

QUALIFICATION OF AN ARBITRATOR

Under the legal regulation of most countries (including the Czech Republic), only a natural person can become an arbitrator.

There is no special qualification required for an arbitrator (legal education is therefore not necessary). Under the Czech law, even a foreigner is allowed to be an arbitrator. However, a judge of any Czech court is not able to function as an arbitrator.

The risk of choosing an arbitrator which lacks the necessary qualification is bore by the parties who have the right to select the arbitrators for their dispute settlement.

Arbitrator must be a respectable person (meaning that he/she must not be sentenced for a willful crime).

European Convention is silent about the qualification of arbitrators.

It is of pivotal importance that arbitrators must be unbiased and independent (arbitrators must not be connected with the parties).

In institutional arbitration proceedings, the parties may quite often choose their arbitrators from a list of arbitrators offered by the arbitral tribunal in question.

Institutional arbitral tribunals determine various conditions which need to be fulfilled in order to be included on the list of arbitrators.

Convention ICSID for instance states that: “persons designated to serve on the Panels shall be persons of high moral character and recognized competence in the field of law, commerce, industry or finance, who may relied upon to exercise independent judgment. Competence in the field of law shall be of particular importance in the case of persons on the Panel of Arbitrators...”

Specific requirements are demanded by specialized arbitral tribunals or commodity arbitrations.

NUMBER OF ARBITRATORS

According to section 7 of the Czech Arbitration Act, arbitration agreement shall set the number of arbitrators and the means of their appointment. The final amount of arbitrators must be always odd. If the arbitration contract does not contain such provision, the dispute will be discussed by a panel of three arbitrators.

APPOINTMENT OF ARBITRATORS

The parties may select a particular arbitrator already in arbitration contract (one or more). The parties is dispute usually appoint one arbitrator and these two arbitrators then select the third one.

REFUSAL AND REMOVAL OF ARBITRATORS

An arbitrator who is to be or has been appointed must immediately inform the parties or the court about all circumstances which could cause doubts about his/her independence or actual

bias (section 8 and 11). Shall these circumstance arise, is the arbitrator obliged to give up his capacity of an arbitrator (section 12).