



## **Arbitration Court for ESports (ACES)**

**How to conduct arbitral proceedings  
under the WESA Arbitration Rules**

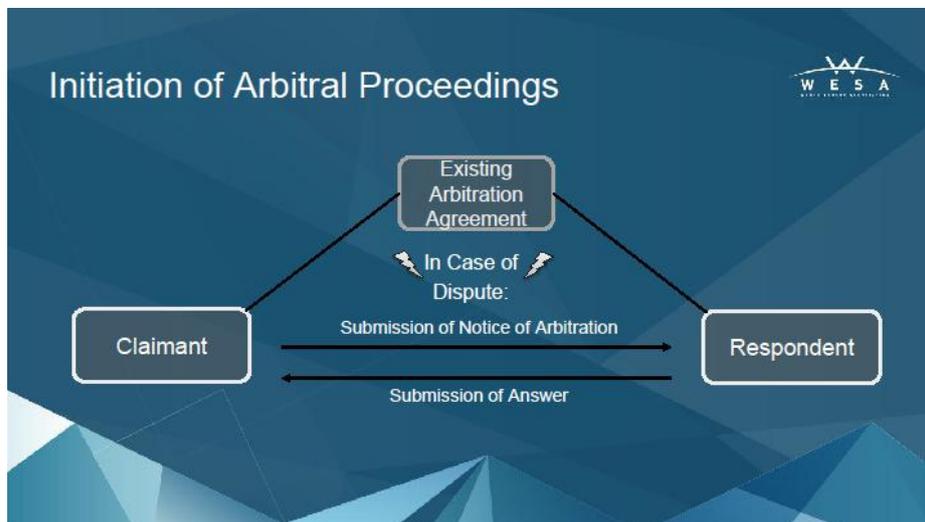
# I. What is arbitration?

- **Arbitration** is a mechanism for the **resolution of disputes** and similar to normal state court proceedings.
- The decision at the end (the so-called **arbitral award**) is **similar to a court judgment**.
- There is **no appeal** against the decision, so a final decision can be received **quicker** than in state court proceedings.
- You can **propose an arbitrator** who has **specific know how** regarding the current dispute.
- The proceedings and the outcome are **confidential**.
- Contrary to many state court proceedings, you can with the consent of the arbitrator(s) make use of **electronic communication** in the proceedings.

## II. What to do if a dispute occurs

- Is there still **room for negotiations** with the other side? If yes, first consider discussing and negotiating the dispute with the other side.
- If negotiations fail or are not feasible, consider **starting arbitration proceedings** (see below III.). If you want to start arbitration proceedings under the WESA Arbitration Rules, you should **check whether the WESA Arbitration Rules apply** to your dispute. This is the case if the dispute is related to your rights and duties following from **WESA regulations and contracts** that include a **clause referring disputes to arbitration under the WESA Arbitration Rules**.
- Consult a lawyer in order to check whether a **time barring of your claim** is imminent.
- Also determine whether you **urgently need a preliminary decision** which conserves the current status or provides for provisional measures; if urgent measures are necessary, you can request an **Emergency Arbitrator** to decide on a request for **provisional measures** (see below VIII.).
- As arbitration proceedings follow certain rules and might be quite complex, we recommend consulting a **specialized lawyer** for your representation in the arbitration proceedings.

### III. How to initiate arbitration proceedings



- First, you should find out whether one or three arbitrators have to decide the current dispute:
  - If there is no specific agreement between the parties, the dispute is decided by **THREE** arbitrator;
  - The parties can however agree on proceedings by **ONE** arbitrator (the so-called **Sole Arbitrator**). If the basis of the dispute is a contract between the parties, they can already agree in the contract on arbitration by one arbitrator. However, they can also make such an agreement later when the dispute occurs.
- For starting the arbitration proceedings, a **NOTICE OF ARBITRATION** must be drafted. It should contain:
  - the **name** in full, **address** and other **contact details** of each party;
  - the **name** in full, **address** and other **contact details** of any person(s) **representing** you in the arbitration proceedings;
  - a **description of the nature and circumstances** of the dispute and of the **basis of the claim** (for example a provision in a contract or of a WESA Regulation);
  - a **statement of the relief sought** (that is, the requested outcome) and, if a payment is requested, the amount of the payment; if the claim is not related to a payment, an estimate of the value of this claim, if possible;
  - if the dispute will be decided by **THREE** arbitrators, **proof of the agreement between the parties on three arbitrators** and a **nomination of one arbitrator**; you are free to choose the person of the arbitrator, but it must be a person which is impartial and

independent of all participants; the person does not have to be a jurist, but it might make sense to nominate someone who has an understanding of arbitration proceedings and of the legal issues in dispute;

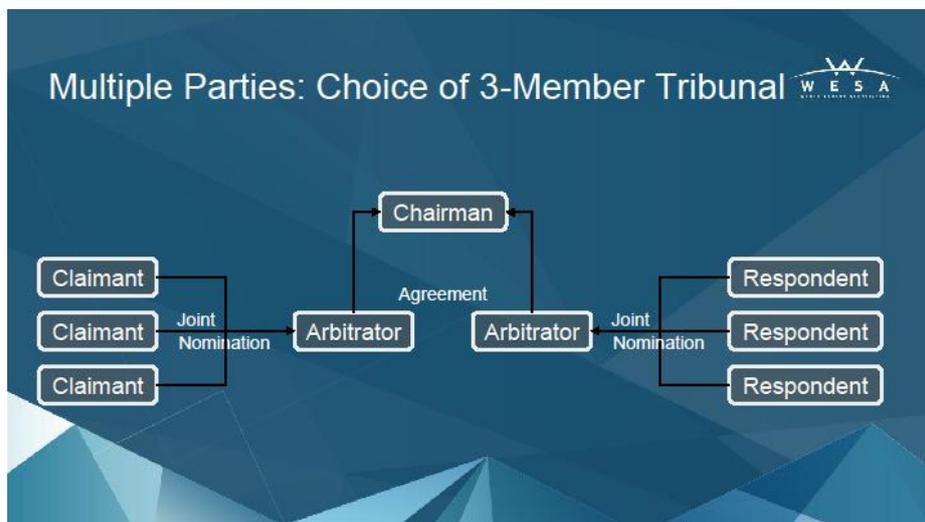
- if the dispute will be decided by **ONE** arbitrator, a **proposal regarding the person of this arbitrator**; the person must be a jurist and should be able to speak and work in the language of the arbitration (English, if the parties have not agreed otherwise).
- You can also make **proposals** for or **comment** on the **place of arbitration, language of arbitration** and/or **applicable law on the merits (that is, the subject matter) of the case**. The place of arbitration *inter alia* determines which additional arbitration laws apply to the proceedings (e.g. if the place of arbitration is in Germany, German arbitration law is applied in addition to the WESA Arbitration Rules).
- You should **attach any documents or information** that might be relevant for the resolution of the dispute.

## IV. How to react to a Notice of Arbitration

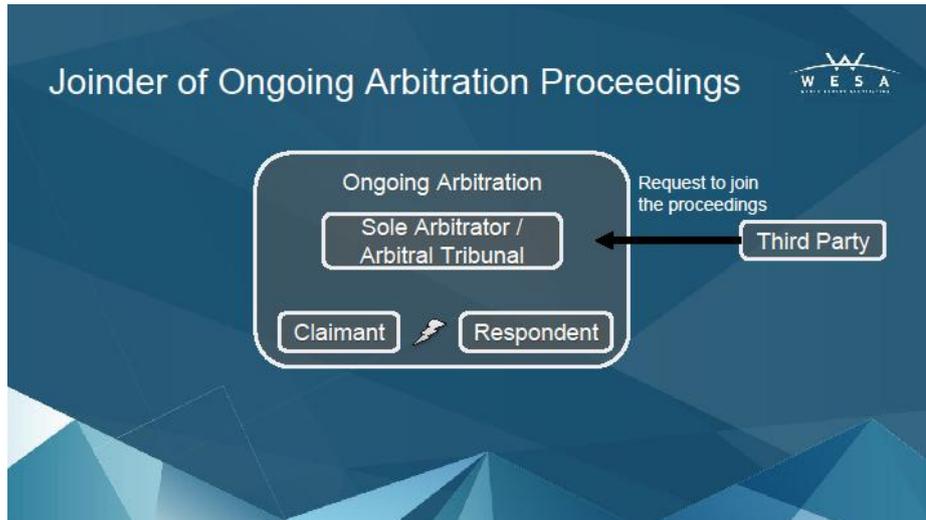
- If you are the receiver of a Notice of Arbitration (the so-called Respondent), you will have **30 days to send an Answer** to the Notice of Arbitration to the person who sent the Notice of Arbitration (the so-called Claimant).
- The Answer should contain:
  - your **name** in full, **address** and other **contact details**;
  - the **name** in full, **address** and other **contact details** of any person(s) **representing** you in the arbitration proceedings;
  - your comments on **the nature and circumstances** of the dispute and on the **basis of the claim** (for example a provision in a contract or of a WESA Regulation) stated by the Claimant;
  - your response to **the relief sought** (that is, the outcome requested by the Claimant);
  - if the dispute will be decided by **THREE** arbitrators, a **nomination of one arbitrator**; you are free to choose the person of the arbitrator, but it must be a person which is impartial and independent of all participants; the person does not have to be a jurist, but it might make sense to nominate someone who has an understanding of arbitration proceedings and of the legal issues in dispute;
  - if the dispute will be decided by **ONE** arbitrator, a **proposal regarding the person of this arbitrator**; the person must be a jurist and should be able to speak and work in the language of the arbitration (English, if the parties have not agreed otherwise).
  - You can also make **proposals** for or **comment** on the **place of arbitration, language of arbitration** and/or **applicable law on the merits (that is, the subject matter) of the case**. The place of arbitration *inter alia* determines which additional arbitration laws apply to the proceedings (e.g. if the place of arbitration is in Germany, German arbitration law is applied in addition to the WESA Arbitration Rules).
  - You should attach **any documents or information** that might be relevant for the resolution of the dispute.
- If in your view you have a **counterclaim** against the Claimant, you can include your counterclaim into the Answer, provided that your counterclaim is based on the **same contract or regulation** or on a contract or regulation which also contains a **reference to the WESA Arbitration Rules**. The counterclaim should include the following information:
  - a **description of the nature and circumstances** of the dispute and of the **basis of the counterclaim** (for example a provision in a contract or of a WESA Regulation);

- a **statement of the relief sought** (that is, the requested outcome) and, if a payment is requested, the amount of the payment; if the claim is not related to a payment, an estimate of the value of this claim, if possible;
- copies of **any relevant agreements** and, in particular, of the **arbitration agreement(s)** related to the counterclaim.
- You should attach **any further documents or information** that might be relevant for the resolution of the dispute.

## V. What to do if there are multiple parties on either side



- If there are several claimants and/or several respondents, **all claimants together** and/or **all respondents together** have to make a proposal for the Sole Arbitrator (in case of one arbitrator) or choose one of the arbitrators (in case of three arbitrators).



- If there are already arbitration proceedings going on and you would like to **join the proceedings** (either as another claimant on claimant's or as another respondent on respondent's side), you can submit a request to join to the arbitrator(s).
- You can only join if you are also bound by an **arbitration agreement** according to the WESA Arbitration Rules or if the other parties **agree** to your joinder.
- A joinder is **only possible if** the parties have not submitted their first round of written submissions yet. The **decision** if you are allowed to join is made **by the arbitrator(s)**.

## VI. What happens if an arbitrator cannot be agreed on?

- If the parties **are not able to agree on a Sole Arbitrator** or if in case of a 3-member-tribunal the two arbitrators nominated by the parties **are not able to agree on a third arbitrator**, each party can apply to the **responsible state court to make the choice instead**.
- The responsible state court is determined by the **place of arbitration**. The place of arbitration can be **agreed by the parties**. If there is no such agreement, the **default place of arbitration is Zurich, Switzerland**.

## VII. The next steps

- After the Arbitral Tribunal/Sole Arbitrator has been appointed, the Arbitral Tribunal/Sole Arbitrator will usually discuss with the parties **the next steps** and request from them the **payment of an advance** of the arbitrator's fees and expenses.
- The advance on the fees and expenses usually includes the expected entire fee(s) and expenses and is paid **in equal shares by the parties**.
- The fees of the arbitrator(s) can be seen in the **Annex A** to the WESA Arbitration Rules. They are **lump sums based on the amount in dispute**.
- The **final decision** on who has to bear the costs of the proceedings will be taken by the arbitrator(s) **in the final award**.
- Please be aware that the proceedings are **confidential**. So you should **not disclose any facts or other information** related to the arbitration proceedings to persons who are not participating in the proceedings. The **award is also confidential**, unless the parties agree otherwise.

## VIII. How to provide a request for urgent measures to an Emergency Arbitrator

- If there is a dispute and you need a **preliminary urgent decision** in order to protect your claim or rights, you can **ask the arbitrator(s)** for a decision on so-called interim measures. This might be for example helpful if the other side tries to remove all its assets or if you want to stop the other side from a certain action as long as the arbitration proceedings are not finished yet.
- If the Arbitral Tribunal/Sole Arbitrator has not been nominated yet and you need interim measures, you can ask an **Emergency Arbitrator** to decide on your request. On the **WESA website** there will be **contact details to which you can send your request for interim measures**.
- The request for interim measures should in principle contain the **same information as a Notice of Arbitration** (see above). You should in particular state why you deem your right(s) violated and why a preliminary urgent decision is necessary.
- After the Emergency Arbitrator has received your request for interim measures, he/she will determine the **next steps**.
- It is possible that the Emergency Arbitrator will at the beginning ask you for a **preliminary advance** on his/her fees in the amount of **EUR 1,000**.
- In case of a request for interim measures, the other side has the right to ask you to also **start the main arbitration proceedings**. If you do not start the main proceedings within 14 days from the receipt of the other side's request to do so, a decision on interim measures will **lose its legal effect**.

## IX. How much are the fees of the arbitrator(s)?

- The arbitrator(s) receive a fee that is calculated **in relation to the amount in dispute**. They further receive a **reimbursement of their reasonable expenses** related to the conduct of the arbitration proceedings.
- In case of **THREE** arbitrator, the fees are as follows (rounded net amounts):

If the amount in dispute is	the approximate total fees for all three arbitrators are
EUR 10,000	EUR 5,100
EUR 100,000	EUR 14,025
EUR 1,000,000	EUR 63,525
EUR 10,000,000	EUR 195,525

- In case of **ONE** arbitrator, the fee is as follows (rounded net amounts):

If the amount in dispute is	the approximate fee for the arbitrator is
EUR 10,000	EUR 1,900
EUR 100,000	EUR 5,525
EUR 1,000,000	EUR 25,025
EUR 10,000,000	EUR 77,025

- At the beginning of the arbitration proceedings the arbitrator(s) will ask the parties for an **advance** on their expected fees and expenses.
- In the final decision the arbitrator(s) will decide which of the parties has to **bear the (entire or partial) costs**. The general principle is that the **losing party has to bear the costs**. If the claim is only partially successful, the parties have to share the costs in relation to the ratio of winning and losing.
- **Example 1:** Party A wants to have EUR 10,000 from party B. In the final decision the arbitrator(s) decide that party B has to pay this entire amount to party A. In that case Party B also has to bear the entire costs of the arbitration proceedings.

- **Example 2:** Party A wants to have EUR 10,000 from party B. In the final decision the arbitrator(s) decide that party B has to pay only a partial amount of EUR 8,000 to party A. In that case party A has to pay 20% and party B 80% of the costs of the arbitration proceedings.
- In case of **anti-doping proceedings** the arbitrator(s) receive the following fees:
  - In case of **THREE** arbitrators: EUR 3,100 for all three arbitrators and in addition EUR 400 for each additional hearing day, if there is more than one hearing day;
  - In case of **ONE** arbitrator: EUR 1,000 and in addition EUR 400 for each hearing day.