

LENGTH OF ARBITRATION AND FAST TRACK PROCEDURES

SWEDEN: PROCEDURES UNDER THE RULES FOR EXPEDITED ARBITRATIONS OF THE ARBITRATION INSTITUTE OF THE STOCKHOLM CHAMBER OF COMMERCE

Riga, 5 June 2015

Ulf Hårdeman
Advokatfirman Delphi, Stockholm

SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS

HOW TO INCREASE EFFICIENCY – WHAT FACTORS MATTER?

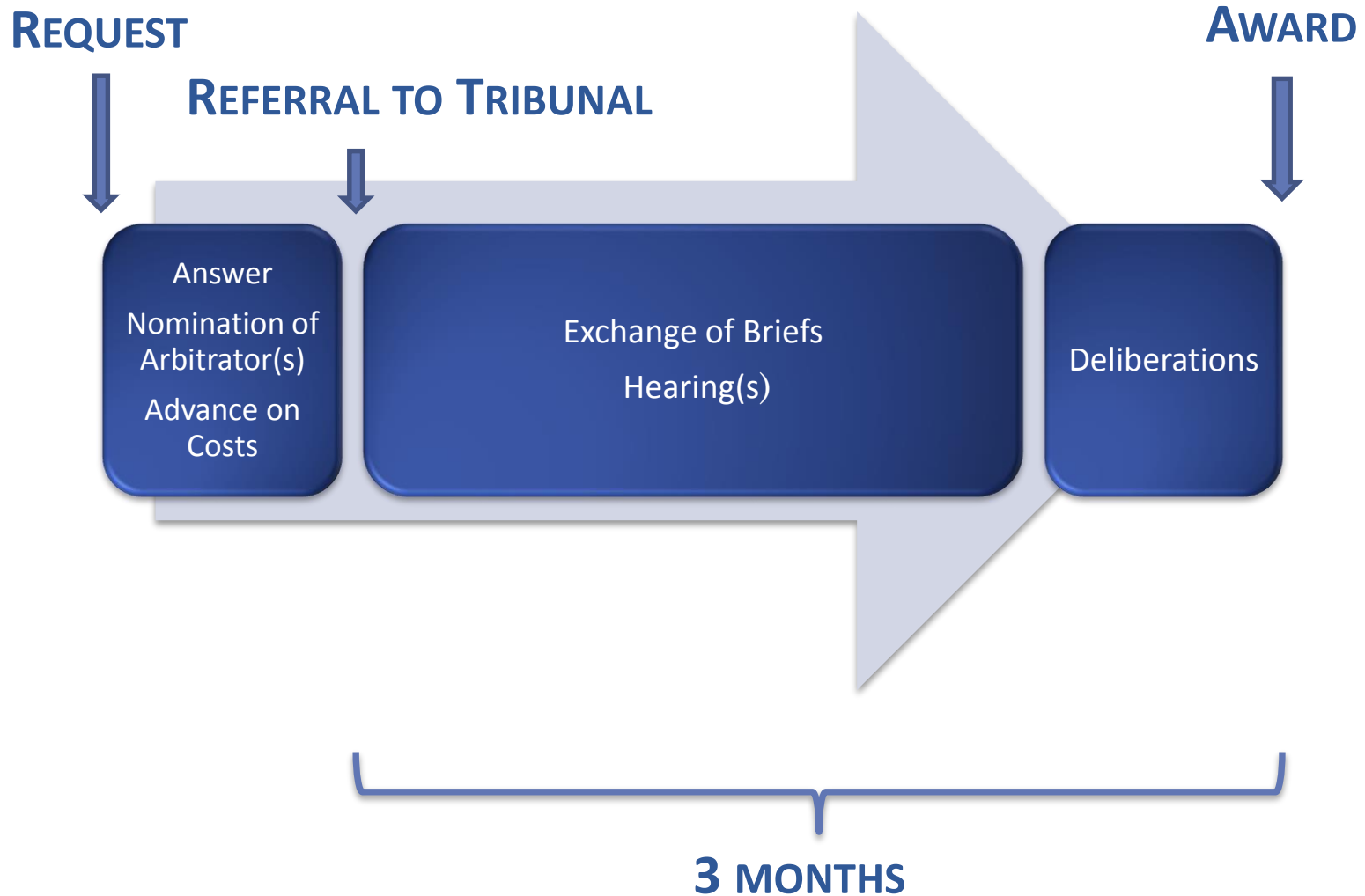
- SOLE ARBITRATOR
- RESTRICTIVE TIME FRAME
- MANDATORY TIME SCHEDULING
- LIMITATION OF WRITTEN EXCHANGES
- CUT-OFF DATES
- NON-MANDATORY HEARING
- EFFICIENT INVOLVEMENT OF THE SCC INSTITUTE
- NO SCRUTINY

SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS

TIME FRAMES AND MEANS OF TIME SCHEDULING

- PRELIMINARY TIME TABLE (ART. 23, BOTH ORDINARY AND EXPEDITED)
- AWARD WITHIN THREE MONTHS (ART. 36, EXPEDITED) OR SIX MONTHS (ART. 37, ORDINARY) FROM THE REFERRAL OF THE CASE TO THE TRIBUNAL

SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS



SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS

LIMITATION OF WRITTEN EXCHANGES

Article 19 Conduct of the arbitration

(3) The following shall apply to the proceedings, unless the Arbitrator, for special reasons, decides otherwise:

- (i) in addition to the Statement of Claim and the Statement of Defence, the parties may only submit one written statement each, including statements of evidence;
- (ii) the statements must be brief; and
- (iii) the time limits within which the documents shall be submitted may not exceed 10 working days.

SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS

CUT-OFF DATES MAY BE SET BY THE ARBITRATOR

Article 19 Conduct of the arbitration (cont)

- (4) The Arbitrator may order a party to finally state its claims for relief and the facts relied on as grounds thereof, and the evidence on which the party relies. At the expiration of the time period for such statement, the party may not amend its claim for relief nor adduce additional facts or evidence, unless the Arbitrator, for special reasons, so permits.

SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS

NON-MANDATORY HEARING

Article 27 Hearings

(1) A hearing shall be held if requested by a party and if deemed necessary by the Arbitrator.

HEARING MAY DEPEND ON ORAL EVIDENCE, I.E. WITNESSES, EXPERTS (ART. 28)

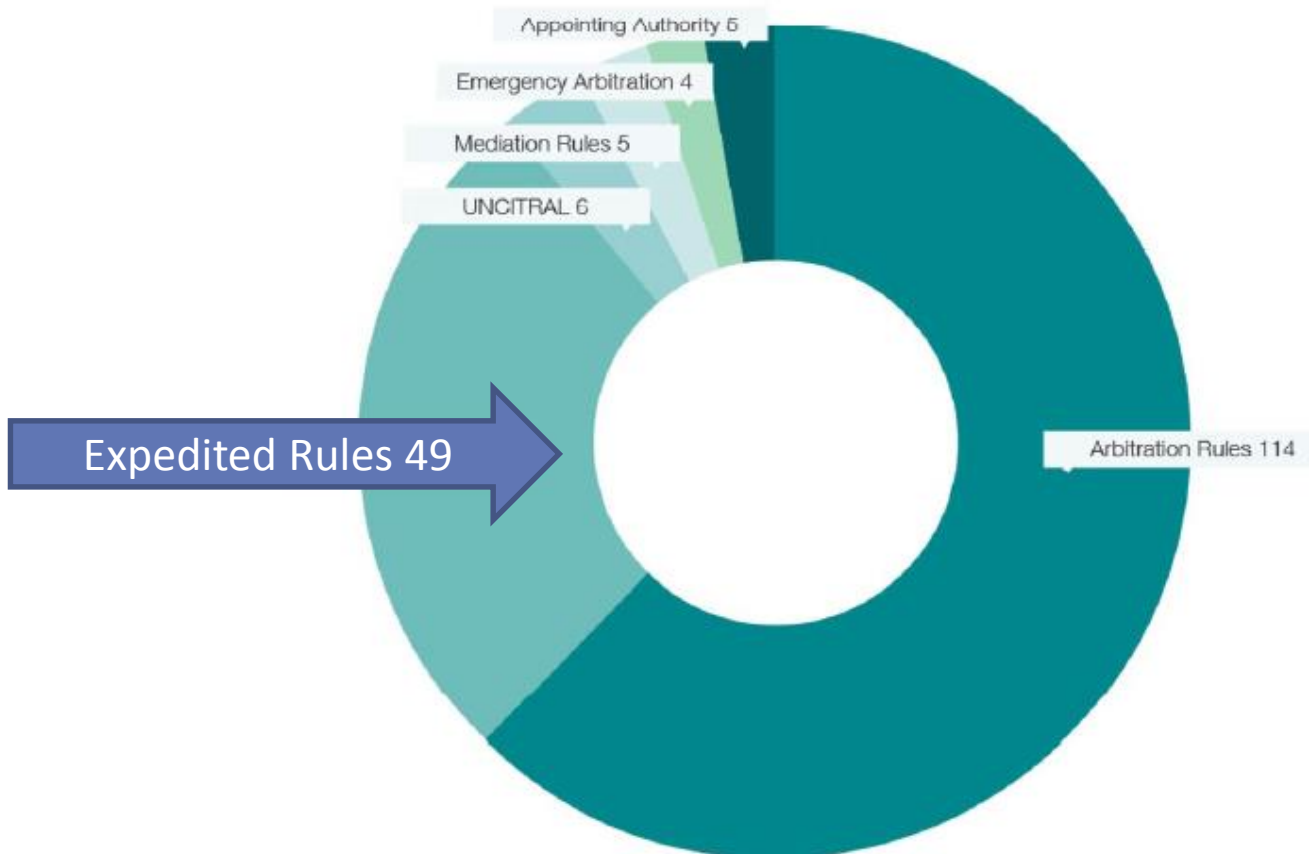
Article 28 Witnesses

(3) Any witness or expert, on whose testimony a party seeks to rely, shall attend a hearing for examination, unless otherwise agreed by the parties.

SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS

APPLICABLE RULES 2014


ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE



SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS

TIME FOR RENDERING AN AWARD - EXPEDITED RULES 2014

ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE

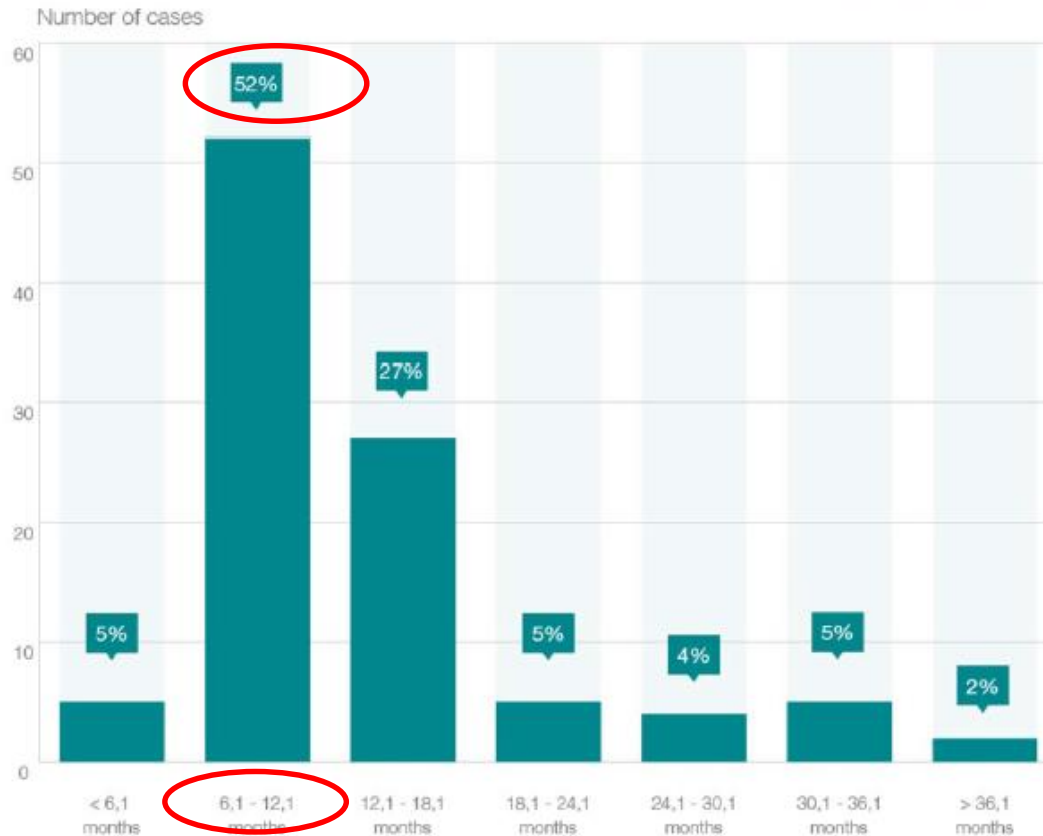


Note 1: The diagram shows the time from registration of a case until the rendering of an award.
Note 2: The diagram shows cases that were decided in 2014.

SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS

TIME FOR RENDERING AN AWARD - ORDINARY RULES 2014

ARBITRATION INSTITUTE
OF THE STOCKHOLM CHAMBER OF COMMERCE



Note 1: The diagram shows the time from registration of a case until the rendering of an award.

Note 2: The diagram shows cases that were decided in 2014.

SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS

EMERGENCY ARBITRATOR - A WAY TO GET EARLY STAGE INTERIM MEASURES

- APPLIES TO EXPEDITED AS WELL AS ORDINARY PROCEEDINGS
- CAN BE SOUGHT PRIOR TO COMMENCEMENT OF ARBITRATION (ART. 1 [1])
- APPLIES UNLESS OTHERWISE AGREED (OPT-OUT)
- NO EX PARTE PROCEDURE - RESPONDENT MUST BE NOTIFIED
- APPOINTMENT WITHIN 24 HOURS (ART 4 [1])
- DECISION WITHIN 5 DAYS (ART. 8)
- THE EMERGENCY ARBITRATOR MAY NOT ACT AS ARBITRATOR IN ANY FOLLOWING PROCEEDINGS(ART 4 [4])

SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS

REQUIREMENTS FOR GRANTING RELIEF

- RULES ARE SILENT BUT CONSISTENT STANDARDS OF APPLICATION
- A PRIMA FACIE CASE ON THE MERITS MUST BE ESTABLISHED
- STRICT TEST ON “URGENCY” AND “IRREPARABLE HARM”

EXAMPLES OF REASONS FOR DISMISSAL

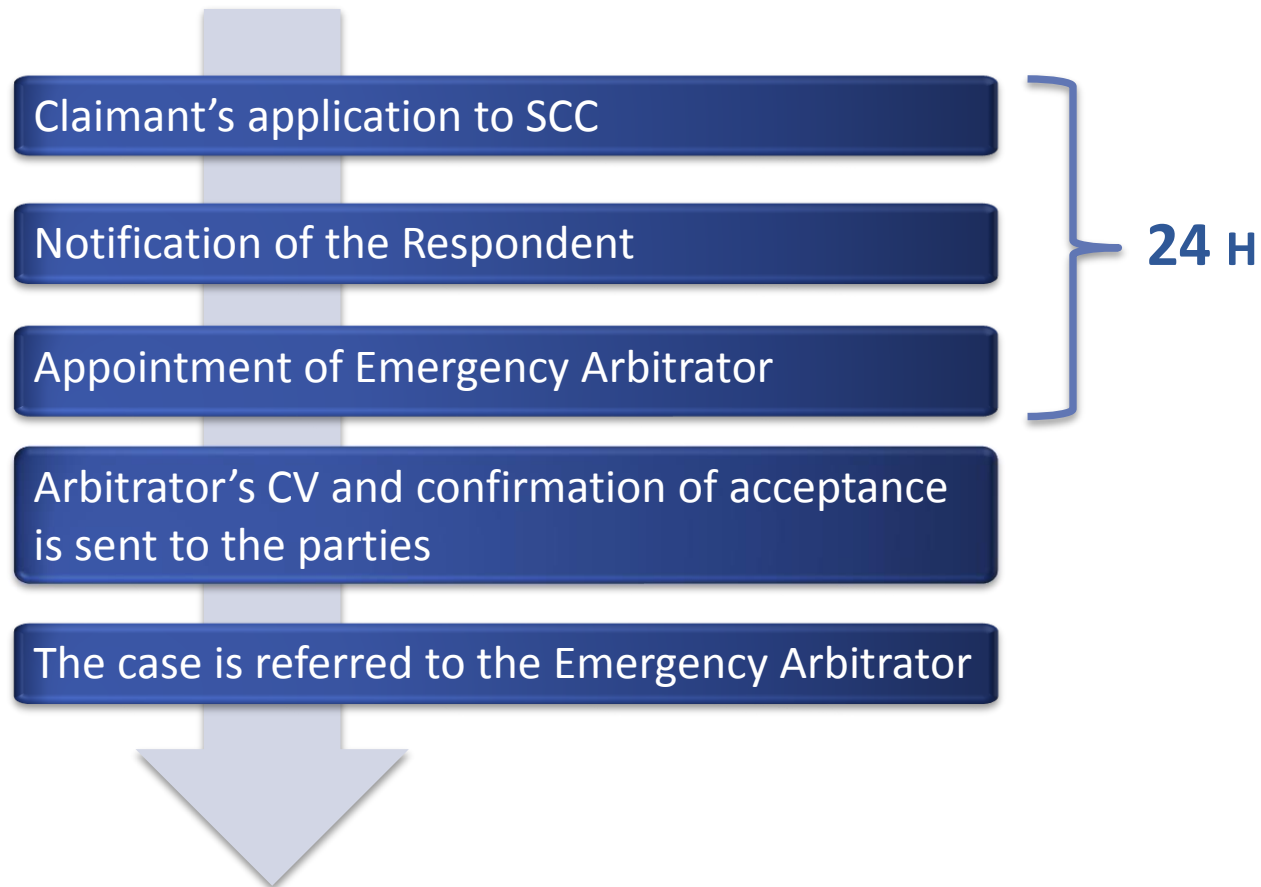
- PROPORTIONALITY CONCERNS
- LACK OF JURISDICTION OVER THIRD PARTIES
- THE REQUESTED RELIEF WAS A SUBSTITUTE FOR A JUDGMENT ON THE MERITS
- PRIMA FACIE CASE ON MERITS NOT PROVEN

SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS

INTERIM DECISIONS OF EMERGENCY ARBITRATOR ARE BINDING – BUT WHAT ABOUT ENFORCEABILITY?

- CAN BE RENDERED IN THE FORM OF AWARD OR DECISION
- BINDING ON THE PARTIES BUT MAY BE CHANGED OR CEASE (ART.19)
- ENFORCEABILITY MAY BE AN OPEN ISSUE – SUBJECT TO LOCAL APPLICATION

SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS



SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS



SWEDEN: THE SCC RULES FOR EXPEDITED ARBITRATIONS

EMERGENCY ARBITRATOR CASES - STATISTICS UP TO DATE

- 13 REQUESTS
- 12 APPOINTMENTS MADE WITHIN 24 HOURS
- 8 DECISIONS DELIVERED WITHIN 5 DAYS, AT MOST 12 DAYS
- 3 REQUESTS WERE GRANTED

CASES IN 2014 – 4 IN TOTAL

- 1 SHARE PURCHASE AGREEMENT
- 1 CONSTRUCTION AGREEMENT
- 2 INVESTMENT TREATY PROTECTION AGREEMENT

RESOURCES:

THE SCC INSTITUTE
SWEDISH ARBITRATION PORTAL

<http://www.sccinstitute.com/dispute-resolution/>

<http://www.jpinfo.net.se/Swedish-Arbitration-Portal/>

ULF HÅRDEMAN / PARTNER
PHONE DIRECT +46 8 677 54 12
MOBILE +46 709 25 25 24

ADVOKATFIRMAN DELPHI
REGERINGSGATAN 30-32, P.O. Box 1432
SE-111 84 STOCKHOLM, SWEDEN
PHONE +46 8 677 54 00
FAX +46 8 20 18 84
ulf.hardeman@delphi.se
www.delphi.se

