

Guidelines for Using a Secretary in FCC Arbitration

Appointment of a secretary

The appointment of an arbitrator is personal and therefore the task of an arbitrator cannot be performed by other lawyers at the same law firm.

Section 20 (3) of the Rules of the Arbitration Institute of the Finland Chamber of Commerce provides that the arbitral tribunal may, when necessary, appoint a secretary. The arbitral tribunal has sole discretion to decide whether to appoint a secretary or not, but it must consult the parties before doing so. Both the fact that the arbitral tribunal appointed a secretary and the secretary's name should be stated in the arbitral award.

The secretary's role

The secretary may make technical arrangements, such as recording in respect of oral hearings and may also assist in taking minutes where necessary. However, the arbitral tribunal retains the responsibility for the content of the minutes. The secretary may check the accuracy of facts, figures and calculations in the arbitral award, but the arbitral tribunal retains the responsibility for the correctness of the arbitral award. The secretary may assist the arbitral tribunal in researching legal or technical matters as well as in obtaining background material.

The secretary acts as a technical assistant to the arbitral tribunal, but has no independent decision-making power. The secretary may neither participate in deliberations of the arbitral tribunal nor in decision-making and may not sign the arbitral award.

The arbitral tribunal decides the structure of the arbitral award. The secretary does not participate in drafting of the arbitral award or in decision-making and may not influence the content of the arbitral award in any other way.

The chair of the arbitral tribunal has personal responsibility for contacts with the Arbitration Institute. The secretary is not allowed to discuss issues relating to the arbitration with the Arbitration Institute.

Payment

The payment due to the secretary is part of the arbitral tribunal's fee and it is included in the arbitral tribunal's expenses. The arbitral tribunal is responsible for making payment, including statutory fees and charges, to the secretary. In an ordinary case such payment should not exceed 15 per cent of the arbitral tribunal's fee.

Confidentiality

The secretary is under the same obligation of confidentiality as the members of the arbitral tribunal in relation all circumstances brought to their knowledge during the course of the arbitral proceedings.