

VIAC – Questionnaire for Arbitrators

Dr Mathias Wittinghofer, FCI Arb
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1. Name: Dr Mathias Wittinghofer

2. Citizenship: German

3. Contact information:

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4. Current position: Partner, Dispute Resolution

5. Education: Westfaelische Wilhelms-Universitaet Muenster

6. Practiced experience in arbitration

- How many arbitrations have you participated in (domestic/international); under which Rules?
50 (DIS, LCIA, ICC, UNCITRAL)
- How often have you acted as Chairman?
3
- How often have you acted as Sole Arbitrator?
1
- How often have you acted as Co-Arbitrator?
7
- How often have you acted as Counsel?
Ca 30
- How often have you acted in a different function (e.g. Administrative Secretary)?
-

7. Publications and other activities in arbitration (e.g. training sessions, seminars, conferences, articles and others):

See enclosed separate sheet

8. Membership in arbitral institutions / functions in arbitral institutions/organizations:

See enclosed separate sheet

9. Languages

Mother tongue: German

Working languages (i.e. languages in which you have both a spoken and written command so that you may conduct arbitral proceedings in this language): English

10. In which legal systems have you trained?

- | | | |
|--|--|--|
| <input checked="" type="checkbox"/> Civil Law | <input checked="" type="checkbox"/> Common Law | |
| <input type="checkbox"/> Austrian Law | <input type="checkbox"/> Hungarian Law | <input type="checkbox"/> Swiss Law |
| <input type="checkbox"/> Czech Law | <input type="checkbox"/> Polish Law | <input type="checkbox"/> Ukrainian Law |
| <input checked="" type="checkbox"/> German Law | <input type="checkbox"/> Slovakian Law | <input checked="" type="checkbox"/> European Law |

Other England & Wales

11. What is your main jurisdiction of practice?

German

12. In which jurisdictions are you admitted to the bar?

Germany; England & Wales

13. Special expertise or specializations (please list a maximum of five):

- | | | | |
|---|---|--|---|
| <input type="checkbox"/> Antitrust/Unfair competition | <input checked="" type="checkbox"/> Damages | <input checked="" type="checkbox"/> Insolvency | <input checked="" type="checkbox"/> Power plants |
| <input type="checkbox"/> Aviation | <input checked="" type="checkbox"/> Distribution | <input checked="" type="checkbox"/> Insurance | <input checked="" type="checkbox"/> Private Intern. Law |
| <input checked="" type="checkbox"/> Banking & Finance | <input type="checkbox"/> Domain name disputes | <input checked="" type="checkbox"/> Intellect. property (IP) | <input type="checkbox"/> Public Intern. Law |
| <input checked="" type="checkbox"/> Capital markets | <input type="checkbox"/> Employment | <input type="checkbox"/> ISDS/ Foreign invest. | <input type="checkbox"/> Real estate |
| <input checked="" type="checkbox"/> CISG | <input type="checkbox"/> Energy | <input checked="" type="checkbox"/> Joint ventures | <input type="checkbox"/> Shipping |
| <input checked="" type="checkbox"/> Civil fraud disputes | <input type="checkbox"/> Engineering | <input checked="" type="checkbox"/> Licensing | <input type="checkbox"/> Sports |
| <input checked="" type="checkbox"/> Commercial disp. / transactions | <input checked="" type="checkbox"/> Entertainment | <input type="checkbox"/> Life sciences | <input type="checkbox"/> State/Public contracts |
| <input checked="" type="checkbox"/> Commodity market | <input type="checkbox"/> Healthcare & Pharmac. | <input type="checkbox"/> Maritime arbitration | <input checked="" type="checkbox"/> Technology |
| <input checked="" type="checkbox"/> Company/Corporate/M&A | <input type="checkbox"/> Hotel/Gastro./Tour. | <input checked="" type="checkbox"/> Media | <input checked="" type="checkbox"/> Telecommunication |
| <input type="checkbox"/> Construction | <input checked="" type="checkbox"/> Inform. technology (IT) | <input type="checkbox"/> Mining | <input checked="" type="checkbox"/> Transport |
| <input checked="" type="checkbox"/> Contract law | <input checked="" type="checkbox"/> Infrastructure | <input type="checkbox"/> Natural resources | |
| <input type="checkbox"/> Other _____ | | | |

14. Date of birth: 02 December 1974

VIAC offers arbitration practitioners the possibility to present themselves on its website. VIAC reserves the right to publish any presentations submitted and to remove it as the case may be. Parties are free to nominate an arbitrator of their choice and so is the VIAC Board when appointing an arbitrator. These presentations do not constitute recommendations but may assist the parties in choosing an arbitrator willing to conduct proceedings according to the Vienna Rules. The fact that an arbitration practitioner appears on this list, does not authorize this person to use the title "VIAC-arbitrator".

I have completed this questionnaire to the above to the best of my knowledge and believe they are accurate.

I hereby consent that the data provided in this questionnaire may be processed for the appointment of arbitrators and published by VIAC. This includes in particular publication on the website of VIAC as well as use in any presentations, etc. This consent may be withdrawn at any time by contacting VIAC at our general contacts, in particular by email addressed to office@viac.eu. The consequence of any such withdrawal will be that my data will no longer be processed by VIAC. For further information, see our privacy statement at <http://www.viac.eu>.

11 Dec 2020

Date

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Dr Mathias Wittinghofer is a Partner in the dispute resolution department in Germany. Mathias is double-qualified as a Rechtsanwalt in Germany and a solicitor in England and Wales. He is also a Fellow of the Chartered Institute of Arbitrators, where he serves on the Committee of the European Branch. A member of i.a. the German Arbitration Institution, the Austrian Arbitration Institution and the Swiss Arbitration Association and listed as a recognized expert at P.R.I.M.E. Finance as well as a panelist at the Vienna International Arbitration Centre and the Kuala Lumpur Regional Centre for Arbitration, Mathias has over 15 years' experience in handling all kinds of commercial litigations and domestic and international arbitrations, with a special focus on capital markets- and post-M&A disputes, both as counsel and as arbitrator. In addition, Mathias has been acting, both as counsel and as arbitrator, in joint venture disputes, in corporate D&O liability matters and in intellectual property cases, including patents, utility models and designs. Mathias is also representing parties with a view to and advising on follow-on cartel damage claim matters. Mathias' arbitration experience includes serving as an expert on German arbitration law in foreign court proceedings.

Mathias has completed the training required to qualify as a Fachanwalt für Bank- und Kapitalmarktrecht (specialized banking and finance lawyer), published several articles on banking and finance law as well as international arbitration, and has spoken extensively on both topics. Mathias is also a lecturer on International Arbitration at the Goethe University in Frankfurt.

In 2012 and again in 2015, Mathias was awarded the prestigious ILO Client Choice Award as Germany's best litigation counsel, based on a survey among more than 2,000 in-house counsels worldwide.

In Who's Who Legal: Arbitration (2020 and 2021) Mathias is recognised as one of the world's leading commercial arbitrators and counsel, stating: "*Mathias Wittinghofer is 'an outstanding colleague with a great attitude', effuse peers who distinguish him as 'an insightful counsel who is always very responsive'*". In the 2017, 2018 and 2019 editions of the book, Mathias was named a global "Future Leader", with the guide stating: "*Mathias Wittinghofer impresses with his impeccable legal skills, outstanding character and great judgment'*". The guide also says: "*Mathias Wittinghofer gains recognition as 'an exceptionally good strategist' who impresses with his 'extremely engaged and client-oriented approach'. Sources comment that he has 'a strong presence, especially in banking, finance and corporate disputes'*".

In Who's Who Legal: Germany (2020 and 2021), Mathias is recognised as one of Germany's highest ranked lawyers in arbitration and litigation. He *'is distinguished as a "very hardworking" lawyer who excels when it comes to handling corporate liability, joint ventures and IP disputes.'* "*Mathias is recognised as a standout figure in the German litigation space thanks to his expert handling of a range of disputes'*". Since 2018, Mathias has been recognised as one of the top "leading lawyers" in the field of arbitration by Who's Who Legal: Germany, which stated: "*The 'very dynamic' Mathias Wittinghofer is internationally recognised for his 'effective, excellent counsel and cogent presentation of facts and law' and is 'fast and professional'*". The guide also recognised him as a leading lawyer in the area of TMT ("*Mathias is a disputes guru who is recognised for his invaluable counsel on technology-related matters'*").

JUVE, the leading German legal directory, lists Mathias as a frequently recommended dispute resolution and arbitration expert ("*rhetorically strong*", "*brilliant strategist*", "*strong counsel in arbitrations*", "*mastermind*", "*competent and likable*"). The Legal 500 Germany acknowledges Mathias as a '*very experienced'* arbitration specialist.

Since 2018, Mathias has also been listed by "The Best Lawyers in Germany" and Handelsblatt's "DEUTSCHLANDS BESTE ANWÄLTE" for his litigation work and since 2021 additionally for his work in arbitraiton and mediation as well as international arbitration.

Select experience in Arbitration

- Acting as presiding arbitrator in dispute between members of joint venture in the automotive industry over licence fees and compensation of capital expenditures and corresponding shareholder resolutions
- Acting as presiding arbitrator in post M&A arbitration between Indian and German parties over targets located in Germany and the EEA region in the automotive and drivetrain industry
- Acting as sole arbitrator in an arbitration between a bank and a real estate funds in dispute about validity and operation of debtor warrant
- Acting as presiding arbitrator in post-M&A arbitration about divestiture of transportation and shipping business and subsequent non-compete obligation
- Acting as party-appointed arbitrator in arbitration between Russian and German parties over sanctions and effects on delivery obligations under international supply contract
- Acting as a party-appointed arbitrator in a DIS post-M&A arbitration about the validity, applicability and extent of earn-out clauses in the SPA concerning GPS travel and navigational devices
- Acting as party-appointed arbitrator in a DIS post-M&A arbitration concerning subsequent purchase price adjustment following post-closing amendments in applicable corporate income tax code
- Acting as a party-appointed arbitrator in a DIS post-M&A arbitration about post-closing purchase price adjustment in the metals and aluminium business
- Acting as party-appointed arbitrator in a DIS post-M&A arbitration concerning inter alia tax and litigation indemnifications and product liability in the automotive and engineering industry
- Acting as arbitrator appointed by institution in arbitration dealing with alleged rights of recourse in the context of an insolvency following an M&A arbitration in the logistics and shipping industry
- Acting as party-appointed arbitrator in ad hoc arbitration concerning the dissolution of a medicinal joint venture
- Representing a major European telecommunications provider in a Vienna-based ICC arbitration following the acquisition of a cable network operator in CEE country under Austrian law
- Representing and advising a French innovation and engineering consulting firm as seller in dispute arising out of purchase of various European subsidiaries in automotive industry from Austrian holding company as defendant and seller resulting from breaches of covenants and guarantees in connection with projects undertaken by target companies
- Representing a leading European logistics company in a post-merger arbitration against German seller over balance sheet guarantees for Italian targets
- Acting as counsel in ad hoc arbitration in shareholder dispute over payment obligations of shareholders in a joint venture in the rubber and tyre industry under the DIS-Supplementary Rules for Corporate Law Disputes 09
- Acting as counsel for a German multinational in > 100 mio ICC arbitration about turnkey contracts for combined heat-and-power power plants in three different countries
- Representing a German sickness funds in EUR 260 million dispute over establishing integrated care centres in arbitration and parallel proceedings to have arbitration declared inadmissible by Frankfurt Court of Appeals
- Advising a leading international industrial company in a DIS arbitration over the engineering and construction of a power plant in Germany and Latin America
- Acted as counsel in > €100 mio. post-M&A arbitration and parallel third party expert proceedings about correctness of effective date accounts of target in petrochemical industry*
- Acted as counsel in > €80 mio. post-M&A DIS arbitration about violations of guarantees under SPA regarding divestiture of major subsidiary of a German multinational pharmaceutical

company

- Acting for a Japanese company in proceedings to have London arbitration award be declared enforceable in Germany
- Advising a Russian company on SCC arbitration in Stockholm against German manufacturers under CISG/German law
- Advising a Russian corporation in dispute with German counterparty with a view to ICC arbitration in Switzerland and to challenging a related injunction sought by same counterparty in German courts against issuer of bank guarantee
- Acted as party-appointed expert on German arbitration law before the commercial courts in Thailand

Publications on Arbitration and ADR

- Author: "Adjudikation – Mittel der Wahl in Corona-Zeiten?" – *Platow Recht*, July 2020
- Author: "Adjudikation als Weg zur alternativen Streitbeilegung - Wenn das Projekt weitergehen muss" – *LTO*, July 2020
- Extensively quoted in: "Adjudikation – Unbekannte Alternative zum Gerichtsprozess", *Handelsblatt*, July 2020
- Author: "One year of Model Declaratory Action in Germany- taking stock and outlook" – *Lexology*, November 2019
- Co-Author: "Derivatives Disputes: ISDA revises Arbitration Guide, expanding the model arbitration clauses", 19. December 2018
- Author, Chapters "Die Beweisaufnahme", "Schiedsverfahren vs Schiedsgutachten" and "England & Wales", in Salger/Trittmann (eds) "Internationale Schiedsverfahren", Beck, 2018
- Author, "The DIS Rules of Arbitration of 2018", *Kluwer Arbitration Blog*, February 2018
- "Alternative Streitbeilegung: Geschwindigkeit zählt", *PLATOW Recht*, Nr. 57, 17. May 2017
- Author, "'No Risk, no Fun' – A Counsel's Remarks on Integrity", *Schieds VZ* 2017, Heft 3
- Author, "Neue ISDA-Standard-Klausel für Schiedsverfahren bei OTC-Geschäften", *Risiko Manager*, February 2017
- Author, "Chancen nutzen, Risiken minimieren", *Die Bank, Zeitschrift für Bankpolitik und Praxis*, January 2017
- Author, "The Race Towards Predictability", *Austrian Arbitration Yearbook*, 2017
- Author, "A Never Ending Story: Claudia Pechstein's Challenge to the CAS", *Kluwer Arbitration Blog*, June 2016
- Author, "Arbitration and intra-EU BITs – German Bundesgerichtshof weighs in on the discussion", *Herbert Smith Freehills - Arbitration Notes Blog*, May 2016
- Author, "Application to Have Arbitration Declared (In)Admissible – A German Torpedo to Arbitral Proceedings?", *Kluwer Arbitration Blog*, November 2015
- Author, "Arbitrations seated in Germany: Due to the dynamics within arbitral tribunals, an award can be set aside even if only one of the arbitrators was successfully challenged in the German courts and the decision was made unanimously", *Herbert Smith Freehills - Arbitration Notes Blog*, July 2015
- Author, "CJEU confirms validity of jurisdiction clauses agreed electronically by “click-wrapping”", *Litigation Notes Blog*, 2015
- Author, "Argentina cannot evade payments under its government bonds: German Court rejects suggestion of a general rule of international public law obliging all creditors to participate in debt restructuring with states in economic crisis", *PIL Notes Blog*, 2015
- Author, "German Federal Supreme Court Underlines Non-Interventionist and International Approach of German Arbitration Law", *Kluwer Arbitration Blog*, 2014
- Author, "Finanzbranche entdeckt Schiedsgerichte", *Börsen-Zeitung, Recht und Kapitalmarkt*, No.201, October 2013

- Author, "Emmott v. Michael Wilson & Partners Ltd: Der englische Court of Appeal meint es ernst mit der Vertraulichkeit im Schiedsverfahren – oder nicht?" (Emmott v. Michael Wilson & Partners Ltd: The English Court of Appeal is Serious About Confidentiality in Arbitration – Or is it?), SchiedsVZ, 2009
- Author, "Schiedsklauseln in Allgemeinen Geschäftsbedingungen", SchiedsVZ 2005, at 217-229
- Author, "Verbietet das AGG die Auswahl von Schiedsrichtern aufgrund ihrer Nationalität?", RIW 2011, 527–531

Presentations on Arbitration

- Speaker, "Arbitration, Financial Services and Banking Disputes: An Update" at 9th P.R.I.M.E. Finance Annual Conference, The Hague, 4 February 2020
- Speaker, 3rd IBA Litigation Committee Conference on Private International Law – The latest on Brexit, International Commercial Courts and Sanctions, Milan, 25 October 2019
- Speaker, BRG Conference, London, 17 October 2019: Debating the Upsides and Downsides of Party- or Tribunal-Appointed Experts in Arbitrations
- Speaker, 8th Hanseatischer GmbH-Beratertag, 9 November 2018: The new DIS Rules of Arbitration
- Speaker, Annual Meeting of the German-Korean Legal Association, 27 October 2018: The new DIS Rules of Arbitration
- Speaker, 5th GAR Live Frankfurt, 12 June 2018, "Lies, fraud and deceit – what are counsel's duties in arbitration's defence?"
- Speaker, Working Group Day 2018, German-American Lawyers' Association, 2 March 2018, Frankfurt: "The new 2018 DIS Rules – a comparison with the ICC and the LCIA Rules"
- Chair, Panel "Arbitration for Finance Lawyers" at 7th P.R.I.M.E. Finance Annual Conference, The Hague, 23 January 2018
- Speaker, "Arbitration and Iran", 19th Euro Finance Week, 3rd Banking and Business Forum Iran Europe, Frankfurt, 16 November 2016
- Speaker, "No Risk, No Fun – A Counsel's Remarks on Integrity in International Arbitration", Deutsche Institution für Schiedsgerichtsbarkeit/German Institution of Arbitration, Fall Conference, 28 September 2016 Speaker,
- Speaker, "Arbitration and the State Courts", Video Post in Observations on Arbitration series, Herbert Smith Freehills - Arbitration Notes Blog, April 2016
- Speaker, "The race for predictability: is it a threat to modern arbitration?", Vienna Arbitration Days, Vienna, 22-23 January 2016
- Chair and Speaker, "Regional trends in international arbitration", CDR Autumn Arbitration Symposium, London, 2015
- Speaker and Presenter, "The uncitral model law – On international commercial arbitration and proceedings under the uncitral regime", 8th Duesseldorf International Arbitration School and Conference, Duesseldorf, September 2015
- Speaker and Presenter, "Pitfalls in M&A arbitration", 8th Duesseldorf International Arbitration School and Conference, Duesseldorf, September 2015
- Speaker and Presenter, "Arbitration in Banking & Finance Disputes", Duesseldorf International Arbitration Conference, Panel Discussion, 27 September 2013
- Lecturer "National and International Arbitration", Goethe-Universität, Frankfurt
- Speaker, "Arbitration and Adjudication in International Construction Projects," Association of the Turkish Construction Industry (INTES), Ankara, March 2010

Associations

- Member of P.R.I.M.E. Finance – Panel of Recognized International Market Experts in Finance
- International Bar Association (IBA)
- International Council for Commercial Arbitration (ICCA)
- Deutsche Institution für Schiedsgerichtsbarkeit (DIS) (German Institution for Arbitration)
- Chartered Institute of Arbitrators, Committee of European Branch
- Law Society of England & Wales

- Deutsch-Britische Juristenvereinigung/German-British Jurists Association (DBJV)
- Bankrechtliche Vereinigung (Association for Banking Law)
- Austrian Arbitration Association
- Listed as arbitrator at the Vienna International Arbitration Centre (VIAC)
- Swiss Arbitration Association (ASA)
- Member of Panel of Arbitrators of the Kuala Lumpur Regional Centre for Arbitration

Admission

England and Wales, United Kingdom (2008)
Germany (2004)

Education

Oberlandesgericht Frankfurt am Main (Assessor Exam) (2004)
Westfaelische Wilhelms-Universitaet Muenster (Referendar Exam) (2000)

Languages

English
German