

Editorial

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Optimizing the length of arbitration proceedings

Paradoxically, the length of arbitration proceedings is one of the key criteria by which parties will rate the arbitration proceedings through which they went. Paradoxically, as one would expect parties' judgment to be more affected by the quality of the award or the fairness of the procedure. Still, the length of the proceedings is clearly of paramount importance to the parties' perception of the arbitral process. Sign of this is that many institutional arbitration rules provide, in order to be attractive to potential users, that the award will be rendered in principle within very short time-limits (6 months under the arbitration rules of the International Chamber of Commerce; 9 months under the arbitration rules of the United Nations Economic Commission for Europe), which usually turn out to be incompatible with the due process rights of the parties and have consequently to be extended.

Still, parties have very sound reasons to measure their satisfaction with the arbitration process by the length of the proceedings. Contrary to Court proceedings, which quite often result in the exacerbation of the feelings of the participants and consequently render unlikely business relationships after a judgement has been rendered, arbitration proceedings, both by their privacy as well as the expertise of the arbitrators in the subject matter, constitute a dispute-solving method much more favorable to the maintaining or resumption of business relationships between the contesting parties. This requires however that the parties perceive the dispute as quickly disposed of, as otherwise the state of belligerency, by its mere existence, might create ill-feelings impossible to overcome.

Ability to optimize the length of proceedings is consequently a key test which arbitrators must not fail if they want to be considered as up to their task. It requires from them the ability to strike a delicate balance between the wishes of the parties to have an award rendered with all due speed on one hand, and the necessity of respecting their rights to fully present their case on the other hand-even when obstacles such as difficulty or breakdown of communications, restriction on the freedom of travel or more simply default by one party, come in the way of an orderly arbitral process.

Optimizing the length of the arbitration proceedings calls for arbitrators who have mastered the necessary techniques and skills, namely who are able to perform their functions with a high degree of professionalism. As much as expertise in the subject matter or external prestige, this requirement of high professionalism in performing arbitral functions should guide the time-conscious parties and arbitral institutions whenever they have to appoint arbitrators.