



NEW RULES FOR FAST TRACK ARBITRATION IN FINLAND

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In a new effort to boost the steadily growing popularity of arbitration as a dispute resolution mechanism in Finland, the Arbitration Institute of the Central Chamber of Commerce of Finland has published rules for fast track arbitration in Finland. The Rules for Expedited Arbitration were adopted in April 2004 and they came into force on 1 June 2004.

The approaches adopted in the new rules correspond largely to the more established fast track arbitration rules in Europe. From a practitioner's viewpoint the new institutional fast track rules are a welcomed development and are likely to further increase the attractiveness of arbitration as an alternative to litigation in Finland.

The fast track rules will be used only if expressly agreed upon by the parties and may be applied to both national and international commercial arbitrations. Unlike some other international rules, the Finnish fast track rules do not include any limits on the value or complexity of the cases or any automatic mechanism submitting small cases referred to the Arbitration Institute automatically to expedited arbitration. Unless otherwise agreed upon by the parties, the Arbitration Institute of Central Chamber of Commerce appoints the sole arbitrator of the case.

The rules set out in detail the procedure of the arbitration. The parties are entitled to submit at most one written pleading besides the claim and the counterclaim, although the arbitrator has discretion to decide otherwise. All written pleadings must be brief and their time limit is fixed to fourteen days. An oral hearing will be held only if a party so requests and the arbitrator considers it necessary. The award does not have to state reasons unless a party so requests.

The normal arbitration rules of the Arbitration Institute require that the award shall be rendered within one year after the Arbitration Institute has sent the file in the case to the arbitral tribunal. According to the statistics released for 2003, the median duration of the proceedings was roughly nine months. In the rules for fast track arbitration this time limit has been fixed to three months, which the Arbitration Institute may extend by another three months at the most.

Since the approaches adopted in the new Finnish rules correspond largely to those of the other European fast track rules, the problems that are likely to arise are also similar. Fast track arbitration is naturally not always suitable for cases involving complex issues or large amounts of conflicting evidence. When these types of cases are referred to fast track arbitration, the situation is difficult both to the arbitrator and to the parties. Therefore, parties should consider carefully before including fast track arbitration clauses in complex commercial agreements since in practice it is usually difficult for the parties to agree upon procedural issues once a dispute between them has already actualised.

Although, it is a widely accepted principle in the Finnish law that the parties are free to agree upon the procedural rules and waive any procedural rights, it remains to be seen whether fast

track arbitration will give rise to arguments that the strict time limits or other restrictions to the parties' possibility to present their cases are in conflict with the fundamental due process requirements.

As the new rules have only been in force since 1 June 2004, it is somewhat premature to evaluate how widespread the use of the new rules will be. As of December 2004, no applications regarding expedited arbitration have been submitted to the Arbitration Institute. In Sweden similar fast track rules have been adopted enthusiastically. According to the statistics of the Arbitration Institute of the Stockholm Chamber of Commerce for 2003, the fast track rules were used in more than 30 % of the cases. Therefore, it seems likely that fast track arbitration will in due time also gain popularity in Finland.

Model arbitration clauses, information about the Arbitration Institute and the Rules for Expedited Arbitration are available at the Arbitration Institute's web site, www.arbitration.fi.¹

(Endnotes)

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