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PECULIARITIES OF EXPEDITED ARBITRATION PROCEDURES IN DIFFERENT JURISDICTIONS

ANNOTATION. *Introduction.* The peculiarities of expedited arbitration processes in different jurisdictions are examined in this article, with an emphasis on how nations are modifying their arbitration laws to satisfy the growing need for quick and affordable dispute resolution in a world economy that is becoming more interconnected by the day. With the ability to settle conflicts more quickly while upholding the fundamental values of justice and openness, expedited arbitration has become a competitive option to regular arbitration. The purpose of the article is to identify the peculiarities of expedited arbitration procedures in different jurisdictions and to analyze the specifics of the impact of expedited arbitration proceedings on the arbitration process.

Summary of the main results of the study. The article explores the institutional practices, procedural variances, and legal provisions that define accelerated arbitration in important jurisdictions, such as the US, UK, France, Sweden and a few emerging countries. The article uses a comparative study to illustrate the advantages and disadvantages of expedited arbitration, including the possibility of shorter timeframes and costs vs issues with party autonomy and due process. The article also looks at how technology might improve the effectiveness of accelerated arbitration procedures, from virtual hearings to electronic submissions, and how these advancements can lessen some of the more conventional difficulties in resolving disputes. It also discusses the dangers of expedited arbitration, including the restrictions on evidence and the pressure on arbitrators to render decisions quickly, which can occasionally jeopardize the process's thoroughness.

Conclusion. The article's conclusions are intended to provide important insights into accelerated arbitration best practices and the required improvements that could increase its efficacy. In the end, the conversation serves as a resource for practitioners, legislators, and academics interested in the changing arbitration landscape by offering a framework for comprehending regional legal cultures and procedural standards. In a world market that moves quickly, this article emphasizes the importance of expedited arbitration as a vital instrument for promoting international investment and commerce.

KEY WORDS: *arbitration, expedited arbitration, arbitration costs, arbitration rules.*

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Introduction. In an increasingly interconnected global economy, the need for efficient and effective dispute resolution mechanisms has never been more critical. Expedited arbitration has emerged as a popular alternative to traditional arbitration, offering parties the advantage of resolving disputes quickly and at a reduced cost. This method is particularly appealing in commercial contexts where time is of the essence, and the stakes are high. However, the adoption and implementation of expedited arbitration vary significantly across different jurisdictions, influenced by local legal frameworks, cultural attitudes toward dispute resolution, and institutional practices. The relevance of this topic lies in its potential to inform practitioners, scholars, and policymakers

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about the intricacies of expedited arbitration, ultimately contributing to improved dispute resolution practices in a globalized economy.

Numerous authors and scholars have contributed significantly to the field of international commercial arbitration such as G. Born, J.Paulsson, E. Gaillard, L. Mistelis, T. Schultz, R. Kreindler, C. Schreuer, G. Tsirat, Y. Prytyka, A. Dovhert. These authors have greatly contributed to the analysis of the peculiarities of expedited arbitration proceedings

Main results of the research. The business community, who are the arbitration process' "consumers," are becoming increasingly displeased with the lengthened arbitration process and its associated expenses. These remarks, which were expressed by well-known and frequent arbitrators, undoubtedly echo the opinions of many other business lawyers worldwide. Many people today consider arbitration's reputation as a speedy and informal substitute for judicial procedures to be a thing of the past.

There are many complaints about the growing "judicialization" of arbitration, wherein arbitrators and attorneys (some of whom may have served as judges) are all too willing to apply the court procedures they are familiar with to the arbitration process without giving it a second thought as to whether there might be a more expedient and cost-effective way to resolve that specific dispute. With good reason, practitioners and organizations are trying to address the issue directly [1, p. 104].

According to a recent survey, many business executives responded that an arbitration of medium complexity with US$ 5–10 million at stake should take two to three months, while many corporate counsel believed that the arbitration should be completed in less than a year.

However, what consumers are getting in arbitration is a procedure that, on average, takes two to three years from the start of the arbitration to the award's delivery, with expenses per party (lawyer only) often exceeding $1 million USD [2].

In recent years, expedited arbitration has grown in popularity as a substitute for traditional international arbitration, which is time-consuming and expensive.

The Geneva Chamber of Commerce and Industry's (CCIG) Arbitration Rules, which were enacted in 1992, seem to be the first instance of an expedited arbitration procedure. As will be discussed in more detail below, most well-known arbitration organizations now include special clauses for expedited procedures in their rules.

The rules for expedited procedures were developed in 1998 within the ICC and LCIA Rules, although the application of expedited arbitration began even earlier. One of the first cases resolved under this expedited procedure was ICC No. 10211/AER in 1990. In this case, a Formula One (F1) team was preparing to compete in an annual event in Australia scheduled for March, making it crucial for them to have their cars delivered to carriers in mid-January.

In the mid-1990s, a dispute arose between the F1 team and their sponsor, a tobacco company. The conflict centered on the sponsor's desire to paint one of the team's cars in one brand and color of cigarettes, while the other car would feature a different brand and color. The F1 team insisted that both cars should have a uniform appearance.

By Christmas, it became evident that if the dispute was not resolved swiftly, the team would be unable to transport their cars in time for the competition. Consequently, an expedited dispute resolution procedure was initiated. The matter was addressed between Christmas and New Year, and the parties received a final decision on the last day of January [3, p. 146].

The following are the primary traits that all sets of expedited arbitration rules have in common:

quick selection of the arbitral tribunal, usually with one arbitrator rather than three; simplified processes, usually with only one round of submissions and without a document preparation stage;

fast final award issuing, usually based only on written submissions unless a final hearing is considered necessary.

Whether expedited provisions are applied automatically by reference to arbitration rules that contain them or if the parties must expressly agree to apply these particular provisions, as well as the financial threshold for a dispute to qualify for expedited arbitration, which differs significantly amongst major arbitration institutions.

Article 30 and Annex VI of the 2021 ICC Rules of Arbitration (together referred to as the "Expedited Procedure Provisions"; see also Expedited Arbitration under the ICC Rules) contain specifics about the ICC Expedited Arbitration Rules.

The following circumstances automatically trigger the application of these expedited procedure provisions: Arbitration agreements reached between March 1, 2017, and December 31, 2020, may be worth up to USD 2 million;

Arbitration agreements reached on or after January 1, 2021, may be worth up to USD 3

million; or any sum, provided that both parties accept their application.

However, the following situations exempt you from the Expedited Procedure Provisions: The parties have agreed to opt out of the Expedited Procedure Rules; the arbitration agreement was made prior to the Expedited Procedure Rules' implementation on March 1, 2017; or the ICC Court determines that the Expedited Procedure Provisions are inappropriate for the particular case, either independently or at a party's request [4]. In expedited arbitration by the ICC:

Even if the arbitration agreement says otherwise, a single arbitrator may be chosen (Article 2 of Annex VI).

According to Article 3(3) of Appendix VI, a case management meeting must take place within 15 days of the case being referred to the arbitral tribunal. According to Article 3(5) of Appendix VI, the arbitral tribunal may settle the issue without hearings or the need to question witnesses and experts if both parties consent.

According to Article 4(1) of Annex VI, the ICC court may extend this period if necessary, but the arbitral panel must make its final decision within six months following the case management meeting.

The 2020 LCIA Arbitration Rules are used in all situations; the LCIA does not have specific rules for expedited arbitrations. Any procedural orders that the arbitral tribunal determines are required to guarantee the "efficient and expeditious conduct of the arbitration" (Article 14.5) may be issued. When there is "exceptional urgency," a party may ask for a quicker procedure to form the arbitral panel (Article 9A) or select a new arbitrator (Article 9C) [5]. There is no set criteria for what constitutes "exceptional urgency," and each situation is assessed on an individual basis, as the LCIA Note on Emergency Procedures makes clear. Examples of circumstances that the LCIA has found meet or do not satisfy this threshold are included in Section 6 of these notes.

Article 1(4) and Articles E-1 to E-10 of the 2021 ICDR Arbitration Rules, as well as any other parts of the Rules that do not conflict with it, describe the expedited procedure (collectively referred to as the "Expedited Procedures").

Article 1(4) of the ICDR Expedited Procedures is applicable.

If all parties accept their application, or if no stated claim or counterclaim exceeds $500,000, excluding interest and arbitration fees.

Using the list approach outlined in Article E-6, a single arbitrator is chosen. In particular, the parties are given a list of five potential arbitrators to choose from by the ICDR administration. They may each strike two names from the list and order the remaining names according to their preferences if they are unable to agree.

The Sole Arbitrator is chosen by the ICDR Administrator in the event that no agreement is obtained. The Sole Arbitrator is required to issue a procedural order for the arbitration within 14 days of being appointed (Article E-7). Oral hearings should take place within 60 days of the procedural order, if required (Article E-8) [6]. Within 30 days following the conclusion of the hearing or the deadline for final written submissions, the final award must be made (Article E-10).

The 2023 SCC Expedited Arbitration Rules, which the SCC introduced in a separate document, only apply if both parties specifically consent to them, either in their arbitration agreement or after the dispute has arisen (Preamble, p. 3 PDF). It might be difficult since parties could not know the value of the disagreement until it occurs, and their applicability is not based on the dispute amount like other arbitration rules are. A single arbitrator, chosen by the parties or the SCC Board (Article 18), renders the arbitral verdict in SCC expedited proceedings (Article 17) [7].

Although the SCC Board may extend this period, the final award must be made within three months after the SCC Secretariat referring the case to the sole arbitrator (Article 43). SCC accelerated arbitration is less expensive than regular SCC arbitration. The SCC Administrative Fees, for example, are EUR 15,240 (VAT excluded) for expedited arbitration and EUR 29,250 for non-expedited arbitration in a case involving a disputed sum of EUR 2 million. For expedited arbitration, the fees for the sole arbitrator range from EUR 23,900 to EUR 52,100, while for non-expedited cases, they range from EUR 28,000 to EUR 72,000.

Article 1(5) of the UNCITRAL Expedited Rules, which were added as an appendix to the UNCITRAL Arbitration Rules in 2021, states that the Expedited Rules only apply if "the parties agree," regardless of the amount in dispute.

According to these guidelines, a single arbitrator is typical (Article 7 of the Appendix) [8].

Unless the parties agree to prolong this period, the final award must be made within six months of the tribunal's establishment (Article 16(1) of the Annex).

The "Simplified Procedure," an expedited process described in Section IV, Articles 56 to 64 of the 2015 CIETAC Arbitration Rules,

The following circumstances make the CIETAC Simplified Procedure applicable (Article 56.2). Unless the parties have agreed otherwise, if the sum in dispute does not exceed RMB 5 million; one party may request streamlined arbitration if the sum at issue exceeds RMB 5 million, and the other party must give written consent; or if both parties consent to using the streamlined process.

CIETAC shall decide whether to use the simplified method in situations where there are no monetary claims or the amount in dispute is uncertain based on a number of variables, such as the complexity of the case and the interests concerned (Article 56.1) [9].

Unless the parties agree differently, a single arbitrator will be chosen (Article 58). Within three months of the arbitral tribunal's formation, the summary award must be made. According to Article 62.2, the President of the CIETAC Arbitral Tribunal may decide to extend this date if it is thought necessary and appropriate.

Rule 5 of the 2016 SIAC Arbitration Rules contains the guidelines for the expedited procedure. According to Rule 5.1, a party may ask the SIAC Registrar for an expedited procedure if the parties mutually consent to an expedited process; the total amount in dispute does not exceed SGD 6 million; or there are extraordinary circumstances [10].

The matter will be assigned to a single arbitrator under the expedited procedure (Rule 5.2(b)).

The SIAC Registrar may extend this deadline in extraordinary circumstances, but the award must be made within six months of the sole arbitrator's appointment (Rule 5.2(d)).

Article 32 (accelerated Proceedings) of the 2022 DIAC Arbitration Rules outlines the guidelines for accelerated proceedings [11].

The following circumstances make the expedited DIAC regulations applicable, per Article 32.1. If, after deducting interest and legal costs, the total value of the claims and counterclaims is AED 1 million or less;

- If the parties have consented in writing to the accelerated process; or
- In situations of extraordinary urgency as decided by the SACCI Arbitration Court at the request of a party.

If the Arbitral Tribunal grants expedited procedures, the SACC will designate a single arbitrator within five days.

The sole arbitrator must issue the final award within three months from the date the case is referred to the court by the Center, unless this timeframe is extended (Article 32.5).

The expedited arbitral proceedings shall be conducted when the parties have provided for it in the arbitration agreement or subsequently agreed on such proceedings. The parties' agreement on expedited arbitral proceedings shall be admissible no later than filing a response to the Statement of Claim.

Unless otherwise agreed by the parties, the provisions of the present Rules shall be applied to an expedited arbitral proceedings with the following exceptions.

The arbitration fee provided for in Article 16 of the present Rules shall be paid within 15 days.

The Statement of Defense shall be submitted by the Respondent within 10 days upon the date of the Statement of Claim receipt. The exchange of written statements of the parties on the merits of the dispute is limited to filing a Statement of Claim and a Statement of Defense and, if applicable, a counterclaim and objections to a counter-claim, if, with due regard for the case circumstances, the Arbitral Tribunal or, before its constitution, the Secretary General of the ICAC does not consider it appropriate to allow the parties to submit additional written statements.

The Respondent is entitled to file a counter-claim or a set-off statement within 10 days from the date of the Statement of Claim receipt. The arbitral proceeding is carried out on the basis of written materials only without an oral hearing unless, without undue delay, either party requests it or the Arbitral Tribunal shall not consider it expedient to conduct an oral hearing in the light of the case circumstances. In case of an oral hearing, the Secretary General of the ICAC shall notify the parties on the date, time and place of hearing and the composition of the Arbitral Tribunal by the Notices sent to them not less than 15 days prior to the day of such hearing.

In ICAC 2024 the expedited arbitral proceedings shall be conducted by the Arbitral Tribunal composed of a sole arbitrator except otherwise agreed by the parties. In arbitration with a sole arbitrator, if the parties within 10 days from the date of the ICAC notification receipt failed to jointly appoint a sole arbitrator, a sole arbitrator shall be appointed by the President of the Ukrainian Chamber of Commerce and Industry. In arbitration with three arbitrators, each party appoints one arbitrator and two arbitrators so appointed shall appoint a third arbitrator as the Presiding arbitrator in this case; if the party fails to appoint an arbitrator within 10 days from the date of the ICAC notification receipt or if two arbitrators within 10 days from the date of their appointment fail to agree on the appointment of a

third arbitrator, an arbitrator shall be appointed by the President of the Ukrainian Chamber of Commerce and Industry [12].

The Arbitral Tribunal shall render the Arbitral Award within 20 days from the date of the case completion. In view of the complexity of the case and other specific circumstances, including the amendments or supplements by either party of previously stated claims, the Arbitral Tribunal may find the conduct of expedited proceedings inappropriate. In this case, the arbitral proceedings continue in the same composition of the Arbitral Tribunal. The ICAC President may decide not to conduct the expedited arbitral proceedings before the Arbitral Tribunal is constituted.

Limiting the amount of material that can be provided would also be advantageous. For example, it might be necessary for parties to submit a five-page synopsis of their written submissions. In order to enable the arbitrator to promptly elucidate particular issues in the event that a party's argument is not presented in a clear and unambiguous manner, this summary ought to provide page and paragraph references to the complete documents.

Additionally, it would be wise to have distinct rules for accelerated arbitration (as shown in the SCC), allowing parties to select between both processes. This strategy is similar to what the Stockholm Chamber of Commerce's Arbitration Institute does.

Conclusion. Notably, the majority of significant arbitration organizations (ICC, Swiss Arbitration Center, AAA/ICDR, ICSID, HKIAC, CIETAC, SIAC, and DIAC)—aside from the SCC and UNCITRAL—tether the applicability of expedited processes to the amount in dispute. This financial criterion varies greatly, ranging from USD 3 million in ICC arbitrations to USD 500,000 in AAA/ICDR arbitrations.

Rapid arbitration might not be suitable for more complex conflicts, though, because the amount in dispute does not always reflect the case's complexity. To guarantee that the streamlined process does not jeopardize the parties' due process rights—which include the right to a fair and impartial hearing, the right to be heard, and the right to present arguments and evidence – it is crucial to find the ideal balance on a case-by-case basis.

Furthermore, traditional arbitration is not necessarily more economical than expedited arbitration. Lawyers usually have to put in more hours to fulfill the accelerated process's shorter deadlines, which raises their billable hours. Therefore, the parties' expenses are not always reduced by the expedited arbitration's shorter period. The biggest outlay in international arbitration is frequently legal expenses.

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ОСОБЛИВОСТІ ПРИСКОРЕНИХ АРБІТРАЖНИХ ПРОЦЕДУР В РІЗНИХ ЮРИСДИКЦІЯХ

АНОТАЦІЯ. *Вступ.* У статті розглядаються особливості прискореного арбітражного процесу в різних юрисдикціях з акцентом на те, як країни змінюють своє арбітражне законодавство, щоб задовольнити зростаючу потребу у швидкому та доступному вирішенні спорів у сучасній світовій економіці, яка з кожним днем стає все більш глобалізованою. Завдяки можливості більш швидкого врегулювання спорів при дотриманні фундаментальних цінностей справедливості та рівності, прискорений арбітраж став конкурентним варіантом відносно звичайного арбітражу. Метою статті є виявлення особливостей прискорених арбітражних процедур у різних юрисдикціях та аналіз специфіки впливу прискореного арбітражного розгляду на арбітражний процес.

Виклад основних результатів дослідження. У статті досліджуються інституційні практики, процесуальні відмінності та правові норми, що характеризують прискорений арбітраж у таких юрисдикціях, як США, Великобританія, Франція, Швеція та деяких інших країнах, що розвиваються. У статті на основі порівняльного дослідження проілюстровано переваги та недоліки прискореного арбітражу, включаючи можливість скорочення строків і витрат, а також проблеми з автономією сторін і дотриманням належної правової процедури. У статті також розглядається, як технології можуть підвищити ефективність прискорених арбітражних процедур - від віртуальних слухань до електронних подань - і як ці досягнення можуть зменшити деякі з більш традиційних труднощів у вирішенні спорів. Також наголошено на ризиках прискореного арбітражу, включаючи обмеження на докази і тиск на арбітрів з метою швидкого винесення рішень, що іноді може поставити під загрозу арбітражний процес.

Висновки. Результатом статті має стає аналіз найкращих практик прискореного арбітражу та необхідні вдосконалення, які можуть підвищити його ефективність. Зрештою, ця розмова слугує ресурсом для практиків, законодавців та науковців, зацікавлених у мінливому арбітражному ландшафті, пропонуючи рамки для розуміння регіональних правових культур та процесуальних стандартів. У цій статті підкреслюється важливість прискореного арбітражу як життєво важливого інструменту для сприяння міжнародним інвестиціям і торгівлі на світовому ринку, який швидко розвивається.

КЛЮЧОВІ СЛОВА*: арбітраж, прискорений арбітраж, арбітражні витрати, арбітражний регламент.*

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