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Recommendation 98/257/EC [Commission document SEC(98) 576] on the principles applicable to the bodies responsible for out-of-court settlement of consumer disputes.

- Bodies in the Federal Republic of Germany –

A. Arbitration boards in civil cases

1. Bavaria

1.1. Arbitration boards in civil cases at the Bavarian Amtsgerichte (Local Courts)

- Arbitration board at the Munich Amtsgericht
Maxburgstraße 4, Zimmer 106
Tel: (089) 55 97-37 00
- Arbitration board at the Würzburg Amtsgericht
Ottostraße 5, Zimmer 8
Tel: (09 31) 3 81-2 13
- Arbitration board at the Traunstein Amtsgericht
Herzog-Otto-Straße 1, Zimmer 115
Tel: (08 61) 5 62 38
- Arbitration board at the Regensburg Amtsgericht
Augustenstraße 3, Zimmer 422
Tel: (09 41) 20 03-5 43

Structure

Each arbitration board has one arbitrator, who will be an experienced former judge. The arbitrators are appointed, usually for several years, by the president of the Oberlandesgerichts (Higher Regional Court) in whose jurisdiction the arbitration board in question is located. They are independent and impartial.

Powers

The arbitration boards provide help in achieving the out-of-court settlement of civil disputes which, if they became the subject of legal proceedings, would come before the ordinary courts. They do not take action where mandatory provisions rule out the conclusion of a settlement in respect of the subject of the dispute. The services of the arbitration board are available to everyone.

Procedure

The arbitration procedure is carried out only if both parties agree. The arbitrator discusses the case with the parties either orally or, where appropriate, in writing. The arbitrator fixes a date for the hearing and decides on the appropriate procedure for a swift settlement of the dispute.

Costs

Each party pays its own costs, unless they agree otherwise between themselves.

A modest charge is made for using the arbitration procedure. The charges vary depending on the value of the dispute, as shown below:

DM	200	charge	DM	30
DM	700	charge	DM	60
DM	1 500	charge	DM	90
DM	2 000	charge	DM	110
DM	3 000	charge	DM	150

The parties are both required to pay half of the costs in advance of the arbitration procedure.

Nature of the decision

At the end of the procedure the arbitrator proposes a settlement to the parties. If they accept it, it must be recorded in writing, indicating the date on which it was agreed, and must be signed by both parties. The arbitrator signs the document to confirm that a settlement has been reached before the arbitration board.

Enforcement

The official arbitration boards are voluntary conciliation boards within the meaning of § 794(1)(1) of the Zivilprozessordnung (Code of Civil Procedure). Settlements reached before the arbitration boards can therefore be compulsorily enforced, and the arbitrators have the power to issue enforcement orders for them.

2. Lower Saxony

2.1. Municipal arbitration boards

Structure

Every municipality in Lower Saxony has one or more arbitration boards (there are around 600 in total). Small municipalities can link up with others to form joint arbitration districts.

The duties of the arbitration board are carried out by an arbitrator acting in an honorary capacity. He or she is elected for five years by the local council and must be confirmed in the post by the director or president of the Amtsgericht (local court). The arbitrator may be dismissed for serious failings, particularly breach of duty or failure correctly to carry out the responsibilities of office.

Powers

The boards carry out the arbitration procedure in civil disputes concerning pecuniary claims which do not come under the jurisdiction of the Arbeitsgerichte (Labour Courts). The arbitration board in whose district the defendant is resident has jurisdiction. The arbitrator may reject an application for an arbitration procedure if the matter in dispute is objectively and legally difficult to assess. There is no limit on the value of the dispute.

The arbitrator will not take action if the procedure concerns a matter for which trade associations or other similar bodies have set up arbitration, conciliation or settlement boards.

Procedure

The procedure is carried out on the basis of a written or officially recorded oral application from one party. The application must give details of the surnames, first names and addresses of the parties and a general description of the subject of the dispute, and must be signed by the applicant.

The hearing before the arbitration board is carried out orally and in camera. The parties must appear in person at the appointed time for the hearing. Physical persons may not send

authorised representatives to the hearing. Both parties may be accompanied by legal advisers.

Witnesses and experts appearing voluntarily may give evidence. There may also be a judicial inspection with the parties' agreement and in their presence.

Costs

A fee of DM 20 is charged for the arbitration procedure; if a settlement is reached the fee is DM 40. It may rise to up to DM 75 depending on the circumstances of the party liable for costs and the scale and difficulty of the case. The arbitration board's secretarial and other expenses (eg. use of an interpreter and postage costs) must also be covered.

The costs must be paid by the party who requested the arbitrator's services, or else by whichever party has accepted liability for costs in a declaration to the arbitrator or in a settlement, or has legally accepted another party's liability for costs.

Nature of the decision

The arbitrator does not have the power to deliver judgment. He may put non-binding proposed settlements to the parties. If a settlement is reached, it must be officially recorded.

Enforcement

Settlements reached before an arbitration board are enforced by notarial documents, in accordance with the relevant provisions of the Code of Civil Procedure on enforcement. The enforcement order is issued by the local court in whose district the arbitration board is located

Publication of arbitration board's decision

No

3. Rhineland-Palatinate

3.1. Arbitration boards governed by the arbitration regulations

Particulars of the body:

Arbitration boards are found in every municipality, whether part of an association or not, every major town in a district and every urban district.

Structure

Every arbitration board has an arbitrator whose personality and skills make him or her suitable for the post. Arbitrators are honorary officials of the Land of Rhineland-Palatinate and are supervised by the judicial administration. Arbitrators serve for a period of five years, which may be extended.

Powers

The arbitrator attempts to achieve conciliation in civil disputes concerning pecuniary claims. However, he will refuse to do so in cases where any legal proceedings brought would come under the jurisdiction of the Regional Court, or if the matter appears in fact or in law to be too complex.

Procedure

Conciliation is attempted at the request of one of the parties. The hearing before the arbitration board is oral and held in camera. The arbitrator may propose a settlement to the parties.

Costs

A fee of DM 20 is charged for the conciliation procedure; if a settlement is reached the fee increases to DM 40. Depending on the financial circumstances of the party liable for payment the fee may increase to up to DM 75 because of the scale or difficulty of the subject matter. Secretarial expenses, travel expenses and interpreting costs may also have to be paid.

Nature of the decision

The arbitrator does not have the power to deliver judgment. If the parties reach a settlement, it must be recorded in writing and approved and signed in person by the parties in the presence of everyone involved.

Enforcement

Settlements reached by the arbitrator are enforceable; the enforcement order is issued by the local court in whose district the arbitrator's office is located.

4. Saxony

4.1. Municipal arbitration boards

Particulars of the body

The arbitration boards are located in towns and municipalities in the Free State of Saxony, although there is no comprehensive network.

Structure

Every arbitration board has a chairman and two deputies. The arbitrators act in an honorary capacity. They are elected for five years by the local council and must be confirmed in the post by the director or president of the local court. They may be dismissed for serious failings (particularly breach of duty or failure correctly to carry out the responsibilities of office).

Powers

The arbitration boards carry out the arbitration procedure in civil disputes concerning pecuniary claims which do not come under the jurisdiction of the Labour Courts. The arbitration board in whose district the defendant is resident has jurisdiction. The board may reject a request for an arbitration procedure if the matter in dispute is, in fact or in law, difficult to assess.

There is no limit on the value of the dispute.

Procedure

The procedure is carried out on the basis of a written application from the persons involved in the dispute. The application must give details of the surnames, first names and addresses of the parties and a general description of the subject of the dispute, and must be signed by the applicant.

The hearing before the arbitration board is held orally and in camera. The parties must appear in person at the appointed time for the hearing. Physical persons may not send authorised representatives to the hearing. Both parties may be accompanied by legal advisers.

Costs

The arbitration board charges costs for its work (fees and expenses). The fee is DM 15, rising to DM 30 if a settlement is reached. Secretarial expenses, interpreters' fees and other expenses may also have to be paid.

The costs must be paid by the party who requested the arbitrator's services or the party who accepted liability for costs in a declaration to the arbitrator or as part of a settlement.

Nature of the decision

If a settlement is reached it must be officially recorded. The record must be read out to the parties or given to them to read, and must be approved and signed in person by them.

If a settlement is not reached, a brief note must be made of that fact.

Enforcement

Settlements reached before an arbitration board are compulsorily enforceable. The provisions of the Code of Civil Procedure on the compulsory enforcement of settlements reached before a voluntary conciliation board set up or recognised by the regional judicial administration apply accordingly.

Observations

The current arbitration boards were set up under the *Gesetz über die Schiedsstellen in den Gemeinden* (Law on arbitration boards in municipalities) of 13 September 1990 (GBl. I p. 1527).

The Saxony Landtag (regional parliament) is currently examining the draft of a new law on arbitration boards. In future they are to have only one arbitrator and their jurisdiction in civil disputes is to be extended to include non-pecuniary claims for affront to personal dignity.

B. Chambers of industry and commerce

1. Bavaria

1.1. Arbitration board of the Industrie- und Handelskammer für München oder Oberbayern (Chamber of Industry and Commerce for Munich and Upper Bavaria) and of the Münchener Anwaltverein e. V. (Munich Lawyers' Association) for the settlement of commercial disputes

Particulars of the body

c/o Industrie- und Handelskammer für München und Oberbayern
Max-Joseph-Straße 2, 8033 München,
Tel: (089) 51 16-0
Fax: (089) 51 16-2 94

Structure

If the parties cannot agree on an arbitrator or arbitration team (up to three people), the office of the arbitration board may propose or decide who is to arbitrate. Only those who are qualified lawyers aged over 30 and under 68 with specialised legal knowledge and training in arbitration, or who can prove that they have already presided over at least three arbitration or conciliation procedures may be appointed as arbitrators or board chairmen. The rules of procedure ensure that arbitrators are impartial.

Powers

All disputes between traders, between a trader and his customer and within companies may be brought before the arbitration board.

Procedure

An arbitration agreement is required between the parties and the arbitrator before the arbitration procedure can be carried out. The arbitration board's rules of procedure set out the basic principles of the procedure.

Costs

The board office charges a single flat-rate fee of DM 200 to DM 1000 depending on the value of the dispute and the anticipated expenses. Each arbitrator also receives an hourly fee of DM 200 to DM 400. Each party pays its own costs resulting from the procedure.

Nature of the decision

At every stage of the procedure the arbitrator works towards an agreed settlement of the dispute. At the specific request of the parties the arbitrator may

- put forward a proposed settlement,
- explain his view of the likely outcome of judicial proceedings,
- engage the services of an arbitration expert.

Enforcement

The arbitration board of the Chamber of Industry and Commerce for Munich and Upper Bavaria and of the Munich Lawyers' Association for the settlement of commercial disputes is a recognised voluntary conciliation board within the meaning of § 794(1)(1) of the Code of Civil Procedure. Settlements reached before the arbitration board are compulsorily enforceable.

2. Brandenburg**2.1. Industrie- und Handelskammer Cottbus (Cottbus Chamber of Industry and Commerce)**

Goethestraße 1
03046 Cottbus

2.2. Industrie- und Handelskammer Frankfurt (Oder) (Frankfurt (Oder) Chamber of Industry and Commerce)

Humboldtstraße 3
15230 Frankfurt (Oder)

2.3. Industrie- und Handelskammer Potsdam (Potsdam Chamber of Industry and Commerce)

Große Weinmeisterstraße 59
14469 Potsdam

3. Mecklenburg-Western Pomerania**3.1. Industrie- und Handelskammer zu Schwerin (Schwerin Chamber of Industry and Commerce)**

Schloßstraße 17, 19053 Schwerin

3.2. Industrie- und Handelskammer zu Neubrandenburg (Neubrandenburg Chamber of Industry and Commerce)

Katharinenstraße 48, 17033 Neubrandenburg.

In accordance with § 27(a)(1) and (11), first sentence, of the *Gesetz gegen den unlauteren Wettbewerb* (Law against unfair competition), arbitration boards for the settlement of civil disputes involving claims based on that law were set up within the chambers of industry and commerce. Detailed rules are given in the *Verordnung über Einigungsstellen* (Regulation on arbitration boards for the settlement of civil disputes based on the Law against unfair

competition, Gazette of Laws and Regulations for Mecklenburg-Western Pomerania 1991 p. 384 f.).

4. Lower Saxony

4.1. Arbitration board for consumer complaints at the Industrie- und Handelskammer Braunschweig (Braunschweig Chamber of Industry and Commerce)

Particulars of the body

Industrie- und Handelskammer Braunschweig – Rechtsabteilung -,
 Brabandstraße 11, Postfach 32 69, 38022 Braunschweig
 Tel: (05 31) 47 15-2 25
 Fax: (05 31) 47 15-2 99
 E-Mail: postmeister@braunschweig.ihk.de

Structure and powers

This is an institutional arbitration board whose task is to deal with complaints by private final consumers about goods purchased or commercial services received with the aim of achieving an out-of-court settlement. This does not include complaints about prices or about craftsmen's or equivalent services provided by firms belonging to chambers of craft trades.

Procedure

In practice the arbitration board procedure is hardly ever used. Most consumers' complaints are generally dealt with through the mediation of the chambers (sometimes even by telephone).

Costs

There are no fees for the parties; the arbitration board's expenses do not have to be reimbursed.

Nature of the decision

The arbitration board may propose a non-binding settlement to the parties.

Enforcement

Any settlements proposed by the arbitration board and accepted by the parties are not enforceable.

Publication of the arbitration board's decisions

No.

4.2. Arbitration board for consumer complaints at the Industrie- und Handelskammer Lüneburg-Wolfsburg (Lüneburg-Wolfsburg Chamber of Industry and Commerce)

Particulars of the body

Industrie- und Handelskammer Lüneburg-Wolfsburg, Am Sande 1, 21335 Lüneburg
 Tel: (0 41 31) 7 42-1 22
 Fax: (0 41 31) 7 41-1 80
 E-Mail: evers@lueburg.ihk.de

Structure

The arbitration board consists of a legally qualified chairman and two assessors (one tradesman and one consumer). The chairman is appointed by the general assembly of the

Chamber, in principle for an unlimited term of office. The two assessors are appointed on a case-by-case basis by the Chamber (the consumer being proposed by the consumers' organisation).

The duties of the arbitration board's office are undertaken by the Chamber.

Powers

The arbitration board may be used by private final consumers to settle disputes with businesses belonging to the Chamber about goods purchased or non-craft-trade services. Complaints about prices are not dealt with. Coverage is throughout the Chamber's district.

There are no other conditions of access or limits on the value of the dispute.

Procedure

The arbitration board acts at the request of the final consumer. The request must be submitted to the board (no official form required) accompanied by any documents or other evidence available. The board notifies the tradesman who is the subject of the complaint about the application and invites him to give his views. The chairman of the arbitration board may refuse to initiate an arbitration procedure without a hearing if the complaint is obviously ill-founded, or if he considers that the board does not have jurisdiction, or if the defendant opposes the procedure. If the defendant agrees to the procedure, it may then proceed in writing or orally. If there is a hearing the parties should appear in person, where possible, though they may send authorised representatives. The hearing before the arbitration board is held orally and in camera. Witnesses and experts are not called. The arbitration board may, however, hear witnesses and experts who attend at the appointed time for the hearing.

Costs

There are no fees for the parties; the arbitration board's expenses do not have to be reimbursed.

Nature of the decision

The arbitration board may propose a (non-binding) reasoned settlement to the parties in writing.

Enforcement

Settlements proposed by the arbitration board and accepted by the parties are not enforceable.

Publication of the arbitration board's decisions

The Chamber's annual publication "Data and Facts" refers only to the number of arbitration procedures carried out.

4.3. Arbitration board for consumer complaints at the Industrie- und Handelskammer Stade (Stade Chamber of Industry and Commerce) for the Elbe-Weser area

Particulars of the body

Industrie- und Handelskammer Stade für den Elbe-Weser-Raum,
Am Schäferstieg 2, 21680 Stade
Tel: (0 41 41) 5 14-1 44
Fax: (0 41 41) 5 14-1 11
E-Mail: recht@stade.ihk.de

Structure

The arbitration board is headed by the chairman or his deputy, who must be legal experts and are appointed by the general assembly of the Chamber. There are two assessors, one a consumers' representative and one from commerce or the services industry in the Chamber's district, who are appointed by the Chamber. The duties of the arbitration board's office are undertaken by the Chamber.

The board meets whenever necessary.

Powers

The arbitration board is responsible for dealing with complaints from private final consumers about goods purchased or commercial services received, with the aim of achieving an out-of-court settlement. This does not include complaints about prices or complaints about craft trade or equivalent services provided by firms belonging to Chambers of Craft Trades, even if they are also members of the Chamber of Industry and Commerce.

The board has jurisdiction throughout the district covered by the Chamber. There are no other conditions of access or limits on the value of the dispute.

Procedure

Consumers must submit their applications to the arbitration board office in writing. The board notifies the tradesman who is the subject of the complaint about the application and asks him to give his views. The chairman of the arbitration board or his deputy may refuse to initiate an arbitration procedure without a hearing if the board does not have jurisdiction, or if the defendant objects to the procedure. The board may also refuse to initiate an arbitration procedure without a hearing if the complaint is obviously ill-founded.

If the defendant agrees to the procedure, the parties will be invited to attend the oral discussion, unless the complaint has already been settled during preparations for the hearing. The consumer must appear in person at the appointed time. The tradesman should appear in person, where possible, though he may be represented by a colleague from his firm acting as his agent. If one party fails to appear the procedure is null and void. The hearing before the arbitration board is held orally and in camera.

Witnesses and experts are not called by the board.

Costs

There are no fees for the parties; the arbitration board's expenses do not have to be reimbursed.

Nature of the decision

The board may propose a non-binding settlement to the parties.

Enforcement

Settlements proposed by the arbitration board and accepted by the parties are not enforceable.

Publication of the arbitration board's decision

The Chamber's annual publication "Data and Facts" refers only to the number of arbitration procedures carried out.

5. North Rhine-Westphalia

5.1. Arbitration board for consumer complaints at the Industrie- und Handelskammer Lippe zu Detmold (Lippe zu Detmold Chamber of Industry and Commerce)

Particulars of the body

Postfach 19 61, 32709 Detmold

Tel: (0 52 31) 76 01-0

Fax: (0 52 31) 76 01-57

E-Mail: IHK@detmold.ihk.de

Internet: <http://www.detmold.ihk.de>

Structure

Chairman and two assessors representing consumers and retail traders.

Powers

Complaints by private final consumers about goods purchased or commercial services provided in the area covered by the Lippe zu Detmold Chamber of Industry and Commerce.

Procedure

Written application by the consumer;

oral procedure in camera;

the consumer must appear in person

Costs

None

Nature of the decision

Non-binding proposed settlement

Enforcement

No

5.2. Arbitration board for consumer complaints at the Industrie- und Handelskammer Dortmund (Dortmund Chamber of Industry and Commerce)

Particulars of the body

44127 Dortmund,

Tel: (02 31) 54 171-11/23

Fax: (02 31) 54 171-05/09

E-Mail: wiechert@dortmund.ihk.de

Internet: <http://www.ihk.de/dortmund>

Structure

A chairman who is qualified to be a judge and two assessors, one of whom is a consumer.

Powers

Complaints by final consumers about goods purchased and/or commercial services provided, not including craftsmen's services, in the area covered by the Dortmund Chamber of Industry and Commerce.

Procedure

Application by the consumer; oral procedure

Costs
None

Nature of the decision
Proposed settlement

Enforcement
No

5.3. Arbitration board for consumer complaints at the Industrie- und Handelskammer Wuppertal-Solingen-Remscheid (Wuppertal-Solingen-Remscheid Chamber of Industry and Commerce)

Particulars of the body
Elberfelder Straße 49, 42853 Remscheid
Tel: (0 21 91) 3 68-4 55
Fax: (0 21 91) 3 68-4 89

Structure
The arbitrator is the director of the Chamber

Powers
Civil disputes with a firm belonging to the Chamber relating to goods purchased or non-craft-trade commercial services provided.

Procedure
Written procedure

Costs
None

Nature of the decision
Non-binding proposed settlement

Enforcement
No

5.4. Arbitration board for consumer complaints at the Industrie- und Handelskammer Wuppertal-Solingen-Remscheid (Wuppertal-Solingen-Remscheid Chamber of Industry and Commerce)

Particulars of the body
Kölner Straße 8, 42651 Solingen
Tel: (02 21) 22 03-3 55
Fax: (02 21) 22 03-3 89

Structure
The arbitrator is the director of the Chamber.

Powers
Civil disputes with a firm belonging to the Chamber relating to goods purchased or non-craft-trade commercial services provided.

Procedure

Written procedure

Costs

None

Nature of the decision

Non-binding proposed settlement

Enforcement

No

5.5. Arbitration board for consumer complaints at the Industrie- und Handelskammer Wuppertal-Solingen-Remscheid (Wuppertal-Solingen-Remscheid Chamber of Industry and Commerce)

Particulars of the body

Postfach 13 01 52, 42028 Wuppertal,

Tel: (02 02) 24 90-4 05

Fax: (02 02) 24 90-4 99

E-Mail: I.benda@wuppertal.ihk.de

Structure

The arbitrator is the director of the Chamber.

Powers

Civil disputes with a firm belonging to the Chamber relating to goods purchased or non-craft-trade commercial services provided.

Procedure

Written procedure

Costs

None

Nature of the decision

Non-binding proposed settlement

Enforcement

No

6. Rhineland-Palatinate

6.1. Industrie- und Handelskammer zu Koblenz (Koblenz Chamber of Industry and Commerce)

Schlichtungsstelle für Verbraucherbeschwerden (Arbitration board for consumer complaints)

Postfach 10 09, 56010 Koblenz

Tel: (02 61) 39 82 02

Fax: (02 61) 39 89 83

6.2. Industrie- und Handelskammer Trier (Trier Chamber of Industry and Commerce)
Schlichtungsstelle für Verbraucherbeschwerden (Arbitration board for consumer complaints)

Postfach 22 40, 54212 Trier

Tel: (06 51) 9 77 70
 Fax: (06 51) 9 77 71 53

Structure

These arbitration boards do not have a formal structure.

Powers

The boards deal with complaints about craft trade services and prices and neglect of duty in connection with a works or work supply contract.

Procedure

The procedure is carried out by telephone, orally or in writing.

Costs

The boards' services are provided free of charge.

Nature of the decision

The board proposes a settlement to the parties.

Enforcement

A settlement agreed before the arbitration board cannot be compulsorily enforced.

7. Saxony

7.1. Industrie- und Handelskammer zu Leipzig (Leipzig Chamber of Industry and Commerce), Arbitration board for consumer complaints,

Trade/Competition Section, Commerce/Services/Transport Department.

Mr Sirko Werner

Goedelerring 5, 04109 Leipzig,

Tel: (03 41) 12 67-3 02

Fax: (03 41) 12 67-4 23

E-Mail: Werner@Leipzig.IHK.de

Internet: <http://www.leipzig.ihk.de>

Structure

The arbitration board is headed by a chairman appointed by the Chamber, who should be qualified to be a judge. There are two assessors, one representing consumers and one from commerce or the service industry in the area covered by the Chamber. The Leipzig Chamber of Industry and Commerce acts as the board's office.

Powers

The arbitration board is responsible for dealing with complaints by final consumers about goods purchased or commercial services received from firms which are members of the Chamber, with the aim of achieving an out-of-court settlement. This does not include complaints about craftsmen's services, except those relating to the supply of movable goods. Complaints about prices are also not covered.

Procedure

The arbitration board meets whenever necessary. Applications from consumers must be submitted to the board's office in writing (no official form required) and should include:

- a short description of the subject-matter and details of the party against whom the complaint is being made,
- photocopies of all the main documents relating to the case (contracts, invoices, quotations, agreements, correspondence),
- the complainant's view of what the outcome of the arbitration should be.

The office notifies the trader against whom the complaint is being made and invites him to give his views on the application and, if necessary, to appear in person or to send an authorised representative to the hearing.

The office may refuse to initiate a procedure without a hearing if:

- a) the board does not have jurisdiction,
- b) the complaint is obviously ill-founded,
- c) the defendant objects to the procedure.

The board will make every effort to deal with the complaint without going to arbitration. If it is unable to do so, it invites the parties for a hearing. They are given a week's notice, or in some cases less. Where possible the parties should attend the hearing in person; they may also send a representative, who should be authorised to agree a settlement. The hearing before the arbitration board is held orally and in camera.

Costs

No fees are charged for dealing with consumer complaints or for the procedure before the arbitration board.

Nature of the decision

The arbitration board seldom needs to carry out arbitration, since either the parties reach agreement first, or else the procedure does not take place because the person against whom the complaint has been made refuses.

The board may recommend a resolution to the dispute or put forward a proposed settlement. Legally binding decisions are not issued.

Enforcement

The nature of the decision means that it cannot be enforced.

Observations

For the purposes of transparency, general statistics are kept on the decisions reached and are published in the Chamber's annual report.

7.2. Industrie- und Handelskammer Dresden (Dresden Chamber of Industry and Commerce)

Niedersedlitzer Str. 63, 01257 Dresden

Tel: (03 51) 2 80 21 94

Fax: (03 51) 2 80 21 12

E-Mail: langhof@dresden.ihk.de

Internet: <http://www.dresden.ihk.de>

7.3. Industrie- und Handelskammer zu Leipzig (Leipzig Chamber of Industry and Commerce)

Commerce, Services and Transport Dept.

Trade/Competition Section

Contact person: Mrs Sandig

Goedelerring 5, 04109 Leipzig

Tel: (03 41) 12 67-3 11

Fax: (03 41) 12 67-4 23

E-Mail: sandig@leipzig.ihk.de

Internet: <http://www.leipzig.ihk.de>

7.4. Industrie- und Handelskammer Südwestsachsen (South-West Saxony Chamber of Industry and Commerce)

Regionalkammer Chemnitz (Chemnitz Regional Chamber)
 Straße der Nationen 25, 09111 Chemnitz
 Tel: (03 71) 69 00-0
 Fax: (03 71) 64 30 18
 Internet: <http://www.chemnitz.ihk.de>

7.5. Industrie- und Handelskammer Südwestsachsen (South-West Saxony Chamber of Industry and Commerce)

Regionalkammer Plauen (Plauen Regional Chamber)
 Friedenstraße 32, 08523 Plauen
 Tel: (0 37 41) 21 40 or 21 43 39
 Fax: (0 37 41) 21 42 60
 E-Mail: seit@pl.chemnitz.ihk.de

7.6. Industrie- und Handelskammer Südwestsachsen (South-West Saxony Chamber of Industry and Commerce)

Regionalkammer Zwickau (Zwickau Regional Chamber)
 Äußere Schneeberger Straße 34, 08056 Zwickau
 Tel: (03 75) 81 40
 Fax: (03 75) 81 41 25

Structure

The arbitration boards were set up and operate on the basis of § 27(a) of the Law against unfair competition and the *Einigungsstellenverordnung* (Saxony Government Regulation on arbitration boards for the settlement of consumer disputes based on the Law against unfair competition) of 30 April 1992.

The boards have a chairman, who must be qualified to be a judge, and two assessors. The Chambers of Industry and Commerce consult the relevant Chambers of Craft Trades and the Verbraucherzentrale Sachsen e. V. (Saxony Consumers Association) before appointing the chairman, at least one deputy and knowledgeable businessmen and consumers as assessors for a term of three years.

Members of the board are dismissed if there are serious grounds for doing so.

Powers

The role of the arbitration board is to attempt to reach an out-of-court settlement in competition disputes. It aims to resolve such disputes simply and cheaply without recourse to the courts.

Under § 27(a)(3) of the Law against unfair competition (UWG) in conjunction with §§ 13, 13(a) UWG, the arbitration board is responsible for dealing with civil disputes under competition law (Law against unfair competition, *Rabattgesetz* (Law on discounting), *Zugabeverordnung* (Regulation on bonuses)). It will always take action in cases of breaches of competition affecting transactions with final consumers. It may take action on other breaches of competition provided that the defendant agrees (§ 27(a)(3), second sentence, UWG). The board has jurisdiction if the defendant has a commercial establishment or, failing that, is resident in the district covered by the Chamber (§§ 27(a)(4) and (24) UWG).

Procedure

Applications giving details of the grounds on which they are based must be submitted in writing (5 copies) to the board's office or declared for the official record there. They should be accompanied by any supporting evidence, available documents, etc.

Those entitled to apply are businessmen selling the same or similar goods or commercial services on the same market, and legally constituted associations for the promotion of commercial interests, provided that they have the capacity to sue (§ 13(2)(2) UWG). Consumers' associations are also entitled to apply in cases affecting consumers' interests, as are final consumers in cases covered by § 13(a) UWG, which regulates the right to withdraw from a contract in the event of inaccurate and misleading advertising.

The hearing is held in camera. Where there is a legitimate interest, however, the chairman may allow third parties to attend. The board's decisions are taken by a majority vote, and a report is drawn up on every procedure.

The board may refuse to initiate an arbitration procedure if it considers that the claim is ill-founded or that the board does not have jurisdiction (§ 27(a)(8) UWG).

At least three days' notice is given of the hearing; this may be extended or reduced by the chairman. The chairman may order the parties to attend in person, which is what usually happens. Any agents representing the parties must present written authorisation.

Costs

Expenses are charged for the procedure before the arbitration board. If an out-of-court settlement cannot be reached between the parties, the board has the discretion to decide how the expenses should be fairly divided between them, taking account of the facts and circumstances of the dispute.

Nature of the decision

The arbitration board must attempt to reach an out-of-court settlement. It may propose a reasoned settlement in writing to the parties.

If a settlement is agreed, it must be recorded in a separate document and signed by the members of the arbitration board involved and by the parties.

If a settlement cannot be reached, the arbitration board declares that the procedure has failed. It is then up to the parties to decide whether to apply to the courts.

Enforcement

Settlements reached before the arbitration board may be compulsorily enforced; § 797(a) of the Code of Civil Procedure applies accordingly.

Observations

From the point of view of transparency, it should be pointed out that the various Chambers of Industry and Commerce have different approaches when it comes to publication. Some keep internal statistics on decisions reached. The Chambers' annual report contains general information on the boards' activities.

C. Arbitration boards for consumer complaints

1. Baden-Württemberg

1.1. Arbitration board for textile cleaning damage at the Verbraucherzentrale Baden-Württemberg e. V. (Baden-Württemberg Consumers Association)

Particulars of the body

Paulinenstr. 47
70178 Stuttgart
Tel: (07 11) 66 91-10

Fax: (07 11) 66 91-50
 E-Mail: info@verbraucherzentrale.de
 Internet: <http://www.verbraucherzentrale.de>

Structure

The arbitration board is joint and has three members, one appointed by the Baden-Württemberg Consumer Bureau and one by the Fachverband Textilpflege Südwest e. V. (South-West Specialist Textile Care Association), Heinestr. 169, 70597 Stuttgart. The chairman is a sworn expert from the Forschungsstelle Textilreinigung e. V. (Textile Cleaning Research Centre), Schloss Hohenstein, 74357 Bönnigheim.

Powers

The arbitration board is responsible for dealing with disputes between final consumers and textile cleaning firms in Baden-Württemberg concerning damage to goods during cleaning.

Procedure

Consumers may submit a written application to the arbitration board requesting an expert opinion and enclosing the damaged goods in question. If the cleaning firm concerned agrees to the arbitration procedure, an agreement is drawn up between the parties in respect of an arbitration consultant. The board meets about six weeks later to carry out an expert appraisal of the textile. The parties do not have to attend in person. The evaluation by the sworn expert is conclusive. The parties are informed of the outcome in writing.

Costs

The expert opinion costs DM 30. If the consumer alone requests an expert opinion, the cost must be paid at the time of the application. Under the arbitration consultant agreement the consumer must pay an advance of DM 10 on the cost of the expert opinion to the textile cleaning firm in question. The agreement provides that, if he is unsuccessful, the cost to the consumer must not exceed DM 10 and that the remaining DM 20 must be paid by the textile cleaning firm irrespective of the board's decision. If the consumer is successful, the firm must reimburse the advance paid as part of the settlement.

Nature of the decision

The procedure results in a decision which is legally binding, unless one of the parties lodges a complaint before the ordinary courts within one month of the decision being issued.

Enforcement

Enforcement orders are not issued. If the decision becomes binding and the damages are still not paid, a claim must be made before the courts.

2. Saarland

Arbitration board for rent disputes relating to housing and commercial premises in Saarbrücken

Particulars of the body

Institutions responsible: Deutscher Mieterbund, Landesverband Saar e. V. (German Tenants Federation, Saarland Association) and Verband der Haus-, Wohnungs- und Grundeigentümer des Saarlandes e. V. (Saarland Association of Houseowners, Landlords and Landowners)

Egon-Reinert-Straße 4 - 6 , 66111 Saarbrücken

Tel: (06 81) 9063 - 274

Fax: (06 81) 9063 - 200

Composition

Chairman and one assessor each from landlords and tenants

Term of office 2 years for the chairman; assessors are appointed for each sitting

Rules governing appointment

The chairman, who must be qualified to be a judge, is elected unanimously by the landlords' and tenants' bodies. He may be re-elected. The assessors are appointed for each sitting.

Rules governing dismissal

Assessors may be rejected under certain conditions at the chairman's discretion.

Powers

The out-of-court settlement of rent disputes between landlords and tenants relating to housing and commercial premises.

Geographical jurisdiction Saarland

Value of dispute relevant No

Conditions of access

Written applications from landlords through the Saarland Association of Houseowners, Landlords and Land Owners, or from tenants through the German Tenants' Federation, Saarland Association, or from landlords or tenants through the Amt für Wohnungswesen der Stadt oder des Stadtverbandes Saarbrücken (Saarbrücken City Housing Office); membership is not required.

Appearance in person Yes

Written procedure No provision

Oral procedure Yes

Costs DM 130 in disputes about charges
DM 200 in disputes about rent increases
DM 300 in eviction disputes

Costs are shared if a settlement is reached. If the defendant refuses arbitration, the applicant pays 4/10; a party who causes arbitration to fail pays 6/10 or 8/10; if both parties cause arbitration to fail, both pay 4/10 each.

Decision binding on both parties

Yes, if a settlement is reached.

Enforcement

Under the Decree of 15 April 1986 the arbitration board is recognised as a voluntary conciliation board within the meaning of § 794(1)(1) of the Code of Civil Procedure. The chairman is authorised to issue an enforcement order in accordance with § 797(a)(IV), first sentence, of the Code of Civil Procedure.

3. Saxony

3.1. Arbitration board for textile cleaning claims - Office –

Particulars of the body

Barbarastraße 46, 01129 Dresden

Tel: (03 51) 84 95-1 16 or -1 17
 Fax: (03 51) 84 95-1 18

Structure

The arbitration board comprises one representative each from the Verbraucherzentrale Sachsen e. V. (Saxony Consumers Association) and the Textilreiniger-Innung (Textile Cleaning Guild) of the Dresden Chamber district and one independent, publicly appointed and sworn expert. The expert is nominated by the Deutscher Textilreinigungsverband – Regionalverband Ost – e. V. (German Textile Cleaning Association – Eastern Region) and acts as chairman of the board.

Powers

The role of the arbitration board is to establish responsibility and liability, out of court, in complaints in the textile cleaning sector (dry cleaning, carpet cleaning, leather and fur cleaning, laundry, dyeing and similar services). The geographical area covered is the Free State of Saxony. There is no threshold for the value of the dispute.

Procedure

Both consumers and textile care firms may apply to the arbitration board. It usually meets once a month. When submitting claims each applicant must give details of the article damaged and provide a completed questionnaire (available from the board or the consumers' bureau) and proof of payment of the contribution towards costs (cf under costs). The board's office receives the applications and passes them on to the board members with the names removed. The members examine the articles submitted, together with the details given in the questionnaires. The applicants and defendants do not have to attend the board's sittings in person.

Costs

When submitting claims each applicant must pay DM 35 as a contribution towards costs for each item which is to be the subject of an expert assessment. He must also pay the postage for the despatch and return of the damaged article.

Nature of the decision

Once the damaged article has been examined the arbitration board issues a written assessment of who is responsible or liable. If the question of liability cannot be settled, the board proposes an expert assessment and nominates a consultancy for that purpose. The board's office records on the questionnaire the board's assessment of liability or its recommendation to obtain an expert opinion, and then returns the articles to the applicant together with the questionnaire and the board's assessment. If an expert opinion is recommended the office encourages the applicant to send the articles back. If the applicant agrees, the office passes the articles on to an expert consultant.

Applicants who have used the services of the arbitration board are not precluded from taking legal action.

Enforcement

The nature of the decision means that it cannot be enforced.

Observations

From the point of view of transparency, it should be pointed out that the arbitration board does not publish an annual report on the decisions delivered. However, at the end of every quarter the board's office gives the Saxony Consumer Bureaux information on the claims that have been dealt with.

D. Banking

1. Arbitration board at the Deutsche Bundesbank for the credit transfer system

Particulars of the body

Deutsche Bundesbank
Schlichtungsstelle
Postfach 10 06 02
60006 Frankfurt a. M.
Tel: (0 69) 95 66-40 50
Fax: (0 69) 95 66-40 56

The Deutsche Bundesbank's arbitration board for the credit transfer system was set up on the basis of § 29(1) AGB-Gesetz (Law on general business conditions) in the version contained in the *Überweisungsgesetz* (Law on credit transfers) of 21 July 1999 (Bundesgesetzblatt (Federal Law Gazette) I p. 164). Its role is to settle disputes arising from the application of §§ 675(a) to 676(g) of the Civil Code in the version contained in the Law on credit transfers, in other words disputes relating to bank transfers. These provisions transpose into German law Directive 97/5/EC of the European Parliament and of the Council of 27 January 1997 on cross-border credit transfers (OJEC No. L 43, p. 25). Detailed rules for the arbitration board are laid down in the *Schlichtungsstellenverfahrensordnung* (SchlichtVerfVO) (Rules of procedure for arbitration boards) of 27 October 1999 (Bundesgesetzblatt I p. 2068).

Structure

The board comprises one or more arbitrators and has an office. The arbitrators are appointed for three years by the Deutsche Bundesbank in cooperation with the consumers' associations and the banking associations. They are independent and do not act under instruction (§ 2 SchlichtVerfVO).

Powers

The board is initially only responsible for dealing with customers' complaints relating to cross-border credit transfers from Germany to the EU/EEA area; from 1 January 2002 this will be extended to include internal and other bank transfers.

Procedure

The procedure is carried out in writing. It is a requirement that the case must not have been referred to a court or any other arbitration board. Customers must submit their complaints in writing, giving a brief description of the subject matter and enclosing any documents needed to understand the case. Detailed rules on the procedure are laid down in the Rules of procedure for arbitration boards (in particular § 4).

Costs

The procedure before the arbitration board is, in principle, free of charge for customers, although expenses are not reimbursed. The proposed settlement may contain suggestions about payment of costs, if this appears necessary in order to obtain an appropriate settlement of the dispute between the parties (§ 6 (1) SchlichtVerfVO). The costs of running the arbitration board are passed on by the Deutsche Bundesbank to the credit institutions in accordance with rules which have not yet been introduced.

Nature of the decision and enforcement

The arbitrator puts forward a written proposal for a settlement, suggesting how the dispute can be settled on the basis of the situation in law and taking account of good faith, and giving details of the grounds for the proposal. The proposal may be accepted by the parties by written communication to the board within six weeks of being issued; it then has the effect of

an out-of-court settlement. The parties are not obliged to accept the proposal, however, and may bring the case before the courts.

Bundesgesetzblatt 1999 Part I No. 48, published in Bonn on 29 October 1999:

**Rules of procedure
for arbitration boards dealing with credit transfers
(Schlichtungsstellenverfahrensverordnung - SchlichtVerfVO)
of 27 October 1999**

On the basis of § 29(2) of the AGB-Gesetzes (Law on general business conditions) of 9 December 1976 (BGBl. p. 3317), which was added by Article 2(2)(4) of the Law of 21 July 1999 (BGBl. I p. 1642), the Federal Ministry of Justice decrees as follows:

§ 1 Establishment and scope of the arbitration boards

- (1) The Deutsche Bundesbank shall announce in the Bundesanzeiger (Federal Gazette) at which of its offices arbitration boards have been established in accordance with § 29 of the AGB-Gesetz. Where a number of boards are to be established, it must also be announced which board has jurisdiction for which arbitration matters. The addresses of the boards must be indicated.
- (2) Each arbitration board must have one or more arbitrators to be appointed from among the employees of the Deutsche Bundesbank; they must be qualified to be a judge or senior banking officials and must operate independently. Each arbitrator must have a deputy. Where a number of arbitrators are employed on one board, the distribution of work must be decided at least before the start of each business year and may be altered during the course of the business year only if there are special reasons for doing so.
- (3) Each arbitration board shall have an office.
- (4) The arbitration boards shall publish an activity report once a year.

§ 2 Selection and independence of the arbitrators

- (1) The arbitrators shall be appointed by the responsible Deutsche Bundesbank office. Before their appointment the Deutsche Bundesbank shall notify the associations of the credit institutions taking part in the procedure (§ 675(a)(1) and (3) of the Civil Code) and the union of consumers' associations of the names and career backgrounds of the persons in line to become arbitrators. If, within two months, no circumstances are raised which cast doubt on the qualifications or impartiality of the intended arbitrators, they shall be appointed for a period of three years, which may be renewed.
- (2) The arbitrators shall act in an independent capacity and not under instruction. They may be dismissed from their post by the responsible Deutsche Bundesbank office only if there are circumstances which suggest that they are unlikely to continue to arbitrate independently, if they are prevented from fulfilling their responsibilities for more than a temporary period, or on any other equally serious grounds.
- (3) An arbitrator must not act in disputes in which he himself has been involved. His deputy shall take decisions in such cases.

- (4) Arbitrators shall be sworn to secrecy.

§ 3 Refusal of arbitration

The arbitrator shall refuse arbitration by written communication to the complainant if:

1. the subject of the complaint is already pending before a court, has been pending in the past or is brought before a court by the complainant during the arbitration procedure,
2. the dispute has been settled out of court,
3. an application for legal aid has been rejected because the intended prosecution is unlikely to succeed,
4. the matter is already the subject of a proposed settlement or an arbitration procedure before an arbitration board as referred to in § 29 of the AGB-Gesetz or any other voluntary conciliation board involved in the settlement of disputes, or
5. the claim was already time-barred when the complaint was made and the defendant invokes this objection.

The arbitrator should refuse arbitration if it would adversely affect the clarification of a point of legal principle.

§ 4 Submission and processing of customer complaints

- (1) Customer complaints must be submitted in writing, giving a brief description of the subject matter and enclosing any documents required to understand the case. The complainant must give an assurance that he has not yet applied to any court, arbitration board or voluntary conciliation board dealing with the settlement of disputes in the dispute in question and that no out-of-court settlement has already been reached with the defendant. The complainant may be represented in the procedure.
- (2) The arbitration board's office shall confirm receipt of the complaint to the applicant and shall forward it to the banks involved for their opinion, which must be given within one month of their receipt of the complaint; this period may be extended by a further month. The opinions shall then be forwarded to the complainant with the instruction to express an opinion within one month of receipt, if the defendant is not willing to remedy the complaint. Where arbitration must be refused pursuant to § 3, or where documents or explanatory details are missing, the office shall indicate this to the complainant and, where appropriate, shall give him the opportunity to rectify the situation within one month.
- (3) Upon expiry of the periods referred to in (2) the office shall refer the procedure to the competent arbitrator, unless the defendant has remedied the complaint or it has been resolved in some other manner.

§ 5 Proposed settlement

- (1) If the arbitrator deems it necessary to obtain further information on the facts and circumstances of the dispute, he may obtain such information or a supplementary opinion from the parties. He shall not take evidence unless it can be obtained through the submission of documents.

- (2) The arbitrator shall put forward a written proposal for a settlement on the basis of the documents available to him. This shall comprise a proposal on how the dispute may be settled appropriately on the basis of the position in law and taking account of considerations of good faith, and a short and comprehensible explanation of the grounds for making the proposal.
- (3) The proposed settlement may be accepted by written communication to the arbitration board's office within six weeks of receipt. This requirement must be brought to the attention of the parties, together with the fact that they are not obliged to accept and, if they do not do so, they have the right to bring legal proceedings. Upon expiry of the six-week period the office shall inform the parties of the outcome, indicating the parties involved and the subject of the procedure. This notification shall conclude the procedure before the arbitration board.

§ 6 Costs of the procedure and of the arbitration board

- (1) The procedure before the arbitration board shall be free of charge. Expenses shall not be reimbursed. The proposed settlement may contain proposals about payment of costs, if this is deemed to be necessary for the appropriate settlement of the dispute.
- (2) The arbitration board's costs shall be recovered by Deutsche Bundesbank in accordance with rules which have yet to be adopted.
- (3) Paragraph 2 shall not apply to banks for which other bodies carry out arbitration in accordance with § 29(3) of the AGB-Gesetz.

§ 7 Entry into force, transitional rules

- (1) This regulation shall enter into force on the day following its publication.
- (2) Arbitrators already working for the Deutsche Bundesbank's arbitration board shall remain in office until they are reappointed under the terms of this regulation or until new arbitrators are appointed.

Berlin, 27 October 1999
 The Federal Minister for Justice
 Däubler-Gmelin

2. Ombudsman procedure in private banks

Particulars of the body

Kundenbeschwerdestelle beim Bundesverband deutscher Banken (Customer complaints office of the Federal Association of German Banks)

Postfach 04 03 07

10062 Berlin

Tel: (0 30) 16 63-0

Fax: (0 30) 16 63-13 99

Internet: www.bdb.de

or

Kundenbeschwerdestelle beim Verband deutscher Hypothekensbanken
 (Customer complaints office of the Association of German Mortgage Banks)

Postfach 12 06 40

53048 Bonn

Tel: (02 28) 9 90 20
 Fax: (02 28) 9 59 02 44
 Internet: www.hypverband.de

Structure

The arbitration procedure is carried out by an ombudsman who is appointed for three years by the governing body of the Federal Association of German Banks following proposal by its executive. He may be dismissed before the expiry of his term of office only if there are serious grounds for doing so. A number of people may be appointed as ombudsmen. Those currently in office are Dr Leo Parsch, ex-president of the Bavarian Verfassungsgerichtshof (Constitutional Court) and of the Munich Oberlandesgericht (Higher Regional Court) (third term of office), and Karl Dietrich Bundschuh, former presiding judge at the Bundesgerichtshof (Federal Court of Justice) (second term of office).

The ombudsman must be qualified to be a judge. He takes decisions alone in the same way as a judge sitting alone.

Powers

The ombudsmen have jurisdiction throughout national territory for dealing with any dispute between a consumer and a private bank or a private mortgage bank. If the process in dispute concerns a cross-border payment the ombudsman will also help companies and self-employed workers. There is no threshold for the value of the dispute.

Procedure

If the customer feels that the conduct of his bank has caused him injury, he may refer the disputed case to the ombudsman without taking any other steps first. The procedure is carried out in writing. The only exception is that the ombudsman may order an oral procedure if he considers it necessary.

Costs

The procedure is **free of charge** for the complainant, who must only pay his own costs (eg postage or telephone charges).

Nature of the decision

The ombudsman's decision is binding **on the bank**, if the value of the dispute is less than DM 10 000. For the customer, on the other hand, the decision is always non-binding. If he does not agree with the ombudsman's decision, he can pursue his case before the courts even after the arbitration ruling.

Enforcement

The arbitration ruling is not enforceable. The banks subscribed to the ombudsman procedure voluntarily, however, and they have also accepted the rules of procedure. They therefore all comply with the ombudsmen's rulings, which are binding on them.

3. Baden-Württemberg **Baden region**

3.1. Badischer Sparkassen- und Giroverband (Baden Savings Banks and Giro Association) **- Arbitration board –**

Particulars of the body

Karl-Ludwig-Str. 28 – 30
 68165 Mannheim

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues. Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by third parties. It is a requirement for using the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

4. Baden-Württemberg Württemberg region

4.1. Württembergischer Sparkassen- und Giroverband (Württemberg Savings Banks and Giro Association) - Arbitration board –

Particulars of the body

Am Hauptbahnhof 2
70173 Stuttgart

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues. Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by third parties. It is a requirement for using the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

5. Bavaria**5.1. Sparkassenverband Bayern (Bavarian Savings Bank Association)
- Arbitration board –**Particulars of the body

Karolinenplatz 5
80333 München

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues. Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by third parties. It is a requirement for using the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

6. Berlin**6.1. Sparkassenverband Berlin (Berlin Savings Bank Association)
- Arbitration board –**Particulars of the body

Bundesallee 171
10715 Berlin

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues. Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by third parties. It is a requirement for using the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

7. Brandenburg

**7.1. Ostdeutscher Sparkassen- und Giroverband (East German Savings Bank and Giro Association)
- Arbitration board –**

Particulars of the body

Otto-Braun-Straße 90
10249 Berlin

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues. Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by third parties. It is a requirement for using the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

8. Bremen

**8.1. Die Sparkasse in Bremen (Bremen Savings Bank)
- Beschwerdemanagement (complaints management) –**

Am Brill 1 – 3
28195 Bremen

**8.2. Städtische Sparkasse Bremerhaven (Bremerhaven City Savings Bank)
- Beschwerdemanagement (complaints management) –
Bürgermeister-Schmidt-Straße 24 – 30
27568 Bremen**

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues. Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by third parties. It is a requirement for using the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

9. Hamburg

**9.1. Hamburger Sparkasse (Hamburg Savings Bank)
- Manager responsible for customer complaints –**

Particulars of the body

Ecke Adolphsplatz/Gr. Burstah
20457 Hamburg

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues. Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by third parties. It is a requirement for using the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

10. Hesse

**10.1. Sparkassen- und Giroverband
Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association)
- Arbitration board –**

Particulars of the body

Bonifaciusstr. 15
99084 Erfurt

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues. Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by third parties. It is a requirement for using the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

11. Mecklenburg-Western PomeraniaParticulars of the body

Ostdeutscher Sparkassen- und Giroverband
Otto-Braun-Straße 90
- Schlichtungsstelle –
10249 Berlin

Structure

See under Brandenburg.

12. Lower Saxony**12.1. Niedersächsischer Sparkassen- und Giroverband (Lower Saxony Savings Bank and Giro Association)
- Arbitration board –**Particulars of the body

Schiffgraben 6 – 8
30159 Hannover

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues. Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by third parties. It is a requirement for using

the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

13. North Rhine-Westphalia Rheinland region

13.1. Rheinischer Sparkassen- und Giroverband (Rhineland Savings Banks and Giro Association) - Arbitration board –

Particulars of the body

Kirchfeldstraße 60
40217 Düsseldorf

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues. Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by third parties. It is a requirement for using the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

14. North Rhine-Westphalia
Westphalia-Lippe region

14.1. Westfälisch-Lippischer Sparkassen- und Giroverband (Westphalia-Lippe Savings Bank and Giro Association)
- Arbitration board –

Particulars of the body

Prothmannstraße 1
48159 Münster

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues. Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by from third parties. It is a requirement for using the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

15. Rhineland-Palatinate

15.1. Arbitration board of the Rhineland Palatinate savings banks

Particulars of the body

Dr. Christian Roßkopf
Schandelinstraße 25, 67346 Speyer,
Tel: (0 62 32) 7 83 52
Fax: (0 62 32) 2 47 17

Structure

The arbitration board of the Rhineland-Palatinate savings banks is based in Speyer and is headed by the former mayor of the city of Speyer, Dr Christian Roßkopf.

Powers

The arbitrator can mediate between a customer and a savings bank in the event of a difference of opinion, irrespective of the value of the dispute and whether it concerns a private or business transaction.

Procedure

The procedure is either oral or written.

Costs

The arbitrator provides advice free of charge. Each party must pay its own costs arising from the arbitration procedure.

Nature of the decision

Once the facts have been clarified the arbitrator draws up a proposal for an out-of-court settlement, unless the complaint is obviously unfounded. The proposed settlement is not binding on either party.

Enforcement

Settlements reached before the arbitrator cannot be compulsorily enforced.

15.2. Sparkassen- und Giroverband Rheinland-Pfalz (Rhineland-Palatinate Savings Bank and Giro Association) - Arbitration board –

Particulars of the body

Große Bleiche 41 – 45
55116 Mainz

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues. Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by third parties. It is a requirement for using the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

16. Saarland**16.1. Sparkassen- und Giroverband Saar (Saar Savings Bank and Giro Association)
- Arbitration board –**Particulars of the body

Ursulinenstraße 46
66111 Saarbrücken

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues. Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by third parties. It is a requirement for using the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

17. Saxony

**17.1. Ostdeutscher Sparkassen- und Giroverband (East German Savings Bank and Giro Association)
- Arbitration board –**

Particulars of the body

Otto-Braun-Straße 90
10249 Berlin

Structure

See under Brandenburg.

18. Saxony-Anhalt

**18.1. Ostdeutscher Sparkassen- und Giroverband (East German Savings Bank and Giro Association)
- Arbitration board –**

Particulars of the body

Otto-Braun-Straße 90
10249 Berlin

Structure

See under Brandenburg.

19. Schleswig-Holstein

**19.1. Sparkassen- und Giroverband für Schleswig-Holstein (Schleswig-Holstein Savings Bank and Giro Association)
- Arbitration board –**

Particulars of the body

Faluner Weg 6
24109 Kiel

Structure

The arbitrator is independent and does not receive instructions from the Association. He is qualified to be a judge and/or has specialised knowledge of banking/legal banking issues.

Various regional associations have external arbitrators (usually former judges) working on their arbitration procedures.

Powers

The arbitration boards deal with all disputes arising from relations between customers and savings banks. The jurisdiction of each regional board is limited to disputes with savings banks established in their Land or region.

Procedure

The procedure may be carried out orally or in writing. Customers are not required to appear in person, and may be represented or advised by third parties. It is a requirement for using the services of the arbitration board that the customer must first have approached his bank in order to try to resolve the dispute.

Costs

The board pays the costs of arbitration. The parties each pay their own costs.

Nature of the decision

The arbitration board's decisions take the form of recommendations or proposed settlements. If the proposal is accepted by the savings bank (which is usually the case) it is de facto binding upon it.

The exception is the arbitration board of the Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association): in accordance with its rules of procedure the arbitrator's decision is binding on the bank concerned if the value of the dispute is less than DM 10 000, the complainant is a consumer and the subject of the dispute is a question of law.

Enforcement

Not applicable.

20. Thuringia

20.1. Sparkassen- und Giroverband Hessen-Thüringen (Hesse-Thuringia Savings Bank and Giro Association) - Arbitration board –

Particulars of the body

Bonifaciusstr. 15
99084 Erfurt

Structure

See under Hesse.

E. Arbitration in the craft sector and chambers of craft trades

1. Baden-Württemberg

Particulars of the body

In all of Baden-Württemberg's eight chambers of craft trades the legal departments have mediation boards to settle disputes between self-employed craftsmen and their clients. In this way the chambers fulfil their statutory duty under § 91(1)(11) HwO (Regulations governing craft trades). The details of all the chambers of craft trades, as supplied to the Federal Ministry of Justice, are as follows:

Handwerkskammer Freiburg

Bismarckallee 6
79098 Freiburg
Tel.: (07 61) 2 18 00-0
Fax: (07 61) 2 18 00-50
E-Mail: hwkinfo@handwerkskammer-freiburg.de
Internet: <http://www.handwerkskammer-freiburg.de>

Area: urban district of Freiburg and the rural districts of Breisgau-Hochschwarzwald, Emmendingen, Lörrach, Ortenau district

Handwerkskammer Karlsruhe

Friedrichsplatz 4 – 5
76133 Karlsruhe
Tel.: (07 21) 16 00-0
Fax: (07 21) 16 00-1 99
E-Mail: info@hwk-karlsruhe.de
Internet: <http://www.hwk-karlsruhe.de>

Area: urban and rural districts of Karlsruhe rural district of Rastatt, urban district of Baden-Baden, rural district of Calw

Handwerkskammer Karlsruhe

Außenstelle Baden-Baden
Rheinstraße 146
76532 Baden-Baden
Tel.: (0 72 21) 6 00 83
Fax: (0 72 21) 5 53 22

Area: rural district of Rastatt, urban district of Baden-Baden

Handwerkskammer Mannheim

B 1, 1 – 2
68159 Mannheim
Tel.: (06 21) 1 80 02-0
Fax: (06 21) 1 80 02-57
E-Mail: handwerkskammer@t-online.de

Internet: <http://www.handwerkskammer.de>

Area: urban districts of Mannheim, Heidelberg, rural districts of Rhein-Neckar, Neckar-Odenwald

Handwerkskammer Stuttgart

Heilbronner Straße 43
70191 Stuttgart
Tel.: (07 11) 16 57-0
Fax: (07 11) 16 57-2 22
E-Mail: info@hwk-stuttgart.de
Recht@hwk-stuttgart.de

Handwerkskammer Heilbronn

Allee 76
74072 Heilbronn
Tel.: (0 71 31) 7 91-0
Fax: (0 71 31) 7 91-200
E-Mail: info@hwk-heilbronn.de
Internet: <http://www.hwk-heilbronn.de>

Area: urban district of Heilbronn and the rural districts of Heilbronn, Hohenlohe, Main-Tauber, Schwäbisch Hall

Handwerkskammer Konstanz

Webersteig 3
78462 Konstanz
Tel.: (0 75 31) 2 05-0
Fax: (0 75 31) 1 64 68
E-Mail: handwerkskammer@hwk-konstanz.de
Internet: <http://www.hwk-konstanz.de>

Area: rural district of Konstanz, Rottweil, Schwarzwald-Baar, Tuttlingen, Waldshut

Handwerkskammer Karlsruhe

Außenstelle Pforzheim
Wilferdingerstr. 6
75179 Pforzheim
Tel.: (0 72 31) 1 76 82
Fax: (0 72 31) 35 33 84

Area: urban district of Pforzheim. Enz district

Handwerkskammer Reutlingen

Hindenburgstraße 58
72762 Reutlingen
Tel.: (0 71 21) 24 12-0
Fax: (0 71 21) 24 12-400
E-Mail: handwerk@hwk-reutlingen.de
Recht@hwk-reutlingen.de

Internet: <http://www.hwk-reutlingen.de>

Area: rural districts of Freudenstadt, Reutlingen, Sigmaringen, Tübingen, Zollern-Alb district

Handwerkskammer Ulm

Postfach 23 49
89013 Ulm
Tel.: (07 31) 14 25-0
Fax: (07 31) 14 25-5 00
E-Mail: hwkulm@t-online.de

Internet: <http://www.hwk-stuttgart.de>

Internet: ...

Area: urban district of Stuttgart, rural districts of Böblingen, Esslingen, Göppingen, Ludwigsburg, Rems-Murr district, Nürtingen

Area: urban district of Ulm, rural districts of Alb-Donau, Biberach, Bodensee, Heidenheim, Ostalb, Ravensburg

Structure

Usually part of the legal department; either one or two qualified lawyers responsible, plus one secretary.

Powers

- a) Practical: disputes between craft businesses and customers concerning quality of work and prices; no restrictions on value of dispute.
- b) Geographical: craft business established in district covered by chamber.

Procedure

There are no formal procedural rules; the consumer/customer is usually asked to submit his complaint in writing. An arbitration procedure is only carried out with the agreement of the firm concerned, and the arbitration board will only take action if the customer bringing the complaint has already been in contact with the firm in question. If this condition has been met the arbitration board informs the firm that a complaint has been made, and usually forwards the customer's submission. The firm is urged to contact the customer directly.

Then either

- the firms report back to the arbitration board that they have reached an agreement with the customer, or
- the firms inform the arbitration board that they would prefer not to contact the customer and would like the board to forward their proposed solution to the customer, or
- the firms refuse any arbitration, because they do not consider the customer's complaint to be legitimate.

The customer himself does not need to appear in person before the board, and there is usually no oral procedure. Many arbitration boards are willing, however, to sit down with both parties if that is what they both wish. On such occasions the board will often propose a settlement.

Costs

None at the moment

Nature of the decision

Proposal which is not legally binding, usually only a recommendation.

Enforcement

Not possible

2. Berlin

2.1. Geschäftsstelle der Elektro-Innung Berlin (Office of the Berlin Electricians Guild)

Particulars of the body

Sponholzstraße 47

10159 Berlin

Tel: 8 59 55-0

Fax: 85 95 58-88

§ 1 Powers of the arbitration board

1. The arbitration board has the task of ruling on or settling, where possible out of court, disputes arising from contracts between customers and members of the guild. It covers in particular disputes arising from work and service contracts for the planning, installation and maintenance of electrical plant, questions about the need for or correct performance of the work done, disputes about claims under guarantee and about the level of appropriate compensation.
2. The arbitration board only has jurisdiction provided that the cash or cash equivalent value of the dispute does not exceed DM 50 000.
Where a dispute does not relate to a sum of national currency, the arbitration board will, upon request, fix the value without possibility of appeal, taking account of the circumstances and applying the Gerichtskostengesetz (Law on legal costs) accordingly.
3. The arbitration board also only has jurisdiction if Berlin is the location of the work which the guild member was contractually required to perform.
4. The board does not cover disputes which are already pending before the courts.

§ 2 Applications to the arbitration board

1. The following are entitled to apply to the arbitration board in accordance with § 1:
 - a) customers of members of the guild (clients), or
 - b) members of the guild (contractors), if they have the written agreement of the customer
2. The arbitration board does not take action until a flat-rate payment of DM 200 towards costs has been made by one of the parties. When an application is received the applicant is requested in writing to pay the advance within two weeks.
3. Applications to the board must be made within three months once the subject of the dispute has been identified.
After this deadline the arbitration procedure may only proceed with the defendant's agreement.
4. Applications are made by written submission.
The document should give the following details:
 - a) names of the parties' firms and their addresses
 - b) the applicant's or contracting party's claim at issue
 - c) a brief description of the facts of the dispute or complaint
 - d) a list of any evidence
 Copies of any written documents such as contracts and correspondence between the parties should be enclosed; sketches or photographs of the subject of the dispute may also be submitted.
5. Application to the board suspends the time-limitation of the claim for the duration of the procedure.
Application to the board does not preclude the possibility of taking legal action.

§ 3 Preliminary procedure:

1. If the application is incomplete, the committee requests the applicant to rectify the situation within two weeks. If the applicant fails to comply, the committee may reject the application as inadmissible after the two-week period, stating its reasons.
2. Otherwise the arbitration committee establishes the value of the dispute in accordance with § 1(2), where necessary, and forwards a copy of the application and any annexes to the defendant within two weeks for his opinion.
In the cases described in § 2(1)(b) and (3) the committee also asks the defendant to indicate whether he gives the required consent.
3. Upon expiry of the period referred to in § 3(1) and (2) the committee examines whether the admissibility criteria described in §§ 1, 2 and 3 are met. If the application is inadmissible the committee issues a written rejection, stating its reasons, once the parties have had the opportunity to give their views.
4. If, before it has reached a decision on the admissibility of the procedure, the applicant informs the committee that he is withdrawing the application, for instance because the parties have resolved the dispute, the contribution towards costs provided for in § 2(2) does not apply.
5. If the application to the arbitration board is admissible, the committee hands the case over to a master electrician who is a member of the committee and who will act as rapporteur. He examines the facts of the case, undertakes an on-site inspection if necessary and where possible, and draws up a written opinion.

§ 4 Oral procedure

1. The arbitration committee reaches its decision on the basis of an oral procedure. An oral procedure may be dispensed with
 - a) with the agreement of both parties
 - b) at the request of one party, if the circumstances and importance of the case are such that that party cannot be expected to attend an oral procedure and no further information can be expected from an oral procedure, unless the other party objects.
2. The chairman appoints the time and place of the oral procedure and gives the parties ten days' notice to attend. The notice period need not be observed if both parties agree.
3. The parties can also send representatives to the oral procedure. The representatives must be authorised to take decisions and must have written power of attorney as proof of their authority to act.
4. The oral procedure is held in camera. If the parties agree and if there is a legitimate interest a third party may be allowed to attend.

§ 5 Arbitration committee's decisions

1. The arbitration committee proposes a settlement of the issue to the parties in line with the outcome of the oral procedure.
If the parties agree to the settlement, it is recorded in triplicate, read out, approved by the parties and signed by the chairman. Each party receives a copy of the settlement.

2. If the parties fail to reach a settlement, the committee takes a decision on the basis of the outcome of the oral procedure and any evidence presented.
3. If one party fails to appear at the oral procedure despite being duly notified, the committee takes a decision on the basis of the documents received and any evidence presented.
4. The committee may reject the application as inadmissible or take a decision on the case on the basis of its own expertise.
5. The committee takes its decisions by a majority vote of its members. Every member of the committee has one vote.
6. The arbitration ruling and the grounds on which it is based must be recorded in writing and signed by the members of the committee. Each party receives a copy of the ruling.
7. The arbitration ruling does not preclude the possibility of taking legal action.
8. There may not be a second arbitration procedure in the same case.
9. The committee may amend its ruling at the request of one party if it subsequently emerges that the facts on which the ruling was based can be proved to have been inaccurate on a fundamental point.
10. The arbitration procedure should be concluded within three months at the latest.

§ 6 Organisation of the arbitration board

1. The arbitration board has an office and an arbitration committee.
2. The office is at Sponholzstraße 47, 10159 Berlin.
3. The arbitration committee consists of three members:
 - a) two master electricians elected by the board of the guild, with many years of relevant professional experience
 - b) the guild's executive secretary, who chairs the committee.
4. For every member referred to in 3(a) at least one first and one second deputy must be elected to stand in for committee members if they are unable to attend. The term of office for members and deputies is one year, which may be renewed.
5. If he is unable to attend, the committee chairman is deputised by a lawyer colleague from the Handwerkskammer Berlin (Berlin Chamber of Craft Trades) or another suitable lawyer nominated by the chairman.
6. With the approval of the executive committee the guild's executive secretary may also transfer chairmanship of the committee to a lawyer. In such cases the chairman's term of office is one year, which may be renewed.
7. The members of the committee give a written assurance that they will take decisions objectively and without consideration of the parties, and that they will respect the confidential nature of any personal and financial information about the parties which they acquire in the course of their work, including after they have left the committee.

8. A member of the committee may be rejected in a dispute on the same grounds and under the same conditions as a judge may be rejected under §§ 41 ff. of the Code of Civil Procedure, particularly if he is directly related to one of the parties, if he is the legal representative of one of the parties, or if there are legitimate grounds to doubt his impartiality.
The other members of the committee decide on requests for rejection from the parties and on requests from members themselves asking to be rejected.
9. The committee members act in an honorary capacity. They receive expenses, which are determined by the executive committee of the Berlin Electricians Guild.

§ 7 Costs

1. Apart from the sum referred to in § 2(2) no charge is made for consulting the arbitration board.
2. None of the costs incurred by the parties, their representatives or other persons are reimbursed.

3. Bremen

3.1. Arbitration board of the Handwerkskammer Bremen (Bremen Chamber of Craft Trades)

Particulars of the body

Ansgaritorstraße 24
28195 Bremen
Tel: (04 21) 305 00 20
Fax: (04 21) 305 00 10

Subject of the procedure

Disputes between consumers and craftsmen.

Composition

Legal adviser to the Chamber.

Costs

None.

4. Lower Saxony

4.1. Arbitration boards of the Niedersächsische Handwerkskammern (Lower Saxony Chambers of Craft Trades)

Particulars of the body

Under the statutory remit set out in § 91 of the Regulations governing craft trades the Chambers are required to set up arbitration boards to resolve disputes between self-employed craftsmen and their clients. This statutory obligation is interpreted in different ways by the Chambers. Some of them have set up institutionalised arbitration boards; others investigate consumer complaints by arbitrating between master craftsmen and clients, if both parties agree. Such arbitration is always carried out free of charge by the Chamber's own staff, usually from the legal department. In accordance with § 91 of the Regulations governing craft trades the condition of access is that one party must be entered in the register of craftsmen at the relevant Chamber.

The structure of the arbitration procedure depends on the case in question. The procedure may be either written or oral and may include consulting experts. In such cases, however, any costs incurred, such as payment for experts, must be borne by the parties.

The arbitration boards' proposals are not binding. Settlements reached between the parties are not enforceable.

Details of the following five chambers of craft trades are available:

4.1.1. Voluntary conciliation board and expert consultation centre

Berliner Allee 17
30175 Hannover
Tel: (05 11) 3 48 59-45
Fax: (05 11) 3 48 59-32
E-Mail: hwk-hannover@t-online.de

Structure

- a) Composition of the arbitration body: one person with legal training
- b) Rules governing the appointment of arbitrators: must be a member of staff
- c) Term of office: unlimited
- d) Rules governing the dismissal of arbitrators: dismissal/transfer

Powers

- a) Type of disputes handled: mainly relating to work contracts
- b) Geographical coverage: urban district of Hannover, rural districts of Hannover, Hameln-Pyrmont, Diepholz, Nienburg (Weser), Schaumburg
- c) Other conditions of access: one party must be entered in the register of craftsmen at the Handwerkskammer Hannover (Hannover Chamber of Craft Trades)

Procedure

- a) Agreement of both parties needed to apply to the arbitration board?
Written application required from one party.
- b) Written or oral procedure?
Usually written procedure, oral mediation possible if requested
- c) Do the parties need to appear in person?
No

Costs

Free of charge for the conciliation procedure, charge made for consulting experts

Nature of the decision

Proposed settlements, provision of information on the legal position;
Under the oral conciliation procedure legally binding agreements/settlements are reached

Enforcement

The Chamber of Craft Trades is not authorised to issue enforcement orders.

Publication of the arbitration board's decision

Published in the Hannover Chamber of Craft Trades' annual report
(number, results, experts consulted)

4.1.2. Arbitration board for the settlement of disputes between self-employed craftsmen and their clients in the district covered by the Handwerkskammer Hildesheim (Hildesheim Chamber of Craft Trades)

Handwerkskammer Hildesheim
Braunschweiger Str. 53
31134 Hildesheim
Tel: (0 51 21) 1 62-0
Fax: (0 51 21) 3 38 36

Structure

- a) Composition of the arbitration body
(individual or collegiate body; where appropriate, do arbitrators have special vocational qualifications?)

Individual (in rotation), with technical and works contract expertise

- b) Rules governing appointment of arbitrators:
as per rules of employment
- c) Term of office:
duration of contract of employment
- d) Rules governing dismissal of arbitrators:
as per rules of employment

Powers

- a) Type of disputes handled:
General requests for information; requests for arbitration in cases of alleged poor service, invoicing, etc
- b) Geographical coverage:
District covered by the Handwerkskammer Hildesheim (Hildesheim Chamber of Craft Trades)
- c) Other conditions of access
At least one party must be entered in the register of craftsmen at the Hildesheim Chamber of Craft Trades, and the case must not yet be in the hands of lawyers!

Procedure

- a) Agreement of both parties needed to apply to the arbitration board?
Not necessary, the defendant is consulted.
- b) Written or oral procedure?
90% oral procedure, 10% written procedure

- c) Do the parties need to appear in person?
No, but written instructions with supporting documents are required in the written procedure

Costs
None

Nature of the decision
Recommendation and written proposal for a settlement

Enforcement
Not applicable, no evidence taken within the meaning of the Code of Civil Procedure, broad scope for legal proceedings

Publication of the arbitration board's decision
Statistics kept on the number of decisions, but not on the substance of the cases
Published in the Chamber's annual report

**4.1.3. Arbitration board of the Handwerkskammer Lüneburg/Stade
(Lüneburg/Stade Chamber of Craft Trades)**

Particulars of the body
Friedensstraße 6
21335 Lüneburg
Tel: (0 41 31) 71 21 44
Fax: (0 41 31) 4 47 24

Structure

- a) Composition of the arbitration body
Individual – lawyer.
- b) Rules governing appointment of arbitrators
Head of legal department is also arbitrator

Powers

- a) Type of disputes handled
all problems between clients and craftsmen
- b) Geographical coverage
district covered by the Chamber
- c) Other conditions of access
Firm must be entered in the register of craftsmen

Procedure

- a) Agreement of both parties needed to apply to the arbitration board?
Yes
- b) Written or oral procedure?
Varies

- c) Do the parties need to appear in person?
Sometimes

Costs
None

Nature of the decision

- a) Non-binding proposal for a decision or settlement;
decision which is legally binding on one or both parties only if the parties specifically agree to this

Enforcement

-

Publication of the arbitration board's decision

-

4.1.4. Handwerkskammer Osnabrück-Emsland (Osnabrück-Emsland Chamber of Craft Trades)

Particulars of the body

Bramscher Str. 134 – 136, 49088 Osnabrück
Tel: (05 41) 69 29-0
Fax: (05 41) 69 29-2 90

Structure

- a) Composition of the arbitration body
one arbitrator who is qualified to be a judge
- b) Rules governing the appointment of arbitrators
Arbitrator is member of the Chamber's staff

Powers

- a) Type of disputes handled
Disputes between craftsmen and their clients under § 90(1)(11) of the Regulations governing craft trades
- b) Geographical coverage
District covered by the Osnabrück-Emsland Chamber of Craft Trades

Procedure

- a) Agreement of both parties needed to apply to the arbitration board?
Application by only one party needed
- b) Written or oral procedure?
Usually written procedure
- c) Do the parties need to appear in person?
No

Costs
None

Nature of the decision

- a) Non-binding proposal for a decision (eg. proposed settlement or recommendation)

Enforcement

Not enforceable

Publication of the arbitration board's decision

Chamber's annual report

5. North Rhine-Westphalia**5.1. Arbitration board of the Innung für Radio- und Fernsehtechnik Aachen (Aachen Radio and Television Engineers Guild)**Particulars of the body

Bahnhofstraße 14, 52064 Aachen,
Tel: (02 41) 3 39 69

Structure

The master of the guild

Powers

Complaints (no official form required) by customers against member firms

Procedure

No official procedure

Costs

None

Decision

Proposed settlement

Enforcement

No

Name

Arbitration board at the Kreishandwerkerschaft Rhein-Berg/Leverkusen (Rhein-Berg/Leverkusen District Craftsmen's Association),
Altenberger-Dom-Straße 200, 51467 Bergisch Gladbach
Tel: (0 22 02) 9 35 90
Fax: (0 22 02) 93 59 30

Structure

Members of staff

Powers

Disputes between guild members and their customers.

Procedure

Oral or written attempts to achieve an out-of-court settlement

Costs
None

Decision
Proposed settlement

Enforcement
No

5.2. Arbitration board at the Kreishandwerkerschaft Bonn/Rhein-Sieg (Bonn/Rhein-Sieg District Craftsmen's Association),

Particulars of the body
Spessartstraße 48 – 50
53119 Bonn
Tel: (02 28) 72 62 10
Fax: (02 28) 72 62 14 70

Structure
Members of staff

Powers
Disputes between guild members and their customers

Procedure
Oral or written attempts to achieve an out-of-court settlement

Costs
None

Decision
Proposed settlement

Enforcement
No

5.3. Arbitration board for customer complaints at the Handwerkskammer Münster (Münster Chamber of Craft Trades)

Particulars of the body
Bismarckallee 1, 48151 Münster
Tel: (02 51) 5 20 32 14
Fax: (02 51) 5 20 32 18

Structure
Lawyer from the Chamber

Powers
Settlement of disputes between self-employed craftsmen and their clients in the district covered by the Chamber

Procedure
Application from a client

Costs
None

Decision
Proposed settlement

Enforcement
No

5.4. Arbitration board at the Kreishandwerkerschaft für den Oberbergischen Kreis (Oberberg District Craftsmen's Association)

Particulars of the body
Bismarckstraße 9 a
51643 Gummersbach,
Tel: (0 22 61) 91 06 20
Fax: (0 22 61) 9 10 62 99

Structure
Members of staff

Powers
Disputes between guild members and their customers

Procedure
Oral or written attempts to reach an out-of-court settlement

Costs
None

Decision:
Proposed settlement

Enforcement
No

5.5. Arbitration board at the Handwerkskammer Köln (Cologne Chamber of Craft Trades)

Particulars of the body
Heumarkt 12,
50667 Köln,
Tel: (02 21) 2 02 20
Fax: (02 21) 2 02 23 20
E-Mail: info@handwerkskammerkoeln.de
Internet: www.handwerkskammer-koeln.de

Structure
Staff lawyers from the legal department

Powers
Disputes between member firms of the Cologne Chamber and their clients relating to members' commercial activities

Procedure

Written complaint from the client

Costs

None

Decision

Proposed settlement

Enforcement

No

5.6. Arbitration board of the Rolladen- und Jalousiebauer-Innung Köln (Cologne Blind and Shutter Manufacturers Guild)

Particulars of the body

Kreishandwerkerschaft Köln,
Frankenwerft 35
50667 Köln
Tel: (02 21) 20 70 40
Fax: (02 21) 2 07 04 42

Structure

1 member of the guild's executive committee,
the guild's executive secretary,
1 officially appointed and sworn expert

Powers

Disputes between guild members and their clients

Procedure

Written complaint from member firm or client
Written procedure
Oral procedure possible

Costs

Advance on expenses payable by applicant: DM 200
Further costs depend on expenditure

Decision

Proposed settlement

Enforcement

No

5.7. Arbitration board of the Innung Sanitär-Heizung-Klima Köln (Cologne Plumbing, Heating and Air-Conditioning Engineers Guild)

Particulars of the body

Rolshover Straße 115
51105 Köln,
Tel: (02 21) 83 71 20
Fax: (02 21) 8 37 12 56

Structure

1 senior official from the guild,
1 expert,
1 lawyer

Powers

Disputes between member firms of the guild and their clients

Procedure

Written procedure
Oral procedure possible

Costs

None

Decision

Proposed settlement

Enforcement

No

5.8. Arbitration board of the Kreishandwerkerschaft Köln (Cologne District Craftsmen's Association)

Particulars of the body

Frankenwerft 35, 50667 Köln
Tel: (02 21) 20 70 40
Fax: (02 21) 9 24 49 15

Structure

Members of staff

Powers

Disputes between guild members and their clients

Procedure

Oral or written attempts to reach an out-of-court settlement

Costs

None

Decision

Proposed settlement

Enforcement

No

5.9. Arbitration board of the Elektro-Innung Köln (Cologne Electricians Guild)

Particulars of the body

Gereonswall 103
50670 Köln,
Tel: (02 21) 12 30 71
Fax: (02 21) 13 28 18

Structure

Members of staff

Powers

Disputes between guild members and their clients

Procedure

Oral or written attempts to reach an out-of-court settlement

Costs

None

Decision

Proposed settlement

Enforcement

No

5.10. Arbitration board of the Fleischer-Innung Köln (Cologne Butchers Guild)

Particulars of the body

Liebigstraße 120 b
50823 Köln,
Tel: (02 21) 17 22 77
Fax: (02 21) 9 17 46 88

Structure

Members of staff

Powers

Disputes between guild members and their clients

Procedure

Oral or written attempts to reach an out-of-court settlement

Costs

None

Decision

Proposed settlement

Enforcement

No

5.11. Arbitration board of the Friseur-Innung Köln (Cologne Hairdressers Guild)

Particulars of the body

Richard-Wagner-Straße 32 – 34
50674 Köln
Tel: (02 21) 25 26 23
Fax: (02 21) 25 11 16

Structure

Members of staff

Powers

Disputes between guild members and their clients

Procedure

Oral or written attempts to reach an out-of-court settlement

Costs

None

Decision

Proposed settlement

Enforcement

No

5.12. Arbitration board of the Innung Farbe-Gestaltung-Bautenschutz Köln der Maler und Lackierer (Cologne Painters and Varnishers Guild (Colour, Design and Building Protection))

Particulars of the body

Frankenwerft 35

50667 Köln

Telefon: (02 21) 2 57 04 97

Telefax: (02 21 2 58 21 21

Structure

Members of staff

Powers

Disputes between guild members and their clients

Procedure

Oral or written attempts to reach an out-of-court settlement

Costs

None

Decision

Proposed settlement

Enforcement

No

5.13. Arbitration board of the Schornsteinfeger-Innung Köln (Cologne Chimneysweeps Guild)

Particulars of the body

Emil-Hoffmann-Straße 7

50996 Köln,

Tel: (0 22 36) 6 53 60

Fax: (0 22 36) 6 74 02

Structure

Members of staff

Powers

Disputes between guild members and their clients

Procedure

Oral or written attempts to reach an out-of-court settlement

Costs

None

Decision

Proposed settlement

Enforcement

No

5.14. Arbitration board of the Zahntechniker-Innung Köln-Aachen (Cologne-Aachen Dental Technicians Guild)

Particulars of the body

Hauptstraße 39

50859 Köln

Tel: (02 21) 50 30 44

Fax: (02 21) 50 30 46

Structure

Members of staff

Powers

Disputes between guild members and their clients

Procedure

Oral or written attempts to reach an out-of-court settlement

Costs

None

Decision

Proposed settlement

Enforcement

No

5.14. Arbitration board of the Zimmerer-Innung Köln (Cologne Joiners Guild)

Particulars of the body

Emil-Hoffmann-Straße 7

50996 Köln

Tel: (02 21) 50 30 44

Fax: (02 21) 50 30 46

Structure

Members of staff

Powers

Disputes between guild members and their clients

Procedure

Oral or written attempts to reach an out-of-court settlement

Costs

None

Decision

Proposed settlement

Enforcement

No

5.15. Arbitration board of the Bäcker-Innung Köln (Cologne Bakers Guild)

Particulars of the body

Kirchweg 91 – 93

50858 Köln,

Tel: (02 21) 48 30 11

Fax: (02 21) 48 70 12

Structure

Members of staff

Powers

Disputes between guild members and their clients

Procedure

Oral or written attempts to reach an out-of-court settlement

Costs

None

Decision

Proposed settlement

Enforcement

No

5.16. Arbitration board of the Kreishandwerkerschaft Rhein-Erft (Rhein-Erft District Craftsmen's Association)

Address

Kölner Straße 2, 50226 Frechen,

Tel: (0 22 34) 5 22 22

Fax: (0 22 34) 2 29 03

Structure

Members of staff

Powers

Disputes between guild members and their clients

Procedure

Oral or written attempts to reach an out-of-court settlement

Costs

None

Decision

Proposed settlement

Enforcement

No

6. Rhineland Palatinate**6.1. Handwerkskammer Trier (Trier Chamber of Craft Trades)
Arbitration board for consumer complaints**Particulars of the body

Postfach 4370, 54233 Trier

Tel: (06 51) 20 70

Fax: (06 51) 20 71 15

Structure

The arbitration board consists of a chairman, who must be a qualified lawyer, and two assessors. The Chamber and the Verbraucherzentrale Rheinland-Pfalz (Rhineland Palatinate Consumers Association) appoint one assessor each. The chairman is not a member of the Chamber's staff.

Powers

The arbitration board is responsible for dealing with complaints about craftsmen's services, prices and breaches of duty in connection with works or work supply contracts. If the defendant is not registered with the Industrie- und Handelskammer Trier (Trier Chamber of Industry and Commerce), the board also deals with complaints arising from sales contracts etc. The complaint must be against a firm which is entered in the craftsmen's register or in the list of craft-equivalent occupations at the Trier Chamber of Craft Trades.

Procedure

A written application is required. The procedure is not carried out if the defendant fails to reply or sends a refusal to the arbitration board within 14 days of the application being forwarded. The fee for the procedure must be enclosed with the application. The date for the oral procedure is arranged by written correspondence.

Costs

The fees payable by each party are as follows

Value of dispute up to DM 5 000	DM 50,
value of dispute up to DM 10 000	DM 100,
value of dispute up to DM 25 000	DM 200,
for higher values	
for every extra sum up to DM 25 000	DM 100.

In cases of hardship the fee may be reduced or dispensed with altogether. If the defendant does not agree to the procedure, the fee paid by the applicant is reimbursed.

The parties must pay their own costs.

Nature of the decision

The board proposes a settlement to the parties.

Enforcement

Settlements reached before the arbitration board cannot be compulsorily enforced.

**6.2. Handwerkskammer Rheinhessen (Rheinhessen Chamber of Craft Trades)
Arbitration board for consumer complaints**

Postfach 11 63, 55057 Mainz

Tel: (0 61 31) 8 30 20

Fax: (0 61 31) 83 02 63

**6.3. Handwerkskammer der Pfalz (Palatinate Chamber of Craft Trades)
Arbitration board for consumer complaints**

Postfach 26 20, 67655 Kaiserslautern

Tel: (0 61 31) 3 67 70

Fax: (0 61 31) 3 67 71 80

**6.4. Handwerkskammer Koblenz (Koblenz Chamber of Craft Trades)
Arbitration board for consumer complaints**

Postfach 9 29, 56063 Koblenz

Tel: (02 61) 39 80

Fax: (02 61) 39 82 82

Structure

These arbitration boards do not have any formal structure.

Powers

The arbitration board is responsible for dealing with complaints about craftsmen's services, prices and breaches of duty in connection with works or work supply contracts.

Procedure

The arbitration boards carry out the procedure by telephone, orally or in writing.

Costs

The services of the arbitration boards are provided free of charge.

Nature of the decision

The board proposes a settlement to the parties.

Enforcement

Settlements reached before the arbitration boards cannot be compulsorily enforced.

6. Saarland

6.1. Arbitration and conciliation board of the Arbeitgeberverband des Saarländischen Handwerks (AGVH) (Saarland Craft Sector Employers' Association)

Particulars of the body

Grüblingstraße 115
 66113 Saarbrücken
 Tel: (06 81) 948 61
 Fax: (06 81) 948 61 99

Composition

Chairman and two assessors

One assessor is a sworn expert from the Chamber of Craft Trades or the Chamber of Industry and Commerce. The second is a suitable representative from the Consumers Association or, for public contracts, a representative from the relevant ministry or the municipal or regional council.

Term of office unlimited

Rules governing appointment

The chairman, who must be a professional judge at the ordinary courts of the Saarland, is appointed by the AGVH. The assessors are proposed by the chairman and appointed by the AGVH on a case-by-case basis depending on the subject of the dispute and by agreement with the parties.

Rules governing dismissal

Not regulated; dismissal on grounds of lack of impartiality

Powers

Disputes concerning works contracts between craft firms and their clients

Geographical coverage Federal Land of Saarland

Value of dispute relevant No

Conditions of access

Membership of the AGVH or of a guild which is a member of the AGVH, or client of such firms;

written application;

arbitration agreement reached in the procedure precludes possibility of taking legal action.

Appearance in person at the chairman's discretion

Written procedure at the chairman's discretion

Oral procedure usual, also at chairman's discretion

Costs value of dispute according to Code of Civil Procedure and GKG (Law on Legal Costs)
 10/10 – fee according to BRAGO (National Rules for Lawyers), minimum DM 500
 plus DM 200 to DM 300 twice and DM 100 for each party; plus costs of expert

Decision binding on the parties

Yes

Decision in form of recommendation

In the conciliation procedure

Enforcement

The arbitration board is recognised by the Decree of 13 November 1997 as a voluntary conciliation board within the meaning of § 794(1)(1) of the Code of Civil Procedure. The chairman is authorised to issue enforcement orders in accordance with § 797(a)(IV), first sentence, of the Code of Civil Procedure.

7. Saxony

7.1. Handwerkskammer Chemnitz (Chemnitz Chamber of Craft Trades)

Limbacher Straße 195
09116 Chemnitz
Tel: (03 71) 536 40
Fax: (03 71) 536 42 22
E-Mail: info@hwk-chemnitz.de
Internet: <http://www.hwk-chemnitz.de>
Postal address:
Postfach: 4 15
09004 Chemnitz

7.2. Handwerkskammer zu Leipzig (Leipzig Chamber of Craft Trades)

Dresdner Straße 11 – 13
04103 Leipzig
Tel: (03 41) 2 18 80
Fax: (03 41) 218 84 99
E-Mail: info@hwk-leipzig.de
Internet: <http://www.hwk-leipzig.de>
Postal address: Postfach 4 65, 04404 Leipzig

7.3. Handwerkskammer Dresden (Dresden Chamber of Craft Trades)

Wiener Straße 43
01219 Dresden
Tel: (03 51) 46 40 30
Fax: (03 51) 471 91 88
E-Mail: info@hwk-dresden.de
Internet: <http://www.hwk-dresden.de>
Postal address: Postfach 20 09 36, 01194 Dresden

Structure

Each Chamber has an arbitration board. The Chamber's executive committee usually puts the legal department in charge of arbitration. Special arbitrators are not appointed; instead, individual members of the legal department act as arbitrators depending on the nature of the dispute.

Powers

The boards are responsible for settling disputes between self-employed craftsmen and their clients. The geographical area covered is the Free State of Saxony; the Chamber to which the craftsman belongs has jurisdiction. There is no threshold for the value of the dispute.

Procedure

The procedure is usually written, though oral conciliation talks may also occasionally be organised at the Chambers. The procedure does not start until a written description of the facts of the dispute together with the contract documents and any other correspondence has been received. The Chamber contacts the craft firm and asks it to give its opinion on the facts presented. If both sides agree an oral discussion may also be organised.

Costs

The arbitration procedure is free of charge.

Nature of the decision

The arbitration board cannot take decisions which are legally binding on the parties. It can only make recommendations or propose settlements. Once the settlement has been recorded and accepted by the parties, they are bound by it under the principles of civil law.

Enforcement

Since the board's decisions are not legally binding, there can be no question of enforcement.

Observations

The procedure followed by the arbitration boards is not governed by any rules other than those on their statutory duties set out in § 91(1)(11) of the Handwerksordnung (Rules governing craft trades).

F. Arbitration boards in the motor industry**1. Baden-Württemberg****1.1. Arbitration boards for the motor industry (used car trade and motor vehicle crafts) at the Verband des Kraftfahrzeuggewerbes Baden-Württemberg e. V.. (Baden-Württemberg Motor Industry Association)**Particulars of the body

Arbitration board of the Innung des Kraftfahrzeuggewerbes Baden-Baden/Rühl/Rastatt (Baden-Baden/Rühl/Rastatt Motor Industry Guild)

Rheinstr. 146

76532 Baden-Baden

Tel.: (07221) 5 38 30

Covers Baden-Baden/Rastatt

Arbitration board for motor vehicle crafts and the used car trade in the district covered by the Handwerkskammer Ulm (Ulm Chamber of Craft Trades)

Ing.-Büro Klinger und Frommer

Haberhäuslestr. 14

88400 Biberach

Tel.: (07351) 50 41-0

Covers Ostalb district, Biberach, Bodensee district, Ravensburg, Ulm, Alb-Donau district

Arbitration board for the motor industry at the Innung Bruchsal (Bruchsal Guild)

Uindustriestrasse 34

76646 Bruchsaal

Tel.: (07251) 1 59 12

Covers Bruchsal

Arbitration board of the Innung des Kraftfahrzeughandwerks Freiburg (Freiburg Motor Vehicle Crafts Guild)

Windaustrasse 2

79110 Freiburg

Tel.: (0761) 55 10 65/66

Covers Freiburg, Breisgau-Hochschwarzwald, Emmendingen

Arbitration board of the Innung des Kraftfahrzeughandwerks Heidenheim (Heidenheim Motor Vehicle Crafts Guild)

Heckentalstrasse 84

89518 Heidenheim

- Tel.: (07321) 98 24-00 Covers Heidenheim
- Arbitration board for the motor industry in the Franconia region
 Kreuzenstrasse 62
 74076 Heilbronn Covers Heilbronn, Hohenlohe district, Schwäbisch-
 Tel.: (07131) 16 43 98 Hall, Main-Tauber district
- Arbitration board of the Innung des Kraftfahrzeuggewerbes Karlsruhe (Karlsruhe Motor Industry Guild)
 Ebertstrasse 16a
 76137 Karlsruhe Covers Karlsruhe
 Tel.: (0721) 38 66 64
- Arbitration board of the Innung des Kraftfahrzeuggewerbes Lörrach (Lörrach Motor Industry Guild)
 Palmstrasse 6
 79539 Lörrach Covers Lörrach
 Tel.: (07621) 20 46
- Arbitration board of the Innung des Kraftfahrzeuggewerbes Ortenau (Ortenau Motor Industry Guild)
 Wasserstrasse 17
 77652 Offenburg Covers Ortenau
 Te.: (0781) 7 40 83
- Arbitration board for the motor industry in the Nordschwarzwald region
 Wilferdinger Starsse 6
 75197 Pforzheim Covers Pforzheim-Enz district,
 Te.: (07231) 31 31 40 Freudenstadt-Calw
- Arbitration board of the Innung des Kraftfahrzeuggewerbes Rhein-Neckar-Odenwald (Rhein-Neckar-Odenwald Motor Industry Guild)
 Beethovenstrasse 48
 68549 Ilvesheim Covers Heidelberg, Mannheim, Rhein-Neckar district,
 Tel.: (0621) 49 20 01 Odenwald district
- Arbitration board for motor vehicle crafts and the used car trade in the district covered by the Handwerkskammer Reutlingen (Reutlingen Chamber of Craft Trades)
 Hindenburgstrasse 58
 72762 Reutlingen Covers Reutlingen, Tübingen, Zollernalb district,
 Tel.: (07121) 24 12 30 Sigmaringen
- Arbitration board of the Innung des Kraftfahrzeuggewerbes Singen (Singen Motor Industry Guild)
 Alemannenstrasse 1
 78333 Stockach Covers Konstanz, Waldshut, Rottweil, Tuttlingen,
 Tel.: (07771) 78 57 Schwarzwald-Baar district
- Arbitration board of the Innung des Kraftfahrzeughandwerks Region Stuttgart (Stuttgart Region Motor Vehicle Crafts Guild)
 Lombacher Strasse 22
 70563 Stuttgart Covers Stuttgart, Ludwigsburg, Rems-Murr district,
 Tel.: (0711) 73 40 78 Böblingen, Esslingen, Göppingen

Structure

The arbitration board has an arbitration committee. For disputes arising from used car sales contracts the committee has four members:

- a chairman who is qualified to be a judge,
- a representative of a motoring organisation,
- an officially appointed and sworn motor vehicle expert who is affiliated to the Deutsche Automobil-Treuhand GmbH (DAT) (German Automobile Trust),
- a representative of the motor industry association.

For disputes arising from vehicle repair contracts the committee has five members:

- a chairman who is qualified to be a judge,
- a representative of a motoring organisation,
- a motor vehicle expert,
- a monitoring organisation recognised under § 29 StVZO (Road Licensing Regulations),
- an officially appointed and sworn motor vehicle expert who is affiliated to the Deutsche Automobil-Treuhand GmbH (DAT) (German Automobile Trust),
- a representative of the motor vehicle guild.

The members of the arbitration committee take their decisions objectively and without consideration of the person or firm involved. They are appointed for three years.

Powers

Out-of-court settlement of disputes between clients and firms affiliated to the association arising from used car sales contracts or vehicle repair contracts.

Procedure

On the basis of the General Conditions of Business which apply to contract terms, consumers are entitled, but not obliged, to apply to the motor industry's arbitration boards. In principle a hearing is held to which both parties are invited. Preparatory submissions must be made for the hearing.

The parties may appoint an authorised representative for the procedure.

Costs

The arbitration board provides its services free of charge. The parties pay their own costs themselves.

Nature of the decision

The committee is quorate if at least three members are present. Decisions are taken by a majority vote of the members present. The arbitration ruling does not preclude the possibility of taking legal action. Under the model regulations for German motor industry guilds the motor vehicle firms involved in the dispute are, however, required to comply with the arbitration ruling.

Enforcement

The decisions of the arbitration committee are not officially enforceable.

2. Bavaria

2.1. Arbitration boards in bodymaking craft trades

Particulars of the bodies

Rosenplütstraße 2, 90439 Nürnberg,
Tel: (09 11) 26 16 66

Max-Joseph-Straße 4, 8033 München,
Tel: (0 89) 59 77 59

Ditthornstraße 10, 93055 Regensburg,
Tel: (09 41) 7 96 52 00

Powers

Out-of-court settlement of disputes between clients and vehicle workshops relating to car bodymaking.

Structure

The arbitration committee has five members (a qualified lawyer from the Chamber of Craft Trades as chairman, two motor vehicle experts, one representative from a motoring organisation, one representative from the motor vehicle guild). The members of the committee take decisions objectively and impartially.

Powers

Out-of-court settlement of disputes between clients and vehicle repair workshops affiliated to the guild about whether repairs were necessary, whether work has been carried out correctly and the cost of repairs.

Procedure

The dispute is referred to the arbitration committee if the parties are unable to reach a settlement before the board in the preliminary procedure. The committee usually decides on the basis of a hearing. With the parties' agreement the hearing may be dispensed with in certain appropriate cases.

Costs

The services of the arbitration board are provided free of charge. The parties must pay their own costs themselves.

Nature of the decision

The arbitration committee first proposes a settlement to the parties. If they are unable to agree to it, the committee issues an arbitration ruling. This does not preclude the possibility of taking legal action. However, the actual findings are binding on the parties.

Enforcement

The committee's decision is not an enforcement order.

2.2. Arbitration boards for the used car tradeParticulars of the bodies

Schiedsstelle für Südbayern
Goethestraße 17, 80336 München,
Tel: (0 89) 59 73 22

Schiedsstelle für Nordbayern
Hermannstraße 21, 90439 Nürnberg,
Tel: (09 11) 65 80 40

Structure

The arbitration committee has five members (a lawyer who is qualified to be a judge as the chairman, a representative of a motoring organisation, a sworn motor vehicle expert, a representative of the press, radio or television, and a representative of the Verband des Kraftfahrzeuggewerbes Bayern e. V. (Bavarian Motor Industry Association)). Members of the committee have a three-year term of office.

Powers

Settlement of disputes arising from sales contracts for second-hand vehicles between clients and dealers displaying the "used car seal of confidence" of the Zentralverband des Kraftfahrzeuggewerbes e. V. (Central Motor Industry Association).

Procedure

The dispute is referred to the arbitration committee if the parties fail to reach a settlement before the preliminary committee. The arbitration committee decides on the basis of a hearing. With the parties' agreement the hearing may be dispensed with in certain appropriate cases.

Costs

The services of the arbitration board are provided free of charge. The parties must pay their own costs themselves.

Nature of the decision

If the parties fail to reach a settlement the arbitration committee issues an arbitration ruling. This does not preclude the possibility of taking legal action.

Enforcement

The arbitration committee's decision is not an enforcement order.

Particulars of the body

Robert-Bosch-Straße 1, 86167 Augsburg,
Tel: (08 21) 70 20 51

Kerschensteinerstraße 7, 95448 Bayreuth,
Tel: (09 21) 9 10-1 18

Mengkofener Straße 2, 84130 Dingolfing,
Tel: (0 87 31) 37 37-0

Gärtnerstraße 90, 80992 München,
Tel: (09 11) 65 70 90

Dittenhornstraße 21, 93055 Regensburg,
Tel: (09 41) 79 22 13

Sandäcker 10, 97076 Würzburg,
Tel: (09 31) 27 99 10

Structure

The arbitration committee has five members (a qualified lawyer from the Chamber of Craft Trades as chairman, two motor vehicle experts, one representative from a motoring organisation and one representative from the motor industry guild). The members of the committee take decisions objectively and impartially.

Powers

Out-of-court settlement of disputes between clients and vehicle repair workshops affiliated to the guild about whether repairs were necessary, whether work has been carried out correctly and the cost of repairs.

Procedure

The dispute is referred to the arbitration committee if the parties are unable to reach a settlement before the board in the preliminary procedure. The committee usually decides on the basis of a hearing. With the parties' agreement the hearing may be dispensed with in certain appropriate cases.

Costs

The services of the arbitration board are provided free of charge. The parties must pay their own costs themselves.

Nature of the decision

The arbitration committee first proposes a settlement to the parties. If they are unable to agree on a settlement, the committee issues an arbitration ruling. This does not preclude the possibility of taking legal action. The actual findings are, however, binding on the parties.

Enforcement

The committee's decision is not an enforcement order.

3. Berlin**3.1. Innung des Kraftfahrzeuggewerbes Berlin (Berlin Motor Industry Guild)**Particulars of the body

Obentrautstraße 16 – 18
10963 Berlin
Tel: 2 59 05-1 54
Fax: 2 59 05-100

Tasks, scope

- a) Where possible, to reach an out-of-court settlement or decision in disputes arising from sales contracts for second-hand vehicles with a total permitted weight of no more than 2.8 t – excluding disputes about price – between customers and dealers displaying the Central Motor Industry Association's used car seal of confidence, and disputes between "seal of confidence" dealers about guarantees/repairs under guarantee, including payment for them.

In the case of disputes between dealers, the arbitration board in whose district the dealer's business against which the complaint has been brought is established has jurisdiction.

- b) Disputes between clients and workshops affiliated to the guild about whether
- aa) the repairs were necessary
 - bb) the work was carried out correctly
 - cc) the work was properly invoiced.

The arbitration board does not cover utility vehicles with an overall weight of more than 2.8 t.

2. The board does not deal with disputes which are pending before the courts.

Organisation

1. The arbitration board has an office and an arbitration committee.
2. The composition of the arbitration committee is as follows:
 - a) in the cases referred to in § 1(1)(a): four members:
 - aa) a chairman who is qualified to be a judge
 - bb) a representative of the ADAC or another motoring organisation
 - cc) an officially appointed and sworn motor vehicle expert, who is a member of the Deutsche Automobil Treuhand GmbH (DAT) (German Automobile Trust)
 - dd) a representative of the motor industry association

The executive committee of the motor industry association concerned may appoint as further members

 - a representative of the insurance industry, who should be an expert on motor vehicles and must belong to an insurance company which itself offers insurance for the cost of repairs,
 - a representative of the press, radio or television.

In cases of disputes between “seal of confidence“ dealers the arbitration board comprises only the members referred to in aa), cc) and dd).
 - b) in the cases referred to in § 1(1)(b): five members:
 - aa) a chairman who is qualified to be a judge
 - bb) a representative of the ADAC or another motoring organisation
 - cc) a motor vehicle expert from a monitoring organisation recognised under § 29 StVZO (Road Licensing Regulations)
 - dd) an officially appointed and sworn motor vehicle expert, who is a member of the Deutsche Automobil Treuhand GmbH (DAT) (German Automobile Trust)
 - ee) a representative of the motor vehicle guild.
3. The members of the arbitration committee give a written assurance that they will take their decisions objectively and without consideration of the person or firm involved, and that they will respect the confidential nature of any personal and financial details about the parties which they discover in the course of their work, including after they have left the committee.
4. The term of office for members is three years, which may be renewed. At least one deputy must be appointed for each member.
5. The member referred to in 2(a)(aa) and 2(b)(aa) is chosen with the agreement of those referred to in 2(a)(bb) to (dd) and 2(b)(bb) to (ee).

Application to the arbitration board

1. In the cases referred to in:
 - a) § 1(1)(a), the arbitration board intervenes in response to an application from the purchaser, the vendor, the agent or the “seal of confidence“ dealer who carried out the repairs. Applications must be submitted as soon as the point in

dispute is identified, or in the case of claims under guarantee at the latest eight days after expiry of the guarantee period and in all other cases at the latest within three months of transfer of the vehicle.

- b) § 1(1)(b), the arbitration board intervenes in response to an application from the client or, with his agreement, from the contractor (garage). Applications must be submitted as soon as the point in dispute is identified.

Applications to the arbitration board must be submitted in writing.

2. Applications should include the following details:
 - a) the names or company names of the parties and their addresses
 - b) a copy of the log book indicating the engine capacity
 - c) a brief description of the complaint and the facts on which it is based
 - d) a list of any evidence
 - f) in the cases referred to in § 1(1)(a) the date on which the vehicle was transferred
 - g) the value of the claim
3. An application to the arbitration board suspends the time-barring of claims for the duration of the procedure.
4. Documentary evidence should be enclosed with the application, in particular repair bills, experts' opinions, estimates and written contracts.
5. Applying to the arbitration board does not preclude the possibility of taking legal action.

Preliminary examination

1. Once the application has been received the office examines whether it is admissible under the terms of § 1 and § 3(1).

If it is inadmissible on grounds of location the office forwards the complaint to the relevant arbitration board; the deadline which applies to the complainant is then the same as if he had applied to the correct board from the outset.

In the cases referred to in § 1(1)(a), if the deadline laid down in § 3(1)(a) is missed, the office nevertheless forwards the complaint to the defendant. If he agrees, the procedure is carried out.

If the application is inadmissible, the office rejects it, stating its reasons for doing so.

If the application is incomplete, it asks the applicant to rectify the situation immediately. If he fails to comply, the office may reject the application, stating its grounds for doing so.

If there is any dispute about the office's decision, the arbitration committee decides.

2. If the application is admissible, the office forwards it to the defendant for his opinion and, if possible, an agreement with the applicant. If the parties fail to reach an out-of-court settlement, the defendant must return the document together with his written opinion to the office within four weeks.
3. If no settlement has been reached, the office forwards the document to a member of the arbitration board, who will act as rapporteur. He examines the contents of the

document, where possible inspects the vehicle and records the results of his examination in preparation for the subsequent arbitration procedure.

4. If the chairman of the arbitration committee so desires, the office will keep him informed of all incoming applications.

Arbitration committee procedure

1. The arbitration committee decides on the basis of a hearing.

The hearing may be dispensed with

- a) with the agreement of the parties
- b) at the request of one party, if the circumstances and importance of the case are such that he cannot be expected to attend a hearing and no further significant information can be expected to emerge from a hearing, and unless the other party objects.

In disputes between "seal of confidence" dealers about repairs under guarantee the procedure is usually in written form, unless the parties have agreed to an oral procedure.

2. The chairman of the arbitration committee fixes the time and place of the hearing. The office gives the parties 10 days' notice to attend. The parties may bring witnesses at their discretion. With the agreement of the parties the period of notice need not be observed.
3. The discussions before the arbitration committee are held in camera. If there is a legitimate interest in doing so the chairman may allow third parties to attend.
4. The written statements drawn up in preparation for the hearing should, if possible, enable the case to be resolved in one sitting. Each party is given a copy of the other party's statement if it contains any relevant new submissions.
5. The procedure should be concluded within a maximum of three months of the application to the arbitration board.
6. Both applicant and defendant can send representatives. They must be authorised to take decisions and must show that they have power of attorney to do so.

Arbitration settlement

1. The arbitration committee proposes a particular settlement to the parties in line with the outcome of the hearing and any evidence presented.
2. If the parties agree to a settlement, the text is recorded in triplicate, read out, approved by the parties and signed by the chairman. Each party is given a copy.

Arbitration ruling

1. The arbitration committee may reject the application on formal grounds or decide the issue on the basis of its own expertise.

The committee is quorate if at least three members are present.

The committee takes its decisions by a majority vote of the members present. Each member has one vote.

2. The decision and the grounds on which it is based must be recorded in writing. All copies are to be signed by the members of the committee, though the chairman's signature may suffice if the other members agree. Each party is given a copy of the decision.
3. The arbitration ruling does not preclude the possibility of taking legal action.
4. There may not be a second arbitration procedure in the same case.
5. The arbitration committee may amend a ruling at the request of one party if it subsequently emerges that the facts on which the decision was based were inaccurate on a crucial point.

Failure to appear at a hearing

If, despite being duly summoned, a party or its authorised representative fails to appear at the hearing, the arbitration committee decides on the basis of the documents available and any evidence presented, taking account of the statements by those parties which did attend or were represented.

Costs

1. The arbitration board provides its services free of charge.
2. The costs incurred by the parties or their representatives, witnesses or any other persons providing information are not reimbursed.

4. Brandenburg

4.1. German Motor Industry

- Landesverband Berlin-Brandenburg (Berlin-Brandenburg Regional Association) –

Particulars of the body

Obertrautstraße 16 – 18
10963 Berlin

Decision within the meaning of the Recommendation

Decisions within the meaning of the Recommendation take the form of binding decisions for the parties, recommendations or proposed settlements by out-of-court bodies, which have to be accepted by the parties.

It should be pointed out here that under the model rules for motor vehicle guilds the motor companies involved in the dispute are required to comply with the arbitration ruling, which can therefore certainly be described as a decision within the meaning of the Recommendation.

Principle of independence

The arbitration board has an arbitration committee. In disputes about sales contracts for second-hand vehicles this comprises four members:

- a chairman who is qualified to be a judge
- a representative of a motoring organisation
- an officially appointed and sworn motor vehicle expert, and
- a representative of the motor industry association.

In disputes about vehicle repair contracts the committee has five members:

- a chairman who is qualified to be a judge
- a representative of a motoring organisation
- a motor vehicle expert
- an officially appointed and sworn motor vehicle expert
- a representative of the motor vehicle guild.

In accordance with § 2(3) of the Rules of Procedure the members give a written assurance that they will take their decisions objectively and without consideration of the person or company involved.

The members' competence in this particular field stems from the fact that they have usually worked for many years in the motor vehicle sector. The chairman, who must be qualified to be a judge, guarantees that the procedure is constitutional.

The committee members have a three-year term of office, which is long enough to ensure their independence from the trade. It may not be terminated without good reason.

The committee includes a consumers' representative and a representative of the motor vehicle industry. Both have an equal vote.

Principle of transparency

The following measures ensure that the decision-making procedures of the arbitration boards are transparent.

- National statistics are kept on all disputes.
- The consumer/petitioner can ask for the model rules of business and rules of procedure from the arbitration boards' offices before the procedure is carried out.
- No charge is made for applying to the arbitration board. However, any costs incurred by the parties, their representatives, witnesses or other people providing information are not reimbursed.
- The rules are based on the model rules of business and rules of procedure, together with the principles of the Code of Civil Procedure.
- The arbitration board's decision is taken by the committee, which must have a quorum of at least three members. The committee decides by a majority vote of the members present. Each member has one vote. The decision and the grounds on which it is based are recorded in writing and signed by all the members of the committee.

Principle of *inter partes* procedure

In accordance with § 5 a hearing is usually held to which both parties are called. Preparatory submissions should be made for the hearing.

Principle of efficiency

- The consumer does not need to have a legal representative/lawyer.
- No charge is made for using the services of the arbitration board.
- In accordance with § 5(5) the procedure should be completed within a maximum of three months of the application to the arbitration board.
- The committee is authorised to take evidence.

Principle of lawfulness

According to the model rules of business and rules of procedure consumers in other European countries may apply to the arbitration board.

Arbitration settlements and rulings must be recorded in writing and are signed by at least the chairman. Grounds are given for the decisions in accordance with § 7(2) and are communicated to the parties.

Principle of freedom of action

On the basis of the General Conditions of Business which apply to the type of contract in question consumers are entitled, but not obliged, to apply to the arbitration boards of the motor vehicle industry. Similarly, consumers can accept the arbitration ruling, but do not have to.

Principle of representation

Consumers are able to involve an authorised representative in the procedure at any time.

Enforcement

Decisions of the arbitration committee are not officially enforceable.

5. Bremen**5.1. Bremen arbitration board for the motor vehicle craft trades/industry**Particulars of the body

Bennigsenstraße 2 – 6
28207 Bremen
Tel: (04 21) 499 42 11
Fax: (04 21) 499 41 79

Subject of the procedure

Disputes between clients or purchasers and contractors or traders in the motor vehicle craft sector or industry.

Structure

A chairman who is qualified to be a judge, a representative of the Allgemeiner Deutscher Automobilclub (ADAC) motoring organisation, a motor vehicle expert from the Technischer Überwachungsverein (TÜV) (Technical Control Board), an officially appointed and sworn motor vehicle expert who is a member of the Deutsche Automobil-Treuhand GmbH (German Automobile Trust), and a representative of the motor mechanics guild.

Costs

None.

6. Lower Saxony**6.1. Arbitration board of the Oldenburgisches Kraftfahrzeughandwerk (Oldenburg Motor Vehicle Craft Trades)**Particulars of the body

Office: Handwerkskammer
Theaterwall 32
26122 Oldenburg

Tel. (04 41) 2 32-2 21
 Fax: (04 41) 2 32-2 18

Structure

- a) Composition of the arbitration body
 Motor vehicle guild, ADAC (motoring organisation), DAT (German Automobile Trust), TÜV (Technical Control Board), Chamber of Craft Trades
 (4 specialised assessors, 1 qualified lawyer)
- b) Rules governing appointment of arbitrators
 Appointment by their organisations
- c) Term of office
 until revoked

Powers

- a) Type of disputes handled
 Disputes between clients and owners of vehicle repair workshops (need for repairs, correct execution, cost)
- b) Geographical area covered
 district covered by the Handwerkskammer Oldenburg (Oldenburg Chamber of Craft Trades)
- c) Other conditions of access
 All motor vehicle guilds in the district covered by the Oldenburg Chamber of Craft Trades, minimum value of dispute: DM 50

Procedure

- a) Agreement of both parties needed to apply to arbitration board?
 No
- b) Written or oral procedure?
 Written preliminary procedure, hearing or decision on basis of documents provided
- c) Do parties need to appear in person?
 No

Costs

Free of charge for the parties

Nature of the decision

Settlement proposal (binding on vehicle workshops),
 but legal action not precluded;
 contractual settlement possible

Enforcement

See above

Publication of decisions

Statistics, press publication by the Chamber of Craft Trades and ADAC

7. North Rhine-Westphalia

7.1. Arbitration board of the Innung des Kraftfahrzeugmechaniker- und Elektrikerhandwerks Aachen (Aachen Motor Mechanical and Electrical Craftsmen's Guild)

Particulars of the body

Heinrichsallee 72
52062 Aachen
Tel: (02 41) 50 90 60
Fax: (02 41) 50 90 80

Structure

4 – 5 members, one lawyer, representatives of the guild, experts
Term of office: 3 years

Powers

Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure

Written application
Hearing after preliminary examination

Costs

None

Decision

Settlement proposal

Enforcement

None.

7.2. Arbitration board of the Innung der Kraftfahrzeug-Handwerke Bonn/Rhein-Sieg (Bonn/Rhein-Sieg Motor Vehicle Craftsmen's Guild)

Particulars of the body

Bahnhofstraße 27
53721 Siegburg
Tel: (0 22 41) 99 00
Fax: (0 22 41) 99 01 00

Structure

4 – 5 members,
one lawyer,
guild representatives,
experts,
term of office: 3 years

Powers

Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure

Written application

Hearing after preliminary examination

Costs

None

Decision

Settlement proposal

Enforcement

None.

7.3. Arbitration board for motor vehicle engineering craftsmen at the Kreishandwerkerschaft Bottrop (Bottrop District Craftsmen's Association),

Particulars of the body:

Gladbecker Straße 24

46236 Bottrop

Tel: (0 20 41) 1 87 90

Structure

4 – 5 members,

one lawyer,

association representatives,

experts,

term of office: 3 years

Powers

Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure

Written application

Hearing after preliminary examination

Costs

None

Decision

Settlement proposal

Enforcement

None.

7.4. Arbitration board of the Kraftfahrzeug-Innung Düren (Düren Motor Vehicle Guild),

Particulars of the body

Schützenstraße 14

52351 Düren,

Tel: (0 24 21) 140 71/2

Fax: (0 24 21) 148 33

Structure

4 – 5 members,

one lawyer,
 guild representatives,
 experts,
 term of office: 3 years

Powers

Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure

Written application
 Hearing after preliminary examination

Costs

None

Decision

Settlement proposal

Enforcement

None.

7.5. Arbitration board of the Innung für das Kraftfahrzeuggewerbe Geilenkirchen-Heinsberg-Jülich und Erkelenz (Geilenkirchen-Heinsberg-Jülich and Erkelenz Motor Industry Guild),

Particulars of the body

Nikolaus-Becker-Straße 18
 52503 Erkelenz,
 Tel: (0 24 51) 62 01-0
 Fax: (0 24 51) 61 01 62

Structure

4 – 5 members,
 one lawyer,
 guild representatives,
 experts,
 term of office: 3 years

Powers

Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure

Written application
 Hearing after preliminary examination

Costs

None

Decision

Settlement proposal

Enforcement

None.

7.6. Arbitration board of the Innung für das Kraftfahrzeuggewerbe Euskirchen (Euskirchen Motor Industry Guild)

Particulars of the body

Eichendorffstraße 44 – 46
53879 Euskirchen,
Tel: (0 22 51) 9 80 10
Fax: (0 22 51) 98 01 30

Structure

4 – 5 members,
one lawyer,
guild representatives,
experts,
term of office: 3 years

Powers

Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure

Written application
Hearing after preliminary examination

Costs

None

Decision

Settlement proposal

Enforcement

None.

7.7. Arbitration board of the Kraftfahrzeug-Innung Rhein-Berg/Leverkusen (Rhein-Berg/Leverkusen Motor Vehicle Guild),

Particulars of the body

Kreishandwerkerschaft Rhein-Berg/Leverkusen,
Altenberger-Dom-Straße 200
51467 Bergisch Gladbach
Tel: (0 22 02) 9 35 90
Fax: (0 22 02) 93 59 30

Structure

4 – 5 members,
one lawyer,
guild representatives,
experts,
term of office: 3 years

Powers

Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure

Written application

Hearing after preliminary examination

Costs

None

Decision

Settlement proposal

Enforcement

None.

7.8. Arbitration board for motor vehicle engineering craftsmen of the Kreishandwerkerschaft Coesfeld (Coesfeld District Craftsmen's Association)

Particulars of the body

Borkener Straße 1

48653 Coesfeld,

Tel: (0 25 41) 9 45 60

Structure

4 – 5 members,

one lawyer,

association representatives,

experts,

term of office: 3 years

Powers

Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure

Written application

Hearing after preliminary examination

Costs

None

Decision

Settlement proposal

Enforcement

None.

7.9. Arbitration board of the Kraftfahrzeug-Innung des Erftkreises (Erft District Motor Vehicle Guild)

Particulars of the body

Kreishandwerkerschaft Rhein-Erft,

Kölner Straße 2, 50226 Frechen
Tel: (0 22 34) 5 22 22
Fax: (0 22 34) 2 29 03

Structure

4 – 5 members,
one lawyer,
guild representatives,
experts,
term of office: 3 years

Powers

Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure

Written application
Hearing after preliminary examination

Costs

None

Decision

Settlement proposal

Enforcement

None.

7.10. Arbitration board for motor vehicle engineering craftsmen at the Kreishandwerkerschaft Gelsenkirchen (Gelsenkirchen District Craftsmen's Association)

Particulars of the body

Emscherstraße 44
45891 Gelsenkirchen,
Tel: (02 09) 97 08 10

Structure

4 – 5 members,
one lawyer,
association representatives,
experts,
term of office: 3 years

Powers

Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure

Written application
Hearing after preliminary examination

Costs

None

Decision

Settlement proposal

Enforcement

None.

7.11. Arbitration boards at the Kraftfahrzeug-Innung für den Oberbergischen Kreis (Oberberg District Motor Vehicle Guild)

Particulars of the body

Bismarckstraße 9 a
51643 Gummersbach,
Tel: (0 22 61) 91 06 20
Fax: (0 22 61) 9 10 62 99

Structure

4 – 5 members,
one lawyer,
guild representatives,
experts,
term of office: 3 years

Powers

Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure

Written application
Hearing after preliminary examination

Costs

None

Decision

Settlement proposal

Enforcement

None.

7.12. Arbitration board of the Innung des Kraftfahrzeuggewerbes Köln (Cologne Motor Industry Guild)

Particulars of the body

Frankfurter Straße 200
51065 Köln
Tel: (02 21) 9 69 37 80
Fax: (02 21) 9 36 37 88

Structure

4 – 5 members,
one lawyer,
guild representatives,
experts,
term of office: 3 years

Powers

Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure

Written application
Hearing after preliminary examination

Costs

None

Decision

Settlement proposal

Enforcement

None.

7.13. Arbitration board for motor vehicle engineering craftsmen at the Kreishandwerkerschaft Münster (Münster District Craftsmen's Association)

Particulars of the body

Weseler Straße 4
48151 Münster,
Tel: (02 51) 52 00 80

Structure

4 – 5 members,
one lawyer,
association representatives,
experts,
term of office: 3 years

Powers

Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure

Written application
Hearing after preliminary examination

Costs

None

Decision

Settlement proposal

Enforcement

None.

7.14. Arbitration board for motor vehicle engineering craftsmen at the Kreishandwerkerschaft Recklinghausen (Recklinghausen District Craftsmen's Association)

Particulars of the body
 Dortmunder Straße 18
 45665 Recklinghausen
 Tel: (0 23 61) 4 80 30

Structure
 4 – 5 members,
 one lawyer,
 association representatives,
 experts,
 term of office: 3 years

Powers
 Disputes arising from sales contracts for used cars up to 2.8 t and disputes between clients and workshops affiliated to the guild.

Procedure
 Written application
 Hearing after preliminary examination

Costs
 None

Decision
 Settlement proposal

Enforcement
 None.

8. Rhineland-Palatinate

8.1. Schiedsstelle des Kfz-Gewerbes (Motor Industry Arbitration Board)

Hoevelstraße 19
 56073 Koblenz
 Tel: (02 61) 40 63 00
 Fax: (02 61) 40 63 30

8.2. Schiedsstelle des Kfz-Gewerbes

Loebstraße 18, 54292 Trier
 Tel: (06 51) 2 20 01
 Fax: (06 51) 2 78 62

8.3. Schiedsstelle des Kfz-Gewerbes

Göttelmannstraße 1, 55130 Mainz
 Tel: (0 61 31) 9 99 20
 Fax: (0 61 31) 99 92 63

8.4. Schiedsstelle des Kfz-Gewerbes

Langendorfer Straße 91, 56564 Neuwied
 Tel: (0 26 31) 2 09 34
 Fax: (0 26 31) 2 09 33

8.5. Schiedsstelle des Kfz-Gewerbes

Mannheimer Straße 132, 67657 Kaiserslautern

Tel: (06 31) 3 40 34 67
 Fax: (06 31) 3 40 34 78

Structure

The arbitration boards have an arbitration committee. In disputes about sales contracts for second-hand vehicles this comprises four members:

- a chairman who is qualified to be a judge
- a representative of a motoring organisation
- an officially appointed and sworn motor vehicle expert, and
- a representative of the motor industry association.

In disputes about vehicle repair contracts the committee has five members:

- a chairman who is qualified to be a judge
- a representative of a motoring organisation
- a motor vehicle expert
- an officially appointed and sworn motor vehicle expert
- a representative of the motor industry association.

Committee members have a three-year term of office.

Powers

The arbitration boards are responsible for dealing with the craft trades and the used-car trade. National statistics are kept on all disputes.

Procedure:

A hearing is usually held, for which preparatory submissions are made. The procedure should be concluded within three months of the application to the arbitration board. The consumer can involve an authorised representative in the procedure at any time.

The arbitration committee is quorate if at least three members are present. It takes decisions by a majority vote of the members present.

The model rules of business and rules of procedure can be requested from the board's office.

Costs

The arbitration board's services are provided free of charge. However, any costs incurred by the parties, their representatives, witnesses or any other people providing information are not reimbursed.

Nature of the decision

Arbitration settlements and rulings are recorded in writing. Grounds are given for the rulings and communicated to the parties; they are not binding on the consumer.

Enforcement

Arbitration board settlements and rulings are not compulsorily enforceable.

9. Saxony

9.1. Arbitration board for the used-car trade

Particulars of the body

Landesverband des Kfz-Gewerbes Sachsen e. V.
 Tiergartenstraße 94
 01219 Dresden

Tel: (03 51) 25 95 50
 Fax: (03 51) 259 55 77
 E-Mail: kfz-sachsen@t-online.de
 Internet: <http://www.kfz-sachsen.de>

Structure

The arbitration board for the used-car trade has a four-member arbitration committee:

- a chairman who is qualified to be a judge
- a representative of a motoring organisation
- an officially appointed and sworn motor vehicle expert, and
- a representative of the motor industry association.

Powers

The arbitration board for the used-car trade is responsible for dealing with disputes arising from sales contracts for second-hand vehicles between purchasers and dealers displaying the used-car seal of confidence of the Zentralverband des Deutschen Kraftfahrzeuggewerbes (ZDK) (Central Motor Industry Association).

The geographical coverage is the Free State of Saxony. There is no threshold for the value of the dispute.

Procedure

A written application must be submitted to the arbitration board. A hearing is usually held, to which the parties are summoned. The consumer may involve an authorised representative in the procedure at any time. The hearing is held in camera.

If, despite being duly summoned, one of the parties or an authorised representative fails to appear at the hearing, the arbitration committee will decide on the basis of the documents submitted and the results of any evidence presented, taking account of the submissions of the parties which did attend or were represented.

The procedure should be concluded at the latest within three months of the application to the arbitration board. The arbitration committee is authorised to take evidence.

Applications to the arbitration board do not preclude the possibility of taking legal action.

Costs

The arbitration board's services are provided free of charge. However, any costs incurred by the parties, their representatives, witnesses and any other people providing information are not reimbursed.

Nature of the decision

The arbitration committee proposes an out-of-court settlement to the parties on the basis of the results of the hearing and any evidence presented. If the parties agree to a settlement, the text is recorded in triplicate, read out, approved by the parties and signed by the chairman. Each party receives a copy.

If the parties are unable to agree, the committee may also issue a ruling. This must be recorded in writing together with the grounds on which it is based, and signed by at least the chairman. Each party is given a copy. Under the model rules for motor vehicle guilds the vehicle companies involved in the dispute are required to comply with the ruling. The consumer, on the other hand, is not required to do so. The ruling does not preclude the possibility of taking legal action.

Enforcement

The arbitration committee's decisions are not enforceable.

Observations

From the point of view of transparency, it should be pointed out that national statistics are kept on all disputes.

9.2. Arbitration boards for the motor vehicle craft trades

Innung des Kfz-Handwerks (Motor Vehicle Craft Trades Guild)

Region Dresden

Tiergartenstraße 94, 01219 Dresden

Tel: (03 51) 253 93 11

Fax: (03 51) 253 93 09

Innung des Kfz-Handwerks Oberlausitz

Muskauer Straße 51, 02906 Niesky

Tel: (0 35 88) 26 16 78

Fax: (0 35 88) 26 16 79

E-Mail: pullwitt@kfz-oberlausitz.de

Innung des Kfz-Techniker-Handwerks (Motor Vehicle Craft Trade Engineers Guild)

Region Leipzig

Paul-Grüner-Straße 39, 04107 Leipzig

Tel: (03 41) 213 23 01

Fax: (03 41) 213 23 01

Innung des Kfz-Handwerks "Vogtland"

RähnisträÙe 19, 08523 Plauen

Tel: (0 37 41) 160 57

Fax: (0 37 41) 160 57

Kfz-Innung Sachsen West

An der Markthalle 13, 09111 Chemnitz

Tel: (03 71) 67 00 86

Fax: (03 71) 603 34

Structure

The arbitration boards for motor vehicle craft trades have a five-member arbitration committee:

- a chairman who is qualified to be a judge,
- a representative of a motoring organisation,
- a motor vehicle expert from a recognised monitoring organisation (eg. TÜV, DEKRA),
- an officially appointed and sworn motor vehicle expert,
- a representative of the motor vehicle guild.

Committee members have a three-year term of office, which cannot be terminated without good reason and may be renewed. At least one deputy must be appointed for each member.

Powers

The arbitration boards are responsible for dealing with disputes about workshop contracts between clients and workshops affiliated to the guild.

The geographical coverage is the Free State of Saxony. There is no threshold for the value of the dispute.

Procedure

A written application must be made to the arbitration board. A hearing is usually held, to which the parties are summoned. The consumer may involve an authorised representative in the procedure at any time. The hearing is held in camera.

If, despite being duly summoned, one of the parties or an authorised representative fails to appear at the hearing, the arbitration committee will decide on the basis of the documents submitted and the results of any evidence presented, taking account of the submissions of the parties which did attend or were represented.

The procedure should be concluded at the latest within three months of the application to the arbitration board. The arbitration committee is authorised to take evidence.

Applications to the arbitration board do not preclude the possibility of taking legal action.

Costs

The arbitration board's services are provided free of charge. However, any costs incurred by the parties, their representatives, witnesses and any other people providing information are not reimbursed.

Nature of the decision

The arbitration committee proposes an out-of-court settlement to the parties on the basis of the results of the hearing and any evidence presented. If the parties agree to a settlement, the text is recorded in triplicate, read out, approved by the parties and signed by the chairman. Each party receives a copy.

If the parties are unable to agree, the committee may also issue a ruling. This must be recorded in writing together with the grounds on which it is based, and signed by at least the chairman. Each party is given a copy. Under the model rules for motor vehicle guilds the vehicle companies involved in the dispute are required to comply with the ruling. The consumer, on the other hand, is not required to do so. The ruling does not preclude the possibility of taking legal action.

Enforcement

The arbitration committee's decisions are not enforceable.

Observations

From the point of view of transparency, it should be pointed out that national statistics are kept on all disputes.

10. Saxony-Anhalt**10.1. Arbitration board for the motor industry**Particulars of the body

c/o Landesverband des Kfz-Gewerbes Sachsen-Anhalt
Hohenziazer Chaussee 16
39291 Möckern
Tel: (03 92 21) 9 55 55
Fax: (03 92 21) 9 55 60

Structure

Collegiate body

Chairman qualified to be a judge, currently a lawyer;

Members: representatives of the ADAX, TÜV, DAT and of the regional craftsmen's association; deputies are appointed and delegated by the members.

Powers

For repairs to vehicles – in this case cars – up to 2.8 t.

Defendant must be a member of a motor industry guild in Saxony-Anhalt. It is intended to extend coverage to include two-wheeled motorised vehicles under the same conditions as above.

For disputes concerning the used-car trade – in this case cars up to 2.8 t

Here too the intention is to extend coverage to two-wheeled vehicles.

However, in addition to being members of a guild firms must be entitled to display the used car seal of confidence of the Zentralverband des Deutschen Kraftfahrzeuggewerbes (Central Motor Industry Association). This last requirement is likely to be abolished on 31 December 1999.

Procedure

Written application (no official form required) by the vehicle owner as soon as the subject of the dispute is identified. It must be made clear in the application that the owner has already attempted to resolve the dispute before applying to the arbitration board.

- Preliminary examination by the arbitration board's office (further details or documents may be requested if necessary).
- Application forwarded to defendant and written opinion obtained.
- Date fixed for hearing, to which the parties are invited; they may send a written statement declining to attend and may authorise the board to take a decision on the basis of the documents presented.
- A record of the hearing is drawn up. Decisions are usually communicated to the parties verbally and then recorded in writing immediately afterwards and forwarded to them.

Nature of the decision

The application may be accepted. It may be rejected as unfounded and inadmissible. An irrevocable settlement may be reached. Unlike the defendant the applicant is not bound by the decision.

Costs

The cost of providing the service is borne by the arbitration board's members (see Paragraph 2). The parties pay only their own costs for postage, telephone calls and attending the hearing. This is why it is essential that the defendant should be a member of a guild.

Enforcement

The decision cannot be enforced. The arbitration board has never known a case where a defendant has refused to comply with a decision against it.

11. Bremen

11.1. Arbitration board of the Landesverband des Kraftfahrzeuggewerbes Niedersachsen/Bremen e. V. (Lower Saxony/Bremen Regional Motor Industry Association) for the used car trade

Particulars of the body

Ansgartitorstraße 24

28195 Bremen

Tel: (04 21) 305 00 26

Object

Disputes between used car purchasers and dealers.

Structure

A chairman who is qualified to be a judge, one representative from a motoring organisation, one officially appointed and sworn motor vehicle expert who is a member of the Deutsche Automobil-Treuhand-GmbH (German Automobile Trust), and one representative from the motor industry association.

Costs

None.

G. Building disputes: arbitration boards of the Chambers of Architects and Engineers

1. Baden-Württemberg

1.1. Arbitration committee of the Architektenkammer Baden-Württemberg (Baden-Württemberg Chamber of Architects)

Particulars of the body

Danneckerstr. 54, 70182 Stuttgart
 Tel: (07 11) 21 96-13 13
 Fax: (07 11) 21 96- 1 21
 Email address Recht@akbw.de

Structure

The arbitration committee consists of a chairman and two assessors. The chairman must be qualified to be a judge, and the assessors must be members of the Baden-Württemberg Chamber of Architects. The committee members are appointed by the regional executive committee for four years.

Powers

The arbitration committee is responsible for dealing with disputes between members of the Chamber of Architects themselves and between members and other architects, town planners and third parties.

Procedure

The procedure is initiated by a written application from one of the parties to the dispute. If a non-member architect or a town planner or third party is involved, the committee can only take action with their agreement. The chairman will order the parties to attend the arbitration hearing in person, if necessary. In exceptional cases a written decision is issued. The applicant is required to make an appropriate advance payment.

Costs

The arbitration committee decides at its own discretion how the costs should ultimately be divided between the parties, unless otherwise agreed as part of a settlement. This also applies where no settlement has been reached or the arbitration procedure has been completed without a hearing. A fee is charged for the arbitration procedure in accordance with § 3 of the schedule of charges of the Baden-Württemberg Chamber of Architects.

Nature of the decision

At the hearing the arbitration committee draws up an expert opinion on the facts and legal situation and proposes a settlement to the parties on the basis of this. If a settlement is not

agreed, the failure of the attempted conciliation must be noted in the records. The proposed settlement is not legally binding on either party.

Enforcement

The decisions are not enforced.

1.2. Arbitration committee of the Ingenieurkammer Baden-Württemberg (Baden-Württemberg Chamber of Engineers)

Particulars of the body

Zellerstr. 26

70180 Stuttgart

Tel: (07 11) 6 49 71.33

Fax: (07 11) 6 49 71.55

E-Mail: ingkbw@ingenieure.de

Internet: <http://www.ingenieure.de/bw>

Structure

The arbitration committee consists of three members.

Powers

The committee attempts to achieve an out-of-court settlement in disputes concerning professional services between members of the Chamber themselves or between members and third parties. The arbitration board intervenes upon application from one of the parties involved or at the suggestion of the executive committee.

Procedure

The arbitration procedure is carried out only if both parties agree. Their written consent is also required if evidence is to be taken from witnesses or experts. The committee decides on the basis of a hearing to which the parties are summoned.

Costs

If the arbitration procedure ends in a settlement and the settlement does not make any provision for costs, then each party pays half of the costs. Each party also pays its own costs.

If the arbitration fails, the costs of the procedure must be borne by:

- the applicant, if the defendant did not agree to the arbitration procedure or if a settlement was not reached,
- the defendant if, in spite of agreeing to the procedure, he failed to present his case or failed to do so in good time,
- any party who, although duly summoned, failed to appear at the hearing, or whose witness failed to appear, or whose expert failed to submit his opinion even after a warning.

The costs of the Chamber of Engineers are charged according to the Chamber's schedule of fees and expenses and are claimed by a cost assessment notice issued by the Chamber.

The Chamber charges a basic fee of DM 900 for a procedure before the arbitration committee and a fee of DM 1300 for each hearing.

Nature of the decision

At the end of the procedure the arbitration committee puts a decision containing a proposed settlement before the parties. If they accept the proposal the procedure is concluded.

Otherwise the arbitration is deemed to have failed. The parties are not bound by the proposed settlement.

Enforcement

Decisions are not enforced.

2. Bavaria

2.1. Arbitration committee of the Bayerische Architektenkammer (Bavarian Chamber of Architects)

Particulars of the body

Bavariaring 6, 80336 München,
Tel: (0 89) 5 30 99 90

Structure

The arbitration committee has three members who are appointed by the executive committee of the Bavarian Chamber of Architects for the latter committee's term of office.

Powers

Out-of-court settlement of disputes concerning professional services between members of the Chamber themselves or between members and third parties.

Procedure

The main aspects of the procedure are set out in the rules of the Bavarian Chamber of Architects.

Costs

Expenses and fees are charged in line with the Chamber's schedule of fees. The arbitration committee decides who should pay the costs.

Nature of the decision

The arbitration committee suggests a proposed settlement.

Enforcement

A settlement reached before the arbitration committee does not constitute an enforcement order.

3. Berlin

3.1. Fachgemeinschaft Bau (Construction Trades Association)

Particulars of the body

Beißstraße 12
12277 Berlin
Tel: 7 23 80-6
Fax: 72 26 00-3

§ 1 Role of the conciliation board

1. The conciliation board of the Fachgemeinschaft Bau Berlin und Brandenburg e. V. (Berlin and Brandenburg Construction Trades Association) is a body which is independent of the Association. Its purpose is to settle disputes between members of the Association and between members and third parties.

2. The conciliation board is not an arbitration tribunal but an impartial mediation body. Part of its remit is to make suggestions and proposals to the parties. It has no restraint powers, either statutorily or under the Association's own rules. Decisions on settlements or other solutions to the disputes apply only to the parties involved. The Association and the members of the conciliation board have no contractual, quasi contractual or statutory responsibility towards the parties to the dispute or third parties. § 276(2) of the BGB (Civil Code) is not affected.

§ 2 Composition of the conciliation board

1. The chairman of the conciliation board is usually a sworn expert working in an honorary capacity. His expenses and any compensation for time spent on Association business may be paid only with the agreement of the Association.
2. In addition to the chairman the conciliation board also includes a member of the management staff (assessor), who must have legal training and should be qualified to be a judge. He has the right to speak and to make proposals at the conciliation hearing.
3. The chairman may, acting on request or on his own initiative, call in experts or other persons if necessary. This must be agreed in advance with the Construction Trades Association office. The person called in has no entitlements whatsoever in respect of the Association or the parties solely on the ground of his involvement.

§ 3 Procedure

1. The work of the conciliation board is carried out at hearings, which are usually held at the Construction Trades Association's premises.
2. The appointment for the hearing is fixed by the assessor in agreement with the chairman, acting through the Association's office. The parties are usually summoned in writing, though they may be summoned verbally or by telephone if they agree. There should be at least a week between the dispatch of the summons and the date of the hearing. The summons should request the parties to submit a written statement of their position and any other documents in advance.
3. In accordance with the Association's rules (§ 4(2)(f)) members of the Construction Trades Association are obliged to attend the hearing.
4. An appointment is fixed only upon application from one of the parties. It may be cancelled only if the applicant requests or agrees. The conciliation board may cancel an appointment for organisational reasons, if it fixes a new appointment immediately.
5. The chairman of the board may refuse to fix an appointment or go ahead with a hearing if he establishes in consultation with the assessor or with the management of the Construction Trades Association that the application to the board is clearly improper. This also applies if a party conducts himself improperly before or during the hearing, particularly by trying to bring pressure to bear on the board or by affronting another party or a member of the board by what he says.
6. Outside the hearing the assessor carries out the board's business.
7. The chairman decides on the procedure to be followed at the hearing at his discretion, and he conducts the hearing. He is required to consult the assessor from the Association's management staff about this and, on request, to allow him to state

his views on the procedure and the case at issue. The chairman is responsible for admission to the hearing throughout.

8. The chairman and the assessor carry out their work impartially and without consideration of a party's membership of the Association. Their proposals and instructions must be designed to achieve an appropriate balance of interests. An expert who has been the chairman of a conciliation board in a case must not subsequently act as an expert for one of the parties in the same case. If an expert has acted on behalf of one of the parties prior to the hearing on a case, he must decline to assume chairmanship in that same case.
9. At the hearing the chairman must give the parties the opportunity in fact and in law to present their case (due process of law).
10. If, exceptionally, one hearing is not enough to reach a settlement in a case, a further date is fixed at the request of one of the parties. Paragraph 2 applies, with the proviso that a new summons is not required if the date was fixed during the hearing.

§ 4 Record

1. The assessor prepares a record of each hearing, which must include:
 - the names of the chairman and those present
 - a description of the questions at issue
 - the outcome of the hearing
 - the date and duration of the sitting.
2. Further details, such as a description of the parties' submissions and the board's proposals, may be included in the record.
3. The original record, to be signed by the assessor, is kept by the board. The chairman and the parties are given copies.
4. The parties are required to examine the contents of the record and to inform the board of any inaccuracies within one week of its dispatch. The record will be amended if the examination indicates that the details required under paragraph 1 are inaccurate.
5. The substance of the settlement or any other arrangement is determined solely by what the parties verbally agreed at the hearing. The record has no particular legal or evidential force. It merely sets out the rapporteur's perceptions and serves as an *aide-mémoire* for the parties.

§ 5 Costs, legal remedies, selection of chairman

1. The services of the conciliation board are provided free of charge for the parties.
2. There are no legal remedies against the conciliation board's procedure, but every party can officially reject the chairman of the board at the hearing if he grossly and flagrantly fails to carry out his duties, particularly those set out in § 3(7) to (9). In the event of such a rejection the chairman will cancel the hearing. He may make a statement for the board's record at the hearing or outside it. § 4(3) applies accordingly. Another expert should take charge of the new hearing, a date for which should be fixed immediately.
3. The conciliation board's chairmen are newly appointed for each hearing except in the cases described in § 3(10). The relevant experts on the Construction Trades

Association's list should chair hearings in accordance with their particular specialisations. No party has the right to have a particular chairman appointed. Any expert can refuse to chair a particular hearing if he has serious grounds for doing so.

§ 6 Establishment and amendment of the rules of procedure

1. The rules of procedure of the conciliation boards are decided by the executive committee of the Construction Trades Association. The executive committee also decides on any amendments and additions, and on the revocation of the rules of procedure.
2. The rules of procedure referred to above were adopted by the executive committee on 28 April 1969.

4. Bremen

4.1. Bauschlichtungsstelle Bremen (Bremen construction sector arbitration board)

Particulars of the body

Altenwall 7/8
28195 Bremen
Tel: (04 21) 32 28 23
Fax: (04 21) 32 63 76

Subject of the procedure

Disputes between site owners, building contractors, builders, architects, construction engineers and specialists.

Composition

A chairman who is qualified to be a judge, two assessors who must be officially appointed and sworn construction experts.

Costs

Minimum fee for staff costs: DM 740 plus a flat-rate charge of DM 100 for non-personnel costs.

Decision

Settlements reached before the construction sector arbitration board are compulsorily enforced in accordance with § 794(1)(1) ZPO (Code of Civil Procedure).

4.2. Arbitration board of the Architektenkammer Bremen (Bremen Chamber of Architects)

Particulars of the body

Geeren 41/43
28195 Bremen
Tel: (04 21) 17 00 07
Fax: (04 21) 30 26 92

Subject of the procedure

Disputes between architects and their clients.

Composition

A chairman who is qualified to be a judge, and two assessors who are members of the Bremen Chamber of Architects.

Costs

In non-pecuniary disputes, between DM 100 and DM 1000 depending on the scale of the case.

In pecuniary disputes with a value up to DM 5000, 7% of the value of the dispute. With higher values fee increases on a degressive scale.

4.3. Arbitration board of the Ingenieurkammer Bremen (Bremen Chamber of Engineers)

Particulars of the body

Geeren 41/43
28195 Bremen
Tel: (04 21) 17 00 07
Fax: (04 21) 30 26 92

Subject

Disputes between engineers and their clients.

Composition

A chairman who is qualified to be a judge, two members of the Bremen Chamber of Engineers as assessors, one of whom must be on the list of consultant engineers.

Costs

As in the procedure before the Chamber of Architects' arbitration board.

4. Mecklenburg-Western Pomerania

4.1. Schiedsgericht Bau e. V. (Construction Sector Arbitration Tribunal) - Office –

Particulars of the body

c/o IHK zu Schwerin,
Schloßstraße 17
19053 Schwerin

This arbitration tribunal, which is run by an association, can be applied to in civil disputes under construction, architectural and engineering law. It operates according to its own arbitration rules. The tribunal chairman and individual arbitrators in procedures must be qualified to be a judge or qualified lawyers.

5. North Rhine-Westphalia

5.1. Construction sector arbitration board at the Handwerkskammer Aachen (Aachen Chamber of Craft Trades)

Particulars of the body

Postfach 50 02 34
52086 Aachen,
Tel: (02 41) 471-0

Fax: (02 41) 47 11 03

Internet: <http://www.hwk-aachen.de>

Structure

A chairman appointed for three years and two experts appointed as assessors by the chairman in each individual case.

Powers

Disputes between building owners, builders, architects, construction engineers and experts, provided that the firm in question is located in the district covered by the Chamber.

Procedure

Written application with a statement agreeing to pay costs.

Costs

Non-personnel flat-rate fee of DM 150; procedure fee depending on value: DM 200 – 600 for the chairman and DM 150 – 450 for each assessor; hearing fee: DM 180 /130 per hour

Decision

Proposed settlement

Enforcement

Compulsory enforcement in accordance with § 794(1)(1) ZPO (Code of Civil Procedure).

5.2. Arbitration board of the Handwerkskammer Aachen (Aachen Chamber of Craft Trades)

Particulars of the body

Postfach 50 02 34

52086 Aachen

Tel: (02 41) 4 71-0

Fax: (02 41) 47 11 03

Internet: <http://www.hwk.aachen.de>

Structure

Members of the Chamber's staff

Powers

Disputes between self-employed craftsmen in the district covered by the Chamber and their clients.

Procedure

No formal procedure

Costs

None

Decision

Proposed settlement.

Enforcement

None

5.3. Construction sector arbitration board of the Handwerkskammer Arnsberg (Arnsberg Chamber of Craft Trades)

Particulars of the body

Postfach 52 62
59802 Arnsberg
Tel: (0 29 31) 87 70
Fax: (0 29 31) 87 71 60

Structure

A chairman who is qualified to be a judge and assessors appointed in each individual case who are officially appointed and sworn experts. The chairman is appointed for three years.

Powers

Disputes between building owners and builders, architects, construction engineers or experts.

Procedure

Written application, agreement of defendant

Costs

Flat-rate expenses of DM 150
Flat-rate fee for the procedure depending on the value of the dispute, plus hourly fee for the hearing

Decision

Proposed settlement

Enforcement

Compulsory enforcement in accordance with § 794(1)(1) ZPO (Code of Civil Procedure).

5.4. Construction sector arbitration board of the Handwerkskammer Dortmund (Dortmund Chamber of Craft Trades)

Particulars of the body

Postfach 10 50 23
44047 Dortmund
Tel: (02 31) 54 93-0
Fax: (02 31) 54 93-116
Internet: <http://www.hwk-do.de>

Structure

A chairman who is qualified to be a judge and two assessors appointed in each individual case who are officially appointed and sworn experts. The chairman is appointed for three years.

Powers

Arbitration in disputes between building owners, builder-architects and construction engineers in the district covered by the Dortmund Chamber of Craft Trades.

Procedure

Written application from one party and other party's agreement to the procedure;
Hearing, where appropriate with site visit.

Costs

Arbitration board fees in accordance with a schedule of charges, plus non-personnel flat – rate charge.

Decision

Proposed settlement

Enforcement

Compulsory enforcement in accordance with § 794(1)(1) ZPO (Code of Civil Procedure).

5.5. Construction sector arbitration boards at the Handwerkskammer Düsseldorf (Düsseldorf Chamber of Craft Trades)

Particulars of the body

Postfach 10 27 55
40018 Düsseldorf,
Tel: (02 11) 87 95 - 5 11
Fax: (02 11) 87 95 – 515
E-Mail: steinritz@hwk-duesseldorf.de

Structure

A woman judge as chairman with, where necessary, one or two officially appointed and sworn experts as assessors.

Powers

Responsible for dealing with building disputes in the administrative district of Düsseldorf

Procedure

Procedure only with the agreement of both parties;
Hearing may be held

Costs

Flat-rate charge of DM 100
Flat-rate fee between DM 150 and DM 1000, depending on value of dispute
Hearing DM 100 to DM 250 per hour.

Decision

Proposed settlement

Enforcement

Compulsory enforcement in accordance with § 794(1)(1) ZPO (Code of Civil Procedure).

6. Lower Saxony

6.1. Arbitration committee at the Architektenkammer Niedersachsen (Lower Saxony Chamber of Architects)

Particulars of the body

Hindenburgstraße 26
30175 Hannover
Postfach 4 07
Tel: (05 11) 2 80 96-0
Fax: (05 11) 2 80 96-27

Structure

The arbitration committee of the Lower Saxony Chamber of Architects consists of a chairman and architects appointed as assessors, together with their deputies. It usually operates with the chairman and two assessors. In appropriate cases, but only with the parties' agreement, the chairman may carry out the procedure without assessors or with only one.

The chairman of the committee is a lawyer.

The chairman, his deputy and the assessors are elected by the representatives' assembly for the duration of the assembly's term of office. The assessors are used in rotation, taking account of where they live and the location at which the hearing is held. At least one of the assessors should belong to the same branch and type of occupation as the architect(s) involved in the procedure. The assessors may not be members of the Chamber's executive committee.

The members of the arbitration committee are required to assess disputes impartially, objectively and to the best of their knowledge and belief. They do not act under instruction. They take their decisions by a simple majority after secret deliberation.

Powers

The arbitration committee's role is to persuade the parties to agree to an out-of-court settlement in disputes relating to professional services between architects or between architects and third parties.

Procedure

An application for an arbitration procedure may be made by: architects on the architects' list of a Chamber located within the area covered by the Grundgesetz (Basic Law), third parties involved in the dispute, the executive committee of the Chamber and the executive committee of another Chamber of Architects located within the area covered by the Grundgesetz.

The parties may be represented by lawyers; legal advisers are admitted.

The application must name the parties involved and should give a description of the circumstances of the dispute, enclosing appropriate evidence.

The chairman forwards the application for an arbitration procedure to the defendant, requesting him to indicate in writing within an appropriate period whether he agrees to the procedure. He and the applicant must be sent a copy of the arbitration rules, a list of instructions about the procedure, the rules governing costs and the relevant schedule of charges.

An arbitration procedure may not be initiated if one of the parties does not agree. However, the professional codes of architects may sometimes require them to attempt arbitration before approaching the ordinary courts.

As soon as the defendant has agreed to the procedure, the chairman issues an order to open the procedure and fixes a date for the hearing, to which the parties are summoned. The chairman may refuse to open the main procedure if it appears unlikely to succeed because of practical difficulties, the scale of the dispute or the conduct of one of the parties. The members of the arbitration committee are entitled to take a unanimous decision to refuse to carry out or to continue the procedure on those same grounds once the main procedure has been opened and the hearing has begun.

In the written procedure the chairman may put a reasoned proposed settlement before the parties with their agreement or by arrangement with the assessors.

The procedure before the committee is held in camera. Third parties may be admitted with the agreement of all the parties involved.

Costs

Once the main procedure before the arbitration committee has started costs (fee plus expenses) are charged, as determined by the chairman in accordance with the schedule of charges of the Lower Saxony Chamber of Architects. The fee depends on the value of the dispute; the minimum for a procedure involving a hearing is DM 250.

The costs of the procedure are usually divided equally between the parties who applied for and agreed to the procedure. In exceptional cases the costs may be divided differently at the committee's discretion. This also applies if the arbitration fails. It is left to the parties to decide on the payment of their own costs, particularly if a lawyer or legal adviser has been involved.

Nature of the decision

The arbitration committee may suggest a non-binding proposed settlement to the parties.

Enforcement

Settlements reached before the arbitration committee are not enforceable.

Publication of the arbitration board's decisions

No

6.2. Construction sector arbitration board at the Handwerkskammer Osnabrück/Emsland (Osnabrück/Emsland Chamber of Craft Trades)

Particulars of the body

Bramscher Straße 134 – 136
49088 Osnabrück
Tel: (05 41) 69 29-0
Fax: (05 41) 69 29-2 90

Structure

The arbitration board is an agency of the Osnabrück/Emsland Chamber of Craft Trades and comprises a chairman and two assessors. The chairman must be qualified to be a judge and should have professional experience of building disputes. He is appointed by the Chamber for three years.

The assessors must have expert knowledge of the subject and should be officially appointed and sworn experts from the fields covered by the Chamber of Craft Trades or the Chambers of Industry and Commerce in Lower Saxony. They are appointed by the chairman on a case-by-case basis depending on the particular issues involved. The chairman and the assessors are independent and do not act under instruction; they decide by a majority vote.

The arbitration board's administrative work is carried out by the Osnabrück/Emsland Chamber of Craft Trades as its office.

Powers

The board is responsible for reaching an out-of-court settlement in disputes between clients and self-employed craftsmen or the owners of craft trade businesses arising from works contracts involving construction. Coverage is limited to the area covered by the Osnabrück/Emsland Chamber of Craft Trades. There are no other special conditions of access or thresholds for the value of the dispute.

Applications may be made for the board to act as a conciliation committee, suggesting a proposed agreement to the parties and working towards establishing this as an official settlement, or for the board to act as an arbitration tribunal as provided for in Volume 10 of the ZPO (Code of Civil Procedure) on the basis of the parties' written agreement. Applications may also be made to the board's office for the mediation of an expert, who would be asked to draw up an opinion on behalf of the parties. The board only takes action if it is requested to do so by both parties.

Procedure

Applications for the conciliation or arbitration tribunal procedure must be submitted in writing in duplicate to the board's office, indicating the substance of the claim and the facts on which it is based. They should include a statement signed by both parties showing that they have agreed to apply to the board, that they accept joint liability for the costs of the procedure, and that they agree to comply with the rules of procedure and any agreement reached before the arbitration tribunal. If the defendant has not yet indicated his agreement to the procedure, the board's office asks him to state whether he agrees to it by a given deadline.

Inadmissible applications are rejected by a written decision of the chairman, indicating the grounds on which it is based. Otherwise, applications must be forwarded to the defendant for a written opinion, for which a period of at least two weeks must be allowed.

Once the written procedure has been initiated the further progress of the procedure is at the chairman's discretion. Both parties may agree to decline a hearing. If it appears useful to clarify the facts a preliminary procedure is carried out prior to the main procedure before the chairman and assessors. The chairman appoints an expert to carry out the preliminary procedure, who then acts as an assessor if there is a subsequent hearing. The expert carries out a site visit and discusses the results with the parties. He must suggest appropriate proposed settlements to the parties for the resolution of the dispute. If no settlement is reached, the expert must record the results in an abridged report. If requested by both parties he will produce a detailed written report.

Hearings before the arbitration board are held in camera. The board may hear witnesses and experts, who appear on a voluntary basis. The board is not authorised to take evidence from witnesses, experts or parties on oath.

Costs

Costs are charged for the procedure before the board in line with a special schedule of charges.

They consist of the following:

The flat-rate charge for the office's non-personnel costs in conciliation and arbitration tribunal procedures (secretarial work, use of premises, postage, telephone, photocopying etc) is DM 150, unless expenses have been higher in individual cases. If the procedure is not carried out because the defendant does not agree, the charge is reduced to DM 30.

In the conciliation procedure a fee of DM 250 each is charged for the chairman and the assessors for the procedure excluding the hearing. The fee is halved if an agreement is reached during the preliminary procedure.

For the hearing with the parties and the subsequent consultation in the conciliation procedure the charge is DM 100 each for the chairman and the assessors for each hour or part of an hour.

For the expert to carry out a site visit and produce an abridged report a charge of DM 100 is made for each hour or part of an hour; if the parties both request the expert to produce a written opinion, the fee is doubled.

In the arbitration tribunal procedure the members of the board receive the same fees as a lawyer receives under the BRAGO for representing a client in court. The chairman receives 15/10 and the assessors 13/10 each of the full fee due according to the value of the dispute.

The travel expenses incurred by the expert or any members of the board involved in carrying out a site visit must also be reimbursed.

A fee of DM 50 is charged for producing an arbitration report.

The parties are jointly liable for the costs. Any charges incurred by default must be paid by the defaulting party alone.

In disputes requiring an above-average amount of time and work the board may insist on the agreement of appropriate fees which exceed those listed above before it will take on the case.

Nature of the decision

In its conciliatory capacity the board suggests a non-binding proposed settlement to the parties.

If it is applied to as an arbitration tribunal the board issues a ruling which is legally binding on both parties.

Enforcement

Since the arbitration board is recognised as a voluntary conciliation board within the meaning of § 794(1)(1) ZPO (Code of Civil Procedure), settlements agreed by the parties may be enforced. The chairman of the board is authorised to issue enforcement orders.

Once they have been declared judicially enforceable the arbitration tribunal rulings are also compulsorily enforced.

Publication of the board's decisions

It is intended to produce activity reports in future.

6.3. Niedersächsische Bauschlichtungsstelle (Lower Saxony Construction Sector Arbitration Board)

Particulars of the body

P. A. Niedersächsisches Ministerium der Justiz und für Europaangelegenheiten,
Am Waterlooplatz 1, 30169 Hannover

The board's office may also be contacted directly at the following address:

c/o Baugewerbeverband Niedersachsen
Baumschulenallee 12
30625 Hannover
Tel: (05 11) 9 57 57-0
Fax: (05 11) 9 57 57-40

Structure

The Lower Saxony Construction Sector Arbitration Board is an independent institution set up jointly by the Baugewerbeverband Niedersachsen (Lower Saxony Construction Industry

Association), the Landesverband Haus & Grund Niedersachsen (Lower Saxony Regional House and Land Association), the Landesinnungsverband des Dachdeckerhandwerks Niedersachsen-Bremen (Lower Saxony-Bremen Regional Roofing Guilds Association), the Vereinigung der Niedersächsischen Industrie- und Handelskammern (Association of Lower Saxony Chambers of Industry and Commerce) and the Vereinigung der Handwerkskammern Niedersachsen (Lower Saxony Association of Chambers of Craft Trades), which is designed to achieve expert, reasonably priced and rapid out-of-court settlements in disputes concerning building contracts.

The arbitration board operates with a chairman and two assessors. The chairman must be qualified to be a judge and should have professional experience of building disputes. He is appointed by agreement with all the founding and supporting organisations. The assessors must have expert knowledge of the subject and should be officially appointed and sworn experts from the fields covered by the Chamber of Craft Trades or the Chambers of Industry and Commerce in Lower Saxony. They are appointed by the chairman on a case-by-case basis depending on the particular issues involved.

If the arbitration board is applied to as a conciliation board the chairman may dispense with assessors or call only one assessor in appropriate cases. In such cases he may also bring in one or two assessors at a later stage if he deems it appropriate.

The chairman and the assessors are independent and do not act under instruction; they decide by a majority vote.

Powers

The arbitration board is responsible for achieving out-of-court settlements in disputes between contractors and clients about works contracts involving construction. Applications may be made for the board to act as a conciliation committee, suggesting a proposed agreement to the parties and working towards establishing this as an official settlement, or for the board to act as an arbitration tribunal as provided for in Volume 10 of the ZPO (Code of Civil Procedure) on the basis of the parties' written agreement. Applications may also be made to the board's office for the mediation of an expert, who would be asked to produce a report on behalf of the parties. The board only takes action if it is requested to do so by both parties.

There are no further special conditions of access or thresholds for the value of the dispute.

Procedure

Applications for the conciliation or arbitration tribunal procedure must be submitted in writing in quadruplicate to the board's office, indicating the substance of the claim and the facts on which it is based. They should include a statement signed by both parties showing that they have agreed to apply to the board, and that they agree to comply with the rules of procedure and any agreement reached before the arbitration tribunal. If the defendant has not yet indicated his agreement to the procedure, the board's office requests him to state whether he agrees to it by a given deadline.

Inadmissible applications are rejected by a written decision of the chairman, indicating the grounds on which it is based. Otherwise, applications must be forwarded to the defendant for a written opinion, for which a period of at least two weeks must be allowed.

Once the written procedure has been initiated the further progress of the procedure is at the board's discretion. If it appears useful to clarify the facts a preliminary procedure is carried out prior to the main procedure before the chairman and assessors. The chairman appoints an expert to carry out the preliminary procedure. The expert must carry out a site visit and discuss the results with the parties. He must suggest appropriate proposed settlements to the parties for the resolution of the dispute. If no settlement is reached, the expert must

record the results in an abridged report. If requested by both parties he will produce a detailed written report.

Hearings before the arbitration board are held in camera. The board may hear witnesses and experts, who appear on a voluntary basis. The board is not authorised to take evidence from witnesses, experts or parties on oath.

Costs

The following costs are charged for the procedure before the board:

In the conciliation procedure a fee of DM 250 each is charged for the chairman and the assessors for the procedure excluding the hearing. For the hearing with the parties and the subsequent consultation the charge is DM 100 each for the chairman and the assessors for each hour or part of an hour. For the expert to carry out a site visit and produce an abridged report a charge of DM 100 is made for each hour or part of an hour; if the parties both ask the expert to produce a written report, the fee is doubled.

In the arbitration tribunal procedure the same fees are charged as a lawyer receives under the BRAGO for representing a client in court. The chairman receives 15/10 and the assessors 13/10 each of the full fee due according to the value of the dispute.

In both the conciliation procedure and in the arbitration tribunal procedure the travel expenses incurred by the expert or any members of the board involved in carrying out a site visit must also be reimbursed.

A flat-rate charge of DM 150 is made for the board's expenses in connection with the conciliation and arbitration tribunal procedures (secretarial work, use of premises, postage, telephone, photocopying etc), unless expenses have been higher in individual cases. If the procedure is not carried out because the defendant does not agree, the charge is reduced to DM 30.

A fee of DM 50 is charged for producing an arbitration report.

The parties are jointly liable for the costs. Any charges incurred by default must be paid by the defaulting party alone.

In major disputes requiring an above-average amount of time and work the board may insist on the agreement of appropriate fees which exceed those listed above before it will take on the case.

Nature of the decision

In its conciliatory capacity the board suggests a non-binding proposed settlement to the parties.

If it is applied to as an arbitration tribunal the board issues a ruling which is legally binding on both parties.

Enforcement

Since the arbitration board is recognised as a voluntary conciliation board within the meaning of § 794(1)(1) ZPO (Code of Civil Procedure), settlements agreed by the parties may be enforced. The chairman of the board is authorised to issue enforcement orders. Once they have been declared judicially enforceable the arbitration tribunal rulings are also compulsorily enforced.

Publication of the board's decisions

No

7. North Rhine-Westphalia

7.1. Arbitration board at the Architektenkammer Nordrhein-Westfalen (North Rhine-Westphalia Chamber of Architects)

Particulars of the body

Postfach 30 01 28
40416 Düsseldorf
Tel: (02 11) 49 67-22/37
Fax: (02 11) 4 98 62 63
E-Mail: Info@aknw.de
Internet: <http://www.aknw.de>

Structure

A lawyer chairman plus one assessor each representing architects and consumers. Elected for four years by the representatives' assembly of the North Rhine-Westphalia Chamber of Architects.

Powers

Responsible for dealing with disputes between members of the Chamber and third parties in North Rhine-Westphalia.

Procedure

Written application and agreement of defendant; hearing; legal representation permitted.

Costs

Costs in accordance with schedule of charges (0.5 % to 5 % of the value of the dispute) plus incidental expenses.

Decision

Proposed settlement

Enforcement

None.

7.2. Construction sector arbitration board at the Handwerkskammer Aachen (Aachen Chamber of Craft Trades)

Particulars of the body

Postfach 50 02 34
52086 Aachen,
Tel: (02 41) 471-0
Fax: (02 41) 47 11 03
Internet: <http://www.hwk-aachen.de>

Structure

A chairman appointed for three years and two experts appointed as assessors by the chairman in each individual case.

Powers

Disputes between building owners, builders, architects, construction engineers and specialists, where the craft trades firm in question is located in the district covered by the Chamber.

Procedure

Written application with statement agreeing to pay costs.

Costs

Flat-rate fee to cover non-personnel costs of DM 150; procedure fee depending on value of dispute: DM 200 – 600 for the chairman and DM 150 – 450 per assessor; hearing: DM 180/ DM 130 per hour

Decision

Proposed settlement

Enforcement

Compulsory enforcement in accordance with § 794(1)(1) ZPO (Code of Civil Procedure).

**7.3. Arbitration board at the Bauwerks-Innung Köln (Cologne Building Guild)
- city of Cologne and Erft district -**

Particulars of the body

Peter-Welter-Platz 5
50676 Köln,
Tel: (02 21) 92 44 90
Fax: (02 21) 9 24 49 15

Structure

Members of the Guild's staff

Powers

Disputes between Guild members and their clients

Procedure

Oral or written attempts to reach an out-of-court settlement

Costs

None

Decision

Proposed settlement

Enforcement

None

7.4. Arbitration board at the Dachdecker-Innung Köln (Cologne Roofers Guild)

Particulars of the body

Emil-Hoffmann-Straße 7
50996 Köln
Tel: (0 22 36) 6 41 41
Fax: (0 22 36) 6 74 02

Structure

Members of the Guild's staff

Powers

Disputes between Guild members and their clients

Procedure

Oral or written attempts to reach an out-of-court settlement

Costs

None

Decision

Proposed settlement

Enforcement

None

8. Lower Saxony**8.1. Ingenieurkammer Niedersachsen (Lower Saxony Chamber of Engineers)**Particulars of the body:

Hohenzollernstraße 52, 30161 Hannover

Tel: (05 11) 3 97 89-0

Fax: (05 11) 3 97 89-34

Structure

A permanent arbitration committee has been set up at the Lower Saxony Chamber of Engineers. Members of the committee are appointed for three years by the representatives' assembly of the Chamber. A deputy must be appointed for each member. The committee has a chairman and two assessors, who must be consultant engineers, and it may also call on the services of experts. Members of the committee may not also be members of the Chamber's executive committee. They act in an honorary capacity.

Powers

The arbitration committee is responsible for the out-of-court settlement of disputes concerning professional services between members of the Chamber or between members and third parties. The geographical coverage is Lower Saxony. There are no further special conditions of access or thresholds for the value of disputes.

Procedure

Applications for arbitration must be submitted in writing to the Lower Saxony Chamber of Engineers, giving details of the parties involved and the facts of the dispute and presenting any evidence. Once an application has been received the defendant is requested in writing to state whether he agrees to an arbitration procedure. He must submit a written statement within a period specified by the chairman of the arbitration committee on whether and to what extent he admits that the applicant's claims are correct. He must present evidence, in the form of documents and witness or expert statements only, if he has any counter claims. If there are conflicting claims the chairman points them out and asks whether the parties agree to hear the witnesses called by the other party or to obtain the expert opinion requested by the other party. If they agree, the chairman summons the parties to the arbitration hearing. If they do not agree and if the chairman considers that the facts to be proved are relevant in law, he must declare the attempted arbitration to have failed. If the counter-statement is not received in good time the chairman may also declare the attempted arbitration to have failed.

The parties must appear in person at the hearing, where they may present their case.

Costs

Costs are charged for the arbitration procedure in accordance with the current schedule of fees and expenses of the Lower Saxony Chamber of Engineers. According to the present schedule the costs are DM 500 for applying to the committee (basic fee), DM 500 for the hearing (hearing fee) and a further DM 500 for the arbitration committee's decision (ruling fee).

In addition there are sitting expenses for the members working in an honorary capacity and the cost of any experts consulted.

The applicant must make an appropriate advance payment to the Lower Saxony Chamber of Engineers. The chairman of the arbitration committee decides on the advance payment and the final costs. If the parties fail to reach agreement the costs are divided as follows: the applicant pays the costs if a third party defendant states that he does not agree to the procedure before the arbitration committee; the costs in that case are 1/3 of the basic fee under the schedule of fees and expenses. The defendant pays the costs if, in spite of agreeing to the procedure and submitting a counter-statement in good time, he subsequently declares the attempted arbitration to have failed, or if, in spite of agreeing to the procedure, he fails to submit a counter-statement, or if the attempted arbitration is declared to have failed because the counter-statement was not submitted in good time. If one of the parties fails to appear at the hearing, that party pays the costs. The same applies if one of the parties has nominated a witness or expert who has been duly summoned to the hearing but fails to appear or, in the case of an expert, fails to submit his report in good time.

Nature of the decision

Under the current rules of arbitration the arbitration committee suggests a non-binding proposed settlement to the parties. However, the Lower Saxony Chamber of Engineers intends to revise the rules to make it possible to issue a legally binding decision for both parties.

Enforcement

Settlements proposed by the arbitration committee and accepted by the parties are not currently enforceable. However, it is intended to revise the rules of arbitration on this point too.

Publication of the arbitration board's decisions

Statistics on the number of procedures, their subjects and the decisions reached are not currently published, but are planned to be in future.

9. Rhineland-Palatinate

9.1. Arbitration board at the Ministry of Finance for disputes relating to the VOB (Rules governing construction contracts)

Particulars of the body

Kaiser-Friedrich-Straße 5
55116 Mainz
Tel: (0 61 31) 16 42 36
Fax: (0 61 31) 16 41 15

Structure

The arbitration board has up to three arbitrators, who are appointed for an indefinite period by the Minister for Finance.

Powers

The arbitration board deals with issues relating to building contracts.

Costs

Free of charge.

Nature of the decision

Written decision with instructions on right of appeal; decision binding if appeal not received within the prescribed period.

Enforcement

The decision cannot be enforced.

9.2. Koblenz construction sector arbitration board at the Baugewerbeverband Rheinland e. V. (Rhineland Construction Industry Association)

Particulars of the body

Südallee 31 – 35

56068 Koblenz

Tel: (02 61) 30 40 60

Fax: (02 61) 3 04 06 44

Structure

The Koblenz construction sector arbitration board comprises a chairman, who must be qualified to be a judge, and two specialised assessors with professional experience of construction issues. The chairman is appointed for two years by the Rhineland Construction Industry Association on a proposal from the President of the Oberlandesgerichts Koblenz (Koblenz Higher Regional Court). The assessors are appointed by the chairman on a case-by-case basis, depending on the issues involved.

Powers

The arbitration board is responsible for resolving disputes between building owners, builders, architects, construction engineers and other parties involved in construction.

Procedure

The arbitration board takes action if it is requested to carry out the arbitration procedure by both parties and if at least one of the parties is a member of the Rhineland Construction Industry Association. The board may intervene in disputes between non-members if the Association first approves a request to that effect.

Applications for an arbitration procedure must be made in writing to the arbitration board in quadruplicate, indicating the nature of the claim and setting out the facts involved. They may also be placed on the official record by the board's office.

The hearing before the board is held in camera and is usually an oral procedure.

Costs

Unless an agreement on costs has been reached with the parties the following fees are charged:

- | | | |
|----|-----------------------------|--------|
| a) | procedure without assessors | DM 100 |
| b) | procedure with assessors | DM 250 |

per hour or part thereof, the total not to exceed DM 500.

A flat-rate fee of DM 150 is charged to cover expenses unless the costs have been higher.

Nature of the decision

The arbitration board suggests a proposed settlement to the parties, taking account of the circumstances of the dispute, and urges them to accept it officially.

Enforcement

Settlements reached before the arbitration board may be compulsorily enforced, since the board is recognised by the regional legal administration as a voluntary conciliation board within the meaning of § 794(1)(1) ZPO (Code of Civil Procedure).

10. Saarland**10.1. Arbitration and conciliation board of the Arbeitgeberverbandes der Bauwirtschaft des Saarlandes e. V. (AGV Bau Saar) (Saarland construction industry employers' association)**Particulars of the body

Ursulinenstraße 33, 66111 Saarbrücken

Tel: (06 81) 3 94 67

Fax: (06 81) 3 94 60

Composition chairman and two assessors.

Term of office unlimited.

Rules governing appointment

The chairman, who must be a judge or a lawyer qualified to be a judge, is appointed by the AGV Bau Saar. The assessors are appointed case by case depending on the subject of the dispute by the Saarland Consumers' Association, the regional ministry responsible for construction issues, the Saarland convention of municipal authorities, the Saarland Chamber of Industry and Commerce or the AGV Bau Saar, in agreement with the parties.

Rules governing dismissal no rules

Powers disputes concerning building works contracts between the contracting parties

Geographical coverage Saarland

Value of dispute relevant? no

Conditions of access one party must be a member of the AGV Bau Saar
written application;

Appearance in person yes

Written procedure possible with the agreement of the parties

Hearing usually yes

Costs 2 3/10 fees for dispute values of at least DM 4 000, plus necessary expenses

Decision binding for both parties yes, except in conciliation procedure (see below)

Decision in form of recommendation yes, if decision in conciliation procedure

Enforcement

The arbitration board is recognised under the Decree of 17.12.1993 as a voluntary conciliation board within the meaning of § 794(1)(1) ZPO (Code of Civil Procedure). The chairman is authorised to issue enforcement orders under § 797(a)(IV), first sentence, of the Code.

11. Saxony

11.1. Architektenkammer Sachsen (Saxony Chamber of Architects) - arbitration committee –

Particulars of the body

Goetheallee 37

01309 Dresden

Tel: (03 51) 3 10 53 01

 (03 51) 31 74 60

 (03 51) 31 12 75

 (03 51) 3 11 12 86

Internet: www.AKSachsen.org

Structure

The arbitration committee takes decisions with three members, two of whom must be members of the Chamber. The chairman of the committee should be qualified to be a judge. The assessors are members of the Chamber of Architects.

The representatives' assembly elects members of the arbitration committee for four years (four assessors plus the same number of deputies). If one of the members of the committee leaves prematurely, a new member must be elected at the next assembly meeting for the remainder of his term of office.

§§ 41 to 44 ZPO (Code of Civil Procedure) apply for the dismissal and rejection of members of the committee, while § 45(1) of the Code applies for the dismissal and rejection of the chairman.

Powers

The committee is responsible for the out-of-court settlement of disputes in connection with professional services between members of the Chamber and between members and non-member architects or town planners and third parties. The geographical coverage is the Free State of Saxony. There is no threshold for the value of the dispute.

Procedure

The following can apply for arbitration by the committee:

- Chamber members involved in the dispute,
- third parties involved in the dispute,
- the executive committee of the Chamber of Architects.

Applications (five copies) must be addressed to the arbitration committee and handed in to the Chamber office. The procedure may not be carried out if the third party refuses to accept it.

The chairman begins the procedure as soon as all parties have given their agreement to it. The parties must be given the opportunity to present their case, but otherwise the procedure is carried out at the committee's discretion. The procedure before the committee is oral.

The parties may not send authorised representatives.

Costs

Fees are charged for the procedure before the arbitration committee. A fixed sum of DM 500 must be paid in advance. DM 150 is charged per hour or part-hour for processing the application. Any expenses incurred must also be paid.

The arbitration committee decides how the costs should be divided at its own discretion. This also applies where a settlement has not been reached.

Nature of the decision

The arbitration committee should try to achieve a settlement between the parties. If a settlement is reached, the text should be recorded, giving details of the subject of the dispute, and it should be read out to the parties and approved by them. In reaching the settlement the parties are bound by the principles of civil law.

If the attempt at arbitration fails, this should be recorded in the minutes without any other details.

Enforcement

Settlements reached before the arbitration committee cannot be compulsorily enforced.

Observations

Although Saxony's Architektengesetz (Law on architects) requires the arbitration committee to decide with three members, two of whom must be members of the Chamber, its independence is guaranteed. Under the Chamber's rules of arbitration members of the arbitration committee are required to assess all disputes impartially, objectively and to the best of their knowledge and belief. It is also possible to have a member of the committee dismissed or rejected under the provisions of the Code of Civil Procedure.

However, the arbitration committee does not comply with the "principle of representation" in that the rules of arbitration preclude the parties from having authorised representatives.

11.2. Ingenieurkammer Sachsen (Saxony Chamber of Engineers) - arbitration committee –

Particulars of the body

Office:

An der Markthalle 4

09111 Chemnitz

Tel: (03 71) 6 90 21-0

Fax: (03 71) 6 90 21-30

E-Mail: ingksn@ingenieure-sachsen.de

Postal address: Postfach 4 37, 09004 Chemnitz

Structure

Members of the arbitration committee are appointed by the executive committee for the latter's four-year term of office. The arbitration committee has three members, at least two of whom must be members of the Chamber. If one of the members leaves the committee prematurely, the executive committee appoints a new member for the remainder of his term of office. The committee members act in an honorary capacity.

Powers

The arbitration committee is responsible for reaching out-of-court settlements in disputes concerning professional services between Chamber members or between members and third parties. The geographical coverage is the Free State of Saxony; the Chamber whose member is involved in the dispute has jurisdiction, though third parties may come from elsewhere. There is no threshold for the value of the dispute.

Procedure

In disputes between Chamber members the arbitration committee must attempt arbitration if requested to do so in writing by one of the parties or on instruction from the executive committee. If a third party is involved, the arbitration committee may take action only if he agrees.

Costs

Under the Saxony Chamber of Engineers' schedule of fees and charges the following fees are charged for applying to the arbitration committee:

- basic fee: DM 500
- hearing fee: DM 500
- ruling fee: DM 500.

Nature of the decision

No details can be given about the nature of the decision since the procedure before the arbitration committee is not yet subject to any regulations or rules of arbitration apart from the statutory requirements.

Enforcement

Again, no details can be given because of the absence of regulation.

Observations

The Saxony Chamber of Engineers states that no applications have been made to the arbitration committee since the Chamber was set up, which is why no regulations or rules of arbitration have been introduced to govern the arbitration procedure. It is therefore impossible to tell whether the committee meets the requirements listed in the recommendation. Reference should be made here in particular to the composition of the committee (two out of the three members must be members of the Chamber), which would not meet the "principle of independence".

12. Saxony-Anhalt**12.1. Arbitration committee of the Ingenieurkammer des Landes Sachsen-Anhalt (Saxony-Anhalt Chamber of Engineers)**Particulars of the body

Förderstedter Str. 9
39112 Magdeburg,
Tel: (03 91) 6 28 89 30
Fax: (03 91) 6 28 89 99
E-Mail: ingenieurkammer.sachsen-anhalt.@t-online.de,
Internet: [HTTP://www.ingenieur.de/sachsen-anhalt](http://www.ingenieur.de/sachsen-anhalt)

Structure

The arbitration committee comprises a chairman, who must be qualified to be a judge, and two assessors, who must be consultant engineers. The members of the arbitration committee

are elected on a proposal from the executive committee of the representatives' assembly for the duration of its term of office.

Powers

The arbitration committee takes action upon request by a Chamber member or a third party or when instructed to do so by the Chamber's executive committee. Its aim is to facilitate the out-of-court settlement of disputes in connection with professional services between members of the Chamber or between members and third parties.

Procedure

It is the chairman's responsibility to carry out the procedure once it has been prepared. If the defendant is not a Chamber member, the chairman sends him a photocopy of the application with a request that he should indicate within two weeks whether he agrees to the arbitration procedure. If he does not agree, the procedure may not go ahead. Otherwise the committee proposes a settlement to the parties at the hearing, where appropriate after taking evidence. The attempted arbitration is deemed to have failed if the parties cannot agree on the proposed settlement.

Costs

The costs are divided according to the arrangements made in the settlement. If no agreement is reached, the committee decides on the costs at its discretion.

Fees of DM 350 are charged for:

- the application to the arbitration committee
- the arbitration hearing
- the arbitration committee's decision.

H. Law Societies

1. Lower Saxony

1.1 Arbitration and conciliation board at the Rechtsanwaltskammer (Law Society) for the district covered by the Oberlandesgericht Celle (Celle Higher Regional Court)

Particulars of the body

Bahnhofstraße 5, 29221 Celle
Postfach 12 11
29202 Celle
Tel: (0 51 41) 92 82-0
Fax: (0 51 41) 92 82-42

Structure

Any lawyer who has been a member of the Celle Law Society for at least five years may be appointed as an arbitrator or mediator. The Society's executive committee makes the selection. The lawyers chosen to take part in the arbitration and conciliation procedures are placed on a list kept by the office, from which the parties to the various procedures are sent up to four proposed names to choose from. The proposal on which the parties unanimously agree is appointed as arbitrator or mediator. If there is more than one, the office chooses. The lawyer concerned may decline the position in certain individual cases.

In disputes concerning a sum or the cash equivalent of less than DM 25 000, the procedure is carried out by an individual arbitrator or mediator. In disputes with a value of over DM 25 000 the procedure is carried out by a committee of three arbitrators or mediators. In such cases each party nominates one person from the list of proposals. These two then

agree on the third, who becomes the chairman of the committee. If a chairman cannot be agreed, the President of the Celle Law Society makes the appointment.

The Society's office gives the parties two weeks in which to nominate an arbitrator or mediator. This may be extended or a period of grace allowed in special cases. If one party allows the deadline to expire without making a nomination, the office deems the procedure to be terminated and notifies the parties.

The Society's office also acts as the office of the arbitration and conciliation board. All correspondence with the parties throughout the procedure passes through the office.

Powers

The arbitration and conciliation board is responsible for disputes between lawyers, between a lawyer and his client, or between a lawyer and a third party, where the disputing parties hope to achieve an out-of-court settlement and agree to apply the rules of arbitration and conciliation of the Law Society in the district of the Celle Higher Regional Court.

The procedure involves drawing up an arbitration report or a conciliation proposal, depending on what the parties specify.

Procedure

The arbitration or conciliation procedure begins when a party submits a written application to the office, which should specify whether an arbitration report or a conciliation proposal is required and what the subject of the dispute is. The office forwards a copy of the application to the defendant, asking him to indicate within two weeks whether he agrees to the procedure requested. Both parties are also given a draft agreement for signature on applying the rules of arbitration and conciliation. If the parties return the signed agreement in good time the procedure begins. If one party refuses or misses the deadline, the office informs both parties that the procedure cannot go ahead.

If a procedure is initiated, the arbitrator/mediator or the chairman gives both parties the opportunity to submit a written account of the subject at issue within a period at his discretion. He may ask the parties to provide a supplementary statement, to submit documents or to present information from official sources. If the position presented by one party contains new factual submissions, the other party must be informed about them before a decision is reached. Both parties may be given a deadline for a concluding statement, on the understanding that once the deadline has expired any further statements cannot be taken into account in the decision.

The procedure is in written form. A hearing may also be held, and is organised by the arbitrator or mediator at his discretion. The parties do not have the right of initiative. Evidence is not taken as part of either the arbitration or the conciliation procedure.

If the parties have agreed on an arbitration report, the procedure concludes when the report is given to the parties.

In the conciliation procedure the office sends the parties a written conciliation proposal, asking them to state their position on it within three weeks. The conciliation procedure concludes when it is established either that the proposal has been accepted by both parties or that it has been rejected. The proposal is deemed to have been rejected if a statement of acceptance is not received in good time.

If a hearing is held the arbitration and conciliation procedures may also end with an agreed settlement.

If one party misses the appointment for the hearing without good reason, the procedure may be declared to be terminated, unless it can be carried out without discussion with the absent party.

The parties may be represented by lawyers in either procedure.

Costs

A flat-rate fee of DM 300 is charged for every arbitrator or mediator involved in the arbitration and conciliation procedures. The fee is payable in advance to the Celle Law Society by the applicant once agreement has been reached on the application of the arbitration and conciliation rules.

If one of the parties meets the conditions for receiving legal aid, the fee may be wholly or partly waived. The decision on this is taken at the request of the party concerned by the arbitrator or mediator, or if the committee is in operation, by its chairman. The fee is then paid by the Celle Law Society, to which any applications for reimbursement should also be addressed.

In particularly large-scale and/or difficult cases which are of great significance and/or value arbitrators and mediators are authorised to make the execution of the procedure conditional on payment of higher fees. Such fees must not exceed those set out in the BRAGO.

The arbitration report and the conciliation proposal are accompanied by a decision on payment of costs. If the procedure ends without an arbitration report or conciliation proposal, the arbitrator or mediator decides who should be required to pay the costs at his discretion, taking account of the facts and situation in law.

Nature of the decision

The conciliation procedure is designed to achieve an out-of-court settlement of a dispute. A non-binding conciliation proposal is put forward for this purpose, which the parties then decide whether to accept or reject.

The arbitration procedure requires the parties to agree in advance to be subject to the arbitration report, which is then binding on the parties in accordance with §§ 317 ff. BGB (Civil Code).

Enforcement

Conciliation proposals accepted by the parties and settlements reached are not enforceable.

Publication of the board's decisions

No

1.2. Arbitration and conciliation board at the Rechtsanwaltskammer (Law Society) for the district covered by the Oberlandesgericht Oldenburg (Oldenburg Higher Regional Court)

Particulars of the body

Staugarben 5
26122 Oldenburg
Tel: (04 41) 2 75 65 und 2 75 66
Fax: (04 41) 1 67 81

Structure

Any lawyer who has been a member of the Oldenburg Law Society for at least 5 years and who agrees to do so may be appointed as an arbitrator or mediator. The Society's executive committee makes the selection. The lawyers chosen to take part in the arbitration and conciliation procedures are placed on a list kept by the Society's office, from which the parties in the various procedures are sent up to four proposed names to choose from. The proposal on which the parties unanimously agree is appointed as arbitrator or mediator. If there is more than one, the office chooses. The lawyer concerned may decline the position in certain individual cases.

Once the arbitrator/mediator is appointed, he determines the progress of the procedure and undertakes any correspondence.

Powers

The arbitration and conciliation board is responsible for disputes between lawyers, between a lawyer and his client, or between a lawyer and a third party, provided that the disputing parties agree to this. One of the lawyers involved must be a member of the Oldenburg Law Society.

The procedure involves drawing up an arbitration report or a conciliation proposal, depending on what the parties specify.

Procedure

The procedure begins when a party submits a written application to the office of the Oldenburg Law Society, which should specify whether an arbitration report or a conciliation proposal is required and what the subject of the dispute is. The office forwards a copy of the application to the defendant, asking him to indicate within two weeks whether he agrees to the procedure requested. The parties are also sent for signature a draft agreement that they will apply the rules of procedure, accept the decision on costs and, where appropriate, accept the arbitration report. If the parties return the signed agreement in good time the procedure begins. If one party refuses or misses the deadline, the office informs both parties that the procedure cannot go ahead.

If a procedure is initiated, the arbitrator or mediator gives both parties the opportunity to submit a written account of the subject at issue within a period at his discretion. He may ask the parties to provide a supplementary statement, to submit documents or to present information from an official source. If the opinion of one party contains substantial new factual submissions, the other party must be informed about them before a decision is reached. The parties may be given a deadline for a concluding statement, on the understanding that once the deadline has expired any further statements cannot be taken into account in the decision.

The procedure is in written form. A hearing may also be held, and is organised by the arbitrator or mediator at his discretion. The parties do not have the right of initiative.

Evidence is not taken as part of the procedure. The arbitrator/mediator is authorised to set deadlines for the parties and to declare the procedure terminated without an arbitration report or conciliation proposal if they fail to meet them.

If the parties have agreed on an arbitration report, the procedure concludes when the report is given to the parties.

In the conciliation procedure the office sends the parties a written conciliation proposal, asking them to state their position on it within three weeks. The conciliation procedure concludes when it is established that the proposal has either been accepted by both parties

or that it has been rejected. The proposal is deemed to have been rejected if a statement of acceptance is not received in good time.

Both the arbitration and conciliation procedures may also end with an agreed settlement.

If one party misses an appointment for a hearing without good reason, the procedure may be declared to be terminated by the arbitrator/mediator, unless it can be carried out without discussion with the absent party.

The parties may be represented by lawyers at either procedure.

Costs

The arbitration report and the conciliation proposal are accompanied by a decision on payment of costs. If the procedure ends without an arbitration report or conciliation proposal, the arbitrator or mediator decides at his discretion who is required to pay the costs, taking account of the facts and situation in law. §§ 91 ff. ZPO (Code of Civil Procedure) apply accordingly. The decision on costs is binding on both parties. This also applies – despite the fact that the conciliation proposal is non-binding – to the conciliation procedure.

For the arbitration and conciliation procedure a fee is charged of 25/10 of the full fee under § 11(1) BRAGO depending on the value of the dispute, plus expenses and VAT in accordance with §§ 25 to 29 BRAGO. If it is not clearly established in the application, the value of the dispute is fixed by the arbitrator/mediator after consulting the parties. The fee and the extra expenses are payable in advance by the applicant to the Oldenburg Law Society.

Instead of the above fee the arbitrator/mediator may agree an hourly rate with the parties. This is usually DM 300 plus statutory VAT.

If one of the parties meets the conditions for receiving legal aid, the costs of the procedure may be wholly or partly waived. The decision on this is taken by the arbitrator or mediator at the request of the party concerned. The costs are then paid by the Oldenburg Law Society, to which any applications for reimbursement should also be addressed.

Nature of the decision

The conciliation procedure is designed to achieve an out-of-court settlement of a dispute. A conciliation proposal is put forward for this purpose, which the parties then decide whether to accept or reject.

The arbitration procedure requires the parties to give written agreement in advance to be subject to the arbitration report, which is then binding on the parties in accordance with §§ 317 ff. BGB (Civil Code).

Enforcement

Conciliation proposals accepted by the parties and settlements reached are not enforceable.

Publication of the board's decisions

No

I. Chambers of Tax Advisers

1. Lower Saxony

1.1. Steuerberaterkammer Niedersachsen (Lower Saxony Chamber of Tax Advisers)

Particulars of the body

Detmoldstraße 10
 Postfach 57 27
 30057 Hannover
 Tel: (05 11) 2 88 90-0
 Fax: (05 11) 2 83 40 32

Structure

If both parties agree to arbitration the Chamber of Tax Advisers appoints an arbitration committee.

Powers

The committee appointed by the Chamber mediates in disputes between Chamber members and between members and their clients.

It is the professional duty of Chamber members to go to arbitration before applying to the courts. However, tax advisers are not obliged to agree to arbitration applied for by a third party.

Procedure

When a party applies for arbitration, the other party is given the opportunity to state its position or to submit its own application. If both parties agree to arbitration, the arbitration committee fixes an appointment for a hearing. Once the facts and situation in law have been discussed the committee puts forward a proposal.

Costs

Costs are charged in accordance with the Lower Saxony Chamber of Tax Advisers' schedule of fees.

Nature of the decision

A non-binding proposed settlement is put before the parties.

Enforcement

Settlements proposed by the arbitration committee and accepted by the parties are not enforceable.

Publication of the board's decisions

No

J. Arbitration boards at the Medical, Dental and Pharmacists Societies

1. The North German Medical Societies' arbitration board for medical liability issues

The North German Medical Societies' arbitration board for medical liability issues

Berlin . Brandenburg . Bremen . Hamburg . Mecklenburg-Western Pomerania . Lower Saxony . Saxony-Anhalt . Schleswig-Holstein . Thuringia
 Berliner Allee 20 . 30175 Hannover

Information notice

I. Task of the arbitration board

The arbitration board is responsible for achieving an out-of-court settlement in disputes relating to patients' claims for damages for alleged or actual improper medical treatment.

II. Geographical coverage

The board only intervenes if the allegedly improper treatment was provided in the area covered by the Berlin, Brandenburg, Bremen, Hamburg, Mecklenburg-Western Pomerania, Lower Saxony, Saxony-Anhalt, Schleswig-Holstein or Thuringia Medical Societies.

III. Parties in the arbitration procedure

1. Patients, who may be represented by statutory representatives, heirs, legal representatives or lawyers.
2. The doctor or hospital against whom the claim is made.
3. The doctor's or hospital's liability insurer.

IV. Procedure

1. The procedure is in written form. All that is needed is an application (no official form required) from a party, which must give a description of the facts as the applicant sees them.
2. Participation in the arbitration procedure is voluntary. The arbitration board can only intervene with the agreement of all the parties.
3. Stages of the procedure:
 - a) Fulfilment of procedural requirements: completion of questionnaire and declaration by the patient releasing the doctor/hospital from the medical confidentiality requirement. Obtain agreement of the doctor or hospital concerned and of the liability insurers or the hospital owners.
 - b) Elucidation of the facts: as soon as the procedural requirements have been fulfilled work begins on establishing the facts. The patient's records are requested from the doctor concerned and from the doctors who treated the patient before and after that doctor.
 - c) Commissioning of expert opinion: if an examination of the patient's records indicates that an expert opinion is required, a draft contract for an expert opinion is sent to the parties to give them the opportunity to request any changes or additions. The contract is then sent to the expert some four weeks later.
 - d) Final opinion: as soon as the arbitration board has received the expert opinion it is forwarded to the parties for their opinion. The final assessment explains why the claim is deemed to be legitimate or ill-founded. Objections to the final assessment may be made within 4 weeks, but only if there are new facts to be presented.

V. Duration of the procedure

The average duration is about 13 months, though this may vary widely as a result of circumstances over which the arbitration board has no control, such as the time taken by the expert to produce his opinion.

VI. Costs

The arbitration procedure is free of charge for patients. However, patients must pay the costs of any representatives they engage and bear any loss of earnings and increased living expenses incurred during an expert examination.

VII. Legal action

None of the parties has to accept the decision of the arbitration board. An application to the board does not preclude the possibility of taking legal action.

VII. Time-barring

If a party liable for compensation is involved in the arbitration procedure, it has the effect of suspending the time-limitation period.

2. Baden-Württemberg

2.1. Advisory committee on medical liability issues at the Landesärztekammer Baden-Württemberg (Baden-Württemberg Regional Medical Society)

Particulars of the body

- Gutachterkommission für Fragen ärztlicher Haftpflicht (Advisory committee on medical liability issues)
Bezirksärztekammer Nordwürttemberg (North Württemberg District Medical Society)
Jahnstr. 32
70597 Stuttgart
Tel: (07 11) 76 98 10
Fax: (07 11) 7 69 81 39
- Gutachterkommission für Fragen ärztlicher Haftpflicht
Bezirksärztekammer Nordbaden
Keßlerstr. 1
76185 Karlsruhe
Tel: (07 21) 5 96 10
Fax: (07 21) 59 61 40
- Gutachterkommission für Fragen ärztlicher Haftpflicht
Bezirksärztekammer Südbaden
Sundgaullee 27
79114 Freiburg
Tel: (07 61) 88 40
Fax: (07 61) 89 28 68
- Gutachterkommission für Fragen ärztlicher Haftpflicht
Bezirksärztekammer Südwürttemberg
Halbenhastr. 11
72770 Reutlingen
Tel: (0 71 21) 91 70
Fax: (0 71 21) 91 74 00

Structure

The advisory committee has three members appointed for five years by the executive committee of the Regional Medical Society. The committee comprises

- one member who must be qualified to be a judge (chairman);
- a doctor who has an established practice and many years of wide experience in the profession,
- a doctor from a hospital or practice in the same field as the doctor concerned.

The members of the advisory committee carry out their duties independently and do not act on instruction.

Powers

The committee provides, on request, a written opinion on whether a patient's health has suffered as a result of culpably improper treatment by a doctor who is a member of the Baden-Württemberg Regional Medical Society. The committee may intervene at the request of the patient or the doctor.

Procedure

The committee only takes action if the defendant does not refuse the procedure within one month. The chairman prepares for the procedure by obtaining the opinions of the parties. The committee will discuss the facts of the case with the parties if necessary. It does not have to rely on the parties to submit evidence, but bases its decision on its own independent assessment. The committee decides by a majority vote.

Costs

The cost of the advisory committee is borne by the Regional Medical Society. The procedure is free of charge for the parties. If an expert opinion is requested, the costs are paid by the requesting party/parties. The parties pay their own costs and those of their representatives.

Nature of the decision

The advisory committee's final decision is recorded in writing. It is not binding on the parties. In certain appropriate cases and with the parties' agreement the committee may attempt conciliation.

Enforcement

The committee's decisions are not enforceable.

2.2. Advisory committee on dental liability issues of the Landeszahnärztekammer Baden-Württemberg (Baden-Württemberg Regional Dental Society)

Particulars of the body

The advisory committee on dental liability issues of the Baden-Württemberg Regional Dental Society is based at

- Bezirkszahnärztekammer Freiburg
Merzhauser Str. 114-116
79100 Freiburg
Tel: (07 61) 45 06-0
Fax: (07 61) 45 06-4 00
- Bezirkzahnärztekammer Karlsruhe
Joseph-Meyer-Str. 8 – 10
68167 Mannheim
Tel: (06 21) 3 80 00-0
Fax: (06 21) 3 80 00-1 00
- Bezirkszahnärztekammer Stuttgart
Albstadtweg 9
70567 Stuttgart
Tel: (07 11) 78 77-0
Fax: (07 11) 78 77-2 38
- Bezirkszahnärztekammer Tübingen

Bismarckstr. 96
 72072 Tübingen
 Tel: (0 70 71) 9 11-0
 Fax: (0 70 71) 9 11-1 31

Structure

The advisory committee is made up of three members appointed for five years by the executive committee of the Regional Dental Society.

- the chairman, who must be qualified to be a judge,
- a dentist with an established practice (no particular field), and
- a dentist from a hospital or practice in the same field as the dentist concerned.

The members of the advisory committee carry out their duties independently and do not act on instruction.

Powers

The committee is responsible for assessing whether the patient's health has suffered as a result of culpably improper treatment by a dentist who is a member of the Baden-Württemberg Regional Dental Society. The committee only intervenes at the request of the patient or the dentist accused of improper treatment, if the defendant does not refuse the procedure within one month.

Procedure

The committee only carries out the procedure with the agreement of both parties. The chairman is responsible for conducting the procedure. The committee will discuss the facts of the case with the parties if necessary and, again if necessary, will have a dental examination carried out. It does not have to rely on the parties to submit evidence, but bases its decision on its own independent assessment. The committee decides by a majority vote.

Costs

The procedure before the advisory committee is free of charge for the parties; the committee's costs are borne by the Regional Dental Society. If an expert opinion is requested, the costs are paid by the requesting party. The parties pay their own costs and those of their representatives.

Nature of the decision

The advisory committee's decisions are not binding on the parties. Its purpose is simply to make it easier for the parties to enforce legitimate claims or to repudiate ill-founded claims. In certain appropriate cases the committee may attempt arbitration with the parties' agreement.

Enforcement

The advisory committee's decisions are not binding on the parties and cannot be enforced.

3. Bavaria

3.1. Arbitration board at the Bayerische Landesärztekammer (Bavarian Regional Medical Society)

Particulars of the body
 Mühlbaurstraße 16
 81677 München,
 Tel: (0 89) 41 47-7 22

Structure

The arbitration board has four members:

- a doctor as chairman (appointed by the Bavarian Regional Medical Society)
- a medical consultant with particular experience in the medical field concerned (appointed by the Bavarian Regional Medical Society)
- a spokesman for the patient concerned (doctor or qualified lawyer)
- a spokesman for the doctor concerned (doctor or qualified lawyer).

Powers

Development of proposals for an out-of-court settlement in liability disputes between doctors and patients concerning improper treatment.

Procedure

The procedure before the arbitration board is usually in written form. The board may decide to hear the parties in person.

Costs

The procedure before the arbitration board is free of charge. The parties pay their own costs.

Nature of the decision

The board issues an opinion at the end of the procedure. This does not preclude the possibility of taking legal action. In appropriate cases the board may, with the parties' agreement, suggest a proposed settlement.

Enforcement

A settlement reached between the parties in the arbitration procedure does not constitute an enforcement order.

3.2. Arbitration board of the Bayerische Landeszahnärztekammer (Bavarian Regional Dental Society)

Particulars of the body

Fallstraße 34
81369 München,
Tel: (0 89) 7 24 01-0

Structure

The arbitration board consists of a chairman and two dentists as assessors. The chairman must be qualified to be a judge. The members of the board are appointed for four years by the executive committee of the Bavarian Regional Dental Society and are independent.

Powers

The out-of-court settlement of liability disputes between dentists and patients concerning improper dental treatment.

Procedure

The board usually decides by written procedure once the facts have been established. In appropriate cases a hearing may also be held.

Costs

The services of the arbitration board are free of charge for the parties. The parties must pay their own costs.

Nature of the decision

The arbitration board decides in the form of a ruling. The board's decision or conciliation proposal do not preclude the possibility of taking legal action.

Enforcement

The ruling or any settlement reached before the arbitration board do not constitute an enforcement order.

4. BremenName**4.1. Arbitration board of the Zahnärztekammer Bremen (Bremen Dental Society)**Particulars of the body

Universitätsallee 25
28359 Bremen
Tel: (04 21) 22 00 70
Fax: (04 21) 220 07 96

Subject

Disputes between dentists and patients concerning treatment.

Composition

Three members of the Bremen Dental Society.

Costs

DM 100 for each party involved.

5. Lower Saxony**5.1. Zahnärztekammer Niedersachsen (Lower Saxony Dental Society)**Particulars of the body

The central administration of the Lower Saxony Dental Society has an arbitration board known as the "fees and arbitration committee", while the district offices have "district arbitration boards".

The fees and arbitration committee may be contacted via the Zahnärztekammer Niedersachsen, Zeistrae 11 a, 30519 Hannover;
Tel: (05 11) 8 33 91-1 15 oder 1 81
Fax: (05 11) 8 33 91-1 16

The arbitration boards may be contacted via the 11 district offices:

Braunschweig

Vors. Dr. Jrg Thomas
Mnzstrae 9
38100 Braunschweig
Tel.: (05 31) 4 64 22
Fax: (05 31) 4 64 22

Gttingen

Vors. Bernhard Erzberger
Brgerstrae 20
37073 Gttingen
Tel.: (05 51) 5 66 64
Fax: (05 51) 37 63 48

Hannover

Vors. Dr. Michael Sereny

Hildesheim

Vors. Dr. Jrgen-Adolf Stern

Zeißstraße 11 a
30519 Hannover
Tel.: (05 11) 83 39 11 90
Fax: (05 11) 83 39 11 96

Lüneburg

Vors. Dr. Herbert Schwiegk
Bahnhofstraße 69
21423 Winsen/Luhe
Tel.: (0 41 71) 7 13 48
Fax: (0 41 71) 76 33

Osnabrück

Vors. Dr. Bernard Rauf
Lieneschweg 57
49076 Osnabrück
Tel.: (05 41) 4 28 59
Fax: (05 41) 43 33 52

Stade

Vors. Dr. Wolfhard Ross
Obstmarschenweg 297
21683 Stade
Tel.: (0 41 46) 58 84
Fax: (0 41 46) 57 55

Wilhelmshaven

Vors. Dr. Jörg Niedersen
Bismarckstraße 110
26382 Wilhelmshaven
Tel.: (0 44 21) 3 11 42
Fax: (0 44 21) 3 11 42

Kolpingstraße 2
31191 Algermissen
Tel.: (0 51 26) 23 07
Fax: (0 51 26) 12 67

Oldenburg

Vors. Dr. Wolfgang Heindl
Huntestaße 3
26135 Oldenburg
Tel.: (04 41) 2 58 22
Fax: (04 41) 1 26 15

Ostfriesland

Vors. Peter Frank
Splitting rechts 20 – 21
26871 Papenburg
Tel.: (0 49 61) 99 90-0
Fax: (0 49 61) 99 90-33

Verden

Vors. Dr. Karl-Heinz Düvelsdorf
Bahnhofstraße 14
49406 Barnstorf
Tel.: (0 54 52) 12 44
Fax: (0 54 42) 34 26

Structure

The fees and arbitration committee consists of three dentists, plus the general manager of the Society, who has been assigned to the committee. The district arbitration boards have three members and three deputies, who must all have been practising as dentists for at least five years.

The members of the fees and arbitration committee are elected by the Society assembly for the duration of its term of office.

The members of the arbitration boards and their deputies are appointed at the first meeting of the district offices' executive committee in each new term of office for the duration of that term. They remain in office until the next election. The members elect a chairman from among their number.

Powers

The bodies are responsible for conciliation in cases of improper treatment and other disputes arising from the relationship between Society members and patients. The district arbitration board which has jurisdiction is determined by the location of the relevant dentist's practice. There are no other special conditions of access or thresholds for the value of the dispute.

If the district arbitration board feels that the case is not suitable to be dealt with by the board because the decision depends on difficult practical, technical or legal issues, it may decide to

refer the case to the fees and arbitration committee. The fees and arbitration committee is obliged to abide by this decision.

Procedure

The agreement of both parties is required for an application to be made to the arbitration boards.

The arbitration procedure is initiated by a written application from one of the parties to the relevant district arbitration board. The application is immediately forwarded to the defendant with a request to agree to the arbitration and to submit his opinion on the application forthwith. The patient must issue a declaration releasing the dentists concerned from their duty of confidentiality before the procedure can continue. Once the circumstances of the dispute have been established in writing the chairman may invite the parties to a hearing, giving them at least two weeks' notice. The parties may be ordered to attend in person. The chairman directs the hearing, which should if possible be concluded in one sitting. At the end of the hearing the committee fixes a date by which it will notify the parties of its proposed settlement.

The arbitration board may terminate the procedure if it reaches the conclusion that the case is not suitable for the board to deal with for technical, legal or practical reasons.

In order to resolve treatment-related disputes as quickly and unbureaucratically as possible and to prevent or speed up the elimination of adverse health effects, the chairman of the district arbitration board is authorised to carry out any consultations he deems relevant and necessary and to provide support, where appropriate by agreement with his assessors. This may include in particular contacting the dentist carrying out the treatment and, having ordered that the necessary evidence be preserved, arranging for treatment to be continued by another dentist.

Costs

The services of the arbitration board are provided free of charge. The parties pay their own costs and those of their representatives. The board's expenses (for expert opinions and the like) must be paid by the applicant party but may be reimbursed later. Generally speaking each arbitration procedure involves around DM 800 in expenses.

Nature of the decision

The arbitration boards put forward a non-binding proposed settlement. The proposal is not legally binding and action may still be taken before the ordinary courts.

Enforcement

Settlements proposed by the arbitration board and accepted by the parties are not enforceable.

Publication of the board's decisions

No

6. North Rhine-Westphalia

6.1. Ärztekammer Nordrhein (North Rhine Medical Society) advisory committee on improper medical treatment

Particulars of the body

Tersteegenstraße 31
40474 Düsseldorf

Tel: (02 11) 430 22 14/250
Fax: (02 11) 43 02-44 81

Structure

Chairman who is qualified to be a judge and four medical assessors appointed by the Society's executive committee for four years.

Powers

Investigation of whether a doctor who is a member of the Society has exercised due care and attention in carrying out diagnosis and treatment.

Procedure

Application from one of the parties (no official form required)
Written procedure
Hearing possible

Costs

None

Decision

Determination of whether treatment was improper

Enforcement

None

6.2. Ärztekammer Westfalen-Lippe (Westphalia-Lippe Medical Society) advisory committee on medical liability issues

Particulars of the body

Postfach 40 67
48022 Münster,
Tel: (02 51) 9 29-23 50
Fax: (02 51) 9 29 23 99
E-Mail: gutachterkommission@aekwl.de

Structure

Chairman who is qualified to be a judge and two medical assessors. Appointed by the Society's executive committee.

Powers

Complaints from patients about improper treatment by doctors in the area covered by the Westphalia-Lippe Medical Society

Procedure

Written procedure

Costs

None

Decision

Proposed settlement

Enforcement

None

6.3. Zahnärztekammer Westfalen-Lippe (Westphalia-Lippe Dental Society) advisory committee for the assessment of improper dental treatment

Particulars of the body

Auf der Horst 29
48147 Münster
Tel: (02 51) 50 78 83
Fax: (02 51) 50 75 70
Internet: <http://www.zahnaerzte-wl.de>

Structure

Chairman who is qualified to be a judge,
2 assessors,
one of whom is a dentist
Appointed by the Society's executive committee for 4 years

Powers

Assessment of alleged improper dental treatment where the dentist is a member of the Society.

Procedure

Written application from one of the parties
Written procedure, hearing if necessary

Costs

None

Decision

Expert opinion

Enforcement

None

7. Rhineland-Palatinate

7.1. Landesärztekammer Rheinland-Pfalz (Rhineland-Palatinate Regional Medical Society)

Particulars of the body

Schlichtungsausschuss zur Begutachtung ärztlicher Behandlungen (Arbitration committee for the assessment of medical treatment),
Deutschhausplatz 3
55116 Mainz
Tel: (0 61 31) 2 88 22 25
Fax: (0 61 31) 2 88 22 88

Structure

The arbitration committee consists of

- a lawyer who is qualified to be a judge, as chairman,
- a doctor who specialises in the field in which the alleged improper treatment was provided, and
- another doctor with a particular specialisation.

The members of the arbitration committee are appointed by the executive committee of the Rhineland-Palatinate Regional Medical Society. The executive committee may dismiss a member if there are serious grounds for doing so.

Powers

The procedure before the arbitration committee is carried out on request. Both the patient alleging improper treatment and the doctor against whom the allegation is made are entitled to apply for the procedure.

The procedure is voluntary and in written form. The committee may decide to hear the parties in person where it considers it necessary to clarify the facts.

Costs

The procedure before the arbitration committee is free of charge for the parties. The parties pay their own costs and those of their representatives; such costs are not reimbursed.

Nature of the decision

During the procedure the committee establishes whether improper treatment for which the doctor may be held liable has damaged or is likely to damage a patient's health. Where this is the case, the committee puts forward a proposed decision. If the parties request or agree to it the committee will attempt to achieve conciliation.

Enforcement

Settlements reached before the arbitration committee cannot be compulsorily enforced.

7.2. Landeszahnärztekammer Rheinland-Pfalz (Rhineland-Palatinate Regional Dental Society) - Arbitration board –

Particulars of the body

Frauenlobplatz 2
55118 Mainz
Tel: (0 61 31) 61 80 61
Fax: (0 61 31) 67 29 05

Structure

The arbitration board consists of a chairman who is qualified to be a judge plus two dentists as honorary assessors. Deputies are appointed for all members. The term of office is five years.

Powers

The aim of the arbitration board is to make it easier for patients to enforce legitimate claims by having a technical assessment made of the dental treatment received. The disputes dealt with may relate to alleged improper treatment and its effects and also disagreements about dental fees.

The arbitration board covers all dentists qualified to practise in Rhineland-Palatinate.

Procedure

The arbitration board takes action upon written application. Both parties must also agree to the arbitration procedure. The procedure may be written or oral. The patient may be represented and supported by a lawyer at any time.

The arbitration board is required to establish the facts of the case irrespective of the rules on the burden of proof. It is free to make its own assessment of the evidence and decides by a majority vote. It explains the outcome of its appraisal to the applicant.

Costs

Each party must pay a one-off procedure fee of DM 200 for the board's services.

Nature of the decision

The board's decisions and the grounds on which they are based are recorded in writing. Conciliation may be attempted in order to achieve a settlement.

Enforcement

Settlements reached before the arbitration board cannot be compulsorily enforced.

7.3. Landesapothekerkammer Rheinland-Pfalz (Rhineland-Palatinate Regional Pharmacists Society) - Arbitration committee -

Particulars of the body

Am Gautor 15
55131 Mainz
Tel: (0 61 31) 27 01 20
Fax: (0 61 31) 2 70 12 22

Structure

The arbitration committee is made up of one lawyer and two pharmacists. Members of the committee are appointed by the executive committee of the Society for each individual dispute.

Powers

The arbitration committee at the Rhineland-Palatinate Regional Pharmacists Society intervenes in disputes or disagreements between a client and a pharmacist who is a member of the Society about whether an error for which the pharmacist may be held liable has caused or is likely to cause harm.

Procedure

The committee acts upon written application. Both parties must also agree to the procedure. The procedure is in written form; the parties may be heard in person.

Costs

The procedure is free of charge. The parties must pay their own costs.

Nature of the decision

The committee suggests a proposed settlement and attempts to reach agreement.

Enforcement

Settlements reached before the committee cannot be compulsorily enforced.

8. Saxony

8.1. Sächsische Landesärztekammer (Saxony Regional Medical Society) - Dresden office –

Particulars of the body

Postfach 10 04 65

01074 Dresden

Tel: (03 51) 82 67-0

Fax: (03 51) 82 67-4 12

E-Mail: dresden@slaek.de

Structure

The Saxony Regional Medical Society has, in agreement with the association of indemnity insurers, set up an arbitration board for liability disputes between doctors and patients. The board is made up of a chairman, who should be a doctor or a lawyer, and a doctor. Board members and their deputies are appointed by the executive committee of the Society. The dismissal and rejection of board members are governed by the provisions of the Code of Civil Procedure. Decisions in such cases are taken by the Society's executive committee.

Powers

The arbitration board acts as a mediator in disputes concerning patients' complaints about improper treatment from doctors or medical institutions, and it settles legal disputes out of court, where possible.

The board has jurisdiction in disputes involving patients whose claims relate to improper medical treatment on the territory of the Free State of Saxony. Its jurisdiction is not restricted by the value of the dispute.

The board does not take action if the claim in question is against the State, unless the state institution concerned has liability insurance. It also does not take action if a civil law ruling has already been applied for or handed down.

If no liability insurer is involved, the board may still be applied to if the parties agree that it should intervene.

Procedure

The board can only take action if all the parties (insurer, doctor, patient) agree. The patient must agree to release the doctor from his duty of medical confidentiality. The insurer must have rejected the claim for compensation entirely or in part before the arbitration board can be applied to.

The board examines the facts and proposes a settlement of the dispute to the parties. It may consult the patient's medical records as part of this. If the insurer has obtained a report from a medical expert in connection with the claim against its client, it must make this available to the board free of charge. If necessary, the board may commission a supplementary report from another expert. The board decides by written procedure.

Costs

The procedure is free of charge for the applicant. The Saxony Regional Medical Society pays the costs of materials. The insurer involved in the dispute pays the cost of the expert report.

Nature of the decision

On the basis of the expert reports available the board draws up a written decision giving its opinion on the treatment in question and the liability issue. At the end of the procedure all the parties are given copies of the expert report and the board's decision.

No decision is issued which is binding on the parties. Applications to the arbitration board do not preclude the possibility of taking legal action.

Enforcement

Because of the legal nature of the arbitration procedure enforcement is not possible.

Observations

With reference to the „principle of transparency“ it should be pointed out that the Regional Medical Society’s annual activity report includes a general report on the arbitration board’s work. The report may be made available, in particular to the press, upon request.

8.2. District medical societies

Particulars of the body

The arbitration procedure provided for in § 39(1) of the Sächsisches Heilberufekammergesetz (Saxony Law on the medical professions) is carried out by the district medical societies within their own districts. There are district medical societies in the government districts of Dresden, Leipzig and Chemnitz, which can be contacted through the Sächsische Landesärztekammer (Saxony Regional Medical Society):

Sächsische Landesärztekammer
Schützenhöhe 16 - 18
01099 Dresden
Tel: (03 51) 82 67-0
Fax: (03 51) 82 67-4 12
E-Mail: dresden@slaek.de

Structure

The executive committee of the district medical society is responsible for arbitration. It consists of a chairman, his deputy and between a minimum of one and a maximum of nine assessors. The members of the executive committee are elected by the members’ assembly in accordance with the district medical society’s rules of procedure.

Powers

As arbitration boards the district medical societies are responsible for settling professional disputes between Society members and between members and third parties. The coverage is the area of the Saxony Society, although third parties may also come from elsewhere. There is no threshold for the value of the dispute.

Procedure

The parties in the arbitration procedure may be members and third parties. The executive committee takes action upon receipt of an application from one of the parties. If a party objects before the attempted arbitration begins, the committee will not take action. If a third party is involved the committee can only take action if all parties agree.

Correspondence received by the Saxony Regional Medical Society is examined to determine whether the matters involved are professional disputes that can be settled through the arbitration procedure and can thus be forwarded to the district medical society responsible. Under the rules of procedure of the various district medical societies, cases submitted directly to the district medical societies can also be processed directly by them.

The arbitrating body must take action within four weeks of the application being received. It usually attempts arbitration by organising a discussion between the parties. It may ask for information from the parties unless the requirements of professional secrecy or a duty of confidentiality preclude this, making it necessary for the parties to appear in person.

Costs

The arbitration services provided by the executive committee of the district medical society are free of charge.

Nature of the decision

The arbitration procedure attempts to settle the dispute by means of advice and recommendations. No decision which is legally binding on the parties is issued. The arbitration procedure does not preclude the possibility of taking legal action.

Enforcement

Because of the legal nature of the arbitration procedure enforcement is not possible.

8.3. Landeszahnärztekammer Sachsen (Saxony Regional Dental Society) - Legal committee –

Particulars of the body

Schützenhöhe 11

01099 Dresden

Tel: (03 51) 8 06 62 40

Fax: (03 51) 8 06 62 41

Internet: <http://www.zahnaerzte-in-Sachsen.de>

Structure

Arbitration for the settlement of professional disputes in accordance with § 39 of the Sächsisches Heilberufekammergesetz (Saxony Law on the medical professions) is carried out by the legal committee of the Saxony Regional Dental Society. The committee has four members in all, one of whom is a lawyer and three are dentists. The members are elected and dismissed by the Society's assembly. The committee chairman is elected by the members of the committee. The term of office is four years, unless the committee is dismissed earlier by the assembly.

Powers

The legal committee is responsible for settling professional disputes between dentists themselves and between dentists and third parties. The coverage is the area of the Saxony Society, although third parties may also come from elsewhere. There is no threshold for the value of the dispute.

Procedure

The parties in the arbitration procedure may be members and third parties. The legal committee takes action upon receipt of an application from one of the parties. If a party objects before the attempted arbitration begins, the committee will not take action. If a third party is involved the committee can only take action if all parties agree.

The arbitrating body must take action within four weeks of the application being received. It may ask for information from the parties unless the requirements of professional secrecy or a duty of confidentiality preclude this, making it necessary for the parties to appear in person. Arbitration may take the form of a discussion in person or may be based on the documents submitted. If the focus of a dispute is alleged improper treatment by the dentist, an independent report from an expert is usually obtained to form an objective basis for arbitration.

Costs

The arbitration services provided by the legal committee of the Regional Dental Society are free of charge. The parties must pay their own costs themselves. The cost of any expert report obtained is usually paid by the applicant.

Nature of the decision

The legal committee attempts to settle the dispute by means of advice and recommendations or jointly developed settlement proposals. No legally binding decisions are issued.

The arbitration procedure does not preclude the possibility of taking legal action.

Enforcement

No enforcement is possible given the absence of any binding decision.

8.4. Landeszahnärztekammer Sachsen (Saxony Regional Dental Society) - Arbitration committee -

Particulars of the body

Schützenhöhe 11

01099 Dresden

Tel: (03 51) 8 06 62 40

Fax: (03 51) 8 06 62 41

Internet: <http://www.zahnaerzte-in-Sachsen.de>

Structure

The arbitration committee is made up of a chairman, who must be qualified to be a judge, and two dentists as first and second assessors. Deputies are appointed for the chairman and each of the assessors. The Society assembly appoints and dismisses the members of the committee and their deputies. The term of office is four years, unless the assembly dismisses the committee before then.

Any committee member may be rejected on the ground of prejudice. He will then be replaced by his deputy.

Powers

The arbitration committee is responsible for attempting to achieve an out-of-court settlement in disputes between Society members themselves or between Society members and third parties, provided that the disputes concern the profession of dentistry. The committee covers the area of the Saxony Society, although third parties may come from elsewhere. There is no threshold for the value of the dispute.

The arbitration procedure may not be carried out where an arbitration ruling or a judgment by an ordinary court or a court of appeal has already been handed down, or where proceedings are already pending before an arbitration board, an ordinary court or a court of appeal.

Procedure

Before a procedure can be started before the arbitration committee, arbitration must first be attempted before the legal committee of the Regional Dental Society. Only if this fails can an application be made to the arbitration committee.

Applications for an arbitration procedure may be submitted in writing to the chairman of the arbitration committee by a Society member or a third party. If a party objects to the procedure the committee may not intervene.

The arbitration procedure is initiated by a written notice from the chairman to the applicant, the defendant and the other members of the committee. The chairman will summon the parties, experts and witnesses to a hearing. A record must be kept of the conciliation negotiations, which are led by the chairman, and must be signed by the rapporteur and all the members of the committee; certified copies must be given to all the parties.

Costs

For the arbitration procedure the Society charges each party a fee of between DM 200 and DM 1000. For those who are not Society members the service is provided free of charge. The parties pay their own costs themselves. The chairman of the arbitration committee fixes the fee at his own due discretion.

Nature of the decision

The arbitration committee first attempts to settle the dispute by means of advice, recommendations or settlement proposals. If the attempted arbitration fails and the parties state in writing that they are prepared to accept an arbitration ruling from the committee, thereby foregoing further legal action, the committee issues an arbitration ruling on the case. This ruling is binding on both parties.

Enforcement

The arbitration ruling is not enforceable.

8.5. Sächsische Landesapothekerkammer (Saxony Regional Pharmacists Society)Particulars of the body

Pillnitzer Landstraße 10

01326 Dresden

Tel: (03 51) 2 63 93-0

Fax: (03 51) 2 63 93-500

E-Mail: Slak.@T-Online.de

Internet: [http://www.home.t-online.de/home/slak./](http://www.home.t-online.de/home/slak/)

Structure

The Society assembly appointed three arbitrators at the start of its term of office. These have jurisdiction in the government districts of Chemnitz, Dresden and Leipzig.

Powers

The arbitrators are responsible for settling professional disputes which have not already been the subject of judicial proceedings. The parties in the procedure may be members of the Society and third parties. The geographical coverage is the Free State of Saxony. There is no threshold for the value of the dispute.

Procedure

The arbitrator attempts arbitration at the request of one of the parties. If a party objects before the attempted arbitration begins, the arbitrator will not take action. If a third party is involved the arbitrator can only take action if all parties agree. He must take action within four months of the application being received. He may ask for information from the parties unless the requirements of professional secrecy or a duty of confidentiality preclude this, making it necessary for the parties to appear in person.

The arbitration procedures are usually carried out in the presence of the parties to the dispute and, where appropriate, their legal representatives, together with the legal adviser to the Society and – depending on the scope of the dispute – the Vice-President in her role as chairman of the Committee on Occupational Regulations and Competition Law, or the President. A detailed record is kept of the substance, progress and outcome of the discussion, which is forwarded to the parties.

If no settlement is reached the arbitrator has no further involvement.

Costs

The arbitration procedure is free of charge for the parties. They must pay their own costs themselves.

Nature of the decision

The procedure may result in a recommendation or a proposed settlement. It does not preclude the possibility of taking legal action.

Enforcement

The arbitrator does not issue legally binding and enforceable decisions.

Observations

Apart from the statutory requirements set out in § 39 of the Sächsisches Heilberufekammergesetz (Saxony Law on the medical professions) the Pharmacists Society has no other specific arbitration or conciliation rules governing the arbitration procedure. In some cases the procedure is no more than an attempt to reconcile the parties. The arbitrator will not even propose or recommend a solution in every case.