

CHALLENGING ARBITRATORS

Rules What is the Standard for Arbitrator Challenges? Who Decides Challenges?

<p>ICSID Convention & Arbitration Rules</p>	<ul style="list-style-type: none"> • Arbitrators may be challenged for <i>any fact indicating a manifest lack</i> of such qualities as: <ul style="list-style-type: none"> ○ <i>high moral character</i> ○ ability to be relied upon to exercise <i>independent judgment</i> • Arbitrators <i>must be</i> disqualified if the proposal is well-founded. <p>(ICSID Convention Articles 57, 58, 14, 40)</p>	<ul style="list-style-type: none"> • The remaining members of the Tribunal will decide the challenge. • In cases when the proposal is to disqualify a sole arbitrator, or when the two members cannot decide on the challenge, the Chairman of the Administrative Council will make the decision. <p>(ICSID Convention Article 58)</p>
<p>ICSID Additional Facility Rules</p>	<ul style="list-style-type: none"> • These rules essentially follow the ICSID Convention and Arbitration Rules. <p>(Additional Facility Articles 7, 8, 15)</p>	<ul style="list-style-type: none"> • The remaining members of the Tribunal will decide the challenge. In cases when the proposal is to disqualify a sole arbitrator, or when the two members cannot decide on the challenge, the Chairman of the Administrative Council will make the decision. <p>(Article 15)</p>
<p>UNCITRAL Arbitration Rules</p>	<ul style="list-style-type: none"> • Any arbitrator may be challenged if circumstances exist that give rise to justifiable doubts as to the arbitrator’s impartiality or independence. <p>(Article 10[1] of 1976 Rules, Article 12[1] of 2010 Rules)</p>	<ul style="list-style-type: none"> • The appointing authority, who will be chosen by the parties or the Secretary-General of Permanent Court of Arbitration, decides the challenge. <p>(Article 12 of 1976 Rules, Article 13 of 2010 Rules)</p>
<p>Arbitration Rules of the Stockholm Chamber of Commerce (2010 Rules)</p>	<ul style="list-style-type: none"> • A party may challenge any arbitrator if “circumstances exist which give rise to justifiable doubts as to the arbitrator’s impartiality or independence or if he/she does not possess qualifications agreed by the parties.” <p>(Art. 15[1])</p>	<ul style="list-style-type: none"> • The SCC Board of Directors will decide the challenge. <p>(Article 15[4])</p>
<p>Arbitration Rules of the International Chamber of Commerce</p>	<ul style="list-style-type: none"> • A disputing party may challenge an arbitrator for a “lack of independence or otherwise.” <p>(Article 11[1])</p>	<ul style="list-style-type: none"> • The ICC Court decides arbitrator challenges. <p>(Art. 11[3])</p>