MANDATORY TIME LIMIT FOR RENDERING AWARDS UNDER INDIAN LAW: HOW GOOD INTENTIONS CAN LEAD TO BAD OUTCOMES

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Abstract

One of the notable features of the recent amendments to the Arbitration Act, 1996 is the introduction of mandatory time limits for rendering an award when the arbitration is seated in India. Although this change has the laudable objective of trying to reduce the time taken to complete arbitral proceedings in India, it poses certain conceptual and practical disadvantages. It adopts a "one-size-fits-all" approach to all arbitrations, without accounting for the complexities of individual cases. Moreover, the only remedy to overcome this mandatory time limit is for the parties to approach the Indian Courts, which will likely result in increased judicial intervention in arbitral proceedings and in associated delays. This change presents a setback to the principle of party autonomy, which is the bedrock of arbitration. Therefore, while the intention of the legislature is a good one, the form adopted in the Indian legislation could potentially be counter-productive, leading to further disadvantages for conducting arbitration in India.

I. Introduction

Arbitration in India has long been criticized for the manner in which it has been conducted and for excessive judicial intervention in the arbitral process. In response to these problems, India recently introduced certain amendments to the Arbitration and Conciliation Act, 1996 [the "**1996 Act**"] with the objective of improving the general conduct of arbitration in India. One of the notable changes made through these amendments is the introduction of a mandatory time limit for rendering an arbitral award under the 1996 Act. This provision aims at transforming arbitration into a speedy and efficient mode of dispute resolution. While this appears to be a bold step on the part of the Indian legislature, the actual benefits of this change are questionable.

The purpose of this article is to analyse the provision fixing the time limit for an award under the 1996 Act, in light of current international practice, starting with an overview of international practice on time limits (Part 2), followed by an analysis of the relevant amendment to the 1996 Act from a practical perspective (Part 3). Thereafter, the authors present their conclusions (Part 4).

II. Overview of International Practice

Prescribing a time limit for arbitral proceedings and the rendering of an award is not an alien concept in international arbitration. The time limit for proceedings may be fixed by the parties in their agreement to arbitrate, or be mandated by the provisions of the national arbitration law of the seat or institutional rules that govern the arbitration.

The ICC Rules, for example, require that the tribunal render its award within six months from the date of the last signature, by the tribunal or the parties, of the Terms of Reference.[1]

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1 ICC Arbitration Rules, art. 30, 2012, *available at* http://www.iccwbo.org/products-and-services/arbitrationand-adr/arbitration/icc-rules-of-arbitration/.

Alternatively, the SIAC Rules,[2] KLRCA Rules[3] and the ICDR Rules,[4]establish time limits for rendering an award from the date of closure of the proceedings. The rules set this time limit at 45 days, three months and 60 days, respectively. The DIAC Rules[5] and the SCC Rules[6] require the award to be rendered within six months, from the date the tribunal receives the file and from the date on which the arbitration was referred to the tribunal, respectively. The LCIA Rules do not contain a specific time limit for rendering an award, but require tribunals to "*make its final award as soon as reasonably possible following the last submission of the parties*".[7] Lastly, the ICSID Rules, which deal with investor-state disputes, prescribe a time limit of 120 days from the date of closure of proceedings to render an award.[8]

It bears emphasis, however, that these time limits prescribed under the various institutional rules are not absolute and can be (and often are) extended either by the institution, the arbitral tribunal, or by agreement of the parties. For instance, the ICC Rules, DIAC Rules and the SCC Rules allow the extension of the prescribed time limit either upon a reasoned request from the arbitral tribunal or on its own initiative.[9] The SIAC Rules and the KLRCA Rules, on the other hand, allow the extension of this time limit upon the consent of the parties. The ICSID Rules also allow the extension of the time limit for a period of 60 days by the arbitral tribunal.

The concept of fixing time limits for the rendering of an award can also be found under national arbitration laws. For instance, the Spanish Arbitration Act requires that awards must be rendered within six months from the date of submission of defence by the respondent. This period can be extended by the arbitrators for a further two months for justified reasons. However, the failure of the tribunal to render an award within this time limit does not affect the validity of the arbitration agreement or the award therein, but may cause the arbitrators to incur liability for the delay.[10] Similarly, the 1996 Brazilian Arbitration Act provides that, if the parties have not agreed on any such time limit, the award should be rendered within six months from the date of constitution of the tribunal. This time limit, however, can be extended by mutual agreement of the tribunal and the parties.[11] The Venezuelan Commercial Arbitration Law also contains a similar provision whereby, in the absence of any agreed time limit, the award must be rendered

2 SIAC Arbitration Rules, r. 32.3, 2016, *available at* http://siac.org.sg/our-rules/rules/siac-rules-2016.

3 KLRCA Arbitration Rules, r. 11, (2013), *available at* http://klrca.org/downloads/rules/english/klrca_arbitration_en.pdf.

4 ICDR Rules, art. 30 (2014), *available at* https://www.icdr.org/icdr/ShowProperty?nodeId=/UCM/ADRSTAGE2020868&revision=latestreleased.

5 DIAC Arbitration Rules, art. 36, (2007) *available at* http://www.diac.ae/idias/rules/Arb.Rules%202007/.

6 SCC Arbitration Rules, art. 37 (2010), *available at* http://www.sccinstitute.com/media/40120/arbitrationrules_eng_webbversion.pdf.

7 LCIA Arbitration Rules, art. 15.10 (2014), *available at* http://www.lcia.org/Dispute_Resolution_Services/lcia-arbitration-rules-2014.aspx.

8 ICSID Arbitration Rules, r. 46, *available at* https://icsid.worldbank.org/ICSID/StaticFiles/basicdoc/partF.htm.

9 While the DIAC Rules provide for an extension of six months, no such limit is prescribed in the other Rules. However, as held by the Dubai Court of Appeal in the case of Middle East Foundations v. Meydan Group (Case No. 249 of 2013), the DIAC can grant multiple extensions of time provided there are adequate reasons.

10 Spanish Arbitration Act, art. 37(2) (B.O.E. 2003, 309) (Spain).

11 Lei No. 13.129, de 26 de Maio, 2015, DIARIO OFICIAL DA UNIÃO [D.O.U.], art. 23.

within six months from the date of constitution of the tribunal. However, this period can be extended by the tribunal multiple times on its own initiative or on the request by the parties.[12]

Therefore, even though the practice of prescribing time limits for the rendering of an award is quite common in international practice, the procedure is never absolute and always provides a saving provision for the extension of the time limit. Most of these saving provisions do not propose a limit to the extension of time that may be granted to the tribunal, which would depend on individual circumstances. And the reality in international practice is that these time limits are indeed often extended, even multiple times.

III. Fixed Time Limit for Rendering Awards Under the Indian Arbitration Law

The Indian Legislature recently passed the Arbitration and Conciliation (Amendment) Act 2015 [the "**Amendment Act**"], which came into force on October 23, 2015.[13] The purpose of the Amendment Act was to make arbitration in India more user-friendly and cost-effective so as to increase the attractiveness of India as a seat of arbitration.

The Amendment Act is largely based on the 246th Report of the Law Commission of India in 2014, which suggested solutions to cure the problems that "*plague[d] the present regime of arbitration in India*".[14]One of the notable changes introduced by the Amendment Act that was not a part of the recommendations made by the Law Commission in its 246th Report,[15] is the insertion of Section 29A dealing with time limits for rendering arbitral awards.[16]

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12 Venezuelan Commercial Arbitration Law (1998), art. 22 (Venezuela).

13 The Arbitration and Conciliation (Amendment) Act, 2015, No. 3 of 2016 (India).

14 LAW COMMISSION OF INDIA, REPORT NO. 246: AMENDMENTS TO THE ARBITRATION AND CONCILIATION ACT 1969 (Aug. 2014), *available at* http://lawcommissionofindia.nic.in/reports/Report246.pdf.

15 It may however be noted that the Report of the 176th Law Commission of India (2001) had proposed the insertion of a provision fixing a one year time limit for arbitration under Part I of the 1996 Act.

16 Section 29A reads:
(1) The award shall be made within a period of twelve months from the date the arbitral tribunal enters upon the reference.
Explanation.—For the purpose of this sub-section, an arbitral tribunal shall be deemed to have entered upon the reference on the date on which the arbitrator or all the arbitrators, as the case may be, have received notice, in writing, of their appointment.
(2) If the award is made within a period of six months from the date the arbitral tribunal enters upon the reference, the arbitral tribunal shall be entitled to receive such amount of additional fees as the parties may agree.
(3) The parties may, by consent, extend the period specified in sub-section (1) for making award for a further period not exceeding six months.
(4) If the award is not made within the period specified in sub-section (1) or the extended period specified under sub-section (3), the mandate of the arbitrator(s) shall terminate unless the Court has, either prior to or after the expiry of the period so specified, extended the period: Provided that while extending the period under this sub-section, if the Court finds that the proceedings have been delayed for the reasons attributable to the arbitral tribunal, then, it may order reduction of fees of arbitrator(s) by not exceeding five per cent for each month of such delay.
(5) The extension of period referred to in sub-section (4) may be on the application of any of the parties and may be granted only for sufficient cause and on such terms and conditions as may be imposed by the Court.
(6) While extending the period referred to in sub-section (4), it shall be open to the Court to substitute one or all of the arbitrators and if one or all of the arbitrators are substituted, the arbitral proceedings shall continue from the stage already reached and on the basis of the evidence and material already on record, and the arbitrator(s) appointed under this section shall be deemed to have received the said evidence and material.
(7) In the event of arbitrator(s) being appointed under this section, the arbitral tribunal thus reconstituted shall be deemed to be in continuation of the previously appointed arbitral tribunal.
(8) It shall be open to the Court to impose actual or exemplary costs upon any of the parties under this section.

Section 29A requires every tribunal seated in India to render an award within 12 months from the date on which the tribunal is constituted. This time limit can be extended for a period of up to six months by the mutual agreement of the parties. However, any further extension (i.e., after a total of 18 months from the date on which the tribunal is constituted) can be granted by the appropriate Court, only on application by one of the parties and if it is proven that there is "*sufficient cause*" for such an extension. If the Court decides not to grant further extensions, the mandate of the arbitral tribunal is terminated, and the Court may appoint a new arbitral tribunal for the dispute. Moreover, even if the Court grants an extension of time for "*sufficient cause*", it may still order the reduction of the fees of the arbitrators by up to five per cent for each month of additional delay, provided that the reasons for delay are attributable to the arbitrators.

This new provision in the Amendment Act appears to be a reaction to the protracted timelines for arbitral proceedings in India. Like court proceedings, arbitration in India can be a very lengthy process with multiple hearings and frequent adjournments. It is not uncommon for Indian-seated arbitrations to run for many years. In light of this, Section 29A is an attempt by the legislature to impose strict time limits for awards and thereby seek to make arbitration in India more expeditious and effective.

While the intention of the legislature is laudable, the means chosen to fulfil that intention may result in more problems. In fact, the features introduced by this change have the potential to create practical difficulties as well as undermine party autonomy. Some of these difficulties are discussed in more detail below.

A. Undermining the Principle of Party Autonomy

Party autonomy is one of the cornerstones of arbitration, whereby parties are free to agree upon the procedure for conducting their arbitration.[17] This is done by taking into account the nature and complexity of the dispute. In fact, one of the distinguishing features of arbitration from litigation is the freedom of the parties to choose the manner in which their dispute will be resolved. A crucial element in this regard is the parties' ability to determine the procedure for the arbitral proceedings, including the time limit for the proceedings. However, Section 29A of the 1996 Act eliminates the length of the procedure from the purview of party autonomy by making the time limit for an award mandatory. This means that parties that choose India as a seat of arbitration would be forced to agree to a procedure whereby an award is rendered within 12 to 18 months. Even if the parties and the arbitral tribunal mutually agree to a further extension after 18 months, Section 29A prevents the arbitration from being continued without the permission of the Court. Section 29A(2) further provides that the arbitrators may be entitled to additional fees if the award is made within six months. This is also an inroad into party autonomy as the parties' mutual intent regarding the remuneration for the tribunal is overridden by the legislature.

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(9) An application filed under sub-section (5) shall be disposed of by the Court as expeditiously as possible and endeavour shall be made to dispose of the matter within a period of sixty days from the date of service of notice on the opposite party

17 *See* United Nations Commission on International Trade Law, Model Law on International Commercial Arbitration, 1985, art. 19 U.N. Doc. A/40/17, Annex I, U.N.Doc. A/61/17 (Dec. 11, 1985), art. 19; *See also* NIGEL BLACKABY ET AL., REDFERN AND HUNTER: LAW AND PRACTICE OF INTERNATIONAL COMMERCIAL ARBITRATION 9-14 (6th ed., 2015).

Similarly, Section 29A(4) states that the mandate of the arbitrators is terminated if the award is not rendered within the prescribed time limit and no extension has been granted by the Court. Thus, the arbitrators would no longer have the jurisdiction to hear the dispute from such date, despite the parties not intending such an effect in their agreement to arbitrate (although the choice of India as the seat of an arbitration is now in effect a choice of this mandatory Indian arbitration law provision on time limits). Nor would the arbitrators have the jurisdiction to continue hearing a dispute where the parties would be content for them to do so even after the expiration of the time limits. This automatic termination of the jurisdiction of the tribunal, regardless of the views of the parties, seriously undermines party autonomy.

Finally, one of the main features of international arbitration, which is embodied in Section 5 of the 1996 Act, is limited judicial intervention in arbitral proceedings. The Courts are not to interfere with the conduct of arbitration, except when necessary. In fact, the Indian Courts have, through various recent decisions, emphasized the need for minimal judicial intervention in international arbitral proceedings.[18] Nevertheless, Section 29A runs contrary to this objective, as the parties are required to approach the Court at the end of 12 to 18 months for an extension of the arbitrator's mandate. This is true even in a scenario where both sides and the tribunal are content for the arbitral proceedings to be extended. This mandatory intervention by Courts is again contrary to the principle of party autonomy, particularly with the interventionist track record of the Indian courts in international arbitration matters over the years.

B. Practical Disadvantages of the Fixed Time Limit

Section 29A also has the potential to cause various practical difficulties in the conduct of arbitral proceedings seated in India. This flows from the fact that the Amendment Act attempts to take a "*one-size-fits-all*" approach with respect to time limits for awards and does not account for the reality that each arbitral proceeding is distinct depending on the nature and complexity of a particular dispute.

First, Section 29A poses a threat to the fair conduct of arbitral proceedings in complex cases. Many disputes, for example those in the construction or energy sector, involve a voluminous documentary record and require extensive written submissions and analysis of witness and expert evidence during the proceedings, especially when the dispute involves multiple claims and/or parties under the same project.[19] In such complex cases, it is often the case and indeed quite necessary for the proceedings to extend beyond a period of 12 months, even where the proceedings are conducted diligently and without any unnecessary delay. However, the existence of a mandatory time limit, coupled with a penalty on the arbitrators' fees for delays, could result in the arbitrators having to rush unduly through the proceedings. This can potentially raise due process concerns and have the undesirable consequence of arbitrators not giving sufficient attention and care to complex issues. Also, the Court may lack the necessary familiarity with the complexity of the case when deciding on whether to grant an extension of the time limit under Section 29A(5). Moreover, in certain cases where parties may have been denied the opportunity

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18 *See* Bharat Aluminum v. Kaiser Aluminum, Supreme Court of India, (2012) 9 S.C.C. 552 (India).

19 J. FELD & K. CARPER, CONSTRUCTION FAILURE 470 (2d ed., 1996) ("Not only can arbitration proceedings in a complex case be lengthy […] The hearings themselves can be protracted if a party elects to submit volumes evidence and many witnesses; arbitrators tend to receive all evidence").

for additional submissions in light of the time limit, the losing party could then seek to set aside or resist recognition and enforcement of such an arbitral award on the ground that there was a violation of a party's right to be heard.[20]

Second, the Court may grant an extension to the arbitrators' mandate under Section 29A(5) only if there is "*sufficient cause*", a term which has not been defined and is left open to the discretion of the Court. Establishing whether there is "*sufficient cause*" to justify an extension of time would require the Court seized with such an application to apply its mind to the evidence before it and make a reasoned order. Given the endemic delays in the Indian judiciary and the logjam of pending cases, approaching the Court each time to extend the arbitrators' mandate will likely substantially increase the time and resources required to conclude the arbitration.[21] While Section 29A(9) of the Amendment Act does state that these applications "*shall be disposed of by the Court as expeditiously as possible and endeavour shall be made to dispose of the matter within a period of sixty days*", this is not a mandatory obligation. In fact, it is quite possible (and indeed likely) that any application for a time extension before the Court could easily extend to much more than 60 days due to procedural reasons, thereby increasing the time and cost of arbitration considerably.

Third, it is not uncommon for recalcitrant respondents in arbitrations seated in India to resort to delaying tactics, for example by seeking recourse from Indian Courts on procedural matters.[22] The purpose of these tactics is to delay the proceedings by entangling the arbitration in the procedural web of the Indian legal system. However, there is no reference in the Amendment Act to these delays being taken into account with respect to the mandatory time limit under Section 29A. So, a party seeking to delay arbitration can easily manipulate Section 29A to further increase the duration of arbitration, even if the Court grants a subsequent extension beyond the 18-month period specified in Section 29A.

Finally, confidentiality is often of utmost importance in arbitration. Many parties choose arbitration due to the sensitivity of the matters in dispute and the need for protection of such sensitive information. Several arbitral institutions stipulate that, unless otherwise agreed by the parties and/ or subject to certain exceptions, the arbitral proceedings and the award are to be confidential.[23] However, if the parties to an Indian-seated arbitration have to approach the Court for an extension of the arbitrators' mandate under Section 29A, the existence and subject matter of the proceedings could potentially be made public as part of the Court record. This can be detrimental to the interests of the parties, resulting in unwanted consequences from the publicity of details of the dispute.

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20 Convention on the Recognition and Enforcement of Foreign Arbitral Awards of 1958, June 10, 1958, 330 U.N.T.S. 38, art. V(1)(b).

21 *See generally* LAW COMMISSION OF INDIA, REPORT NO. 245: ARREARS AND BACKLOG: CREATING ADDITIONAL JUDICIAL (WO)MANPOWER (July 2014), *available at* http://lawcommissionofindia.nic.in/reports/Report_No.245.pdf.

22 LAW COMMISSION OF INDIA, REPORT NO. 176: THE ARBITRATION AND CONCILIATION (AMENDMENT) BILL, 2013 (Sept. 2001) ("resort to intervention by a court during arbitral proceedings was often used only as a delaying tactic and was more often a source of abuse of the arbitral proceedings than it was a protection against abuse"), *available at* http://lawcommissionofindia.nic.in/arb.pdf.

23 *See* SIAC Arbitration Rules, r. 39 (2016); LCIA Arbitration Rules, art. 30 (2014); SCC Arbitration Rules, art. 46 (2010).

C. Risk of Set Aside – Is it a Real Threat?

Section 29A(4) of the Amendment Act makes it clear that the mandate of the arbitrators shall terminate upon the expiry of the time limit specified therein, unless an extension has been granted by the Court. This is not subject to any exceptions, which indicates that the fixed time limit for the arbitral proceedings is mandatory in nature. In other words, without an extension from the Court, if the award is not rendered within 12 to 18 months, the arbitrators will no longer have jurisdiction to hear the dispute between the parties. It follows from this that any award rendered after this fixed time limit will be liable to be set aside in India in accordance with Sections 34(2)(a)(iv) and (v) of the 1996 Act. Needless to say, such awards may also be rendered unenforceable under the New York Convention standard, in light of Articles V(1)(c) and (d), for lack of jurisdiction on the part of the arbitrators, or the conflict of the arbitral procedure with the *lex arbitri*. The general practice in European jurisdictions confirms this view.[24]

The US practice, however, suggests that failure to respect the time limit for rendering the award may not be entertained by courts as a ground for setting aside the award. In the *Fiat S.p.A.* case, for example, the arbitrator's failure to comply with the AAA's fixed time limit was held not to be a ground for setting aside the award.[25] Moreover, a recent French decision has also indirectly rejected the "*mandatory*" nature of time limits to render an award.[26]

While it may be argued that national Courts are moving towards the US approach,[27] this is not the case for time limits fixed by the *lex arbitri* as a "*mandatory rule*". If the law of the seat lays down a mandatory time limit with no exceptions, as is the case in India, national courts applying the New York Convention or similar principles may be reluctant to recognize and enforce awards rendered beyond this time limit, either by reason that it is already annulled at the seat, or in accordance with Article V(1)(c) or (d) of the New York Convention.

IV. Conclusion

The amendments to the 1996 Act seek to improve the efficiency and attractiveness of arbitration in India, which is certainly a commendable objective. The concept of having a time limit for rendering awards is not unusual in itself and is consistent with the approach adopted in several institutional rules and national arbitration laws. It is the rigid and mandatory nature of the time

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24 *See* S.T.S., Nov. 12, 1992 (Case No. STS 8380/1992) (Spain)("the time limit fixed for issuing the arbitral award ought to be inexorably respected, because it is the period of time during which the parties voluntarily waive the determination of their differences [by courts], and grant the powers of decision to the arbitrators. The expiry of this period terminates the power of the arbitrators, for having exceeded the limit, and nullifies any arbitral action outside this time."); Communautéurbaine de Casablanca v. Degrémont, 1995 Rev. Arb. 88 (France) ("the principle that the time limit fixed by the parties, either directly or by reference to arbitration rules, cannot be extended by the arbitrators themselves is a requirement of both domestic and international public policy, in that it is inherent in the contractual nature of arbitration"); Decision 4A_490/2013 (Switz.) Tribunale federale [TF] [Federal Supreme Court] (Jan. 28, 2014) ("[T]he arbitral tribunal or the arbitrator would implicitly arrogate to himself a jurisdiction he no longer has by issuing a decision after the time limit") [The quote from the Swiss Federal Court decision is based on an unofficial translation of the decision *available at* http://www.swissarbitrationdecisions.com/sites/default/files/28%20janvier%202014%204A%20490%202013.pdf]

25 Fiat S.p.A. v. Ministry of Finance and Planning (1989) U.S. Dist. LEXIS 11995 (S.D.N.Y.1989); *see also* Laminoirs v. Southwire, 484 F. Supp. 1063 (N.D.Ga 1980); Local 355 v. Fontainebleau Hotel, 423 F. Supp. 83 (S.D. Fla. 1976).

26 SNF v. International Chamber of Commerce, 2 Rev. Arb. 314 (2010).

27 *See* GARY B. BORN, INTERNATIONAL ARBITRATION: LAW AND PRACTICE 3266 (2d ed., 2015) ("In practice, national courts have usually rejected claims that a tribunal's failure to comply with time limits imposed by the parties' agreement provides a basis for annulling an award").

limit fixed under Section 29A which is unique and is likely to prove to be counter-productive in practice.[28] As reflected by international practice, the time limits under the relevant rules or laws are never absolute, and they provide flexibility to the tribunal to extend the time limit with the agreement of the parties or otherwise, without having to approach national Courts. The reason for this is that arbitral proceedings, especially in complex cases, could easily and usually do extend to well over 12 months.[29] The rigid time limit introduced in the 1996 Act could seriously hamper the effectiveness of arbitral proceedings and result in increased judicial intervention further delaying the proceedings.

The ideal solution would have been to either have a more realistic time limit in Section 29A or to allow the parties and the tribunal to mutually agree on the extension of the time limit depending on the nature and complexity of the dispute. The Indian legislature in its wisdom did not go down that path. However, there is a prospect of reform. The authors understand that the International Chamber of Commerce is considering making representations to the Indian Government highlighting the counter-productive consequences of Section 29A and seeking an exception for institutional arbitrations – i.e., where an arbitration is being administered by an arbitral institution and the institutional rules provide a framework for extending the time limit for an award, then the Indian Court's power to extend the deadline for the award should be deemed delegated to the arbitral institution. This is an elegant solution, which would preserve party autonomy and address most of the practical problems described above. It remains to be seen whether this suggestion for reform will materialise.

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28 *See generally* Promod Nair, *When Good Intentions are not Good Enough: The Arbitration Ordinance in India*, BAR & BENCH (Nov. 4, 2015), *available at* http://barandbench.com/when-good-intentions-are-notgood-enough-the-arbitration-ordinance-in-india/.

29 A. LEOVEANU, *Romanian Arbitration Law Issues in ICC Paris Arbitration Practice*, *in* ARBITRATION IN ROMANIA: A PRACTITIONER'S GUIDE 336-352, ¶15 (Leaua & Baiaseds., 2016) ("As a general observation, the average duration of an ICC arbitration is approximately of two years"); R. DIGON & M. KRASULA, *The ICC's Role in Administering Investment Arbitration Disputes*, *in* CONTEMPORARY ISSUES IN INTERNATIONAL ARBITRATION AND MEDIATION: THE FORDHAM PAPERS 61 (A. Rovine ed., 2014) ("On average, ICC administered investment arbitration disputes last 35 months as compared to an average of 44 months for investment treaty disputes with publicly available awards"); *Tools to Facilitate Smart and Informed Choices*, LCIA (Nov.3, 2015) (official LCIA statistics reflecting that the mean and median duration of LCIA arbitration is 20 and 16 months respectively), *available at* http://www.lcia.org/News/lcia-releases-costs-and-duration-data.aspx.