p> <p>The Paris Court of Appeal found that since compliance with the time limit does not fall within the exercise of their jurisdictional mission but falls within the scope of the arbitrator's contract, the arbitrators cannot rely on jurisdictional immunity nor on the exclusive liability clause of the ICC Rules.</p>
<p>III.8.</p>	<p>If your answer to question III.5, III.6, or III.7 is yes, does any of this <u>jurisprudence/secondary sources of law</u> comment on whether the <i>source</i> of the limitation of liability or indemnity language (<i>i.e.</i>, institutional rules v. procedural order v. terms of reference v. arbitration agreement) was relevant to the court's finding?</p> <p>If yes, please provide a brief description of the court's or secondary source's reasoning on the issue, limited to one paragraph per case/secondary source.</p>	<p>Yes</p>	<p>Paris Court of Appeal, 22 January 2009, No. 07/19492, <i>SNF SAS c/ Chambre de Commerce Internationale (CCI)</i>: The court held that the wording of the clause contradicted the purpose of the "arbitration contract" by allowing the ICC to not perform its essential obligation as a service provider.</p> <p>Paris Court of Appeal, 31 March 2015, No. 14-05436, <i>Delubac</i>: The court held that the wording of the arbitration agreement and of Article 34 of the 1998 ICC Rules was a mere transposition of the arbitrator's immunity.</p>

<p>III.9.</p>	<p>If your answer to question III.5, III.6, or III.7 is yes, does any of this <u>jurisprudence/secondary sources of law</u> comment on whether the particular language used in the relevant limitation of liability or indemnity clause was relevant to the court's finding?</p> <p>If yes, please provide a brief description of the court's or secondary source's reasoning on the issue, limited to one paragraph per case/secondary source.</p>	<p>Yes</p>	<p>Paris Court of Appeal, 31 March 2015, No. 14-05436, <i>Delubac</i>: the language of the arbitration agreement and the 1998 ICC Rules revealed that the limitation was a mere transposition of the immunity recognized for arbitrators in the exercise of their judicial function.</p>
<p>III.10.</p>	<p>If your answer to question III.5, III.6, or III.7 is yes, does any of this <u>jurisprudence/secondary sources of law</u> comment on whether the moment in the arbitration when the relevant limitation of liability or indemnity clause was agreed to was relevant to the court's finding, <i>i.e.</i>, whether it was agreed to <i>ex ante</i> (in advance of the relevant arbitration proceeding having been initiated) or after the arbitration was commenced?</p> <p>If yes, please provide a brief description of the court's or secondary source's reasoning on the issue, limited to one paragraph per case/secondary source.</p>	<p>See III.8 above</p>	

<p>III.11.</p>	<p>To the extent there is any principle of arbitrator immunity or limitation of liability recognized in your jurisdiction (<i>i.e.</i>, if your answer to question III.1, III.2, or III.3 is yes), does that immunity or limitation of liability apply in proceedings in which a party is requesting interim relief (interim injunction, conservatory or similar temporary measures), as distinct from final relief (including damages), from an arbitrator?</p> <p>Please provide citations to the relevant legislation, regulations, jurisprudence, or other secondary sources of law.</p>	<p>Yes</p>	<p>The limitation of liability generally applies to all acts and decisions made in the course of the arbitration, including orders granting interim relief, such as interim injunctions, conservatory, or provisional measures (see Article 1468 of the French Code of Civil Procedure). As explained in III.1. above, this immunity is not absolute and is subject to exceptions.</p>
<p>III.12.</p>	<p>To the extent there is any principle of arbitrator immunity or limitation of liability recognized in your jurisdiction, (<i>i.e.</i>, if your answer to question III.1, III.2, or III.3 is yes), does that immunity or limitation of liability permit an arbitrator to refuse to serve as a witness or provide documents when subpoenaed, or otherwise compelled, by a judicial authority (for example, in enforcement proceedings)?</p> <p>Please provide citations to the relevant legislation, regulations, jurisprudence, or other secondary sources of law.</p>	<p>No</p>	<p>The limitation of liability that protects arbitrators from civil suits for acts undertaken as arbitrators does not extend to arbitrators' refusal to comply with judicial orders for testimony or document production.</p> <p>In the context of the appeal of an award, one of the parties requested the personal appearance of three arbitrators so that they testify regarding statements made by one of the counsel during the arbitral proceedings. The Paris Court of Appeal dismissed the application on the ground that arbitrators are not third parties in relation to the dispute which they had decided; they cannot be heard as witnesses because they are subject to the same duties as judges, and it is not legally possible for judges to be heard in person in proceedings to which they are not a party (Paris Court of Appeal, 29 May 1992, <i>Epoux Rouny v. société Holding RC</i>).</p> <p>There is, otherwise, no reported case law of arbitrators being subpoenaed, or otherwise compelled, by a judicial authority.</p>

III.13.	<p>Is there any <u>jurisprudence/other secondary sources of law</u> in your jurisdiction which considers whether a limitation of liability clause found in arbitral institution rules, procedural materials, or the parties' arbitration agreement operates to permit an arbitrator to refuse to serve as a witness or provide documents when subpoenaed, or otherwise compelled, by a judicial authority?</p> <p>If yes, please provide a brief description of the case(s) or secondary source(s), limited to one paragraph per case/secondary source.</p>	No	<p>See III.12. above (Paris Court of Appeal, 29 May 1992, <i>Epoux Rouny v. société Holding RC</i>).</p> <p>There is, otherwise, no reported case law on arbitrators being subpoenaed, or otherwise compelled, by a judicial authority.</p>
III.14.	<p>To the extent an arbitrator is permitted to be called upon to act as a witness in your jurisdiction but is otherwise bound by confidentiality obligations related to the underlying arbitration, is there any guidance (found in jurisprudence or elsewhere) as to how the arbitrator should proceed?</p>	N/A	
IV. Effectiveness of Professional Indemnity Insurance		Yes/No/NA	Comments, if any.
IV.1.	<p>Does the legal framework in your jurisdiction mandate professional indemnity insurance coverage for arbitrators?</p>	No	<p>However, lawyers acting as arbitrators are typically covered by their professional indemnity insurance coverage. Article 27 of Law No. 71-1130 of 31 December 1971, which concerns the reform of certain legal and judicial professions in France, requires that professional liability insurance must be provided either by the bar association, collectively or individually by the lawyers, or both. This insurance guarantees coverage for civil liability arising from negligence and faults committed in the exercise of their functions (Article 27. A minimum insurance coverage is provided by the Paris Bar and is capped at 4 000 000€. Additional coverage lines can be subscribed to by the lawyer).</p>

<p>IV.2.</p>	<p>Is there any <u>legislation</u> or <u>jurisprudence/other secondary sources of law</u> in your jurisdiction which considers whether acting as an arbitrator counts as an act constituting the practice of law?</p>	<p>No</p>	
<p>IV.3.</p>	<p>Is there any <u>jurisprudence/other secondary sources of law</u> in your jurisdiction which considers whether the professional indemnity insurance policy of a law firm or barrister's chambers covers activities undertaken by a member of that firm/chambers as arbitrator where the arbitrator has been appointed in an individual capacity (<i>i.e.</i>, rather than as a representative of the firm/chambers)?</p> <p>If yes, please provide a brief description of the case(s) or secondary source(s), limited to one paragraph per case/secondary source, including, if applicable:</p> <ul style="list-style-type: none"> – The type of misconduct alleged. – The relevant language of the professional indemnity insurance policy of the arbitrator's law firm or barrister's chambers (if available). – A summary of the court's finding as to the scope of that policy's coverage <i>vis-à-vis</i> the arbitrator's activities as an arbitrator. 	<p>No</p>	

<p>IV.4.</p>	<p>If your answer to question IV.3 is no, is there any <u>jurisprudence/other secondary sources of law</u> in your jurisdiction which considers whether the professional indemnity insurance policy of a law firm or barrister's chambers covers activities undertaken by an employee or partner of that firm/chambers as a board member of an external organization (<i>i.e.</i>, a corporation, charity, etc.)?</p> <p>If yes, please provide a brief description of the case(s) or secondary source(s), limited to one paragraph per case/secondary source, including, if applicable:</p> <ul style="list-style-type: none"> – The type of misconduct alleged. – The relevant language of the professional indemnity insurance policy of the member's law firm or barrister's chambers (if available). – A summary of the court's finding as to the scope of that policy's coverage <i>vis-à-vis</i> the member's activities as a board member. 	<p>No</p>	
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<p>IV.5.</p>	<p>Assuming that there is coverage of the types envisioned in questions IV.3 and IV.4, is there any <u>jurisprudence/other secondary sources of law</u> in your jurisdiction which considers whether that coverage extends to breaches of cybersecurity and data privacy laws?</p> <p>If yes, please provide a brief description of the case(s) or secondary source(s), limited to one paragraph per case/secondary source, including, if applicable:</p> <ul style="list-style-type: none"> – The nature of the alleged cybersecurity/privacy breach. – The relevant language of the professional indemnity insurance policy (if available). – A summary of the court’s finding as to the scope of that policy’s coverage <i>vis-à-vis</i> the alleged cybersecurity/privacy breach. 	<p>N/A</p>	
<p>IV.6.</p>	<p>Assuming that there is coverage of the type envisioned in question IV.3, please provide sample language from commonly used insurance policies that were found by those courts or secondary sources to cover work undertaken independently as an arbitrator.</p>	<p>N/A</p>	

IV.7.	Are there any other issues that, in your view, a prospective arbitrator should be aware of in ensuring that their work as an arbitrator in your jurisdiction is covered by their law firm's or chamber's professional indemnity insurance policy?	N/A	
V. Involvement of Arbitral Institutions		Yes/No/NA	Comments, if any.
V.1.	Is there any <u>jurisprudence</u> in your jurisdiction where an arbitral institution has been sued alongside an arbitrator?	Yes	See II.7. above (Paris Court of Appeal, 2 April 2019, No.16/00136).
V.2.	Is there any <u>jurisprudence</u> in your jurisdiction where an arbitrator has been sued and then an arbitral institution subsequently intervened in the proceeding?	No reported case law	
V.3.	<p>If your answer to question V.1 or V.2 is yes, in your experience, or to the extent this information is publicly available, did the arbitrator and arbitral institution defend the suit jointly, or did the arbitrator defend the suit on his/her own behalf, separate from any defense mounted by the institution?</p> <p>If the suit(s) was/were defended jointly, in your experience or, to the extent this information is publicly available, did the institution pay for the arbitrator's counsel fees?</p>	No – there were separate defenses.	In the case previously mentioned, both arbitrators and the institution had different counsel with separate defenses because they had to defend against distinct contractual bases for responsibility (Paris Court of Appeal, 2 April 2019, No. 16/00136).
V.4.	If your answer to question V.1 or V.2 is yes, in your experience, or to the extent this information is publicly available, did the suit result in a settlement?	No	The Court found both arbitrators and the institution liable on different grounds (Paris Court of Appeal, 2 April 2019, No.16/00136).

VI. Procedural Issues			
VI.1.	<p>Is there any <u>jurisprudence</u> in your jurisdiction where an arbitrator and/or arbitral institution was sued by a party, and the arbitrator or arbitral institution objected on the grounds of improper forum or venue?</p> <p>If yes, please provide a brief description of case(s), limited to one paragraph per case, including:</p> <ul style="list-style-type: none"> – The parties. – The type of misconduct alleged. – The nature and basis of the arbitrator’s or arbitral institution’s objection to venue. – The outcome of the objection (<i>i.e.</i>, whether the case proceeded to be heard or was dismissed for improper forum or venue) and the court’s reasoning for the same. 	Yes	<p>Paris Court of Appeal, 22 June 2021, No. 21/07623: Following the annulment of the award in Paris, SBA applied to the <i>Tribunal judiciaire</i> of Paris in order to declare the arbitrator, Mr. G., residing in Germany, contractually liable and requested compensation on the basis of its failure to disclose facts constituting a conflict of interest. Mr. G. raised a jurisdictional objection and alleged that the German Court in Stuttgart (Landgericht) had jurisdiction to hear the case.</p> <p>On 31 March 2021, the <i>Tribunal judiciaire</i> of Paris upheld Mr. G.’s jurisdictional objections and declared that it lacked jurisdiction to rule on Mr. G.’s liability pursuant to Article 7.1. of EU Regulation 1215/2012 of 12 December 2012 (“Brussels I Bis”) and ordered SBA to pay costs to Mr. G.</p> <p>On 22 June 2021, the Paris Court of Appeal reversed the first instance decision and confirmed that the <i>Tribunal judiciaire</i> of Paris had jurisdiction to hear a liability case against an arbitrator arising out of an arbitration seated in Paris.</p> <p>Eventually, the <i>Tribunal judiciaire</i> of Paris then ruled that the arbitrator’s failure to make a proper disclosure was not proven pursuant to German law. (TJ Paris, 7 February 2023, No. 21/14575).</p>
VI.2.	<p>Is there any <u>legislation</u> or <u>jurisprudence/other secondary sources of law</u> in your jurisdiction which considers the potential consequences if a suit against an arbitrator is unsuccessful?</p> <p>For example, if a suit against an arbitrator is unsuccessful, what remedies would be available to the arbitrator? Moreover, would any sanctions be applicable to the unsuccessful party who brought the suit if it is found that the suit was frivolous?</p>	Yes/Yes	<p>The unsuccessful party in a lawsuit against an arbitrator is likely to be ordered to pay the legal costs of the arbitrator (Article 700 of the Code of Civil Procedure). However, Article 32-1 of the Code of Civil Procedure allows the arbitrator to request a civil fine (maximum 10.000€) in case of dilatory or abusive claim. She or he can also bring a claim for damages based on Article 1240 of the Civil Code if there was misconduct in bringing the claim which would make it abusive (Ph. Brun, JCl. Civil Code Art. 1240 à 1245-17, Fasc. 131-30, para.10). There is no reported case law with respect to what would be an abusive claim against an arbitrator, but French courts generally admit that deliberately commenced proceedings with no reasonable prospect of success, relying upon a manifestly artificial ground (Cass. 1ère civ., 27 June 2006, No. 05-14.683) or vexatious litigation causing reputational harm (Cass. 2ème civ., 7 October 2004, No. 02-14.399) could constitute examples of abusive behaviour.</p>

VI.3.	While this survey generally focuses on the civil liability of arbitrators, if there is any relevant information from your jurisdiction related to claims for criminal liability brought against arbitrators, please include such information.	Yes	Arbitrators are bound by all general criminal provisions. Arbitrators may be held criminally liable for serious misconduct such as corruption or fraud (Articles 313-1, 434-9, 435-7 and 434-9-1 of the Criminal Code).
VI.4.	Is there any other information about your jurisdiction not already provided in your responses to the questions in this survey that is relevant to understanding and explaining arbitrator liability in your jurisdiction?	No	

ICCA RESEARCH GROUP ON ARBITRATOR IMMUNITY

Goals

The primary goal of the Arbitrator Immunity Research Group is to study questions of arbitrator liability and immunity, and to raise practitioners' and arbitrators' awareness of the current legal landscape. The project's goals include investigating the limits of arbitrator immunity, evaluating the effectiveness of language limiting arbitrator liability in procedural orders and institutional rules, and examining the impact and limitations of professional indemnity insurance.

Methodology

To understand the current global landscape of arbitrator immunity, the Research Group designed a detailed survey and selected sample jurisdictions for inclusion. The Research Group compiled a list of survey respondents for each jurisdiction by seeking recommendations for responsive, high-quality contributors who had previously participated in ICCA research projects, as well as recommendations from arbitral institutions and colleagues in the international arbitration community. After receiving the completed surveys, the research team collaborated with the respondents in two rounds of edits to improve clarity, understanding, and formatting.

Citations to this Research

Researchers and authors using this data should use the following citations to refer to this research:

- General citation to the project website: 'ICCA Research Group on Arbitrator Immunity' (Kate Brown de Vejar, Victoria Shannon Sahani, and Damien Nyer, eds., 2026), <https://www.arbitration-icca.org/research-group-arbitrator-immunity>
- Citation to the individual survey response: 'Survey Responses on Arbitrator Immunity for France', in ICCA Research Group on Arbitrator Immunity (Kate Brown de Vejar, Victoria Shannon Sahani, and Damien Nyer, eds., 2026), <https://www.arbitration-icca.org/research-group-arbitrator-immunity>

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Disclaimers

- **Viewpoints Disclaimer:** The survey responses do not represent the viewpoints, opinions, or research of ICCA, its Governing Board or members, or the Research Group in general, or its individual members. The Research Group's editing process focused solely on enhancing clarity, comprehension, and formatting.
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