

ARBITRARE REGULATION FOR PROCEDURAL COSTS*

Article 1

Scope of application

This Regulation sets the rules concerning the procedural costs arising from disputes which are referred for dispute resolution to ARBITRARE - Arbitration Centre for Industrial Property, Domain Names, Trade Names and Corporate Names, hereinafter designated 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.
- 3 – The previous paragraph does not apply to those who provide proof of entitlement to legal aid within the judicial fees and other procedural costs exemption modality, under the terms of the applicable legislation.

Article 3

Determination of procedural costs

- 1 – The procedural costs comprise the fees of the arbitrator, the fees of the mediator and the administrative costs of the proceedings, considering the complexity of the proceedings and the value of the dispute, according to Table of Procedural Costs no. 1, attached to the present Regulation.
- 2 – The procedural costs of the resolution of disputes concerning .PT domain names are determined in accordance with Table no. 2, attached to the present Regulation. These costs comprise the fees of the arbitrator, the fees of the mediator and the administrative costs of the proceedings, considering the number of domains in dispute.
- 3 – Whenever the arbitral tribunal comprises three arbitrators, in addition to the procedural costs established according to the preceding paragraphs, each party shall bear the fees of its appointed arbitrator.

4 – Considering the complexity of the arbitration or any other relevant circumstance, the chairman of the Board of Directors of ARBITRARE may, upon request of the arbitral tribunal and after hearing the parties, raise the procedural costs by applying a coefficient no greater than 5 to the values resulting from the Tables of Procedural Costs.

Article 4

Additional costs

1 – All costs incurred by appointing experts, translators and interpreters, travel expenses and other costs related to the taking of evidence shall be borne by the parties in accordance with the actual costs incurred as duly substantiated.

2 – The parties shall bear the fees concerning 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, in accordance with the actual costs incurred as duly substantiated.

3 – If the intervention of the arbitral tribunal is limited to the approval of the agreement resulting from the mediation stage, the parties are subject to the payment of the certification act, according to the value established in the Tables of Procedural Costs attached to the present Regulation.

4 – The issuance of a certificate by ARBITRARE is subject to a payment of the amount established in the Tables of Procedural Costs attached to the present Regulation.

Article 5

Payment term

1 – Payment of the procedural costs shall occur previously or together with the presentation of the initial petition, the answer or the allegations presented by existing affected parties, as provided under the ARBITRARE Arbitration Rules.

2 – In the absence of a document proving the payment of the procedural costs or a proof of such payment, ARBITRARE will notify the concerned party to pay the amount due within the time-limit of 7 days. Upon termination of the referred time-limit, if the party persists in such failure he will be subject, where applicable, to the provision of article 8, paragraph 1 of this Regulation.

3 – The parties benefiting from legal aid within the judicial fees and other procedural costs exemption modality shall prove such benefit by submitting a copy of the decision that conferred this benefit.

4 – During the period of time whilst the decision referred in the preceding paragraph is pending, the party may present a copy of the request for legal aid indicating the applicant and the date of submission of the request, however, it will not be possible to proceed to mediation or to the trial hearing until a copy of the decision granting legal aid is presented or, in its absence, a proof of payment of the procedural costs.

5 – Those parties that adopt the pleadings of the other parties as their own shall proceed to the respective procedural costs when this procedural act subject to such procedural costs is performed.

6 – Procedural costs regarding interim measures are borne by the party requesting them, and the respective payment shall be proven at the time of commencement of those proceedings.

Article 6

Payment method

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

2 – Payments in cash are only accepted in exceptional circumstances.

Article 7

Reduction of costs and reimbursement

1 – The procedural costs are reduced:

- a) By 30% when proceedings terminate through mediation;
- b) By 20% when proceedings terminate due to the withdrawal of the parties or by settlement, before the constitution of the arbitral tribunal;
- c) By 30% when the party assumes the procedural position of affected party;
- d) By 20 % when the party is an associate of a member of the General Meeting of ARBITRARE;
- e) To the minimum amount of the administrative costs of ARBITRARE, when proceedings terminate before the mediation stage or the trial hearing, due to the lack of conditions for objective or subjective arbitrability.

2 – The reductions foreseen in the previous paragraph are not cumulative and when more than one condition is applicable, the higher percentage of reduction shall be applied.

3 – The reimbursement of the amount resulting from the reductions referred to in paragraph one above, insofar in what exceeds the minimum amount of the administrative costs of ARBITRARE, shall be carried out immediately after the archiving of the proceedings, by bank transfer to the IBAN (International Bank Account Number) indicated by the party entitled to such reimbursement.

Article 8

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 that the answer and the counterclaim, when filed, cease to produce effects;
- c) When due by the affected party, it implies that the respective allegations cease to produce effects.

2 – Failure to pay the procedural costs intended to cover expenses with the taking of evidence implies that this shall not take place, without prejudice to the provisions of the following paragraph.

3 – Should the arbitral tribunal consider the taking of evidence essential for the making of the arbitral decision, failure to pay such costs may determine:

- a) When due by the claimant, the suspension of the arbitral proceedings;
- b) When due by the defendant, the impossibility of the defendant to intervene in the taking of evidence. In this situation, the other party shall be notified accordingly so that if it sees fit, it may pay the outstanding amount. The non-payment may imply the suspension of the arbitral proceedings.

4 – If the suspension of the arbitral proceedings persists for a period of more than 10 days without due payment the arbitral proceedings shall be terminated.

5 – Failure to pay the procedural costs regarding interim measures results in the non-consideration hereof.

Article 9

Supplementary rules

For all matters not foreseen in the present Regulation, the ARBITRARE Arbitration Regulation and the Portuguese Law on Voluntary Arbitration shall be applied subsidiarily.

ANNEX

TABLE No. 1

PROCEDURAL COSTS

Value of the dispute (€)	Procedural costs per party (€)¹
Up to 2,000	90
2,000.01 to 8,000	180
8,000.01 to 16,000	270
16,000.01 to 24,000	360
24,000.01 to 60,000	450
60,000.01 to 100,000	540
100,000.01 to 200,000	630
200,000.01 to 300,000	720
300,000.01 to 400,000	810
Over 400,000	900

Value of the interim measures (€)	Procedural costs (€)
Up to 300,000	140
Over 300,000	360

Value of the administrative costs of the Centre, per party (€)	70
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Value of the Approval of the Settlement by Mediation, per party (€)	30
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Issuance of Certificate (€)	5
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¹- Values excluding applicable VAT rate.

TABLE No. 2

PROCEDURAL COSTS

Domain names in dispute	Procedural costs per party (€)¹
1 to 5	200
6 to 10	400
More than 10	900

Interim measures (€)	Procedural costs (€)
1 to 5	70
6 to 10	180
More than 10	290

Value of the administrative costs of the Centre, per party (€)	70
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Value of the Approval of the Settlement by Mediation, per party (€)	30
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Issuance of Certificate (€)	5
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¹- Values excluding applicable VAT rate.

**This Regulation for Procedural Costs has been updated according to the regulatory changes approved on 13 December 2010, 4 July 2012, 3 October 2012, 27 March 2014 and 4 April 2018.*