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ARTICLE

DELEGATING URGENCY: AI IN EMERGENCY ARBITRATION

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This Article examines whether artificial intelligence ("AI") can serve as an emergency arbitrator in international arbitration. While AI's limitations in human judgment, credibility assessment, and contextual interpretation render it unsuitable for merits adjudication, emergency arbitration presents a structurally distinct environment where AI integration may be appropriate. Emergency proceedings do not resolve substantive disputes but preserve the arbitral process through provisional measures based on standardized criteria—urgency, irreparable harm, prima facie case, and proportionality. These decisions rely on limited documentary records, operate under compressed timelines, and remain subject to tribunal review. Building on the American Arbitration Association's ("AAA") empirical demonstration that AI can function effectively in merits arbitration with human oversight and grounding the argument in fifteen years of the Stockholm Chamber of Commerce ("SCC") Arbitration Institute's emergency arbitration practice, this article argues a fortiori that AI is even more suitable for emergency relief. The proposed AI Emergency Arbitrator ("AIEA") model adapts the AAA's human-in-the-loop framework to emergency contexts, requiring human validation before issuance while preserving party autonomy through opt-out rights and tribunal review mechanisms. The Article addresses potential objections regarding trust, enforcement, error, and scope creep, demonstrating how the AIEA can enhance speed, consistency, and accessibility without

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compromising arbitration's foundational principles of fairness, consent, and human accountability. The AIEA represents not technological replacement but strategic integration—deploying algorithmic efficiency where procedural urgency demands it, while maintaining human judgment where interpretive reasoning remains irreplaceable.

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I. Introduction

AI has begun to influence nearly every dimension of commerce, transactions, and disputes between parties.[1] It also has direct implications for legal practice, ranging from predictive analytics and document classification to contract drafting and evidence review.[2] In recent years, these developments have extended beyond supportive or assistive functions, shifting into the domain of legal reasoning and decision-making,[3] particularly in arbitration proceedings.[4] Arbitration, as a flexible and private form of adjudication, has been a natural site for experimentation.[5] What some authors once anticipated—algorithms capable of rendering enforceable arbitration awards—has become a reality.[6] Parties now face a reality in which decisions once made solely by human arbitrators are produced—at

1. *See* Kathleen Paisley & Edna Sussman, *Artificial Intelligence Challenges and Opportunities for International Arbitration*, 11 NYSBA N.Y. Disp. Resol. 35, 35 (2018).
2. Seyhan Selçuk, Nesibe Kurt Konca & Serkan Kaya, *AI-driven Civil Litigation: Navigating the Right to a Fair Trial*, 57 Comput. L. & Sec. Rev. 1, 2–3 (2025); *see* Jordan Bakst, et. al., *Artificial Intelligence and Arbitration: A U.S. Perspective*, 16 Disp. Resol. Int'l 7, 12–18 (2022); *see also* Horst Eidenmuller & Faidon Varesis, *What Is an Arbitration? Artificial Intelligence and the Vanishing Human Arbitrator*, 17 N.Y.U. J.L. & Bus. 49, 55–61 (2020) (discussing artificial intelligence applications to assist arbitrators).
3. For utilizing AI in legal decision making, see generally Dovilė Barysė & Roee Sarel, *Algorithms in the Court: Does it Matter Which Part of the Judicial Decision-making is Automated?*, 32 A.I. & L. 117 (2024) (surveying perceptions of fairness when algorithms are used at different stages of judicial decision-making).
4. *See generally* Eidenmuller & Varesis, *supra* note 2, at 59–64 (discussing arbitration-specific artificial intelligence applications).
5. For general information about the fundamentals of arbitration and the party autonomy, which forms the arbitration proceeding, see Bahadir Köksal, *A Trade-Off in Smart Contract Arbitration; Sacrificing Arbitrators' Anonymity for Transparency?*, 35 Fordham Intell. Prop. Media & Ent. L.J. 131, 138–45 (2024).
6. Paul Bennett Marrow, Mansi Karol & Steven Kuyan, *Artificial Intelligence and Arbitration: The Computer as an Arbitrator - Are We There Yet?*, 74 Disp. Resol. J. 35, 35 (2020) ("Computer scientists posit that with enough data and properly designed algorithms, the 'well-trained' computer should soon be able to produce an acceptable arbitration award. The necessary data set would hopefully include thousands of transcripts from actual arbitration proceedings; hundreds of thousands of actual awards . . . .").

least in part—by artificial intelligence systems.[7] Still, it raises a critical question at the core of adjudication: Can a non-human actor legitimately rule on the merits of a case as an arbitrator?[8]

The debate over whether AI can serve as a decision-maker in arbitration remains ongoing, particularly among those emphasizing the role of human judgment.[9] Critics point out that adjudicating the merits of a dispute often requires more than the formal application of rules.[10] It demands the evaluation of credibility; the interpretation of social and commercial practices and relations; awareness of bias and black-box risks; and the exercise of judgment grounded in shared human understandings of fairness, equity, and context.[11] AI may meaningfully assist with many aspects of arbitral proceedings as

7. For general information regarding the current implications of the AAA AI-native arbitration and a brief information about Arbitrus.ai, as an AI-driven arbitration, see Bahadir Köksal, *The Governance Gap in AI Arbitration,* 9 STAN. J. BLOCKCHAIN L. & POL'Y 157, 169–74 (2026), https://assets.pubpub.org/ce41e41b6-5c48-41e6-9292-edcca1f6b538/pac245470-6b39-4b2c-a76a-fe58c41db966/ud9a2c4f7-0bc7-40a6-b677-6393d6780240/Koksal_The_Governance_Gap_in_AI_Arbitration-5178166137722 4.pdf [https://perma.cc/BGV5-D9D6].

8. *See* Eidenmuller & Varesis, *supra* note 2, at 61–64; *see generally* Gizem Halis Kasap, *Can Artificial Intelligence ("AI") Replace Human Arbitrators? Technological Concerns and Legal Implications,* 2021 J. DISP. RESOL. 209 (2021) (investigating legal implications, technical risks, and conflicting norms from using artificial intelligence as an arbitrator).

9. Eidenmuller & Varesis, *supra* note 2, at 61–63.

10. *Id.* at 62–63 ("A fully automated 'robot' AI arbitrator system, which would substitute human arbitrators, requires performance of a variety of tasks. These tasks, which involve attributes such as social intelligence, cannot be performed in their entirety by currently existing machine learning applications . . . . [C]ases involving 'hidden variables,' such as social or economic considerations not evident in legal or factual documents, bring a degree of outcome-relevant uncertainty to the adjudicative processes, which, at the present stage of AI development, cannot properly be accounted for by available systems."); Kasap, *supra* note 8, at 235 ("The legal scholarship on AI arbitrators mainly revolves around the capabilities of machine learning algorithms that can predict court decisions—less attention is given to the nature of the human arbitrator. If we are to replace human arbitrators with non-human ones, taking the fullest account of human emotional intelligence merits consideration.").

11. Kasap, *supra* note 8, at 221–36.

a tool;[12] as an arbitrator, its capacity to decide outcomes may remain limited—at least when the question involves resolving the substantive dispute itself, given current technology.[13] Recent scholarship has further examined the specific risks that AI assistance poses to procedural fairness in emergency arbitration, raising concerns about transparency, equality of arms, and arbitrator independence.[14]

This limitation need not apply uniformly across all stages and types of arbitration. Emergency relief procedures, which allow a party to obtain urgent protective measures before the full arbitral tribunal is constituted, serve a function distinct from merits adjudication.[15] These proceedings are typically expedited, follow a predictable structure, and rely on established criteria focused on urgency, the risk of irreparable harm, the preservation of evidence, disputed assets, and

12. Eidenmuller & Varesis, *supra* note 2, at 55–61.

13. *Id.* at 62–63; Kasap, *supra* note 8, at 235; *see also AI Arbitrator*, Am. Arb. Ass'n, https://www.adr.org/ai-arbitrator/ [https://perma.cc/ECT8-GCA7] (last visited May 9, 2026) (describing the AAA AI-native arbitration procedure where a human arbitrator reviews and finalizes arbitral awards drafted by the AI-native arbitrator in the AAA AI-native arbitration procedure. The human arbitrator acts as the human-in-the-loop during the process and issues the award for enforcement).

14. *See generally* Shilpi Sharma, *Emergency Arbitration and Artificial Intelligence: Re-Assessing Procedural Fairness and Due Process in Institutional Arbitration,* 8 Indian J.L. & Legal Rsch. 1945 (2026), https://www.ijllr.com/post/emergency-arbitration-and-artificial-intelligence-re-assessing-procedural-fairness-and-due-process [https://perma.cc/P3R5-PNYW] (last visited Jun. 9, 2026) (examining procedural risks of AI-assisted emergency arbitration and proposing disclosure and explainability safeguards). While Sharma addresses AI as an assistive tool for human emergency arbitrators, this Article addresses the structurally distinct question of AI serving as emergency arbitrator itself.

15. *See* Fabio C. Santacroce, *The Emergency Arbitrator: A Full-fledged Arbitrator Rendering an Enforceable Decision?,* 31 Arb. Int'l 283, 290–302 (2015); *see also* Jason Fry, *The Emergency Arbitrator - Flawed Fashion or Sensible Solution,* 7 Disp. Resol. Int'l 179, 181–85 (2013) (explaining implementations of the emergency arbitrator in different arbitration institutions); *see generally* Katarina Resar Krasulova, *Should I Stay or Should I Go: The Evolution of Emergency Arbitration Procedure Within Private International Law,* 6 Cardozo Int'l & Compar. L. Rev. 819 (2023) (describing details regarding the practices of emergency arbitration).

the status quo until the tribunal can be constituted.[16] Unlike merits hearings, they do not require extensive credibility assessments or complex factual examination.[17] The objective is not to decide who is right but to ensure that the subsequent arbitration remains meaningful.[18] This narrow scope and temporary function make emergency measures a procedural environment in which AI may be more appropriately deployed.[19] The type of reasoning required—structured, time-sensitive, and constrained—is far closer to algorithmic decision-making than the nuanced interpretive judgment necessary for final awards.[20]

This Article develops a limited and clearly defined thesis: While AI may not be suitable for determining the merits of complex disputes, it can serve as an emergency arbitrator under specific procedural safeguards. The core proposal is the AI Emergency Arbitrator ("AIEA")—a model in which emergency relief orders are generated by a transparent, reviewable AI system before the constitution of the arbitral tribunal, while the subsequently constituted human tribunal retains full authority to "modify, terminate, or annul" those interim measures.[21] In this way, AI is not

16. *See* Santacroce, *supra* note 15, at 284–85, 288–89; *see also* Amir Ghaffari & Emmylou Walters, *The Emergency Arbitrator: The Dawn of a New Age?*, 30 ARB. INT'L 153, 154–55 (2014) (identifying evidence preservation and prevention of asset dissipation as the interim measures parties most commonly seek).

17. *See* Santacroce, *supra* note 15, at 299.

18. *See id.* at 304.

19. *Cf.* Eidenmuller & Varesis, *supra* note 2, at 63 ("Developing an AI-powered arbitrator is not only contingent on the simplicity or complexity of a given dispute but also depends on the degree of human interaction a dispute might normally involve. Thus, it would be easier to see such systems operating for simple money claims or tax disputes where the outcome is based on the analysis of facts and the calculation of variables that are easily quantifiable.").

20. *See id.*

21. AM. ARB. ASS'N, COM. ARB. RULES AND MEDIATION PROCS. R-39(f) (2022) [hereinafter AAA RULES] https://www.adr.org/media/qielmfog/2025_commercialrules_web.pdf [https://perma.cc/GUR4-HQRY] (last visited May 10, 2026) ("Any application to modify an interim award of emergency relief must be based on changed circumstances and may be made to the emergency arbitrator until the non-emergency ('merits') arbitrator is appointed; thereafter such a request shall be addressed to the merits

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positioned as a replacement for human arbitrators who are competent to render awards on disputes. Rather AI can be employed as an emergency arbitrator mechanism to enhance speed, reduce costs, and support the effectiveness of arbitration at a stage where time is critical and the scope of judgment is narrow.

The discussion in this Article proceeds as follows. Part II delves into the structure, purpose, and procedural logic of emergency arbitration, highlighting why this stage is functionally distinct from merits adjudication. Part III then examines AI's capabilities and limitations in decision-making, focusing on why concerns about AI in merits arbitration do not necessarily apply to emergency relief. Building on this foundation, Part IV introduces the AIEA model, describing how it can be operationalized in practice, including the American Arbitration Association's (AAA) proven AI arbitration system as a foundation, input constraints, transparency requirements, auditability, and avenues for human review. The Article then grounds these theoretical arguments in fifteen years of the Stockholm Chamber of Commerce Arbitration Institute (SCC) emergency arbitration practice, drawing on illustrative scenarios to demonstrate how the AIEA framework maps onto real cases. The Article concludes with institutional implications before reflecting on incremental adoption and the future of hybrid human-AI decision systems in arbitration.

II. Emergency Arbitration: Purpose and Practice

Arbitration, as a consent-based and procedurally flexible system of dispute resolution, contains several distinct phases that vary in

arbitrator. The emergency arbitrator shall have no further power to act after the merits arbitrator is appointed unless the emergency arbitrator is named as the merits arbitrator or as a member of the panel."); Int'l Chamber of Commerce [ICC], Rules of Arbitration(2021) [hereinafter ICC Rules], art. 29(3), https://iccwbo.org/dispute-resolution/dispute-resolution-services/arbitration/rules-procedure/2021-arbitration-rules/ [https://perma.cc/U7SM-TYZP] (last visited May 10, 2026) ("The emergency arbitrator's order shall not bind the arbitral tribunal with respect to any question, issue or dispute determined in the order. The arbitral tribunal may modify, terminate or annul the order or any modification thereto made by the emergency arbitrator.").

purpose and complexity.[22] Yet emergency relief has often been regarded as the weakest point of the international arbitral process.[23] Emergency arbitration was developed in response to a structural problem inherent in arbitral procedures.[24] Before emergency mechanisms existed, parties in need of urgent protection had little choice but to seek interim measures from national courts while awaiting the constitution of an arbitral tribunal.[25] This dependence on domestic courts was widely regarded as a weakness of arbitration.[26] It ran counter to the parties' intention to stay outside national jurisdictions, risked unwanted publicity, and placed time-sensitive decisions before judges who might lack experience with complex international disputes.[27]

Moreover, constituting an arbitral tribunal requires nominations, disclosures, challenges of arbitrators, confirmations, and scheduling—steps that often take weeks or even months.[28] Yet commercial

22. *See* Köksal, *supra* note 5, at 138–45.

23. Erin Collins, *Pre-Tribunal Emergency Relief in International Commercial Arbitration*, 10 LOY. U. CHI. INT'L L. REV. 105, 116 (2012). ("Emergency relief has been described as the 'Achille's heel' of international arbitration. This is historically one of the few areas of arbitration where use of the traditional judicial system could be more efficient and is more likely to produce the desired results.").

24. *See* Santacroce, *supra* note 15, at 284.

25. *See id.*

26. *Id.* ("In the past, without a body competent to deal with urgent requests for interim relief before the constitution of the arbitral tribunal (which may take several months), the parties were forced to resort to state courts. This has long been perceived as a major drawback of arbitration.").

27. *See id.*

28. *See id.;* Ghaffari & Walters, *supra* note 16, at 155; *see also* Leng Sun Chan & Weiyi Tan, *Making Arbitration Effective: Expedited Procedures, Emergency Arbitrators and Interim Relief*, 6 CONTEMP. ASIA ARB. J. 349, 352 (2013) https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2397661 [https://perma.cc/DPR7-Q85Q] ("Since arbitration is a party-driven process, in practice delays in arbitration usually arise from parties themselves. These include a desire to choose a particular arbitrator, which requires mutual agreement and which thereafter binds the parties to the arbitrator's schedule. It also requires a rigid adherence to rules of civil procedure more suited to litigation; or conversely, a lack of adherence to arbitral rules and a disregard for timelines set by the Tribunal (perhaps due to the limited sanctions that

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transactions do not pause while arbitrators are appointed.[29] In many cases, the absence of immediate relief renders the parties' decision to submit their dispute to arbitration effectively meaningless.[30] Assets may be transferred beyond reach or evidence may be destroyed.[31] Emergency arbitration emerged to address this temporal vulnerability: It enables a party to seek urgent interim protection *before* the tribunal is formed.[32]

The core purpose of emergency arbitration is not to resolve the merits of disputes but to preserve the integrity of the arbitral process itself and to seek to maintain or restore the *status quo* long enough for adjudication to proceed in an orderly way.[33] It aims to prevent irreversible harm that could render the final award ineffective.[34] As such, emergency proceedings do not seek to conclusively determine rights.[35] This preventive, rather than determinative, orientation is what distinguishes emergency arbitration from the merits phase.[36] It also explains why the relief granted is subject to later review by arbitral tribunals[37] and why it is not binding on arbitral tribunals or national courts, both of which may impose additional interim measures.[38]

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the Tribunal can lay down for such failures). Of course, some delays are caused by the Tribunals themselves.").

29. *Cf.* Chan & Tan, *supra* note 28, at 351 ("Apart from time and costs, delays in arbitral proceedings have the same downsides as delays in any other dispute resolution mechanism: parties are unable to get on with their commercial lives when their legal rights and obligations are uncertain pending the outcome of any dispute resolution process.").

30. *See* Santacroce, *supra* note 15, at 284.

31. *See* Krasulova, *supra* note 15, at 826–27; Ghaffari & Walters, *supra* note 16, at 154–55.

32. *See* Ghaffari & Walters, *supra* note 16, at 155.

33. *See* Santacroce, *supra* note 15, at 284–85, 288–89; Ghaffari & Walters, *supra* note 16, at 154–55.

34. *See* Santacroce, *supra* note 15, at 284–85, 288–89; Ghaffari & Walters, *supra* note 16, at 154–55; *see also* Chan & Tan, *supra* note 28, at 360 (describing emergency arbitration as a response to situations requiring immediate protection before a tribunal can be formed).

35. AAA Rules, *supra* note 21, at R-39; ICC Rules, *supra* note 21, at art. 29(3).

36. *See* Chan & Tan, *supra* note 28, at 367.

37. AAA Rules, *supra* note 21, at R-39; ICC Rules *supra* note 21, at art. 29(3).

38. Chan & Tan, *supra* note 28, at 362.

Over time, emergency arbitration has become a standard feature in the rules of major arbitral institutions. The International Chamber of Commerce (ICC),[39] Singapore International Arbitration Centre (SIAC),[40] London Court of International Arbitration (LCIA),[41] SCC,[42] and AAA[43] all permit the appointment of an emergency arbitrator shortly after a request is filed. While procedural details vary, the structures are broadly similar.[44] First, parties' consent should exist to initiate the emergency arbitration process.[45] Then, the applicant must show that the matter is urgent, meaning that waiting for the regular tribunal would cause material harm.[46] The relief sought must be proportionate, meaning that it does not unfairly burden the opposing party or effectively resolve the merits.[47] The appointing authority designates a neutral decision-maker within a few days.[48] The parties submit their written arguments, and the emergency arbitrator issues an enforceable award demonstrating that their claim has a reasonable basis within a compressed timeframe.[49] As stated above, an emergency arbitrator's award is not binding on arbitrators resolving the merits of disputes.[50] This ensures continuity between the urgent interim stage and merit arbitration, while maintaining the legitimacy and neutrality of the forum chosen by the parties.

The types of awards rendered by an emergency arbitrator reflect its protective purpose. Awards commonly involve freezing assets, preventing the transfer of shares, restraining the disclosure of

39. ICC Rules, *supra* note 21, at art. 29(3), app. V.

40. Arbitration Rules of the Singapore International Arbitration Centre, R. 14 (2025).

41. London Court of International Arbitration Rules art. 9.4–16 (2020).

42. The Arbitration Rules of the Stockholm Chamber of Commerce Arbitration Rules, app. II art. 2 (2023).

43. AAA Rules, *supra* note 21, at R-39.

44. *See* Cameron Sim, The Principles of Emergency Arbitration of Emergency Arbitration, § 1.57, at 18 (2021) (explaining the general principles of emergency arbitration).

45. *Id.*

46. *Id.*

47. *See id.*

48. *See id.*

49. *See id.*

50. *See id.*

confidential information, or compelling the preservation of evidence; consequently, these measures all aim to prevent irreversible change.[51] They do not require determining who is ultimately entitled to the disputed rights; they require assessing whether the conditions necessary for fair adjudication later are in jeopardy now.[52]

Because of these characteristics, emergency arbitration occupies a unique and preventive procedural mechanism. It is situated in a unique position in the arbitral proceeding: binding but provisional, enforceable but temporary, urgent but reversible.[53] It is a legal decision-making, but not a merits, determination. It is an adjudication aimed at preservation rather than resolution. It is precisely this structured, time-sensitive, and limited mode of reasoning that makes emergency arbitration distinct within the larger architecture of arbitral proceedings.

The procedural function of emergency arbitration highlights a category of arbitral decision-making that does not rely on the forms of human judgment required for merits awards, such as interpreting complex commercial norms, weighing competing narratives, or applying equitable principles where legal rules run out. Emergency arbitration is, by design, more mechanical and less complex. This does not make it less important—to the contrary, its speed and reliability are critical to the integrity of arbitration as a whole. However, it makes it qualitatively different from the interpretive reasoning required when deciding substantive disputes. This difference is what makes AI integration more plausible in this context than in merit adjudication.

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51. *See* Krasulova, *supra* note 15, at 825–28. For examples of emergency relief regarding construction disputes see Dean Pamphilis & Francisco Franco, *Interim Relief Including Emergency Arbitrator in Construction Arbitration*, GLOB. ARB. R. (Aug. 12, 2025), https://globalarbitrationreview.com/guide/the-guide-construction-arbitration/sixth-edition/article/interim-relief-including-emergency-arbitrator-in-construction-arbitration [https://perma.cc/BW8S-7VW9].

52. *See* Krasulova, *supra* note 15, at 825–28; Pamphilis & Franco, *supra* note 51; Sim, *supra* note 44, at 18.

53. *See* Krasulova, *supra* note 15, at 825–28; Pamphilis & Franco, *supra* note 51; Sim, *supra* note 44, at 17–18.

III. AI'S CAPABILITIES AND THE LIMITS OF MERITS DECISION-MAKING

AI, broadly understood as the use of computational systems to perform tasks that would require intelligence if carried out by humans, has long been examined for its potential to support or replicate legal reasoning. [54] As early as 1990, Edwina L. Rissland offered a foundational analysis of AI in law, arguing that assessing AI's usefulness requires examining whether it can model the cognitive processes underlying legal argumentation—reasoning with rules, analogies, precedents, and open-textured concepts.[55] More than three decades later, many of the concerns she identified remain pressing. Although today's AI systems excel at recognizing patterns and generating structured analyses, their capacity for genuine legal reasoning remains contested, particularly because adjudication often requires interpretive judgment, human experience, and sensitivity to fairness.[56]

AI has nonetheless become a valuable tool in legal practice. AI attempts to simulate human intelligence to automate tasks that typically require human cognition. [57] While it may fall short of replicating the full range of human reasoning, AI has proved highly effective in supporting the field of law and legal services.[58] AI is used in these fields to make the law easier to access, understand, and apply.[59]

54. Harry Surden, *Artificial Intelligence and Law: An Overview,* 35 GA. ST. U. L.REV. 1305, 1307 (2019).

55. Edwina L. Rissland, *Artificial Intelligence and Law: Stepping Stones to a Model of Legal Reasoning,* 99 YALE L.J. 1957, 1961 (1990).

56. *See* Kasap, *supra* note 8, at 221–36.

57. Surden, *supra* note 54, at 1307; *see* Hadar Y. Jabotinsky & Roee Sarel, *Co-Authoring with an AI? Ethical Dilemmas and Artificial Intelligence*, 56 ARIZ. ST. L.J. 187, 190–92 (2024).

58. *See* Surden, *supra* note 54, at 1326–37 (explaining the use of AI under three categories: (i) practitioners of law, (ii) creators/appliers of law, and (iii) people/legal entities governed by law. Surden introduces the characteristic needs of each as well as the current and possible applications of AI).

59. *Id.* at 1327.

For example, there are tools for finding case law,[60] domain-specific services,[61] contract reviewing,[62] and legal answering services.[63]

In arbitration, AI-supported tools assist with drafting pleadings and structuring arguments.[64] Moreover, arbitrators can use such technologies to fulfill their role as decision-makers.[65] In these contexts, AI operates as an assistant instrument—a tool that augments human decision-makers without displacing them.

The debate becomes more complex when considering AI as a decision-maker rather than a supportive tool. Some scholars discuss AI as a decision-maker in courts or arbitration.[66] AI can, in principle and recently in practice, evaluate submissions, apply predefined

60. LexMachina, https://lexmachina.com/ [https://perma.cc/B2TH-YAXA] (last visited May 10, 2026).

61. Harvey, https://www.harvey.ai/ [https://perma.cc/YLB6-5VHB] (last visited May 10, 2026).

62. Diligen, https://www.diligen.com/clio/ [https://perma.cc/4E4D-HTW3] (last visited May 10, 2026).

63. Smith AI, https://smith.ai/industries/legal-law-firms-answering-service [https://perma.cc/GU98-6ZF8] (last visited May 10, 2026).

64. Jus AI, https://jusmundi.com/en/jus-ai [https://perma.cc/T87C-88TY] (last visited May 10, 2026).

65. AAA sets various standards for administrators, neutrals, and practitioners while utilizing AI considering ethics, privacy, security, accountability, transparency, reliability, and adaptability, *see AAAi Standards for AI in ADR*, Am. Arb. Ass'n, https://www.adr.org/media/pgfe4xwg/aaai_standards_for_ai_in_adr.pdf [https://perma.cc/LFC9-89XV] (last visited May 10, 2026); *see also* CIArb, Guideline on the Use of AI in Arbitration, at 16 (2025), https://www.ciarb.org/media/bpndtcgu/guideline-on-the-use-of-ai-in-arbitration_updated-sept-2025.pdf [https://perma.cc/VDU8-Q3K8] (last visited May 10, 2026) (describing that arbitrators may use AI to support the processing of information).

66. *See* Eugene Volokh, *Chief Justice Robots*, 68 Duke L.J. 1135, 1156 (2019); *see also* Henk Snijders, *Arbitration and AI, from Arbitration to 'Robotration' and from Human Arbitrator to Robot*, 87 Arb. Int'l J. Arb. Mediat. Disp. Mgmt. 223, 233 (2021) (discussing the use of AI as an arbitrator); David Horton, *Forced Robot Arbitration*, 109 Cornell L. Rev. 679, 693 (2023). For the detailed discussions, see also Kasap, *supra* note 8, at 209–54 (analyzing the legal and pratical limits of replacing arbitrators with AI); and for detailed information about the background of AI arbitration and the policy recommendations for the existing governance gaps, see generally Köksal, *supra* note 7 (examining governance of human oversight in AI arbitration).

criteria, and generate reasoned outputs that resemble legal decisions.[67] This raises the possibility and opportunity of AI performing quasi-adjudicative functions, such as emergency arbitration. These prospects are technologically intriguing, especially given AI's speed, consistency, and capacity to process extensive records without fatigue or resource constraints. Yet the transition from *assistant* to *decision-maker* raises conceptual and normative challenges that cannot be overlooked.

AI systems face well-documented concerns that become especially significant once they are tasked with resolving disputes. It is always questionable whether AI can render awards as effectively as humans in dispute resolution.[68] Although AI is likely to continue advancing, it may still struggle to make accurate, judicious decisions due to its lack of human-like feelings and characteristics.[69]

Concerns arising from limitations include: (i) the risk of not ensuring the principle of equality of arms[70] between parties during the proceedings[71] and (ii) the thorough and just evaluation of evidence.[72]

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67. AAA AI-native arbitrator has the capability to conduct arbitration process and make an award ready for a human arbitrator to validate it, see AM. ARB. ASS'N, *supra* note 13.

68. *See* Snijders, *supra* note 66, at 235.

69. *See id.*

70. *See* Selçuk et al., *supra* note 2, at 10–11. For the definition of "Equality of Arms" by the European Commission, see *Migration and Home Affairs,* EUR. COMM'N https://home-affairs.ec.europa.eu/networks/european-migration-network-emn/emn-asylum-and-migration-glossary_en [https://perma.cc/B9GB-HJS9] (last visited May 10, 2026) ("The concept has been created by the European Court of Human Rights (ECtHR**)** in the context of the right to a fair trial (Art.6 of the European Convention of Human Rights (ECHR). Equality of arms requires that there be a fair balance between the opportunities afforded the parties involved in litigation (for example, each party should be able to call witnesses and cross-examine the witnesses called by the other party). The principles means that the same procedural rights are to be provided to all the parties unless distinctions are based on law and can be justified on objective and reasonable grounds, not entailing actual disadvantage or other unfairness to the defendant."); Jay Sterling Silver, *Equality of Arms and the Adversarial Process: A New Constitutional Right,* 1990 WIS. L. REV. 1007, 1009–10 (1990); Stefania Negri, *The Principle of Equality of Arms and the Evolving Law of International Criminal Procedure,* 5 INT'L CRIM. L. REV. 513, 514 (2005).

71. *See* Snijders, *supra* note 66, at 236.

72. *See id.* at 237.

Bias embedded in training data may shape outputs in ways that are difficult to detect or correct, particularly when the data reflects systemic imbalances or regional overrepresentation.[73] Although AI systems are capable of machine learning and self-improvement,[74] they remain fundamentally human-designed: Programmers determine the initial training data, architecture, and update protocols.[75] Where that data contains bias, the resulting outputs—including AI-generated arbitral orders and draft awards—may reflect and amplify it.[76] The opacity or "black-box" nature of specific machine-learning models can prevent parties from understanding how conclusions were reached, undermining procedural fairness and the ability to challenge or appeal decisions.[77] Moreover, AI cannot evaluate credibility, infer intention, appreciate commercial context, or apply moral judgment—elements that are central to deciding the merits of many disputes.[78] Even when AI generates text that appears coherent and legally structured, it does so through statistical approximation, not through a process of deliberation or normative evaluation.[79]

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73. *See id.*, at 235. For detailed information and policy recommendations to minimize algorithmic bias risk in AI arbitration, see Köksal, *supra* note 7, at 196–99. *See generally* Paul Bennett Marrow, Mansi Karol & Steven Kuyan, *Artificial Intelligence and Arbitration: The Computer as an Arbitrator – Are We There Yet?*, 74 DISP. RESOL. J. 35 (2020) (discussing algorithmic bias in artificial intelligence used in arbitration).

74. *See* Snijders, *supra* note 66, at 235.

75. *See id.*

76. *See id.*

77. For detailed information about the Black-box and opacity problems, *see* Kasap, *supra* note 8, at 229–32.

78. *See id.* at 236.

79. This is illustrated by AI "hallucination," where systems generate fictitious but plausible legal citations. *See* Sara Merken, *Judge Fines Lawyers $12,000 Over AI-Generated Submissions in Patent Case*, REUTERS (Feb. 3, 2026), https://www.reuters.com/legal/litigation/judge-fines-lawyers-12000-over-ai-generated-submissions-patent-case-2026-02-03/ [https://perma.cc/PJT3-HHSY] (last visited May 10, 2026) (reporting sanctions for submitting AI-generated documents citing non-existent quotations and cases); *see also* Ramishah Maruf, *Lawyer Apologizes for Fake Court Citations from ChatGPT*, CNN BUS. (May 28, 2023) https://edition.cnn.com/2023/05/27/business/chat-gpt-avianca-mata-lawyers [https://perma.cc/M56B-YR97] (last visited May 10, 2026) (earlier case sanctioning attorney for ChatGPT-generated fake

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These structural limitations may have direct implications for the legitimacy of merit adjudication. Deciding the substance of a complex dispute requires, at least, the involvement of a human arbitrator, such as via the human-in-the-loop process.[80] Merits adjudication should be better conducted with the ability to interpret ambiguous provisions, weigh competing narratives, and determine what fairness requires in a particular context.[81] It is not simply a question of analytical accuracy; it is also a question of accountability, empathy, and the assurance that a human decision-maker has listened, reflected, and reached a principled conclusion.[82]

Additionally, it may be challenging for AI to develop law independently because the rules, perceptions, interpretations, and necessities are constantly evolving.[83] Moreover, without a sense of justice and ethics, AI may not be capable of developing law.[84] From this perspective, one may speculate that AI, as a decision-maker, may not contribute to the *de lege ferenda*.[85]

However, the AAA has demonstrated that AI can participate meaningfully in the arbitration process when appropriately constrained and supervised.[86] The AAA has developed an AI Arbitrator system that integrates AI throughout the arbitration process while maintaining human oversight at critical decision

citations). These incidents demonstrate that AI produces content through pattern matching rather than understanding, verification, or legal reasoning.

80. Dispute resolution should be categorized as "high-risk AI system" according to EU AI Act and under Article 14, human oversight should be implemented. Similarly, in AI-native arbitration, the AAA also implements the human arbitrator verification step as the last phase before the signature and enforcement of the arbitral award. *See* AM. ARB. ASS'N, *supra* note 13.

81. *See* Kasap, *supra* note 8, at 233–36; Köksal, *supra* note 7, at 193–94.

82. *See* Köksal, *supra* note 7, at 193–94.

83. *See* Snijders, *supra* note 66, at 239.

84. *See id.*

85. For the definition of the term, see Aaron X. Fellmeth & Maurice Horwitz, Guide to Latin in International Law, OXFORD UNIV. PRESS, https://www.oxfordreference.com/display/10.1093/acref/9780197583104.001.0001/acref-9780197583104-e-524?rskey=BbZ4zf&result=1 [https://perma.cc/TV37-3C62] (staff-uploaded, dark archive)] ("Of the law [that is] to be proposed.").

86. AM. ARB. ASS'N, *supra* note 13.

points. [87] The system, designed initially for "documents-only construction disputes" and "cases without live witnesses or complex factual issues," guides parties through a structured fifteen-step process from case filing to final award issuance.[88] The AI Arbitrator analyzes position statements to extract claims, generates case summaries, and produces draft awards; but, a human arbitrator reviews party feedback and retains ultimate authority to revise and sign the final award before issuance.[89] The platform promises cost savings of thirty-five percent or more compared to traditional documents-only arbitration, along with time savings of twenty to twenty-five percent.[90] The AAA has also established governance principles for AI implementations emphasizing fair and ethical AI design, human-centered oversight, data privacy and security, accuracy and reliability, transparency, accountability, and continuous monitoring and improvement.[91]

The AAA's launch of an AI-native arbitrator, subject to mandatory human validation, is significant for two reasons. First, it demonstrates that AI can successfully participate in merit-based arbitration—even if it is, for now, limited to a specific area and non-complex cases—when properly designed and supervised. The AAA model demonstrates that institutions, parties, and legal systems can accept AI-generated decisions in contexts in which substantive rights are ultimately determined, provided that human oversight ensures accuracy, fairness, and accountability. Second, it provides an empirical foundation for extending AI to other arbitral contexts. If AI can handle merits arbitration with appropriate safeguards, the question becomes: Where else might it be deployed efficiently?

The answer to where else AI might be deployed lies in understanding where AI's limitations matter less and its advantages matter more. Emergency arbitration presents precisely such a context. As explained in the previous Section, emergency arbitration proceedings do not require resolving factual disputes through

87. *Id.*

88. *Your Questions Answered About the AAA AI Arbitrator* Am. Arb. Ass'n, https://www.adr.org/news-and-insights/ai-arbitrator-faq/ [https://perma.cc/9CXX-HAZ8] (last visited May 11, 2026).

89. *Id.*

90. *Id.*

91. Am. Arb. Ass'n, *supra* note 65.

credibility assessments or interpreting complex contracts through contextual analysis.[92] Instead, they involve time-sensitive decisions based on structured and well-defined criteria, such as urgency, irreparable harm, or the need to maintain the status quo.[93] These proceedings rely primarily on documentary evidence, operate under compressed timelines, and produce outcomes that are revisable and may later be reviewed by the full tribunal.[94] In such settings, the absence of deep interpretive judgment and the availability of immediate human oversight significantly reduce the risks associated with AI-generated decisions.

Moreover, concerns about AI's contribution to legal development—the *de lege ferenda* function—are less pressing in emergency arbitration. Emergency arbitrators apply existing standards rather than creating new perspectives of law. Their orders are provisional and fact-specific, not precedential or norm-generating. The risk that AI might fail to develop legal doctrine is therefore irrelevant in this context because doctrinal development is not the essence of emergency relief.

Thus, one can claim that, if AI arbitrators are applicable in practice for merits determination—as the AAA system demonstrates—then *a fortiori*, AI arbitrators are also applicable to emergency arbitration. It is structurally simpler, more rule-based, and subject to mandatory review by the tribunal. If AI can navigate the interpretive complexity of substantive awards with human validation, it can certainly manage the narrower, procedural determinations required for provisional interim relief.

The following Section builds directly on this insight. It introduces a structured model for the use of AI in emergency proceedings: the AI Emergency Arbitrator ("AIEA"). This model demonstrates how AI's strengths can be deployed responsibly in a limited, supervised context, while preserving the human-centered foundations of arbitration that are essential to legitimacy.

92. *Supra* Part II.
93. *Id.*
94. *Id.*

IV. The AI Emergency Arbitrator ("AIEA")

The notion of the AIEA rests on the recognition that certain procedural decisions in arbitration—particularly those required before a tribunal is constituted—do not demand the full depth of interpretive judgment associated with merits adjudication. Instead, they involve applying established criteria to a limited factual record under significant time pressure. The AIEA builds on this procedural reality and, more importantly, on emerging institutional practice that has already begun to integrate AI into arbitral decision-making. The purpose of the mechanism is not to automate arbitration, but to enhance the pace, responsiveness, neutrality, and procedural integrity of emergency relief while maintaining human control as a final safeguard in order to ensure justice while resolving disputes between parties.

A. The A Fortiori Argument: Emergency Arbitration as an Even More Suitable Context

The AAA's AI Arbitrator demonstrates that algorithmic decision-making can function effectively in merits arbitration—the most complex phase of dispute resolution—when combined with human oversight.[95] This precedent is significant because it shifts the debate from speculation to evidence. The question is no longer whether AI can participate in arbitration, but how its demonstrated capabilities can be extended to contexts in which it is even more suitable.

Emergency arbitration presents such a context. If AI can function effectively in full-merits arbitration with human oversight, as the AAA model demonstrates, [96] then it is, *a fortiori,* suitable for emergency arbitration. Emergency relief presents a structurally more constrained, and procedurally focused decision-making environment than merits adjudication.[97] Several features of emergency arbitration make it particularly well-suited for AI integration.

95. *See* Am. Arb. Ass'n, *supra* note 13.
96. *Id.*
97. *See supra* Part II.

1. Narrower Decisional Scope

Emergency arbitration has a narrower scope of decision than merits arbitration.[98] It does not aim to resolve disputes ultimately. It addresses only whether interim measures are necessary to preserve the *status quo,* prevent irreparable harm, or protect the integrity of the arbitral process until the tribunal is constituted.[99] The determinative questions are procedural and protective, not substantive and dispositive. Unlike merits arbitration, which requires determining who is right and what relief is owed, emergency arbitration asks only whether temporary protection is warranted under established criteria.

2. Defined and Standardized Criteria

Emergency arbitration applies well-established standards: urgency, risk of irreparable harm, *prima facie* case, and proportionality. [100] These criteria are relatively uniform across institutional rules and have been applied consistently over the years of practice.[101] The standards do not require extensive interpretation of contract language, evaluation of conflicting expert testimony, or resolution of novel legal questions—tasks that demand human cognitive skills which are mostly and intensively required in merits arbitration. Instead, they involve pattern recognition and application of settled principles to factual circumstances.

3. Limited Factual Record

Emergency applications are decided on the basis of documentary submissions within compressed timeframes. Witness hearings, cross-examinations, or extended evidentiary proceedings do not comply with the emergency nature of this proceeding.[102] The factual record is

98. For the possible awards that can be rendered by an emergency arbitrator, see *id.*

99. *See id.*

100. SIM, *supra* note 44, at 18.

101. *See generally* Krasulova, *supra* note 15 (examining the evolution, legal requirements, implementation, and enforcement practices of emergency arbitration in reputable arbitration institutions).

102. *Emergency arbitration: A practical guide for young arbitration practitioners*, INT'L BAR ASS'N, at para. 52, https://www.ibanet.org/document?id=Emergency-arbitration-guide-2025 [https://perma.cc/7N49-BTRE] (last visited May 11,

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limited, clearly bounded, and typically uncontested in its basic elements, even if parties dispute the legal conclusions to be drawn. This structured, text-based input is precisely the environment in which AI systems perform most reliably.

4. Temporal Constraints Favoring Speed

Emergency arbitration prioritizes speed and urgency.[103] Delay undermines the mechanism's purpose—if relief arrives too slowly, the harm it seeks to prevent may already have occurred.[104] Traditional emergency arbitrator appointments, while faster than full arbitration, still require days for appointment, disclosure, and the challenge process.[105] AI systems can analyze applications and generate reasoned draft orders within hours, potentially preventing harm that would occur during the appointment and challenge process.

5. Built-In Review Mechanisms

Emergency awards are explicitly provisional and subject to modification, termination, or annulment by the arbitral tribunal once constituted.[106] This means that any AIEA decision is subject to proceedings conducted by an arbitral tribunal. If the AIEA errs, the tribunal can correct the error. The emergency phase thus provides a natural safeguard for AIEA awards that does not exist in final merits awards: the option of reversibility without appeal.

2026) ("The emergency arbitrator may further decide to cap the length and scope of submissions to ensure the efficiency of the proceedings. The applicant should be mindful that a lengthy application accompanied by voluminous evidence, witness statements and expert reports, may imply that the applicant had plenty of time to prepare the application, thus potentially undermining the 'urgency' requirement.").

103. *See* SIM, *supra* note 44, at 18.

104. *See id.*

105. AAA Rule R-39 provides a constraint timeline for the whole process. AAA RULES, *supra* note 21, at 28. ("Within one business day of receipt of notice from the AAA initiating the request referenced in section (b), the AAA shall appoint a single emergency arbitrator designated to rule on emergency applications . . . . Any challenge to the appointment of the emergency arbitrator must be made within one business day . . . . The emergency arbitrator shall as soon as possible, but in any event within two business days . . . .").

106. AAA RULES, *supra* note 21, at R-39; ICC RULES, *supra* note 21, at art. 29.

6. Reduced Complexity Compared to Merits

If AI can handle the interpretive challenges, factual disputes, and legal reasoning required for merits awards—as the AAA platform already demonstrates—then it can certainly handle less complex, more limited and time-sensitive determinations needed for emergency relief. The logic is straightforward: Emergency arbitration is less complex than merits arbitration. AI has proven its capability of handling merits arbitration with human oversight via the AAA AI-native arbitration platform;[107] therefore, AI is *a fortiori* capable of handling emergency arbitration.

B. The AIEA Model: Adapting Proven Technology to Emergency Arbitration

The AIEA would adapt the AAA's human-in-the-loop framework to the emergency arbitration context, preserving the principle of human oversight while capitalizing on AI's speed and decision-making capabilities. The model rests on four components: (i) AI analysis and draft generation; (ii) human validation before issuance; (iii) party rights to exclude, object, and challenge; and (iv) institutional oversight and accountability. The first two govern how orders are rendered; the latter two ensure the model remains contestable and auditable.

1. AI Analysis and Draft Generation

Upon receipt of an emergency application, the AIEA system would: (i) verify procedural compliance (consent to emergency arbitration, timeliness, jurisdictional requirements); (ii) analyze the factual submissions against the standards for emergency relief (urgency, irreparable harm, *prima facie* case, and proportionality); (iii) identify relevant institutional precedents and practice notes; and (iv) generate a draft reasoned order explaining whether the criteria for relief are met and specifying the measures granted or denied.

2. Human Validation Before Issuance

Consistent with the AAA model, a designated human reviewer [108] —an experienced arbitrator—would review the AI-generated draft prior to issuance. The reviewer would verify that: (i)

107. *See* AM. ARB. ASS'N, *supra* note 13.

108. For detailed explanation and policy recommendations regarding the human oversight in AI Arbitration, see Köksal, *supra* note 7, at 193–96.

the reasoning is procedurally and legally sound and factually accurate; (ii) the legal standards have been correctly applied; and (iii) the order is proportionate and does not raise concerns requiring deeper human judgment. If satisfied, the reviewer certifies the order for issuance.[109]If deficiencies are identified, the reviewer either modifies the draft directly or returns it to the system for revision.

3. Party Rights to Exclude, Object, and Challenge

Parties retain the right to: (i) opt out of the AIEA mechanism at the outset and require human emergency arbitrator appointment; (ii) object to AI processing when the emergency application is filed; (iii) challenge any AI-generated order on grounds of error and request *de novo* human review; and (iv) seek modification or annulment by the arbitral tribunal once constituted.[110]

This raises the question of whether losing parties would often seek *de novo* review, which could bring back the delays the AIEA aims to avoid. This risk is limited for two reasons. First, challenge rights do not offer any remedy that emergency arbitration does not already provide. As item (iv) states, a dissatisfied party can still ask the tribunal to modify or annul the emergency arbitrator's order. Thus, the motivation to challenge the AIEA itself is not as strong as it might seem. Second, a human reviews and verifies every AIEA order before it is issued. This means a challenge is not about an unchecked algorithmic result, but about a decision an arbitrator has already verified. Lowering the chance of both a successful challenge and the desire to make one. In this way, challenge rights serve as a safeguard against algorithmic mistakes, rather than as a routine second chance or an appeal mechanism.

4. Institutional Oversight and Accountability

The administering institution would maintain continuous oversight through: (i) random sampling of AI-generated orders for quality assurance review; (ii) tracking patterns of modification or

109. *See id.* at 193.

110. *See id.* This sequence adapts the AAA AI-native arbitrator's workflow—analyzing position statements to extract claims, generating case summaries, and producing draft awards for human review—to the emergency relief context.

annulment by arbitral tribunals during merits arbitration; (iii) publishing performance metrics and audit reports; and (iv) conducting periodic algorithmic audits to detect bias or systemic errors.[111]

C. Advantages and Potential Objections

The AIEA offers several structural advantages over traditional emergency arbitration proceedings.[112] First, it can reduce the emergency relief timeline from days to hours, protecting parties before irreparable harm occurs during the traditional appointment process. Second, AI applies established criteria uniformly, reducing variance that can arise from individual arbitrator interpretation or availability. Third, because AI lacks professional relationships, prior appointments, or personal characteristics, the grounds for conventional arbitrator challenges—conflicts and nationality—become inapplicable. Challenges must instead focus on process-based grounds such as algorithmic error, procedural irregularity, or manifest mistake. This approach does not eliminate concerns regarding bias; it relocates them. A system trained on historical awards may replicate existing patterns present in the data.[113] In the context of an AI emergency arbitrator, bias originates from the training data and model architecture, not from an individual decision-maker. Consequently, it is addressed through rigorous auditing and disclosure, not by challenging or replacing the arbitrator. Fourth, following the AAA model's demonstrated cost savings, the AIEA could reduce emergency arbitration costs by expediting the process, eliminating arbitrator appointment fees, conflict disclosure procedures, and some administrative overhead. Finally, unlike human arbitrators who may be unavailable due to scheduling conflicts or geographic constraints, the AIEA is available immediately upon application, twenty-four hours a day, ensuring that urgent relief is not delayed by practical limitations on human availability.

111. For detailed information and related policy recommendation regarding bias auditing in AI arbitration, see *id.*

112. *See supra* Part IV(A)–(B).

113. For detailed information and discussions regarding bias in training data, see *supra* Part III.

However, several potential objections are worth considering. First, critics of AI in arbitration may argue that the AIEA may risk eroding trust in the system.[114] Parties choose arbitration precisely because it promises human judgment, and any automation—no matter how constrained—might be perceived as a shift from that foundational commitment. This concern finds support in recent scholarship examining AI's impact on procedural fairness in emergency arbitration.[115] It can nonetheless be addressed through robust protections for party autonomy. The AIEA operates only where parties consent, either through express agreement or through institutional rules they have adopted. Parties retain the unconditional right to opt out and to demand the appointment of a traditional human arbitrator. This ensures that the AIEA functions as an enhancement for parties that value speed and consistency, rather than as an imposition on parties that prefer traditional procedures.

Second, enforcement challenges may arise if national courts are skeptical of AI-generated orders.[116] Courts asked to recognize or enforce emergency measures might question whether algorithm-generated orders satisfy due process requirements or constitute valid arbitral decisions. This concern can be mitigated through careful institutional design. The AIEA order is issued under the authority of the human reviewer who certifies it, not autonomously by the AI. The order is explicitly marked as subject to tribunal review and party challenge. The institutional framework ensures that all safeguards required for valid arbitration—consent, neutrality, reasoned decisions, and the right to be heard—remain intact. Courts have accepted video hearings, electronic signatures, and other technological innovations with the necessary technological prerequisites; there is no reason to

114. *See id.*

115. *See* Sharma, *supra* note 14, at 1954–55 (proposing mandatory disclosure of AI usage, limits on determinative reliance, and explainability standards as safeguards against procedural harm in AI-assisted emergency arbitration).

116. For detailed information about the enforcement of interim measures rendered by emergency arbitrators, see Santacroce, *supra* note 15, at 302–10; *see also* Maxime Chevailer, *Enforcement of Emergency Arbitrator Decisions: Dream or Reality? The French Perspective*, 38 J. INT'L. ARB. 835, 837 (2021) (emphasizing that courts tend to be skeptical of emergency arbitrators in the same way as regular arbitrators).

believe AI-assisted emergency orders that meet all procedural requirements would be categorically rejected.

Third, the possibility of algorithmic error causing irreparable harm before tribunal review is a serious concern. If AI incorrectly grants or denies relief, and harm results during the interim period before the tribunal can intervene, responsibility becomes unclear. This risk is inherent in all emergency arbitration—human arbitrators also make errors, and harm can occur before correction is possible. The AIEA does not eliminate this risk but can reduce it through several mechanisms: mandatory human validation before issuance ensures a "second set of eyes" on every decision; parties retain the right to request expedited *de novo* review if they identify errors; and institutional quality assurance sampling allows retrospective correction of systematic problems. Moreover, the AIEA's speed advantage may reduce overall harm by providing relief sooner, thereby preventing situations in which delay itself causes the damage that emergency arbitration is intended to prevent.

Finally, the "slippery slope" concern merits attention. If AI handles emergency arbitration successfully, why not procedural orders, then merits? Emergency arbitration is structurally distinct from merits adjudication in ways that make AI integration appropriate in one context but not in the other. The *a fortiori* logic runs only in one direction. Emergency arbitration's narrow scope, standardized criteria, limited factual record, provisional nature, and mandatory review distinguish it from substantive decision-making. The AIEA model is explicitly bound to this distinct procedural context and should not be understood as a precedent for broader AI deployment in merit determination.

D. AIEA in Practice: Illustrative Scenarios from SCC Emergency Arbitration

These structural distinctions are not merely theoretical. Fifteen years of the SCC Arbitration Institute's emergency arbitration practice[117]—spanning sixty-seven applications received between 2010

117. The cases summarized below are drawn from two SCC practice publications covering different periods. For 2010–2013 decisions, see generally Johan

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and 2025—demonstrates that emergency arbitrators have consistently applied the same standardized analytical framework across varied commercial disputes, regardless of the parties' nationalities, the applicable law, or the nature of the relief sought.[118] This consistency is precisely what makes the AIEA model viable; The analytical framework does not vary by arbitrator or case type. What varies is the factual input applied to that framework—and applying consistent analytical structures to varying factual inputs is the core function of algorithmic pattern recognition in legal text processing. [119] The following scenarios, drawn from the SCC Arbitration Institute's emergency arbitrator decisions across both the 2010–2013 and 2023–2025 periods, illustrate how the AIEA would operate in practice.

1. Routine Asset Freeze

In the SCC Arbitration Institute's Emergency Arbitration 187/2010,[120] a Swiss shareholder in a Swedish company sought to freeze the respondent's shares following suspected violations of a Shareholders Agreement. The emergency arbitrator was appointed within six hours and rendered a decision on the fifth day, applying a

Lundstedt, *SCC Practice: Emergency Arbitrator Decisions* (2024), https://sccarbitrationinstitute.se/wp-content/uploads/2024/12/scc-practice-2010-2013-emergency-arbitrator_final.pdf [https://perma.cc/HC8Z-QLDC] (last visited May 12, 2026) (covering cases of emergency arbitration). For 2023–2025 decisions and aggregate statistics, see generally Jake Lowther & Frederik Hummelmose, *SCC Practice Note: Emergency Arbitrator Decisions Rendered 2023–2025 and Reflections on 15 Years* (2026), https://sccarbitrationinstitute.se/wp-content/uploads/2026/01/SCC-Practice-Note-Emergency-Arbitrator.pdf [https://perma.cc/R3EZ-RC7H] (last visited Jun. 9, 2026) (covering cases of emergency arbitration). The practice notes summarize selected decisions; not all applications are described in equal detail.

118. *See* Lowther & Hummelmose, *supra* note 117, at 3 ("As of 31 December 2025, the SCC had received a total of sixty-seven applications for the appointment of emergency arbitrators. The parties involved cover a broad range of nationality, geography, industry and sector, and include public and private entities, as well as states.").

119. *See* Surden, *supra* note 54, at 1322 ("In short, current AI technology tends to work best for activities where there are underlying patterns, rules, definitive right answers, and semi-formal or formal structures that make up the process.").

120. Lundstedt, *supra* note 117, at 11.

two-part test: probable cause for the claim and necessity of the measure to safeguard the applicant's substantive rights.[121]

The reasoning was straightforward: The shareholders' agreement supported the claimant's interpretation; the respondent offered no explanation for excluding the claimant from a share sale offer; and the active sale of shares constituted sufficient proof of urgency.[122] The criteria were met; the freeze was granted.[123]

Under the AIEA model, this application would follow an identical analytical path. The system would verify procedural compliance, identify the applicable criteria—probable cause, urgency, and necessity—analyze the documentary record against those criteria, and generate a reasoned draft order. The factual inputs are text-based and clearly bounded: a shareholder's agreement, evidence of a share sale offer, and the claimant's excluded status. No credibility assessments, expert testimony, or interpretive judgment beyond standard criteria application was required. A human validator would review the draft order before issuance, but the analytical work is precisely the pattern-recognition task at which AI excels.[124]

2. Textbook Urgency

In the SCC Arbitration Institute's Emergency Arbitration 057/2013,[125] a Dutch claimant sought return of leased objects withheld by Turkish respondents, facing a contractual obligation to deliver those objects to a third party within one month. The Emergency Arbitrator described the application as a "text-book example of a case in which a request for interim relief is justified,"[126] with urgency evident and explicitly admitted by the respondent. The decision was rendered on the fourth day.[127]

The emergency arbitrator conducted a step-by-step analysis of each relief item against the applicable criteria, applying Dutch law and the principle of party autonomy to assess the respondent's claimed

121. *Id.*
122. *Id.* at 11–12.
123. *Id.* at 12.
124. *See* Surden, *supra* note 54, at 1322.
125. Lundstedt, *supra* note 117, at 22.
126. *Id.* at 24.
127. *Id.* at 23.

right of retention.[128] The analysis was structured, sequential, and document-based—precisely the conditions under which AI performs most reliably.

Under the AIEA model, the system would process the submissions, identify the urgency threshold as met given the third-party delivery deadline explicitly documented in the record, assess the claimed right of retention against the contract terms and applicable law, and generate a draft order granting specific relief items while appropriately limiting overly broad requests. The human validator would verify proportionality and legal accuracy before issuance. The textbook nature of this case—which the human emergency arbitrator himself identified—illustrates that a significant category of emergency applications presents no analytical challenge beyond structured criteria application.

3. Non-Compete Enforcement

A more recent illustration comes from the SCC Arbitration Institute's emergency arbitration practice between 2023–2025, where a Swedish claimant sought an emergency order against respondents alleged to have breached non-competition, non-solicitation, and confidentiality clauses across multiple agreements, including a shareholders' agreement, a share purchase agreement, and an employment agreement.[129]

The emergency arbitrator applied the four-part framework sequentially.[130] On *prima facie* case, the arbitrator concluded that direct and indirect violations of the non-competition, non-solicitation, and confidentiality obligations were probable, rising to the level of material contractual breach and satisfying the reasonable possibility of success standard.[131] Notably, the arbitrator drew an explicit boundary: A comprehensive examination of the competitive conduct allegations was neither possible nor appropriate at the emergency stage, given the procedural constraints inherent in such proceedings.[132] On irreparable harm, the arbitrator determined that the company

128. *Id.* at 24.
129. Lowther & Hummelmose, *supra* note 117, at 10.
130. *Id.* at 11.
131. *Id.*
132. *Id.*

faced probable imminent economic loss that would flow indirectly to the claimant, and that the full extent of those damages would likely prove impossible to quantify and recover in subsequent proceedings.[133] On urgency, the arbitrator identified a concrete and imminent threat: Absent immediate protection, the respondents were likely to entrench their competitive position by expanding manufacturing and sales capacity, causing permanent injury to the claimant. [134] On proportionality, the arbitrator reasoned that compelling parties to honor contractual commitments they had voluntarily undertaken could not be characterized as excessive, and that the claimant's need for protection clearly outweighed any burden the measures would impose on the respondents.[135]

Under the AIEA model, this sequential four-part analysis maps directly onto algorithmic processing. Each criterion was assessed against a documentary record: contractual clauses, evidence of competitive activity, financial projections of loss, and the terms of the shareholders' agreement. No witness credibility assessment was required; no interpretive judgment beyond the application of defined legal standards to documented facts was involved. The arbitrator's own observation that a full examination of the competing business allegations falls outside the scope of emergency proceedings precisely delineates the boundary the AIEA model is designed to respect. The system would apply the same four criteria to the same documentary inputs, generate a reasoned draft order, and submit it for human validation—producing an equivalent analytical outcome within hours rather than the days currently required by human emergency arbitrators.

4. Criteria-Based Denial

The AIEA model functions equally well when the criteria for relief are not met. In the SCC Arbitration Institute's Emergency Arbitration 064/2010,[136] a Dutch claimant sought an asset freeze against a Cypriot respondent in a dispute valued at USD 145 million.[137] The emergency

133. *Id.*
134. *Id.*
135. *Id.* at 11–12.
136. Lundstedt, *supra* note 117, at 3.
137. *Id.*

arbitrator denied the application because the claimant failed to establish urgency or imminent risk of asset dissipation—no specific threat of transfer had been identified, nor had the claimant demonstrated that a disposal would harm other creditors.[138] Additionally, requests directed at third parties were rejected on clear jurisdictional grounds: An emergency arbitrator has no authority to bind entities not party to the arbitration agreement.[139]

Under the AIEA model, the same outcome would follow algorithmically. The system would identify: (i) no evidence of imminent asset transfer in the documentary record; (ii) urgency criterion unmet; and (iii) third-party requests beyond jurisdictional scope under settled principles. A draft denial order, with reasoning tracking each criterion, would be generated and validated by the human reviewer. This case demonstrates that criteria-based denial—applying settled standards to documentary evidence—is no less amenable to algorithmic processing than criteria-based approval.

5. *Analytical Observations: A Consistent Framework Across Fifteen Years*

The scenarios above are not exceptional cases—they reflect a structurally consistent pattern across fifteen years of the SCC Arbitration Institute's practice. Of the sixty-seven applications received between 2010 and 2025, emergency arbitrators consistently applied the same four-part framework regardless of the parties' nationalities, the applicable law, or the commercial context.[140] More tellingly, the SCC Arbitration Institute's 2026 practice note identifies which criteria claimants most frequently satisfy and which they most

138. *Id.* at 5.

139. *Id.*

140. Lowther & Hummelmose, *supra* note 117, at 3; Lundstedt, *supra* note 117, at 4 (identifying the four standard criteria applied across SCC emergency arbitration practice: reasonable possibility of success on the merits, irreparable harm, urgency, and proportionality). The SCC's practice notes summarize selected decisions; not all sixty-seven applications are described in equal detail.

frequently fail: *Prima facie* case is established most consistently, while irreparable harm and urgency present the greatest difficulty.[141]

This distribution is analytically decisive for the AIEA argument. All three criteria—whether satisfied or not—are determined through documentary assessment. *Prima facie* case requires matching contractual terms against alleged conduct. Irreparable harm requires identifying specific threats and quantifying their consequences from the submitted record. Urgency requires establishing timelines and risks from documented evidence. What distinguishes successful from unsuccessful applications is not the complexity of the analytical framework, but the quality of the documentary record presented. This is precisely the operating environment for which AI systems are best suited.[142]

The efficiency data complete the picture. During 2023–2025, 80% of SCC emergency awards were rendered within the five-day limit, with an average of 5.3 days from referral to decision.[143] Human emergency arbitrators already operate under conditions—time pressure, limited documentary records, standardized criteria—that closely approximate algorithmic decision-making. The AIEA would perform the same analytical work within hours, not days. The difference is speed, consistency, and continuous availability.

Fifteen years of the SCC Arbitration Institute's practice thus provide the empirical foundation the *a fortiori* argument requires. Emergency arbitration is structurally and operationally configured for it. If AI can manage the interpretive complexity of merits adjudication with human oversight, as the AAA model demonstrates, it can certainly handle the narrower, criteria-driven, documentary assessments that define emergency relief.

E. Future Development: Toward Conditional Supervision

While the current AIEA model follows the AAA's human-in-the-loop approach—requiring human validation before issuance—the

141. Lundstedt, *supra* note 117, at 22 ("The risk of irreparable harm continues to be the most challenging criterion to establish, followed by urgency, whilst the claimants often succeed in demonstrating a *prima facie* case.").

142. *See* Surden, *supra* note 54, at 1322.

143. *See* Lowther & Hummelmose, *supra* note 117, at 23.

structural consistency documented across fifteen years of the SCC Arbitration Institute's practice suggests that greater AI autonomy in emergency arbitration may become viable as institutional experience accumulates. As AI systems demonstrate reliability through accumulated experience, and as institutional confidence grows, a conditional supervision model could emerge as the next evolutionary step. This represents a potential future direction rather than a current proposal, and its adoption would depend on empirical evidence of AI reliability that does not yet exist.

Under this future model, AI would operate entirely autonomously in routine cases, issuing emergency orders directly without pre-approval. Human intervention would be triggered only when specific conditions arise: (i) novel legal issues not addressed in institutional precedent; (ii) high factual complexity or contradictory evidence requiring credibility assessment; (iii) disproportionate impact on parties or third-party rights; or (iv) cases involving public policy implications or cross-jurisdictional complications.[144] Where none of these triggers apply—routine asset freezes, evidence preservation orders, and straightforward confidentiality injunctions—AI would issue decisions autonomously. This conditional model maximizes efficiency—emergency relief within hours rather than days—while preserving human review safeguards when complexity, uncertainty, or party preference requires it.

The transition from the current human-validated model to a conditional supervision model would occur gradually, as empirical evidence demonstrates AI reliability in specific case categories. Institutions could begin by allowing autonomous AIEA operation for routine tasks. This evolutionary approach ensures that increased AI autonomy is earned through demonstrated performance rather than assumed on the basis of technological optimism.

144. For a detailed escalation framework in AI arbitration platforms, see Köksal, *supra* note 7, at 195–96 (proposing mandatory human review triggers including AI confidence thresholds, unforeseen legal questions outside training data, high monetary stakes, and party requests). The triggers listed here adapt that framework to emergency arbitration's specific characteristics, emphasizing factual complexity, disproportionate impact, and cross-jurisdictional complications inherent in provisional relief proceedings.

Regardless of whether the AIEA operates under current human-validated or future conditional supervision models, certain safeguards remain essential. Institutions must disclose training datasets, decision-making criteria, and validation processes to ensure algorithmic transparency. [145] Cybersecurity protections, including encryption, access controls, and audit logs, must protect sensitive case data and maintain its confidentiality. [146] Parties must retain unconditional rights to opt out of AI processing and to demand the appointment of a human arbitrator, thereby preserving party autonomy as a foundational principle. All emergency orders must remain subject to tribunal modification or annulment through post-decision review mechanisms. Finally, regular audits, performance reporting, and continuous monitoring ensure institutional accountability and system integrity.[147] These safeguards are essential features that maintain trust, legitimacy, and fairness regardless of the degree of AI autonomy permitted in emergency decision-making.

V. Conclusion

The emergence of AI as a potential actor in arbitration forces a re-examination of what it means to adjudicate. The argument developed in this article rests on a precise structural insight: Not all arbitral decision-making demands the same cognitive qualities. Deciding the merits of a dispute requires interpretation, evaluation, and moral judgment rooted in human experience and shared social understanding. Emergency arbitration, by contrast, requires applying standardized criteria to a limited documentary record under significant time pressure—a function structurally closer to algorithmic decision-making than to interpretive reasoning.

The AIEA model proposed here translates this insight into institutional practice. Building on the AAA's empirical demonstration that AI can function effectively in merits arbitration with human oversight, the a *fortiori* argument is compelling—and empirically grounded in fifteen years of consistent emergency arbitration practice at the SCC Arbitration Institute: If AI can navigate the interpretive

145. *See id.* at 192–93.
146. *See id.* at 199–201.
147. *See id.* at 199.

complexity of substantive dispute resolution, it can certainly manage the narrower, rule-based, time-sensitive determinations required for provisional interim relief. The AIEA adapts the AAA's human-in-the-loop framework to emergency contexts, requiring human validation before issuance while preserving party autonomy through opt-out rights and mandatory tribunal review. It reduces the timeline from days to hours, applies criteria uniformly, and ensures continuous availability—without displacing human judgment where interpretive reasoning remains irreplaceable.

As institutional experience accumulates, future development toward conditional supervision models could further enhance these advantages, with AI operating autonomously in routine cases subject to mandatory escalation triggers. Yet even in this more advanced configuration, the essential safeguards identified in this article—party autonomy, human review, algorithmic transparency, and institutional accountability—remain non-negotiable.

The broader implication is that the future of AI in arbitration will be defined by strategic integration. The relevant question is not whether machines can replicate human reasoning in all its dimensions—they cannot—but whether they can perform specific procedural functions in ways that improve access to justice, reduce delay, and enhance predictability without compromising fairness or legitimacy. The AIEA offers a blueprint for this integration, narrow in functional scope, high in accountability mechanisms, and firmly grounded in arbitration's foundational principles of consent, fairness, and party autonomy. If designed with appropriate caution and governed by robust safeguards, AI assistance in emergency relief will not threaten arbitration's legitimacy. It can strengthen it that legitimacy that procedural mechanisms remain accessible, efficient, and operationally effective when urgency demands immediate response.