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Fast track arbitration Efficiency vs. due process

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What is fast track arbitration?

- Arbitration proceedings that result in an arbitral award quicker than standard proceedings
- The duration is limited by, e.g.
 - Number of arbitrators and selection process
 - Number and length of submissions; short deadlines
 - Documents only / limited scope of hearing
 - Awards without reasoning
 - Duration of proceedings
- Often for smaller claims

Efficiency vs. due process

- Fast track arbitration aims at faster and cheaper arbitration proceedings
- Many arbitral institutions have adopted fast track/expedited rules to meet efficiency needs (ICC, SCC, OCC, DIA, FAI)
- Mostly requires opting in = conscious decision to forego certain procedural rights
- The trade off for efficiency is limits on due process (mainly the right to be heard)
- Efficiency vs. due process is a balancing act

Is fast track arbitration the answer to the call for efficiency?

- The use of fast track arbitration is fairly limited
- Reasons:
 - Opt in mechanism vs. claim size?
 - The efficiency gains are not substantial enough to merit abstaining from due process?
- To reach real efficiency gains the boundary between efficiency and due process must be pushed even further?

Contact us

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Thank you!