



THE FUTURE OF ARBITRATION IN THE EURO-MEDITERRANEAN AND THE MIDDLE EAST

Mauro Rubino-Sammartano
President of the European Court of Arbitration (Strasbourg)

TRADITIONAL LARGE EXCHANGE OF BUSINESS

Within the Mediterranean

**INCLUDING
THE MIDDLE EAST
(THE EURO-MEDITERRANEAN
AREA)**

ADMINISTRATION OF JUSTICE IN THE VARIOUS JURISDICTIONS

Peculiarities in many jurisdictions

Common Leitmotiv: - very long duration
 - unsatisfactory quality
 - more frequently than it
 used to be

NEED FOR ALTERNATIVES

ARBITRATION

Well accepted in International Dispute

Rarely used in domestic disputes

Small disputes

frequently
abandoned

Middle size disputes

a a rule go to State
Courts

Large disputes

International arbitration

Importance of the choice of the arbitral
institution

Institutions which not belong to the Euro-Mediterranean Area

- Good administration
- Not always satisfactory selection of arbitrators

MAIN PROBLEMS

Difficulty for arbitrators from outside the
Euro-Mediterranean Area
to understand
the Euro-Mediterranean way of thinking

IN-HOUSE SOLUTION

Advantages :

- knowledge of the local way of thinking
 - a constructive dialogue

WHAT THE PARTIES EXPECT FROM ARBITRATION ?

- That it be **different** from state court proceedings
- That it be **better** than state court proceedings
- That the approach be not **cold** and **distant**

THE MAIN POINTS OF THE RULES OF THE EUROPEAN COURT OF ARBITRATION

- Hearing and decision by one arbitrator, with a two-thirds reduction of the arbitration fees;
- Limit of 9-12 months for filing the award (a period attentively controlled by the Court)
- Preliminary meeting to help the parties choose the sole arbitrator;
- Constructive dialogue between the arbitrator and the parties;

THE MAIN POINTS OF THE RULES OF THE EUROPEAN COURT OF ARBITRATION

- Respect for each party's right to prove its case without having to disclose in advance the intended questions for witnesses, without interference by the arbitrator in selecting witnesses, and without interfering with the parties' right to examine and cross-examine witnesses;
- Mandatory creation of a calendar for the proceedings;

THE MAIN POINTS OF THE RULES OF THE EUROPEAN COURT OF ARBITRATION

- Mandatory creation of a calendar for the proceedings;
- Concentration of hearings, final argument, and award in a short timeframe;
- Specialized arbitral divisions for disputes in real estate, construction contracts, commercial law, and consumer law
- Provision (in the legal systems which allow it) for a full rehearing on the merits of the dispute by a three-member arbitral appellate tribunal that will render a decision within twelve months.

SMALL CLAIMS

Documents only Arbitration

URGENT MEASURES

Le Référé Pré-Arbitral

A VITAL ANTECHAMBER

First Stage : direct settlement by the parties

Second Stage : Attempt by Counsel for the parties to settle

Third Stage : If they do not succeed

MEDIATION

MEDIATION PROCEEDINGS BY A WELL TRAINED ARBITRATOR

- by a neutral
- lasting (as an average) 2 days
- preestablished reasonable cost
 - separate meetings
 - joint meetings
- trust and psychology

First Step : Mediation

Second Step : Arbitration

THE EURO MEDITERRANEAN MIDDLE EAST AREA

- Glorious civilizations
- Not always up to the pace of the Third Millennium
- Possibility to recover the lost ground if we work together
- Importance to express our own views (preferably after discussing them within our “large family”)
- Why to become just the carriers of outside civilizations ?

South Africa’s national anthem states

UNITED WE STAND

May I propose that we think and
operate in that way



**EUROPEAN COURT OF
ARBITRATION**

**THANK YOU FOR
YOUR ATTENTION**

www.cour.europe.arbitrage.org

© Mauro Rubino-Sammartano
President