

## **ARBITRARE REGULATION FOR PROCEDURAL COSTS**

### **(Reference and Generic Medicines)**

#### **CHAPTER I**

#### **GENERAL PROVISIONS**

##### **Article 1**

##### **Scope of Application**

This Regulation sets the rules concerning the procedural costs arising from disputes concerning industrial property rights when reference and generic medicines are at stake, subject to compulsory arbitration under Law no. 62/2011, 12th December, which are referred for dispute resolution to ARBITRARE - Arbitration Centre for Industrial Property, Domain Names, Trade Names and Corporate Names, hereinafter referred to as ARBITRARE.

##### **Article 2**

##### **General Rules**

1 - All proceedings, including interim measures, are subject to payment of procedural costs, as provided by the present Regulation.

2 - All parties involved are obliged to pay procedural costs.

##### **Article 3**

##### **Procedural Costs**

The procedural costs comprise the arbitrators fees and expenses, the administrative costs, the expenses incurred with the taking of evidence and other arbitration expenses proven to be necessary during the proceedings, under the provisions of the present Regulation.

#### **Article 4**

##### **Value of the Procedural Costs**

The value of the proceedings as indicated by the Claimant in the Initial Petition, shall be taken into account for the purposes of calculating the procedural costs.

#### **Article 5**

##### **Arbitrator Fees**

1 - The fees of each arbitrator shall be fixed in accordance with the value of the arbitration, as set out in Table no. 1 attached to this Regulation.

2 - When the arbitral tribunal is composed of three arbitrators, the total of the fees due to them shall correspond to three times the amount fixed in accordance with paragraph 1, thus being due to the chairman of the arbitrators 40% of such total and 30% to each of the other arbitrators, unless otherwise agreed by the arbitrators.

3 - When the parties agree upon a sole arbitrator, the fees contemplated in Table no. 1 shall be increased by 50%.

4 - Each party is responsible for the payment of the fees due to the arbitrators, in equal parts, and in accordance with the preceding paragraphs.

5 - Considering the complexity of the arbitration or any other relevant circumstance, the Chairman of the Board of ARBITRARE may, upon request of the Arbitral Tribunal and after hearing the parties, raise the arbitrators fees by applying a coefficient no greater than 5 to the values resulting from Table no. 1.

#### **Article 6**

##### **Arbitrators Expenses**

1 - The arbitrators expenses comprise the travel and accommodation expenses of arbitrators not residing within a radius of fifty kilometers of the place where the arbitration takes place or when they have to travel for the purpose of taking evidence.

2 - The arbitrators travel and accommodation expenses shall be paid in accordance with the actual costs incurred, as duly substantiated.

## **Article 7**

### **Administrative Costs**

The administrative costs of the proceedings shall be calculated in accordance with the value of the proceedings, as set out in Table no. 2 attached to this Regulation.

## **Article 8**

### **Other Costs**

Costs incurred from appointing experts, travel expenses and costs related with the taking of evidence, as well as expenses related to the use of the arbitration court room for the taking of evidence hearing, will be determined on a case-by-case basis, taking into account their effective cost.

## **Article 9**

### **Payment Term**

1 - Payment of the procedural costs regarding the arbitrators fees and the administrative costs shall occur previously or together with the presentation of the Initial Petition or the Answer, calculated in accordance with the present Regulation.

2 - The payment of procedural costs related to the arbitrators fees, fixed in accordance with paragraph 6 of article 5 of the present Regulation, as well as the payment of the arbitrators expenses and other costs, shall be made within five days counting from the notification to this effect.

3 - Procedural costs regarding interim measures are borne by the party requesting it, and the respective payment shall be proven at the time of commencement of the proceedings.

## **Article 10**

### **Payment Method**

Payments arising from the present Regulation are preferably made and proven by electronic means.

## **Article 11**

### **Reduction of Costs and Reimbursement**

1 - The administrative costs are reduced by 3% when the subject is an associate of a member of the General Meeting of ARBITRARE.

2 - When proceedings terminate before the rendering of the arbitral award, the Tribunal may reduce the procedural costs, considering the phase in which such proceedings terminated, the amount of time spent by ARBITRARE or any other circumstances considered relevant.

3 - The reimbursement of the amount resulting from the application of the reductions referred to in the previous paragraph, shall be done immediately after the archiving of the proceedings.

## **Article 12**

### **Non-Compliance**

1 - Failure to pay the procedural costs implies:

- a) When due by the Claimant, it implies the archiving of the proceedings;
- b) When due by the Defendant, it implies the legal sanction for the absence of Answer foreseen in Law no. 62/2011, 12th December.

2 - Failure to pay the procedural costs due under the provisions of paragraph 2 of article 9, will suspend the arbitration proceedings when such fault is imputable to the Claimant. If however the failure to pay is imputable to the Defendant it will render impossible to partake in the phase for presenting evidence and/or presenting allegations. In such situations the other party shall be notified of the fact in order to proceed, if so willing, to the payment of the amount due within the following five days, lapse of this time-limit will suspend the proceedings.

3 - When the arbitral proceedings are suspended for 10 days, without the payment being made, the arbitral proceedings shall be terminated.

4 - The failure to pay costs regarding the taking of evidence shall imply that the Tribunal shall not proceed with such measure.

## **Article 13**

### **Supplementary Rules**

For all matters not foreseen in the present Regulation, the ARBITRARE Arbitration Regulation (Reference and Generic Medicines) shall subsidiarily be applied.

## ANNEX

**TABLE No. 1**

### Fees for each Arbitrator

Value of the Dispute (€)	Fees (€)
Up to 100,000.00	2,750.00
100,001.00 to 250,000.00	2,750.00 + 2 % over the amount that exceeds 100,000.00
250,001.00 to 1,000.000.00	5,750.00 + 1% over the amount that exceeds 250,000.00
1,000.001.00 to 5,000.000.00	13,250.00 + 0,45% over the amount that exceeds 1,000.000.00
>5,000.000.00	31,250.00 + 0,25% over the amount that exceeds 5,000.000.00
Value of the Interim Measure (€)	Fees (€)
Up to 300,000.00	2,500.00
Over 300,000.00	4,500.00

**TABLE No. 2**

### PROCEDURAL COSTS

Value of the Dispute (€)	Procedural Costs Per Party (€)
Up to 100,000.00	625.00
100,001.00 to 250,000.00	1,125.00 + 0,9 % over the amount that exceeds 100,000.00
250,001.00 to 1,000.000.00	2,475.00 + 0,25% over the amount that exceeds 250,000.00
1,000.001.00 to 5,000.000.00	4,350.00 + 0,03% over the amount that exceeds 1,000.000.00
>5,000.000.00	5,550.00 + 0,02% over the amount that exceeds 5,000.000.00
Value of the Interim Measures (€)	Procedural Costs(€)
Up to 300,000.00	315.00
Over 300,000.00	1,235.00

- Table values are given in Euros.
- Values excluding applicable VAT rate.