

# **CODE OF ETHICS**

## **OF THE CADEV'S PERMANENT CENTRE OF ARBITRATION AND MEDIATION**

The CPAM's code of ethics is a reference document for arbitrators and mediators. It imposes on arbitrators and mediators appointed to resolve disputes referred to CPAM the obligation to comply with the cardinal principles of alternative justice and the rules of ethics. The present code of ethics complements the rules of arbitration and mediation of CPAM.

The CPAM's Code of ethics is the basis of the moral contract between arbitrators and mediators, the parties and CPAM.

## INTRODUCTION

### **A. Introductory Statement**

CPAM is a specialized structure of CADEV, but which carries out its missions with total independence vis-à-vis the organs of CADEV, natural persons or moral entities, public and religious authorities and pressure groups.

### **B. Nature and scope of the CPAM's rules of ethics**

The code of ethics of CPAM seeks to lay down the rules of ethics which bind arbitrators and mediators certified by CPAM.

These rules are based on the model rules which are generally applied in the most renowned alternative dispute resolution centres in the world; they are a guarantee for a procedure which complies with the values of integrity and professionalism.

Every arbitrator and mediator shall undertake to abide by the rules of ethics enshrined in this code when signing his contract. He shall renew this undertaking each time he is appointed to resolve a dispute on the account of CPAM.

The CPAM's code of ethics shall apply to arbitrators and mediators who are registered in the CPAM's list, as well as to those who, although not registered therein, are nevertheless appointed to settle arbitration and mediation disputes on the account of CPAM.

### **C. Complementarity between the rules of arbitration and mediation of CPAM and the code of ethics**

This code of ethics seeks to complement the rules of arbitration and mediation of CPAM in respect of the obligations of arbitrators and mediators. It is an appendix thereof, but may also be used separately. As such, any amendment made on the rules of arbitration and mediation shall not affect the present code of ethics.

### **D. Useful definitions**

Within the context of this code, the following expressions shall have the following meanings:

« Independence »: Lack of any personal or business relationship between arbitrator/mediator and one or several disputing parties.

The lack of independence shall be established where there is a relationship between an arbitrator/mediator and a party, or with any person directly linked to a disputing party

« Impartiality »: It shall be assessed in relation to the subjective attitude of the arbitrator/mediator who shall not, for any subjective reason, favour a party to the dispute at the detriment of the other.

Partiality shall be established where an arbitrator/mediator favours a party during the conduct of proceedings and/or in relation to the outcome of the proceedings, or when he gives a pre-conceived opinion on the dispute.

« Neutrality »: Neutrality shall refer to the position of the arbitrator/mediator who shall not have a direct interest in the outcome of arbitration/mediation. The lack of neutrality has a direct negative impact on the outcome of the proceedings at the detriment of one of the parties.

« Availability »: It shall refer to the skills of an arbitrator/mediator in ensuring the smooth conduct of proceedings by taking all appropriate measures and by performing his mission with diligence.

#### **Article 1: CONDITIONS TO ACCEPT THE MISSION OF ARBITRATOR/MEDIATOR**

1. A prospective arbitrator/mediator shall accept his mission only if he is fully convinced that he has the required expertise, taking into account the subject-matter of the dispute, and is independent vis-à-vis the parties.
2. Once appointed, an arbitrator/mediator shall resume or continue his mission only if he is fully convinced of his availability.

#### **Article 2: INDEPENDENCE AND IMPARTIALITY OF ARBITRATORS/MEDIATORS**

1. A prospective arbitrator/mediator shall submit a statement in which he shall disclose all facts or circumstances which might be of such a nature as to call into question his independence and impartiality.
2. The duty to disclose shall continue in the course of proceedings. As such, the arbitrator/mediator shall be obliged to declare at the Secretariat-registry any new fact or circumstance which occur in the course of proceedings and which might be of such a nature as to affect his impartiality and neutrality.
3. The following facts, which are nevertheless not exclusively listed, shall appear in the statement mentioned above:
  - Any business relationship, past or present, direct or indirect, including any previous position as arbitrator, counsel, or assistant in a dispute that involved one of the parties;
  - The nature of any family relationship with a party to the dispute;
  - Any link, direct or indirect, past or present, between the arbitrator/mediator and the parties or with the subject-matter of the dispute;

The existence of any professional undertaking or any other factor that renders the arbitrator or mediator unavailable.

4. In case of an attempt to favour a party or to infringe the right of a party due to subjective considerations such as family relationship, ethnic, social or religious affinities, the party who stands to suffer the prejudice shall apply to challenge the arbitrator/mediator in question, without this fact having any prejudice on the disciplinary sanctions provided in article 5 of this code.

5. *The arbitrator/mediator who has been challenged due to the above-cited reasons shall not be entitled to payment, regardless of the stage of the proceedings at the time of the challenge.*

**Article 3: PROHIBITION TO COMMUNICATE WITH THE PARTIES**

1. *Arbitrators/mediators of CPAM shall not entertain any relationship with the parties beyond the institutional framework which governs their mission of arbitrators/mediators. It follows that where an arbitrator/mediator is proposed by a party, he does not by this fact become « the arbitrator/mediator of the party who proposed him ». Arbitrators/mediators shall not report directly to the parties and there shall be no relationship of subordination between the arbitrators/mediators and the parties.*
2. *It shall be strictly prohibited for arbitrators/mediators to get in contact with individuals or moral entities who are likely or are in the process of seising the CPAM in order to request for appointment in their case.*
3. *During the arbitral or mediation proceedings, the arbitrator or mediator, as the case may be, shall refrain from any unilateral and informal communication relating to the proceedings with a party, his representatives, or his counsels. If, by some miracles, such a communication takes place, the arbitrator/mediator concerned shall immediately inform the registrar about the context in which such a communication took place as well its content.*
4. *Arbitrators or mediators shall not accept, either directly or indirectly, any gift or favour from the parties.*
5. *Apart from what has been fixed on the basis of the rules of arbitration of the centre and the decisions of the arbitration and mediation committee and which is legally notified to the parties and arbitrators or mediators, there shall not be any negotiation between the parties and arbitrators/mediators in respect of their fees and or disbursements.*

**Article 4: DUTY OF SECRECY, LOYALTY AND SOLIDARITY TOWARDS CPAM**

1. *Arbitrators and mediators carrying out their mission on the account of CPAM shall be bound by the duty of secrecy. Consequently, they shall refrain from writing or altering words in private or in public which are likely to tarnish the image or to undermine the reputation and the activities of CPAM.*
2. *Such arbitrators and mediators shall, at all times, show loyalty and solidarity vis-à-vis CPAM and its deliberating or executive organs.*

**Article 5: FOLLOW-UP MODALITIES - SANCTIONS**

1. *The Ethics Committee which is set up by the organic law of CPAM shall have the responsibility to ensure that arbitrators and mediators comply with the provisions of this code. A control may be carried out at any stage of the proceedings upon request by a party, upon the registrar's report or at the Committee's own initiative.*
2. *The Ethics Committee shall examine disciplinary files and propose sanctions which shall be approved by the Administrative Board of CPAM. Sanctions shall include warning, suspension from the CPAM's list, and dismissal.*
3. *Sanctions inflicted by the Ethics Committee shall contain the reasons upon which they are based and shall comply with the principle of adversarial proceedings./-*