

# Only arbitrator has *locus standi* before court regarding extension of arbitration procedure

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## Facts

## Decision

## Comment

### Facts

In *Peppis v CYTA* (originating summons application 335/11) the Nicosia District Court issued an order which referred a dispute to arbitration. The order stipulated that the arbitrator should deliver a final decision within nine months. One of the parties applied to the court for an extension of the arbitration procedure. The court rejected the application on the ground that only the arbitrator had the right to apply for such an extension. The arbitrator subsequently filed a without notice application, which led to the issuance of an extension of time order (the first application). The respondent filed a subsequent application to set aside the extension of time order (the second application). Although the opposite party filed an objection to the set-aside application, the arbitrator failed to object.

### Decision

The court allowed the application and dismissed the order extending the arbitration on two separate grounds. First, the arbitrator had failed to disclose to the court when filing the first application that different judges had previously rejected two applications for stay of the arbitration procedure. This amounted to a substantial omission which prevented the court from evaluating all of the material facts. Second, it is well established that an arbitration tribunal is responsible for delivering an arbitration decision within a set timeframe. Further, only the arbitrator had the right to object to the second application for setting aside the order extending the arbitration procedure's duration. As the arbitrator had failed to do so, the opposite party had no *locus standi* (ie, the right to bring an action in court) to object.

Further, the court held that the failure to give notice of the second application not only amounted to a violation of natural justice, but also prevented the opposite party from applying under Article 13 (1) of Arbitration Law Cap 4 to dismiss the arbitrator on the ground of the latter's omission to advance the arbitration procedure.

### Comment

Even if one of the parties fails to cooperate with the arbitration procedure set out by the arbitrator, the arbitrator has full responsibility to safeguard the procedure.

A simple but basic rule emanates from this case: when an arbitration procedure commences following a court order, only the arbitrator has the right to apply for a time extension.

Further, regardless of the evidential and procedural rules followed in the arbitration, any application before the court will still be governed by the Civil Procedural Rules, even if it relates to arbitration proceedings. Therefore, basic principles such as full and frank disclosure must still be obeyed.

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