ICCA
INTERNATIONAL COUNCIL FOR COMMERCIAL ARBITRATION

GERMANY

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SURVEY RESPONSES ON ARBITRATOR IMMUNITY – GERMANY

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I. Definitions		**Yes/No/NA**	**Comments, if any.**
I.1.	"Arbitrator" 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.		
I.2.	"Legislation" 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.		

II. General		Yes/No/NA	Comments, if any.
II.1.	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. [Examples of such standards or duties may include: – 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**	In Germany, an arbitrator's duties mainly arise from contractual agreements (a), legal provisions (b), but also jurisprudence (c). Besides the law, the DIS Arbitration Rules, which only are applicable by a respective agreement between the parties to arbitration proceedings, also contain standards and duties for arbitrators (d). ***(a) Duties Arising from Contractual Agreements*** An arbitrator's duties can arise from an Arbitrator Agreement . An Arbitrator Agreement explicitly deals with the arbitrator's rights and obligations. It is different from the actual arbitration agreement, which only contains the abstract agreement between the parties to settle disputes via arbitration. An Arbitrator Agreement contains provisions on e.g. confidentiality of the proceedings, a specific duty to inform parties about the status of the proceedings etc. ***(b) Duties Arising from Legal Provisions*** Pursuant to Sec. 1036 para. 1 of the ZPO, arbitrators have a duty of impartiality and independence. Closely connected with this duty of impartiality and independence is the arbitrator's duty *"to disclose any and all circumstances likely to give rise to doubts as to their impartiality or independence*" prior and during proceedings, in accordance with Sec. 1036 para. 1 of the ZPO. As the wording shows, the duty is quite broad, as all circumstances that could give rise to doubts about impartiality or independence must be disclosed. This obligation goes further than the possibility of challenge in that challenge in accordance with Sec. 1036 para.2 of the ZPO is only possible if the circumstances give rise to justified doubts as to impartiality or independence. Business and close social relationships with a party, relationships with co-arbitrators, prior knowledge of the legal dispute and other obligations that restrict the arbitrator's availability for the arbitration proceedings must be disclosed. Personal relationships with the parties' procedural representatives are not to be disclosed *per se*. The refusal to submit a "*declaration of independence*" is not sufficient grounds for a challenge. Professional secrecy does not trump the duty to disclose; if there is a conflict, this must be solved by the arbitrator declining to accept the nomination. The obligation continues to apply after the appointment until the end of the arbitration proceedings.

			(c) Duties Provided for by Jurisprudence The German Federal Court of Justice also has established the "*general obligation of the arbitrator to co-operate in the arbitration proceedings to the best of his ability and to bring the dispute to a prompt settlement in accordance with the principles of the rule of law*." German Federal Court of Justice (*Bundesgerichtshof*), decision dated 05 May 1986 – III ZR 233/84, NJW 1986, 3077, 3078. ***(d) Duties provided for by the DIS Arbitration Rules*** The DIS Arbitration Rules also provide for such duties. The DIS has been the leading institution in Germany for the administration of arbitrations and other alternative dispute resolution proceedings for national and international commercial arbitration proceedings. Although its rules are not the law, parties often adopt an arbitration clause providing for the application of the DIS Arbitration Rules, instead of general German procedural law. Art. 9.4 of the DIS Arbitration Rules provides for a duty to disclose "*any facts or circumstances that could cause a reasonable person in the position of a party to have doubts as to the arbitrator's impartiality and independence*".
II.2.	In cases of potential arbitrator misconduct of a civil (as opposed to criminal) nature, what remedies or disciplinary measures are available in your jurisdiction *vis-à-vis* the arbitrator? Please provide citations to any relevant legislation, regulations, jurisprudence, or other secondary sources of law.	**Yes**	Depending on the type of misconduct, an arbitrator might face a challenge (a) or see his /her mandate terminated (b). ***(a) Misconduct Might Result in a Challenge*** Challenge of an Arbitrator pursuant to Sec. 1036 para. 2 of the ZPO: "*An arbitrator may be challenged only if circumstances exist that give rise to justifiable doubts as to their impartiality or independence, or if they do not meet the prerequisites agreed to by the parties. A party may challenge an arbitrator whom they have themselves appointed, or in the appointment of whom the party has participated, solely for reasons of which the party became aware only after the appointment was made*." ***(b) Misconduct Might Result in the Parties Terminating the Mandate*** Pursuant to Sec. 1038 para. 1 of the ZPO, parties to arbitration proceedings may consent to terminating an arbitrator's mandate or any party may request the termination of an arbitrator's mandate before state courts.

			Section 1038 para. 1 of the ZPO reads as follows: "Where an arbitrator is unable, whether de jure or de facto, to perform their functions or fails to perform their functions within a reasonable time for other reasons, their mandate will end upon their withdrawal from office or upon the parties agreeing to terminate the mandate. Where the arbitrator does not withdraw from office, or where the parties are unable to agree on the termination of the mandate, each of the parties may request that the court decide on the termination of the arbitrator's mandate."
II.3.	Is there anything in the legislation 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**	Under German law, arbitrators can in theory be liable for damages if they breach the duties referenced above. Under German law, the members of the tribunal and the parties are considered to be bound by a contract, once the process of appointing the tribunal has concluded and the tribunal has been constituted (Munich Higher Regional Court, decision dated 21 December 2006 – 34 SchH 12/06, available at juris para. 12). The arbitrator's duties derive from that contract and any breach of these duties can result in liability for contractual damages of any arbitrator in accordance with the principles of German contract law. For instance, an arbitrator can be liable if he/she fails to disclose reasons likely to give rise to doubts as to their impartiality or independence as laid out in Sec. 1036 para. 1 of the ZPO. Furthermore, claims for damages can be based on Sec. 280 et seqq. of the German Civil Code (*Bürgerliches* Gesetzbuch, "**BGB**") for violation of contractual duties and Sec. 823 et seqq. of the BGB for tortious acts.
II.4.	Is there anything in the jurisprudence/ other secondary sources of law 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**	There is no case law ordering arbitrators to pay damages for breaches of their duties. However, claims for damages can be based on Secs. 280 et seqq. and Secs. 823 et seqq. of the BGB (See II.3 above).

II.5.	Is there anything in the jurisprudence/ other secondary sources of law 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**	Under German law, an arbitrator can be held liable for breaches of duty which includes omissions if these cause harm to the parties' legal interest. The arbitrator's omission can be a breach of duty deriving from a contract, making them liable for contractual damages according to Secs. 280 et seq. of the BGB. Further, acts of omission can be considered tortious, thus making the arbitrator liable according to Secs. 823 et seq. of the BGB.
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**	The statute of limitations for claims against an arbitrator is three years, which is the regular statute of limitations for German civil law claims pursuant to Sec. 195 of the BGB. The three-year period regularly commences at the end of the year in which the claim arose, and the obligee obtains knowledge of circumstances giving rise to the claim and of the identity of the obligor or would have obtained such knowledge if the obligee had not shown gross negligence, pursuant to Sec. 199 of the BGB.
II.7.	If your answer to question II.3, II.4 or II.5 is yes, is there anything in the legislation or jurisprudence/other secondary sources of law of your jurisdiction that addresses the possibility of joint liability among the members of the tribunal, either *vis-à-vis* the parties or among themselves?	**Yes**	There is no established jurisprudence on a specific joint liability among the members of the tribunal vis-à-vis the parties or among themselves. Regardless, legal doctrine considers this to be a possible scenario (Münch in Münchener Kommentar ZPO, 6th ed. (2022) ZPO before Sec. 1034 para. 32). In any event, all members of the tribunal will have to act jointly and to jointly breach their duties before there is joint liability in accordance with the general rules on joint liability, i.e., Sec. 426 and 840 of the BGB.

III. Limitations of Liability		Yes/No/NA	Comments, if any.
III.1.	Is there a general principle of arbitrator immunity (*i.e.*, 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? Please provide citations to any relevant legislation, regulations, jurisprudence, or other secondary sources of law.	**Yes**	Under German law, arbitrators generally are afforded the same immunity as judges. Thus, the federal regulations on the immunity of judges are applied by analogy. Under German law, the so-called liability privilege (*Spruchrichterprivileg*) ensures that German judges are personally liable for criminal offenses only, e.g. accepting bribes or intentional perversion of justice (*Rechtsbeugung*), Sec. 839 para. 2 sent. 1 of the BGB. Sec. 839 para. 2 of the BGB reads as follows: *"If an official breaches their official duties in a judgment in a legal matter, then they are responsible only for any damage arising therefrom if the breach of duty consists of a criminal offence. This provision does not apply to a refusal, in breach of duty, to perform official tasks or to a delay, in breach of duty, in doing so."* German jurisprudence and legal literature agree that the liability of an arbitrator does not exceed the liability of a judge (Federal Court of Justice, decision dated 06 October 1954 – II ZR 149/53, NJW 1954, 1763; Münch in Münchener Kommentar ZPO, 6th ed. (2022) ZPO before Sec. 1034 para. 33; Voit in Musielak/Voit ZPO, 22nd ed. (2025) ZPO Sec. 1035 para. 25).
III.2.	Is there anything in the legislation of your jurisdiction that otherwise limits an arbitrator's personal civil liability?	**Yes**	The liability privilege only applies to acts related to the actual decision-making of an arbitrator, i.e., applying the law, as opposed to merely administrative measures. Since the arbitrator has the duty to do everything for an efficient conduct of the proceedings, there is no limitation of liability in case of an undue refusal or delay of delivering a decision, delivery of a decision in the wrong form (Sec. 1054 of the ZPO), disregard of the duty of disclosure (Sec. 1036 para. 1 of the ZPO) and preservation of confidentiality (Münch in Münchener Kommentar ZPO, 6th ed. (2022) ZPO before Sec. 1034 para. 34; Voit in Musielak/Voit ZPO, 22nd ed. (2025) ZPO Sec. 1035 para. 25), which are considered administrative measures.
III.3.	Is there anything in the jurisprudence/other secondary sources of law of your jurisdiction that otherwise limits an arbitrator's personal civil liability?	**Yes**	Art. 45 of the DIS Arbitration Rules also distinguishes between liability for mistakes regarding the arbitrator's actual decision-making and other mistakes occurring in the course of the arbitration proceedings. Art. 45 of the DIS Arbitration Rules reads as follows: *"(45.1) An arbitrator shall not be liable to any person for any acts or omissions in connection with such arbitrator's decision-making in the arbitration, except in case of an intentional breach of duty. (45.2) For any other acts or omissions in connection with the arbitration, an arbitrator, the DIS, its statutory organs, its employees, and any other person associated with the DIS who is involved in the arbitration shall not be liable, except in case of an intentional breach of duty or gross negligence."*

III.4.	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? 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)? Please provide citations to the relevant legislation, regulations, jurisprudence, or other secondary sources of law.	**Yes**	If the breach of duty is not related to the decision-making itself, damages are assessed in accordance with the general principles for breach of contract, which means that Sec. 280 et seqq. of the BGB apply. Limitations of liability, e.g. for negligence, are only possible up to the limit of intent, pursuant to Sec. 276 para. 3 of the BGB. It is noteworthy that limitation of liability clauses can be subject to content control of general terms and conditions under Sec. 305 et seqq. of the BGB, in particular: Sec. 309 no. 7 of the BGB.
III.5.	Is there any jurisprudence/other secondary sources of law in your jurisdiction which considers the effectiveness of limitation of liability clauses found in arbitral institution rules? 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: – The type of misconduct alleged. – The relevant limitation of liability language and its source (*i.e.*, UNCITRAL Arbitration Rules 2010, American Arbitration Association Commercial Arbitration Rules, etc.).	**Yes**	Limitation of liability clauses must comply with the general rules of contract law (Sec. 276 para. 3 of the BGB) and can be subject to the content control of general terms and conditions under Sec. 305 et seqq. of the BGB. Sec. 305 para. 1 of the BGB reads as follows: *"Standard business terms are all contract terms that are pre-worded for more than two contracts which one contractual party (the user) presents to the other party when the contract is concluded. It is irrelevant whether the provisions take the form of a physically separate part of a contract or are made part of the contractual document itself, what their volume is, what typeface is used for them and what form the contract takes. Contract terms are not standard business terms insofar as they have been negotiated in detail by the contractual parties."* There is no publicly available jurisprudence regarding the effectiveness of limitation of liability clauses found in arbitral institution rules, such as DIS Arbitration Rules. However, legal literature considers Art. 45.1 of the DIS Arbitration Rules to be in accordance with Sec. 276 para. 3 of the BGB, as it does not limit the liability of an arbitrator for intentional breaches (Meier/Gerhardt in: Flecke-Giammarco et al. (eds.) The DIS Arbitration Rules: An Article-by-Article Commentary (2020) Art. 45 para. 5).

	– 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.		With regard to the limitation of liability of the DIS institution itself, legal literature discusses whether Art. 45.2 of the DIS Arbitration Rules is subject to content control under Sec. 305 et seqq. of the BGB. In any case, it is widely agreed that Art. 45.2 of the DIS Arbitration Rules passes a content control test because it only excludes the liability for intent and gross negligence (Meier/Gerhardt in: Flecke-Giammarco et al. (eds.) The DIS Arbitration Rules: An Article-by-Article Commentary (2020) Art. 45 para. 8; Münch in Münchener Kommentar ZPO, 6th ed. (2022) ZPO before Sec. 1034 para. 82; Risse/Reiser in NJW 2015, 2839 p. 2843).
III.6.	Is there any jurisprudence/other secondary sources of law in your jurisdiction which considers the effectiveness of limitation of liability clauses or indemnity clauses (*i.e.*, 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.e.*, Terms of Reference, Terms of Appointment, Procedural Order No. 1, etc.? 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: – The type of misconduct alleged. – The limitation of liability or indemnity language found in the relevant procedural material (if available).	**No**	There is no jurisprudence/other secondary sources of law considering the effectiveness of limitation of liability clauses or indemnity clauses (*i.e.,* 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.e.,* Terms of Reference, Terms of Appointment, Procedural Order No. 1, etc.

	– 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.		
III.7.	Is there any jurisprudence/other secondary sources of law in your jurisdiction which considers the effectiveness of a clause limiting the arbitrators' liability found in the parties' arbitration agreement? 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: – 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.	**No**	There is no jurisprudence/other secondary sources of law considering the effectiveness of a clause limiting the arbitrator's liability found in the parties' arbitration agreement.

III.8.	If your answer to question III.5, III.6, or III.7 is yes, does any of this jurisprudence/secondary sources of law comment on whether the *source* of the limitation of liability or indemnity language (*i.e.*, institutional rules v. procedural order v. terms of reference v. arbitration agreement) was relevant to the court's finding? 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.	**No**	The source of the limitation of liability may determine whether the clause is subject to content control under Sec. 305 et seqq. of the BGB, as these rules only apply to pre-worded standard business terms which one party (the user) presents to the other party, when the contract is concluded.
III.9.	If your answer to question III.5, III.6, or III.7 is yes, does any of this jurisprudence/secondary sources of law comment on whether the particular language used in the relevant limitation of liability or indemnity clause was relevant to the court's finding? 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.	**N/A**	

III.10.	If your answer to question III.5, III.6, or III.7 is yes, does any of this jurisprudence/secondary sources of law 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.e.*, whether it was agreed to *ex ante* (in advance of the relevant arbitration proceeding having been initiated) or after the arbitration was commenced? 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.	**N/A**	
III.11.	To the extent there is any principle of arbitrator immunity or limitation of liability recognized in your jurisdiction (*i.e.*, 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? Please provide citations to the relevant legislation, regulations, jurisprudence, or other secondary sources of law.	**Yes**	Regarding German judges, the Federal Court of Justice for the longest time excluded measures of interim relief from the liability privilege of Sec. 839 para. 2 of the BGB (Federal Court of Justice, decision dated 21 May 1953 – III ZR 272/51, NJW 1953, 1298). However, the Federal Court of Justice has changed its case law in this regard (Federal Court of Justice, decision dated 09 December 2004 – III ZR 200/04, NJW 2005, 436). Now, the position of the Federal Court of Justice is that the decision about an application for a preliminary injunction, even though done by resolution and not a judgment, is considered a "*judgment-representing determination*" and falls under the liability privilege as per Sec. 839, para. 2 of the BGB. This principle applies likewise to arrest and injunctions in civil proceedings, even if the decision is made on the basis of documents only and without an oral hearing. Legal literature considers this new case law to be applicable to arbitrators in efforts of preventing a stricter liability of arbitrators compared to judges (Voit in Musielak/Voit, ZPO, 22nd ed. (2025), Sec. 1035 para. 25).

III.12.	To the extent there is any principle of arbitrator immunity or limitation of liability recognized in your jurisdiction, (*i.e.*, 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)? Please provide citations to the relevant legislation, regulations, jurisprudence, or other secondary sources of law.	**Yes**	The liability privilege does not permit the arbitrator to refuse to serve as a witness *per se*, but the arbitrator may be allowed to do so on other grounds: The arbitrator has a duty of confidentiality regarding the content and course of the deliberations (*Beratungsgeheimnis*) and also with regard to all circumstances that became known to him in his capacity as arbitrator. This duty of confidentiality is inherent to the contract, regardless of the parties' individual agreement, or the application of arbitration rules, such as Art. 44 of the DIS Arbitration Rules. Pursuant to Sec. 43 of the German Judiciary Act (*Deutsches Richtergesetz – "***DRiG**") the duty of confidentiality (*Beratungsgeheimnis*) only covers the course of deliberations. Arbitrators are therefore entitled to refuse to testify regarding the meaning of their award and the course of deliberations, according to Sec. 383 para. 1 no. 6 of the ZPO. This remains the case, even if the parties decide to waive confidentiality (Federal Court of Justice, decision dated 23 January 1957 – V ZR 132/55, NJW 1957, 592; Düsseldorf Higher Regional Court, decision dated 14 January 1988 – 8U 205/86, juris;). Sec. 43 of the DRiG: "*Judges are to preserve secrecy regarding the course of deliberations and voting even after their service has ended.*" Sec. 383 para. 1 no. 6 of the ZPO: *"The following persons are entitled to refuse to testify: […] (no. 6) Persons to whom facts are entrusted, by virtue of their office, profession or status, the nature of which mandates their confidentiality, or the confidentiality of which is mandated by law, where their testimony would concern facts to which the confidentiality obligation refers."* Article 44.1 of the DIS Arbitration Rules states: *"Unless the parties agree otherwise, the parties and their outside counsel, the arbitrators, the DIS employees, and any other persons associated with the DIS who are involved in the arbitration shall not disclose to anyone any information concerning the arbitration, including in particular the existence of the arbitration, the names of the parties, the nature of the claims, the names of any witnesses or experts, any procedural orders or awards, and any evidence that is not publicly available."* The arbitrator can however be questioned as a witness about events outside the consultation and voting process (e.g. about a conversation with a party during the arbitration proceedings, Geimer in Zöller ZPO, 35th ed. (2024) ZPO Sec. 1035 para. 31).

III.13.	Is there any jurisprudence/other secondary sources of law 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? If yes, please provide a brief description of the case(s) or secondary source(s), limited to one paragraph per case/secondary source.	**No**	There is no publicly available jurisprudence.
III.14.	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?	**No**	There is no official guidance.
IV. Effectiveness of Professional Indemnity Insurance		**Yes/No/NA**	**Comments, if any.**
IV.1.	Does the legal framework in your jurisdiction mandate professional indemnity insurance coverage for arbitrators?	**No**	No, there is no such rule. But most arbitrators are attorneys, which means that they do have mandatory indemnity insurance. Such insurance in general also covers arbitrator mandates and within these, all functions of an arbitrator.
IV.2.	Is there any legislation or jurisprudence/other secondary sources of law in your jurisdiction which considers whether acting as an arbitrator counts as an act constituting the practice of law?	**Yes**	Sec. 2 para. 3 no. 2 of the German Act on Out-of-Court Legal Services (*Rechtsdienstleistungsgesetz* – "**RDG**") provides that "*the activities of conciliation and arbitration boards and of arbitrators*" are **not** considered legal services.

IV.3.	Is there any jurisprudence/other secondary sources of law 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.e.*, rather than as a representative of the firm/chambers)? 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: – 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 *vis-à-vis* the arbitrator's activities as an arbitrator.	**Yes**	Under the Federal Code for Lawyers (Bundesrechtsanwaltsordnung – "**BRAO**") the insurance policy of a law firm has to cover "*each individual breach of duty which could lead to legal liability under civil law on the part of the lawyer*" Sec. 51 para. 2 of the BRAO. According to Sec. 51 para. 4 of the BRAO, the insurance shall cover at minimum an amount of 250,000 EUR for each insured event. For indemnity insurance policies of law firms with more than 10 employed lawyers the minimum amount is 2.500.000 EUR for each insured event (Sec. 59 lit.(o) para. 1 of the BRAO). The general terms and conditions of professional indemnity insurance policies for German lawyers/ law firms (*Allgemeine und Besondere Versicherungsbedingungen sowie Risikobeschreibungen zur Vermögensschaden-Haftpflichtversicherung für – Rechtsanwälte und Patentanwälte – Steuerberater* – "**AVB-RS**") define the scope of the insurance policy. They are binding on the parties, as they further define the legally required minimum standard the professional indemnity policy must cover pursuant to Sec. 51 of the BRAO. The AVB-RS describe professional conduct that is covered by the insurance and explicitly refer to appointments as arbitrator in an individual capacity (AVB-RS *Risikobeschreibungen für die Vermögensschaden-Haftpflichtversicherung von Rechtsanwälten (einschließlich des Rechtsanwaltsrisikos von Anwaltsnotaren)*. The misconduct covered is only broadly defined as any individual breach of duty that could result in liability claims against the insured person, Sec. 5 para. 1 of the AVB-RS.

IV.4.	If your answer to question IV.3 is no, is there any jurisprudence/other secondary sources of law 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.e.*, a corporation, charity, etc.)? 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: – 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 *vis-à-vis* the member's activities as a board member.	**N/A**	

IV.5.	Assuming that there is coverage of the types envisioned in questions IV.3 and IV.4, is there any jurisprudence/other secondary sources of law in your jurisdiction which considers whether that coverage extends to breaches of cybersecurity and data privacy laws? 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: – 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 *vis-à-vis* the alleged cybersecurity/privacy breach.	**Yes**	According to Sec. 3 para. 3 No. 4 of the AVB-RS and legal literature on the AVB-RS (Diller, Allgemeine und Besondere Versicherungsbedingungen (AVB), 3rd ed. (2024), Sec. 1 para. 57 and Sec. 3, para. 158), breaches of data privacy laws must be covered by indemnity insurance: *"The insurance also covers liability claims in connection with the exercise of the insured professional activity* *(...)* *- for damages arising from the violation of data protection laws and from the violation of professional secrecy and confidentiality obligations."* An insurer may exclude coverage beyond the statutory minimum of compulsory coverage.
IV.6.	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.		In general, the AVB-RS provide the most common wording; they are mostly simply copied or referred to. According to Sec. 1 para. 1, Subsec. 1.1 Sent. 1 of the AVB-RS, the coverage only extends to the exercise of professional activity (Diller, Allgemeine und Besondere Versicherungsbedingungen (AVB), 3rd ed. (2024), Sec. 1 para.12). Work as an arbitrator is also considered to be such a professional activity in the sense of AVB-RS, according to Sec. 1 para 1 Subsec. 1.1.5 BBR-RA (Diller, Allgemeine und Besondere Versicherungsbedingungen (AVB), 3rd ed. (2024), Part 2 (BBR-RA) Sec.1.1, 1.2, para. 28): *"The insured professional activity of a lawyer includes, in particular, acting as* *(...)* *1.1.5 Arbitrator, arbitrator, conciliator, mediator The insurance also covers liability claims in connection with the exercise of the insured professional activity*

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?	**No**	
V. Involvement of Arbitral Institutions		**Yes/No/NA**	**Comments, if any.**
V.1.	Is there any jurisprudence in your jurisdiction where an arbitral institution has been sued alongside an arbitrator?	**No**	There is no publicly available jurisprudence. However, according to legal literature, since initiating arbitral proceedings under arbitral institutional rules is considered to be creating a contract between the parties and the arbitral institution, it is possible to hold arbitral institutions liable for contractual breaches in a similar way as arbitrators (Münch in Münchener Kommentar ZPO, 6th ed. (2022), before Sec. 1034 para. 82; Risse/Reiser in NJW 2015, 2839). Breaches could occur in the following forms: There is delay of service of a request for arbitration, which leads to the expiration of the statute of limitation for the claim. The arbitral institution carries out a prima facie examination of whether there is an effective arbitration agreement when initiating proceedings. However, at the end of the proceedings, it turns out that the arbitration agreement was recognisably invalid. The arbitration award is set aside, resulting in a second arbitration procedure. The arbitral institution confirms the appointment of an arbitrator even though the arbitrator's declaration of independence was inadequate and gave rise to substantial concerns of bias. The arbitral institution provides legal advice to one party on a specific issue. Limitations of liability may also apply in a similar way, e.g. by including the institutional arbitral rules into the contract.
V.2.	Is there any jurisprudence in your jurisdiction where an arbitrator has been sued and then an arbitral institution subsequently intervened in the proceeding?	**No**	There is no publicly available jurisprudence.

V.3.	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? 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?	**N/A**	
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?	**N/A**	
VI. Procedural Issues			
VI.1.	Is there any jurisprudence 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? If yes, please provide a brief description of case(s), limited to one paragraph per case, including: – The parties. – The type of misconduct alleged.	**No**	There is no publicly available jurisprudence.

	– The nature and basis of the arbitrator's or arbitral institution's objection to venue. – The outcome of the objection (*i.e.*, whether the case proceeded to be heard or was dismissed for improper forum or venue) and the court's reasoning for the same.		
VI.2.	Is there any legislation or jurisprudence/other secondary sources of law in your jurisdiction which considers the potential consequences if a suit against an arbitrator is unsuccessful? 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?	**No**	While there are no specific legal provisions under German law addressing the issue of an unsuccessful suit against an arbitrator, an arbitrator has remedies under the general rules of liability, for instance in case of malice on the part of the claimant. There are no specific sanctions against a party filing a frivolous claim.
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**	The German Criminal Code contains several provisions that address the criminal liability of judges as well as arbitrators. An arbitrator incurs criminal liability for accepting bribes, pursuant to Sec. 331 para. 2 of the German Criminal Code, which reads as follows: *"Judges, members of a court of the European Union or arbitrators who demand, allow themselves to be promised or accept a benefit for themselves or a third party in return for the fact that they performed or will in the future perform a judicial act incur a penalty of imprisonment for a term not exceeding five years or a fine. The attempt is punishable."* An arbitrator can also incur criminal liability for taking bribes pursuant to Sec. 332 para. 2 of the German Criminal Code, which reads as follows:

			"Judges, members of a court of the European Union or arbitrators who demand, allow themselves to be promised or accept a benefit for themselves or for a third party in return for the fact that they performed or will in the future perform a judicial act, and thereby breached or would breach their judicial duties, incur a penalty of imprisonment for a term of between one year and 10 years. In less serious cases, the penalty is imprisonment for a term of between six months and five years." An arbitrator also can incur criminal liability for judicial perversion of justice in accordance with Sec. 339 of the German Criminal Code, which reads as follows: *"Judges, other public officials or arbitrators who, in the course of conducting or deciding a legal matter, bend the law for the benefit or to the detriment of a party incur a penalty of imprisonment for a term of between one year and five years."* There appears to be no publicly available jurisprudence convicting arbitrators under these provisions.
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 Germany', 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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- **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.

- **General Legal Disclaimer:** The information on this website and within the survey responses is for informational purposes only, and this information does not constitute legal advice. Because legal landscapes in these jurisdictions constantly evolve, the website might contain incorrect or out-of-date information. Readers must not act or refrain from acting based on this raw data. Readers should always seek independent, local legal advice regarding these topics.