# Arbitration According to the Rule of Justice

## Decision Tree Table for Arbitration According to the Rule of Justice (Ex Aequo et Bono)

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| --- | --- | --- | --- | --- | --- |
| Step | Question | Code | Answer | Sub-Code | Action |
| 1 | Is the arbitration clause silent on the use of ex aequo et bono (equity)? | A1 | No | A1.1 | Apply the law specified in the arbitration clause. End. |
|  |  |  | Yes | A1.2 | Proceed to Step 2. |
| 2 | Do the parties explicitly agree to arbitrate using ex aequo et bono? | A2 | No | A2.1 | Apply strict legal framework; no equitable decision-making. End. |
|  |  |  | Yes | A2.2 | Proceed to Step 3. |
| 3 | Does the dispute involve complex, technical, or specific legal issues (e.g., breach of contract, delays)? | A3 | Yes | A3.1 | Apply the strict legal framework based on the contract’s terms. End. |
|  |  |  | No | A3.2 | Proceed to Step 4. |
| 4 | Is there a need for flexibility and fairness in resolving the dispute (e.g., unforeseen hardship, unequal bargaining power)? | A4 | No | A4.1 | Apply strict legal framework; flexibility is not required. End. |
|  |  |  | Yes | A4.2 | Proceed to Step 5. |
| 5 | Are the parties seeking an equitable resolution (e.g., compensation for hardship)? | A5 | No | A5.1 | Apply strict legal framework; no need for equitable considerations. End. |
|  |  |  | Yes | A5.2 | Proceed to Step 6. |
| 6 | Are there past precedents where ex aequo et bono was applied in similar cases? | A6 | Yes | A6.1 | Ex aequo et bono approach is appropriate. Proceed to Step 7. |
|  |  |  | No | A6.2 | Proceed to Step 7. |
| 7 | Does the agreement indicate a need for fairness and flexibility in dispute resolution? | A7 | Yes | A7.1 | Use ex aequo et bono principles to resolve the dispute. Proceed to Step 8. |
|  |  |  | No | A7.2 | Apply strict legal framework. Proceed to Step 8. |
| 8 | Are there public policy concerns or societal interests requiring equity (e.g., safety, environment)? | A8 | Yes | A8.1 | Use ex aequo et bono principles to address fairness and public policy. |
|  |  |  | No | A8.2 | Apply strict legal framework. |

## Notes

Note 1: If the applicable law is unclear or ambiguous, the tribunal may interpret it by reference to general principles of equity and fairness. In such cases, ex aequo et bono principles may complement the strict legal framework to ensure justice.