

The DIA Rules for Express Arbitration

Preamble

The Parties often request quicker and more cost-effective means of dispute resolution.

The Danish Institute of Arbitration's Rules for Express Arbitration aim to respond to this request, without compromising fundamental principles of arbitration. The rules are primarily for the resolution of low-value disputes.

Innovatively, for less complex cases, the rules contain an option for each party to submit a reasoned proposal stating how the dispute should be resolved and for the Arbitral Tribunal to confirm the most reasonable proposal as an award by consent, see Art. 18.

The Scope of the Rules

Article 1

(1) The DIA Rules for Express Arbitration (hereafter referred to as the Rules) are to be used if the parties have agreed that their dispute shall be resolved under the Rules.

(2) Where the parties have agreed that their dispute is to be determined on the basis of the Rules, such parties shall be deemed to have agreed that the arbitration shall be determined by the rules that apply on the date when the Statement of Claim is submitted to the DIA, unless otherwise agreed.

(3) The Rules have been prepared in Danish and English. In arbitrations where the procedural language is Danish, the Danish version of the Rules apply. In other cases, the English version of the Rules shall apply.

Written Communication and Time Limits

Article 2

(1) Written communication in the case shall be made by e-mail or by other electronic means, unless the Danish Institute of Arbitration (hereafter referred to as the DIA) or the Arbitral Tribunal decides otherwise or mandatory law, the Rules or other agreement between the parties provides otherwise.

(2) Communication from the DIA or the Arbitral Tribunal shall be deemed as received by a party when it is sent to the party, the party's legal counsel or other representative by e-mail or by other means that provides a record of the transmission to the address or last known address of the party, the party's legal counsel or other representative, or if proven to have reached one of them.

THE DANISH INSTITUTE OF ARBITRATION

(3) Time limits set by the DIA or the Arbitral Tribunal shall be deemed to expire at midnight Danish time, unless the DIA or the Arbitral Tribunal decides otherwise or the parties agree otherwise. The DIA or the Arbitral Tribunal may, at the request of a party or on its own motion, extend or reduce a time limit, which it has respectively set.

Commencing the Express Arbitration

Article 3

(1) A party wishing to have a dispute settled in accordance with the Rules shall submit a Statement of Claim to the DIA. It shall be stated in the Statement of Claim that it is requested that the case is conducted in accordance with the Rules.

(2) The Statement of Claim shall contain the following:

- (a) Indication of the parties to the dispute, including the name, company registration number, address, e-mail and telephone number of the parties.
- (b) The name, address, telephone number and e-mail address of the legal counsel or other representative(s) for the respective parties.
- (c) The agreement that the dispute shall be resolved in accordance with the Rules.
- (d) The relief or remedy sought by the Claimant.
- (e) A short statement of the facts and legal points supporting the relief or remedy sought.
- (f) Necessary documents and other evidence that the Claimant uses to support its relief or remedy sought.
- (g) Any comments regarding the place of arbitration, the applicable rules of law as well as the language(s) to be used in the case
- (h) Any comments on the number of arbitrators and their qualifications.

(3) The Respondent shall, before the expiry of three calendar days from the Respondent's receipt of the Statement of Claim, submit comments (if any) on the number of arbitrators and their qualifications.

Registration Fees

Article 4

(1) By the time of the submission of the Statement of Claim, see Art. 3, the Claimant shall pay the registration fee, the amount of which is set forth in the Schedule of Fees and Charges of the DIA, which applies at the time of submission of the Statement of Claim. The Schedule of Fees and Charges of the DIA is available on the DIA's website. The registration fee is non-refundable.

(2) If the registration fee is not received by the time of the submission of the Statement of Claim, the DIA shall set a time limit for payment of the fee. Failure to effect payment by the expiry of the time limit may cause the DIA to terminate the proceedings.

THE DANISH INSTITUTE OF ARBITRATION

(3) If there is a joinder of an additional party, see Art. 8, or if a counterclaim is submitted, see Art. 6(2)(a), a registration fee shall also be paid to the DIA for each additional party or new claim. Par. (1) and (2) shall apply with the modifications, which follow from the nature of the case.

Deposit

Article 5

(1) In addition to the registration fee mentioned in Art. 4, the parties shall, before the expiry of a time limit set by the DIA, pay to the DIA a cash deposit as security for the estimated costs of the case, including the fees of the arbitrator(s) and an administrative charge of the DIA, see Art. 21 and 22. Interest is not added to the deposit.

(2) The DIA shall set the amount of the deposit in accordance with the rates in the Schedule of Fees and Charges of the DIA, which applies at the time of the submission of the Statement of Claim, see Art. 3. The Schedule of Fees and charges of the DIA is available on the DIA's website.

(3) The Claimant and the Respondent shall usually be asked to pay identical parts of the deposit, unless the parties agree otherwise or the DIA decides otherwise. In the event that a party does not pay its share, the other party must pay the whole amount in order for the case to proceed.

(4) The DIA may decide that the deposit shall be adjusted and that an additional deposit shall be paid before the case continues.

(5) Failure to pay the deposit before the expiry of the time limit may cause the DIA to terminate the proceedings.

(6) If the Respondent advances a counterclaim, par. (1) – (5) shall correspondingly apply to the counterclaim.

Statement of Defence and Counterclaim(s)

Article 6

(1) The Respondent shall before the expiry of 10 calendar days from the Respondent's receipt of the Statement of Claim submit a Statement of Defence.

(2) The Statement of Defence shall contain the following:

- (a) The Respondent's response to the relief or remedy sought and any counterclaims.
- (b) An additional short account of the dispute (if any) as well as reasons for the response to the relief or remedy sought and any counterclaims.
- (c) Necessary documents and other evidence, which the Respondent uses to support its response to the relief or remedy sought and any counterclaims.

THE DANISH INSTITUTE OF ARBITRATION

- (d) Any comments regarding the place of arbitration, the applicable rules of law as well as the language(s) to be used in the case.

Claimant's Reply to Counterclaim(s)

Article 7

The Claimant shall before the expiry of 10 calendar days from the Claimant's receipt of the Statement of Defence submit a Reply to Counterclaim(s).

Joinder of Additional Parties

Article 8

(1) A party may request that a third party join as an additional party in the case.

(2) A request in accordance with par. (1) shall be submitted by the time of the submission of the Statement of Defence or Reply to Counterclaim(s), see Art. 6 and 7, unless the parties have agreed otherwise or particular circumstances apply. The request shall be in accordance with the requirements in Art. 3 that shall apply with the modifications, which follow the nature of the case.

(3) If the third party and/or a party objects to the request to join the additional party, the Arbitral Tribunal shall decide on the objection, after consultation of the third party and the parties.

(4) The party requesting a third party to join as an additional party in the case, see par. (1), shall at the same time pay a registration fee, see Art. 4(3).

Appointment and Confirmation

Article 9

(1) If the parties have not agreed otherwise, the Arbitral Tribunal shall consist of one arbitrator, see par. (2). If the complexity of the case, the amount in dispute as well as other circumstances support it, the Chair's Committee may, at a request of a party or on its own motion and after consultation of the parties, decide that the case shall be decided by an Arbitral Tribunal, which consists of more arbitrators, including an equal number of arbitrators.

(2) The DIA appoints the members of the Arbitral Tribunal, unless the parties, before the expiry of a short time limit set by the DIA, jointly appoint the members of the Arbitral Tribunal.

(3) The Chair's Committee confirms the members of the Arbitral Tribunal for an individual case.

Availability, Impartiality and Independence

THE DANISH INSTITUTE OF ARBITRATION

Article 10

(1) Any person appointed arbitrator shall be available, impartial and independent.

(2) Before being confirmed as an arbitrator, the arbitrator shall sign the DIA's Declaration of Acceptance, Impartiality and Independence. The arbitrator shall disclose in writing circumstances, which may give rise to justifiable doubts regarding the arbitrator's availability, impartiality and independence. The arbitrator shall also provide information regarding his or her professional and educational background (CV/résumé). The DIA shall send the declaration and the CV/résumé to the parties with a short time limit for any comments.

(3) During the case the arbitrator shall immediately disclose in writing to the parties and to the DIA circumstances that should have been disclosed, see par. (2), had they existed at the time.

(4) A party must immediately inform in writing the DIA, the Arbitral Tribunal and the other parties of the identity of any third party, which has entered into an arrangement regarding funding of any costs in relation to the case and under which it has an economic interest in the outcome of the case.

Challenge of Arbitrator(s)

Article 11

(1) A party may only challenge an arbitrator if it finds that circumstances exist, which give rise to justifiable doubts regarding the impartiality or independence of the arbitrator, or if the party finds that the arbitrator does not possess the qualifications agreed between the parties. A challenge shall be submitted in writing to the DIA before expiry of the time limit set by the DIA further to Art. 10(2). If the party only later becomes aware of the circumstances, which support the challenge, the challenge shall be made immediately after becoming so aware.

(2) The DIA shall notify the parties and the challenged arbitrator of its receipt of the challenge setting a time limit for any comments. A copy of the notification shall be sent to the other arbitrators, if any, at the same time.

(3) The Chair's Committee shall decide on the challenge, unless the challenged arbitrator resigns or the parties agree that the arbitrator shall not be confirmed or that the arbitrator's duties shall cease.

Change in Representation

Article 12

(1) A party shall immediately inform in writing the DIA, the Arbitral Tribunal and the other party or parties of any changes or addition regarding its representation.

THE DANISH INSTITUTE OF ARBITRATION

(2) If justifiable doubts as to an arbitrator's impartiality and independence arise from a change or addition in the parties' representation, the Chair's Committee may, after consultation of the Arbitral Tribunal and the parties, exclude the new or additional representation from participating in the arbitration, if the changes are not based on reasonable grounds.

Place of Arbitration

Article 13

The place of arbitration shall be Copenhagen, Denmark, unless otherwise agreed between the parties.

Conduct of the Arbitration

Article 14

(1) The Arbitral Tribunal may request the parties within a time limit of normally five calendar days to provide supplementary information and materials. The Arbitral Tribunal can limit the parties' ability to present submissions, documents and other evidence, if the Arbitral Tribunal finds that such limitation is necessary so that the case can be conducted quickly and effectively.

(2) The Arbitral Tribunal may make an inspection after giving the parties at least five calendar days' notice. The Arbitral Tribunal shall attempt to find a suitable time for the parties within 10 calendar days. The Arbitral Tribunal may, if necessary, give the parties the choice of three different times to set the inspection for one of these. If a party cannot participate at the set time, it may participate by proxy.

(3) No experts appointed by the Arbitral Tribunal are to participate in the case, unless the parties agree otherwise.

(4) No oral hearing is to take place during the case as the case shall be decided based on written material and possible inspection, unless the parties agree otherwise.

Fundamental Principles

Article 15

(1) The parties shall be treated with equality and each party shall have a full opportunity to present its case.

(2) The conduct of the arbitration shall be governed by the Rules. Where the Rules are silent, the conduct of the arbitration shall be governed by what the parties have otherwise agreed or, failing such agreement, by what the Arbitral Tribunal considers appropriate.

(3) At the request of a party, the Arbitral Tribunal may make decisions regarding the confidentiality of the arbitration proceedings or of any other matters in connection with the arbitration and take measures to protect trade secrets and confidential information.

THE DANISH INSTITUTE OF ARBITRATION

(4) If the Arbitral Tribunal considers that the case is not suitable to determination under the Rules or the Arbitral Tribunal otherwise objects to the application of the Rules, the Arbitral Tribunal may on its own motion, at any point during the case, close proceedings without rendering an award, and refer the parties to the use of other dispute resolution methods, such as the Rules of Arbitration of the Danish Institute of Arbitration.

Applicable Rules of Law

Article 16

(1) The Arbitral Tribunal shall decide the dispute in accordance with the rules of law chosen by the parties as applicable to a decision of the raised issues. Failing a designation by the parties of the rules of law applicable to the raised issues, the Arbitral Tribunal shall apply the rules, which it considers appropriate after consultation of the parties.

(2) The Arbitral Tribunal shall only decide the dispute as amiable compositeur or ex aequo et bono if it is agreed further to the procedure in Art. 18 or if the parties have expressly authorised it to do so.

(3) The Arbitral Tribunal shall in any event decide the raised issues in accordance with the provisions of the contract and take into account trade usages applicable to the case.

Absence etc.

Article 17

If a party is absent or does not contribute to the understanding of the case or fails to respond by the expiry of set time limits, the Arbitral Tribunal may continue the proceedings and make an arbitral award on the basis of what is available to it.

The Parties' Proposal for a Settlement

Article 18

(1) In less complex cases, the parties may jointly request the Arbitral Tribunal to accept that the dispute shall be resolved fully or partially in accordance with the following procedure:

- (a) Each party shall submit to the Arbitral Tribunal a brief reasoned proposal stating how the party considers that the dispute should be resolved.
- (b) The Arbitral Tribunal shall treat the proposals mentioned in subpar. (a) as confidential among the parties until the Arbitral Tribunal has confirmed one of the parties' proposals in the form of an arbitral award by consent, see subpar. (c).
- (c) The Arbitral Tribunal shall, within 10 calendar days of the submission of the last of the proposals mentioned in subpar. (a), select one of the submitted proposals that the Arbitral Tribunal, after an overall assessment, considers to express the most reasonable determination of the parties' dispute, and shall

THE DANISH INSTITUTE OF ARBITRATION

confirm this in the form of an arbitral award by consent, see Art. 30(2) of the Danish Arbitration Act and Art. 19-24 of the Rules. Art. 15(4), and Art. 26 of the Rules shall correspondingly apply.

The Arbitral Award

Article 19

(1) No later than 10 calendar days after the Arbitral Tribunal has received the last submission and any additional information, and made any inspection the Arbitral Tribunal shall render the arbitral award.

(2) The arbitral award shall be in writing and shall be signed by the arbitrator(s) and the award shall state its date and the place of arbitration. The award shall state the reasons upon which it is based, unless the parties agree otherwise or the award is made in accordance with Art. 18.

(3) In cases where there is disagreement among arbitrators, the award shall be made by majority. If there is no majority, the Arbitral Tribunal shall refer the case for determination in accordance with the DIA's Rules of Arbitration, unless the parties agree otherwise

Decision on Costs

Article 20

(1) The award shall state the costs of the arbitration and the proportions in which they shall be borne by the parties.

(2) The DIA shall make the final calculation of the costs of the arbitration. The costs stated in the award shall equal the amount set by the DIA. The costs stated in the award shall fall due for payment at the time of the date of the award, unless otherwise is stated in the award. Any excess amount of the deposit is reimbursed.

(3) The award shall state whether or not a party shall compensate another party wholly or partially for costs incurred by that other party in relation to the arbitration.

(4) In its decision on costs, the Arbitral Tribunal shall take into account among other things the outcome of the case, the amount of the costs incurred by each party in the arbitration to the extent that information on the amount of the costs is submitted, any agreement between the parties, the disputed amount and whether each party has contributed to the completion of the arbitration within a reasonable time and in an efficient and cost-conscious manner.

Fees of the Arbitrator(s)

Article 21

(1) The final fees of the arbitrator(s) shall be set by the Chair's Committee on the basis of a reasoned written proposal prepared by the Arbitral Tribunal which is calculated in accordance with the

THE DANISH INSTITUTE OF ARBITRATION

Schedule of Fees and Charges of the DIA, which applies at the time of submission of the Statement of Claim, see Art. 3 of the Rules. The Schedule of Fees and Charges of the DIA is available on the DIA's website.

(2) In addition, when setting the fees, the Chair's Committee shall take into account the express character of the case, the diligence of the arbitrator(s), whether the arbitrator(s) managed the arbitration within a reasonable time and in an efficient and cost-conscious manner, the amount in dispute, the time spent, the complexity of the case, whether the procedure provided in Art. 18 has been used and other circumstances.

(3) The Chair's Committee may set the fees of the arbitrator(s) at an amount below or above that which would result from the application of the Schedule of Fees and Charges of the DIA, mentioned in par. (1), if the scope of work or other exceptional circumstances justify it.

(4) Separate fee arrangements between the parties and the arbitrator(s) are contrary to the Rules.

(5) In the event of a request for the correction or the making of an additional award, see Art. 26 of the Rules, the Chair's Committee shall, at the request of the Arbitral Tribunal, consider if an additional fee is to be exceptionally granted to the arbitrator(s). The DIA may set a time limit for the parties' payment of a cash deposit to the DIA as security for the estimated costs, related to the request for the correction or the making of an additional award.

(6) The set fees of the arbitrator(s) do not include any Value Added Tax (VAT) or other taxes or charges etc. that may be applicable to the fees of the arbitrator(s). The parties are responsible for paying such taxes or charges and any reimbursement of such charges or taxes is a matter solely between each arbitrator and the parties.

Administrative Charge of the DIA

Article 22

(1) The administrative charge of the DIA shall be set by the Chair's Committee in accordance with the Schedule of Fees and Charges of the DIA, which applies at the time of the submission of the Statement of Claim, see Art. 3 of the Rules. The Schedule of Fees and Charges of the DIA is available on the DIA's website. However, the Chair's Committee can set the administrative charge at a lower or higher amount, if the scope of work or other exceptional circumstances justify it.

(2) If the arbitration ends before the rendering of a final award on the merits of the case, for instance because a settlement has been reached, or the arbitration is terminated with an award on the formalities of the case, the Chair's Committee shall set a reasonable administrative charge, taking into account the scope of work and other circumstances.

Liability for Costs

THE DANISH INSTITUTE OF ARBITRATION

Article 23

The parties shall be jointly and severally liable for the total costs of the arbitration regardless of how the costs have been allocated in the award, by agreement or by other decision, and whether or not the amount exceeds the deposit paid. If this means that one party has to pay for another party, the former shall have a right of recourse against the latter.

Compliance with the award

Article 24

Unless otherwise stated in the arbitration award, the award shall be complied with no later than two weeks after the date of the award.

The Termination of the Arbitration

Article 25

- (1) The arbitration terminates by:
 - (a) the arbitral award in accordance with Art. 18 or 19,
 - (b) the parties' settlement, or
 - (c) the Arbitral Tribunal's order in accordance par. (2)
- (2) The Arbitral Tribunal may also issue an order for termination of the arbitration when:
 - (a) the Claimant withdraws its claim(s), unless the Respondent objects that the arbitration be terminated and the Arbitral Tribunal finds that the Respondent has a legitimate interest in a final determination of the dispute,
 - (b) the parties agree on the termination of the arbitration, or
 - (c) the Arbitral Tribunal considers that the case is not suitable to determination under the Rules, see Art. 15(4).

Correction and Additional Award

Article 26

- (1) Within five calendar days of receiving an arbitral award a party may request from the Arbitral Tribunal:
 - (a) a correction of an award where, due to a written or calculation error, a typographical error or similar errors, the content of the award is not in accordance with the intention of the Arbitral Tribunal, or
 - (b) the making of an additional award regarding a claim or claims presented to the Arbitral Tribunal and which should have been decided by it, but omitted from the award.
- (2) The Arbitral Tribunal shall decide on the matter after having invited the other parties to comment.
- (3) The Arbitral Tribunal may within five calendar days of the date of the award correct the award on its own motion.

THE DANISH INSTITUTE OF ARBITRATION

(4) In special circumstances the Arbitral Tribunal may extend the time limits stated in par. (1) and (3).

Waiver

Article 27

(1) A party who has become aware that a provision of the Rules or a requirement under the arbitration agreement(s) has not been complied with and yet proceeds with the case without stating an objection to such non-compliance without undue delay or, if a time limit is set, before the expiry of that time limit, shall be deemed to have waived the right to object.

Confidentiality

Article 28

(1) The arbitrators, the members of the Council of Representatives or the Board, the Chair's Committee, the Secretariat and the Secretary-General, shall treat all matters relating to the arbitration as confidential. Notwithstanding the first sentence, the decisions made by the Chair's Committee in accordance with Art. 11(3) may be published by the DIA in an anonymous form.

Limitation of Liability

Article 29

(1) The arbitrators and the DIA, including the members of the Council of Representatives, the Board, the Chair's Committee, the Secretariat and the Secretary-General shall not be liable for any act or omission in connection with the arbitration, except to the extent such limitation of liability is prohibited by applicable law.

Entry into Force

Article 30

(1) The Rules are adopted by the Board of the DIA and shall enter into force as of 1 July 2022 and shall apply to arbitrations commenced on 1 July 2022 or thereafter, unless the parties agree otherwise.