



# EU Grants

## Rules on Arbitration

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**IMPORTANT NOTICE**

This document sets out the rules that apply in EU grant agreements for beneficiaries where the contractual dispute settlement forum is arbitration.

| HISTORY OF CHANGES |                  |                             |
|--------------------|------------------|-----------------------------|
| Version            | Publication date | Changes                     |
| 1.0                | 01.03.2022       | ▪ Initial version (new MFF) |
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## **Rules on arbitration**

If a dispute concerning the interpretation, application or validity of the Agreement cannot be settled amicably, it shall be settled by arbitration in accordance with the 2012 PCA Arbitration Rules, subject to the following:

### **1. Panel composition**

For claims of EUR 500 000 or above: the panel shall be composed of three arbitrators. Each party shall appoint one arbitrator within 40 calendar days after the notice of arbitration has been sent. The two arbitrators appointed by the parties shall in turn appoint a third arbitrator to act as presiding arbitrator.

For claims below EUR 500 000: the panel shall be composed of one arbitrator, unless the parties agree otherwise.

If the panel is not composed within 80 calendar days after the notice of arbitration is sent, either party may request the PCA Secretariat or other mutually acceptable neutral authority to appoint the necessary arbitrator(s).

### **2. Seat**

The seat of the arbitration panel shall be The Hague, Netherlands.

### **3. Language**

The language of the proceedings shall be English. Evidence may be produced in other languages, if agreed by the parties.

### **4. Procedure**

Recourse to interim measures, third party interventions and amicus curiae interventions is excluded.

If the panel is requested by a party to treat information or material confidentially, the decision shall be made in form of a reasoned order and after hearing the other party (10 calendar days to submit observations). The panel shall weigh the reasons for the request, the nature of the information and the right to effective judicial protection. The panel may in particular:

- make disclosure subject to specific undertakings or
- decide against disclosure, but order the production of a non-confidential version or summary of the information or material, containing its essential content, in order to enable the other party to take position in a meaningful way.

If the panel is requested to hear the case *in camera*, the decision shall be made after hearing the other party (10 calendar days to submit observations). The panel shall take into account the reasons for the request and the objections of the other party (if any).

If the panel is requested to interpret or apply European Union law, it shall stay the proceedings and request the 'President of the High Court of Paris' (Président du Tribunal de grande instance de Paris, 'juge d'appui'), in accordance with Articles 1460 and 1505 of the French Civil Procedural Code to request a preliminary ruling from the Court of Justice of the European Union in accordance with Article 267 TFEU. The proceedings before the arbitral tribunal shall resume once the decision by the juge d'appui is taken. The decision of the Court of Justice and of the juge d'appui shall be binding on the panel.

The arbitral award shall be final and binding on the parties and be carried out by them without delay.

Either party may however request that the award is reviewed by the The Hague Court of Appeal (Gerechtshof Den Haag) on the basis of the applicable national law. In this case, the award shall not be considered final until the end of this procedure. The decision by the reviewing court shall be binding on the panel.

## **5. Costs**

The costs of arbitration shall consist of:

- the fees and reasonable expenses of the arbitrators
- reasonable costs of experts and witnesses as approved by the panel and
- the fees and expenses of the PCA Secretariat for the arbitration proceedings (e.g. catering, providing for clerks, room, interpretation).

The arbitrators' fees shall not exceed:

- EUR 30 000 per arbitrator if the contested amount is below EUR 1 000 000
- 9% of the contested amount if that amount is above EUR 1 000 000. In any case the arbitrators' fees shall not exceed EUR 300 000.

The costs of arbitration shall be borne by the parties in equal share, unless otherwise agreed.

The parties shall bear their own costs of legal representation and other costs incurred by them in relation to the arbitration.

## **6. Privileges and immunities**

The agreement to pursue arbitration under the 2012 PCA Arbitration Rules does not constitute and cannot be interpreted as a waiver of privileges or immunities of any of the parties, to which they are entitled.