



IP MEDIATION CONFERENCE

“BRINGING STAKEHOLDERS TOGETHER”

29-30 MAY 2014, ALICANTE SPAIN



GOVERNO DE
PORTUGAL

MINISTÉRIO DA JUSTIÇA

DGPJ

Direção-Geral da Política de Justiça



1. What is **ARBITRARE**?

2. Who are the parties involved in disputes?

3. **ARBITRARE** services

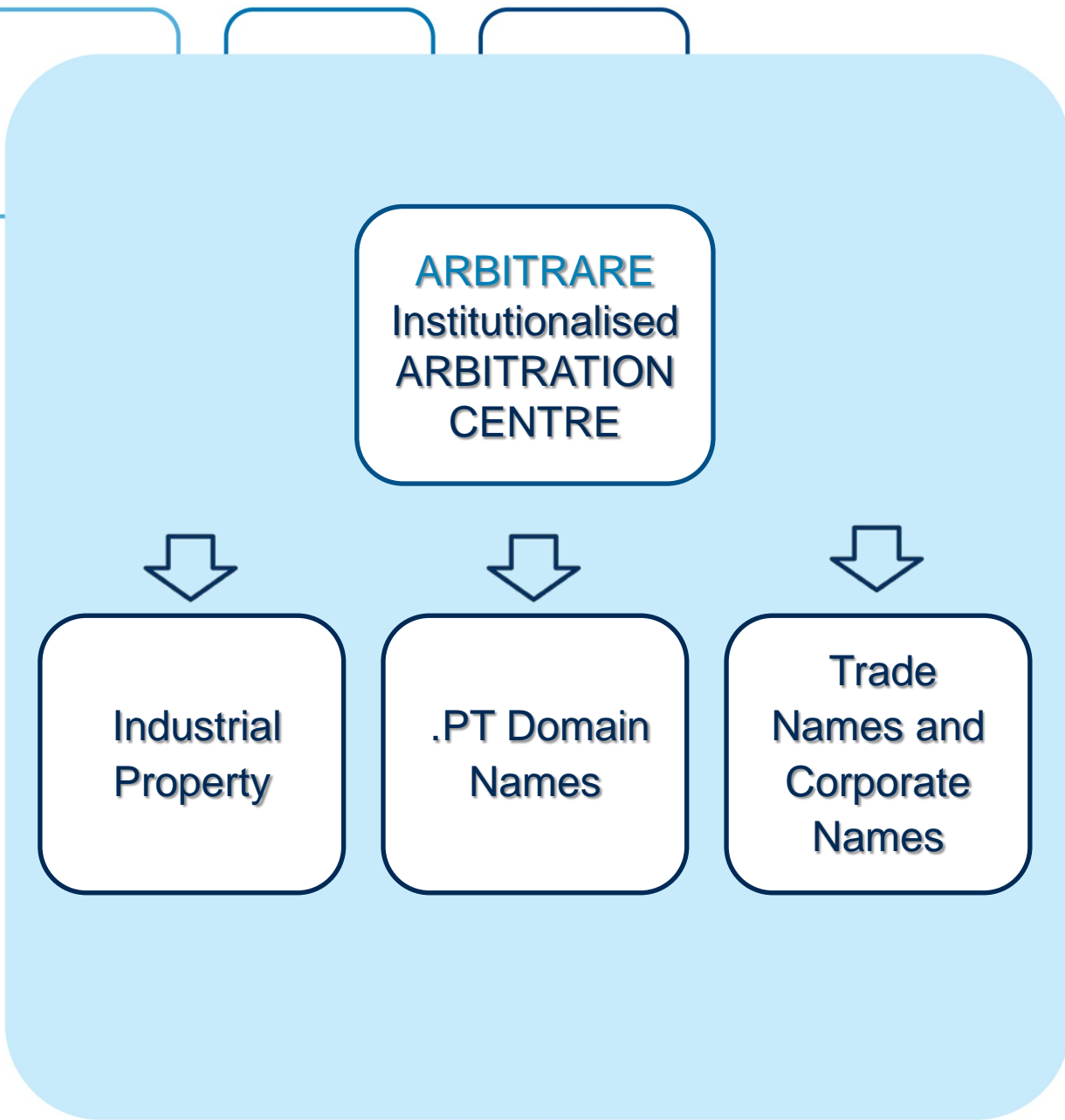
4. Stages of the arbitral proceedings

5. Mediation in **ARBITRARE**

6. **ARBITRARE** mediation statistics



1. WHAT IS
ARBITRARE?



Disputes
arising out of
Industrial
Property Rights



Reference
Medicines

Generic
Medicines

subject to
compulsory
arbitration
by Law



2. WHO ARE THE PARTIES INVOLVED IN DISPUTES?

Private Parties

Private Parties
and
The Portuguese
Registration
Bodies



Institute
of Industrial



Institute
of



DNS.PT
Associati

BOUND TO ARBITRARE



3. ARBITRARE SERVICES



Information
Service



Composed of **LEGAL COUNSELS** with specific training in the matters covered by the scope of **ARBITRARE**

Mediation
Service



Composed of skilled experts – **MEDIATORS** – who have attended a course recognized by the **Ministry of Justice**

Arbitral
Tribunal



Composed of **ARBITRATORS** of recognised merit, with specialized knowledge and legal expertise



4. STAGES OF THE ARBITRAL PROCEEDINGS

STAGE 1

Presentation of Procedural Documents by The Parties

- Initial Petition
- Answer
- Allegations
(Submitted electronically through an application)

STAGE 2

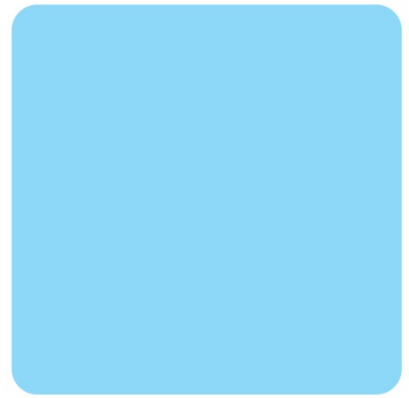
Mediation

- Optional Stage
- Parties are invited
- Only takes place if all parties involved accept mediation

STAGE 3

Arbitration

- Constitution of the Arbitral Tribunal
- Arbitral Award made within 6 months
- Has binding effect and enforceability



5. MEDIATION IN ARBITRARE

**INVITATION
TO
MEDIATION**

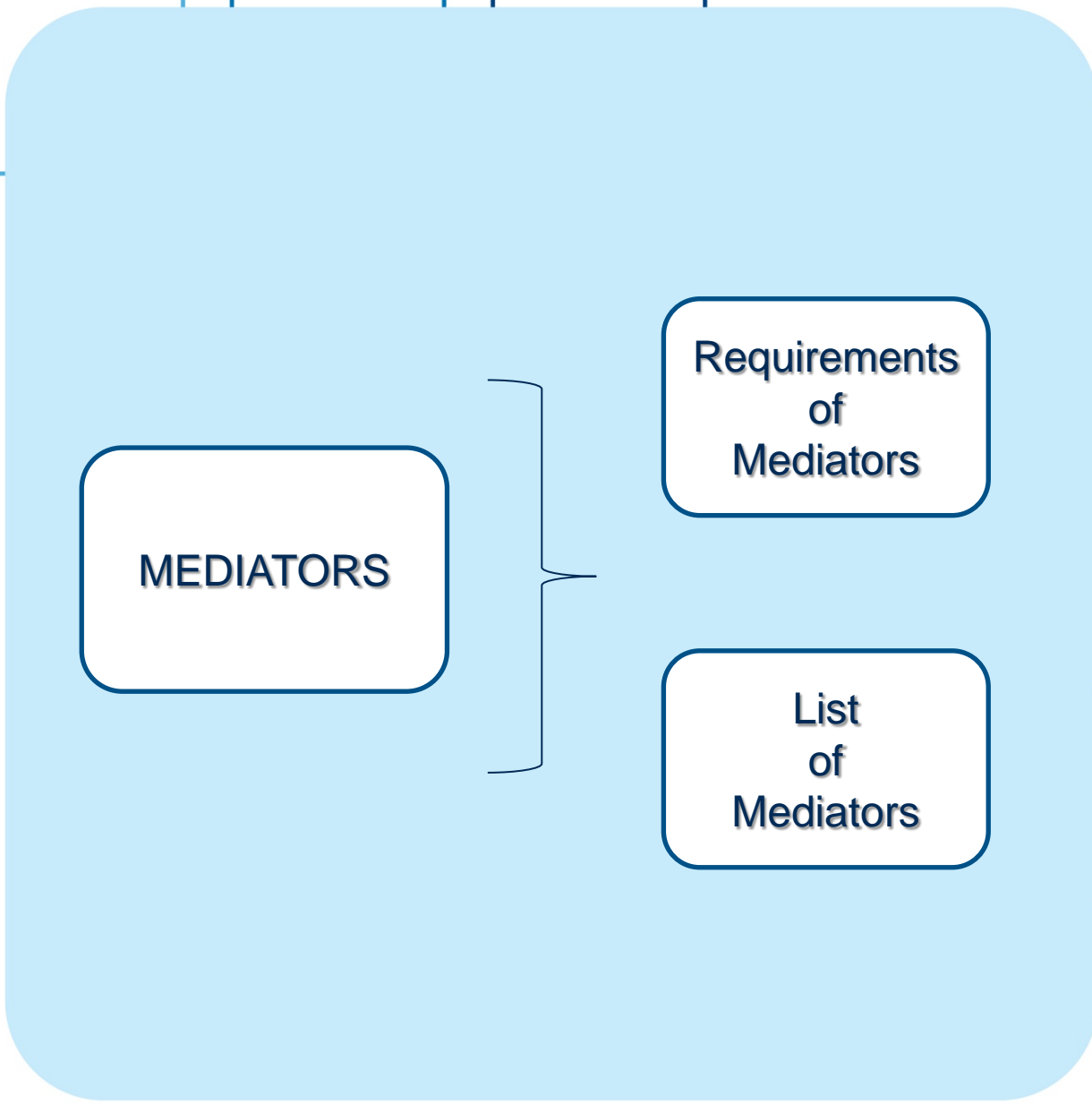
**Participants
in the
Mediation
Sessions**

**Location
of the
Mediation
Sessions**

**Language
of the
Mediation
Sessions**

**Costs
of the
Mediation**

**Duration
of the
Mediation**



RULES

ARBITRARE
Arbitration Rules
and Procedural
Costs Regulation

Portuguese Law on
Mediation
(Law no. 20/2013, 19
April)

European Code of
Conduct for
Mediators of the
European
Commission / the
Directive
2008/52/EC of the
European
Parliament and of
the Council of
21.05.2008

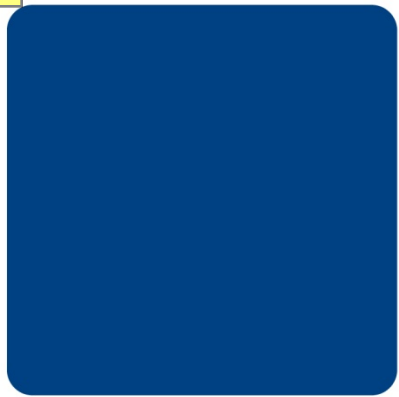
**Portuguese Law
on Mediation**
(Law no. 20/2013, 19
April)



**PRINCIPLE
OF ENFORCEABILITY**
(article 9.º)

Mediation Settlement Agreement
is enforceable provided that the following
cumulative requirements are met:

- It must concern a dispute that may be subjected to mediation and for which the law does not demand judicial homologation;
- For which the parties had capacity to agree hereon;
- That is obtained through mediation conducted in accordance with the law;
- The content of which does not violate public policy;
- In which a mediator participated who is registered on the list of mediators of the Portuguese Ministry of Justice.



6. ARBITRARE MEDIATION STATISTICS



WHY?

165
PROCEEDINGS

4
MEDIATIONS

1
MEDIATION
SETTLEMENT

- The majority of the proceedings filed with ARBITRARE involve the 3 Portuguese Registration Bodies
- Their decisions are subject to arbitral appeal with ARBITRARE and thus include the optional Mediation Stage
- They, however, never accept to resolve disputes in the Mediation Stage, alleging that the public interest pursued in their decisions cannot be mediated



WWW.ARBITRARE.PT