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Limits of Court Involvement in Decisions of Arbitral Institutions: The Singapore High Court in DMZ v DNA [2025] SGHC 31

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Can a court interfere with an administrative decision of an arbitral institution? In this article, we discuss the recent decision of *DMZ v DNA* [2025] SGHC 31 ("*DMZ*") in which the Singapore High Court ("SGHC") ruled that courts cannot intervene in decisions of the SIAC Registrar ("Registrar") and reaffirmed the principle of minimal curial intervention in the contractual relationship between parties and the SIAC.

Background

On 24 June 2024, the Defendant filed a notice of arbitration ("NOA") against the Claimant under the Singapore International Arbitration Centre Rules 2016 ("SIAC Rules"). The NOA stipulated, among other things, that: (a) the disputes between the parties arose out of or were in connection with four sale contracts, each containing an arbitration clause; and (b) the arbitration clause of one of the sale contracts should be "read together" with the arbitration clause in a separate agreement which extended the payment deadline under that sale contract. At the SIAC's request, the Defendant clarified the total number of arbitration agreements it was invoking in the NOA.

Although the date of the Defendant's clarification is unspecified in the judgment, it appears that the clarification was received by the SIAC on 3 July 2024. This is because, on 9 July 2024, the Registrar deemed that the arbitration commenced on 3 July 2024 in accordance with Rule 3.3 of the SIAC Rules (which provides that the commencement date of the arbitration is the date on which the Registrar receives the "complete" NOA) ("9 July Decision").

On 22 July 2024, the Claimant argued that the Defendant's claim was time-barred because the arbitration had commenced on 3 July 2024, which exceeded the statutory limitation period of six years after the sums under the sale contracts became due.

On 30 July 2024, at the Defendant's request, the Registrar revised the commencement date to 24 June 2024, the original filing date of the NOA ("30 July Decision").

On 10 October 2024, the Claimant filed a claim against the Defendant and the SIAC in the SGHC, seeking, among other things: (1) a declaration that the commencement date of the arbitration was 3

July 2024; (2) that the 30 July Decision was unlawful or alternatively, in breach of the SIAC Rules; and (3) an order setting aside the 30 July Decision.

The Claimant challenged the 30 July Decision on two main grounds: (1) that the SIAC Registrar acted in breach of the SIAC Rules, as a plain and logical reading of Rule 40.1 of the SIAC Rules meant that the Registrar could not review the 9 July Decision; and (2) alternatively, the 30 July Decision was arbitrary, capricious, and/or unreasonable and therefore the Registrar had acted *ultra vires* and/or in breach of the SIAC Rules.

The SGHC eventually ruled that: (a) it does not have jurisdiction to review the Registrar's decision; and (b) in any event, the Claimant's challenge had no merit.

The Court has No Jurisdiction to Review the Registrar's Decision

In holding that it has no jurisdiction to review the Registrar's decision, the SGHC noted four main points.

First, the SGHC acknowledged the contractual relationship between the SIAC and the parties, and that the SIAC is contractually obliged to comply with the SIAC Rules.

Secondly, the SGHC reaffirmed the policy of minimal curial intervention in arbitral proceedings, as set out in *Sun Travels & Tours Pvt Ltd v Hilton International Manage (Maldives) Pvt Ltd* [2019] SGHC 291. This policy was held to be consistent with Rule 40.2 of the SIAC Rules, which provides:

> "*Save in respect of Rule 16.1 and Rule 28.1, the parties waive any right of appeal or review in respect of any decisions of the President, the Court and the Registrar to any State court or other judicial authority*."

Thirdly, the SGHC recognised that judicial intervention is only permissible if expressly provided in the International Arbitration Act 1994 ("IAA"). No such provision permitted the court to review the 30 July Decision.

Fourthly, the SGHC held that appropriate recourse should instead be sought under the UNCITRAL Model Law on International Commercial Arbitration ("Model Law") (which has the force of law in Singapore by virtue of section 3 of the IAA). In particular, the SGHC referred to Article 34(2)(a)(iv) of the Model Law, which provides that an arbitral award may be set aside if "the arbitral procedure was not in accordance with the agreement of the parties".

Thus, Article 34(2)(a)(iv) provides an avenue for an award to be set aside, albeit only after the completion of the arbitration. The SGHC further observed that setting aside applications under Article 34(2)(a)(iv) are not limited to errors made by an arbitral tribunal. Although the provision is limited to challenges against an award by the arbitral tribunal, it arguably included errors made by the Registrar in his decisions on arbitral procedure.

In Any Event, the Challenge Had No Merit

The SGHC also held that the 30 July Decision was not unlawful since the Registrar could review his 9 July Decision.

First, the SGHC noted that Rule 40.1 of the SIAC Rules states that the Registrar's decisions are only "conclusive and binding upon the parties and the Tribunal" and does not expressly prohibit the Registrar from reviewing or reconsidering his prior decisions. Such an interpretation is supported by Rule 40.2 which only prohibits appeals or reviews to a *different* body.

Secondly, the SGHC held that the Registrar has an inherent power, implied based on necessity, to reconsider an administrative decision. This is consistent with the principle that a tribunal is the "exclusive master of its own procedure" (as stated in the Court of Appeal decision of *Republic of India v Vedanta Resources plc* [2021] SGCA 50). Just as a tribunal has the jurisdiction to reconsider and revise earlier procedural orders before the final award is issued, the SGHC held that an arbitral institution is similarly entitled to reconsider its administrative or procedural decisions.

Thirdly, the Court rejected the notion that the principle of finality prevents the Registrar from revising the 9 July Decision. It found that the principle only precluded appeals against the award and the arbitral process to the court and that this position is supported by Rule 41.2, which puts the onus on, among others, the Registrar to "ensure the fair, expeditious and economical conclusion of the arbitration and the enforceability of any award". To allow the Registrar to reconsider his own decision, where there was an initial misapprehension of the facts, would fall squarely in line with ensuring a fair, expeditious and economical conclusion.

Lastly, the Court noted that if a particular decision is not intended to be reviewed, corrected or amended, then specific language in the SIAC Rules would have been used. This is consistent with the IAA, which expressly provides when decisions made in arbitrations are intended to be final. In this case, the SIAC Rules contained no provisions preventing the Registrar from reviewing, correcting or amending his decisions.

Commentary

To the authors' knowledge, *DMZ* is the first case in which a challenge to a decision of the Registrar was raised before the Singapore Courts. It thus provides valuable insights into the options available to parties who feel aggrieved by an arbitral institution's decision. By finding that Rule 40.2 of the SIAC Rules is consistent with the policy of minimal curial intervention, the SGHC endorsed the autonomy of arbitral institutions to review and reconsider their own procedural decisions.

However, *DMZ* also creates possible impediments to the early and final resolution of a party's procedural objections by implying that procedural challenges against a decision of the SIAC can be pursued in the courts as a ground for setting aside after the final award is issued (although the SGHC noted that "[w]hether such an application will succeed on its merits is a separate matter"). While not addressed by the SGHC, the authors note that under Rule 41.1 of the SIAC Rules, a party will be deemed to have waived its right to object unless it promptly raises an objection to "a failure to comply with any provision of these Rules, or of any other rules applicable to the proceedings, any direction given by the Tribunal, or any requirement under the arbitration

agreement relating to the constitution of the Tribunal or the conduct of the proceedings".

As this rule may encompass objections to decisions of the SIAC, parties will need to promptly raise their objection even though it may not be finally resolved by the courts until after the final award is rendered. This could have costs implications as parties may have no choice but to carry on with the arbitration, only for a court to find that the proceeding was procedurally defective even before the arbitral tribunal was constituted.

That being said, the new SIAC Rules 2025 may reduce the chances that challenges to the SIAC's procedural decisions are escalated to the courts. This is because the parties now have the ability to make a joint request under Rule 63.1 of the SIAC Rules 2025 for reasons to be given for any decision made by the SIAC, including the Registrar. The provision of reasons could allow parties to better understand the decision of the Registrar and assess their likely prospects of success on the merits should they wish to challenge the decision before the courts.

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