Swiss Private International Law Act
of 18 December 1987

(as in force from 1 January 2021)*

Excerpt from Chapter 1: General Provisions

VI. Arbitration agreement

Art. 7

If parties have concluded an arbitration agreement with respect to an arbitrable dispute, a Swiss court before which an action is brought shall decline its jurisdiction, unless:

(a) the respondent has submitted to the procedure without reservation;

(b) the court finds that the arbitration agreement is invalid, inoperable or incapable of being performed; or

(c) the arbitral tribunal cannot be constituted for reasons for which the respondent in the arbitration is manifestly responsible.

Chapter 12: International Arbitration

I. Scope of application; seat of the arbitral tribunal

Art. 176

(1) The provisions of this Chapter shall apply to arbitrations with their seat in Switzerland if at least one of the parties to the arbitration agreement, at the time of its conclusion, did not have its domicile, habitual residence or seat in Switzerland.

(2) The parties may, either in the arbitration agreement or in a subsequent agreement, exclude the application of this Chapter and agree on the application of Part 3 of the CCP. The exclusion shall meet the conditions as to form set out in Article 178(1).

(3) The seat of the arbitration shall be determined by the parties or by the arbitral institution designated by the parties, or, failing which, by the arbitral tribunal.

II. Arbitrability

Art. 177

(1) Any claim involving a financial interest may be the subject-matter of an arbitration.

(2) Where a party to the arbitration agreement is a State, or an enterprise held by, or an organisation controlled by, a State, it may not invoke its own law in order to contest the arbitrability of a dispute or its capacity to be a party to an arbitration.

III. Arbitration agreement and arbitration clause

Art. 178

(1) The arbitration agreement shall be valid if made in writing or in any other manner that can be evidenced by text.

(2) As regards its substance, the arbitration agreement shall be valid if it conforms to the law chosen by the parties, or to the law applicable to the dispute, in particular the law governing the main contract, or to Swiss law.

(3) The validity of an arbitration agreement cannot be contested on the grounds that the main contract may not be valid or that the arbitration agreement relates to a dispute that has not yet arisen.

(4) The provisions of this Chapter shall apply by analogy to an arbitration clause set out in a unilateral legal act or in articles of association.

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* Translation by ASA. Edited by Christopher Boog, Melissa Magliana and Noradèle Radjai.

IV. Arbitrators

1. Appointment and replacement

Art. 179

(1) The arbitrators shall be appointed and replaced in accordance with the parties' agreement. Unless the parties have agreed otherwise, the arbitral tribunal shall consist of three arbitrators, whereby two of the arbitrators are appointed by each of the parties and the two arbitrators so appointed unanimously select the third arbitrator as the president of the tribunal.

(2) In the absence of an agreement or if the arbitrators cannot be appointed or replaced for other reasons, the matter may be referred to the state court at the seat of the arbitration. If the parties have not designated a seat or have merely agreed that the seat of the arbitration shall be in Switzerland, the state court first seized shall have jurisdiction.

(3) If a state court is called upon to appoint or replace an arbitrator, it shall grant such request, unless a summary examination shows that no arbitration agreement exists between the parties.

(4) At the request of a party, the state court shall take the necessary action to constitute the arbitral tribunal if the parties or arbitrators fail to fulfil their obligations within 30 days of being called upon to do so.

(5) In the case of a multi-party arbitration, the state court may appoint all arbitrators.

(6) A person who has been approached to serve as arbitrator must promptly disclose any circumstances that may give rise to justifiable doubts as to his or her independence or impartiality. This obligation shall persist for the duration of the proceedings.

2. Challenge

a. Grounds

Art. 180

(1) An arbitrator may be challenged:

(a) if that arbitrator does not meet the qualifications agreed upon by the parties;

(b) if a ground for challenge exists under the arbitration rules agreed upon by the parties;

(c) if circumstances exist that give rise to justifiable doubts as to that arbitrator's independence or impartiality.

(2) A party may challenge an arbitrator whom it has appointed or in whose appointment it has participated only for reasons of which, despite having exercised due diligence, it became aware of only after the appointment.

b. Procedure

Art. 180a

(1) Unless the parties have agreed otherwise and if the arbitral proceedings are not yet concluded, the request for challenge shall be addressed, with reasons and in writing, to the challenged arbitrator and notified to the other arbitrators within 30 days of the requesting party becoming aware, or exercising due diligence ought to have become aware, of the ground for challenge.

(2) The requesting party may, within 30 days of the submission of the request for challenge, challenge the arbitrator before the state court. The decision of the state court is final.

(3) Unless the parties have agreed otherwise, during the challenge procedure the arbitral tribunal may proceed with the arbitration and render an award, with the participation of the challenged arbitrator.

3. Removal

Art. 180b

(1) Any arbitrator may be removed by agreement of the parties.

(2) Unless the parties have agreed otherwise, if an arbitrator is unable to perform his or her duties within a reasonable time or with due diligence, a party may apply, with reasons and in writing, to the state court for the arbitrator's removal. The decision of the state court is final.

V. Lis pendens

Art. 181

The arbitral proceedings shall be pending from the time when a party submits a claim with the arbitrator or arbitrators designated in the arbitration agreement or, in the absence of such designation, from the time when a party initiates the procedure for the constitution of the arbitral tribunal.

VI. Procedure

1. Principle

Art. 182

(1) The parties may determine the arbitral procedure, directly or by reference to arbitration rules; they may also submit it to a procedural law of their choice.

(2) If the parties have not determined the procedure, the arbitral tribunal shall determine it to the extent necessary, either directly or by reference to a law or to arbitration rules.

(3) Regardless of the chosen procedure, the arbitral tribunal shall ensure equal treatment of the parties and their right to be heard in adversarial proceedings.

(4) A party that proceeds with the arbitration without immediately raising an objection to a violation of procedural rules which it knew or, exercising due diligence, ought to have known, may not subsequently raise such objection.

2. Provisional and conservatory measures

Art. 183

(1) Unless the parties have agreed otherwise, the arbitral tribunal may, at the request of a party, order provisional or conservatory measures.

(2) If the party concerned does not voluntarily comply with the measure so ordered, the arbitral tribunal or a party may request the assistance of the state court; such court shall apply its own law.

(3) The arbitral tribunal or the state court may make the order of provisional or conservatory measures conditional on the provision of appropriate security.

3. Taking of evidence

Art. 184

(1) The arbitral tribunal shall conduct the taking of evidence itself.

(2) If the assistance of state judicial authorities is required for the taking of evidence, the arbitral tribunal, or a party with the consent of the arbitral tribunal, may request the assistance of the state court at the seat of the arbitration.

(3) The state court shall apply its own law. Upon request, it may apply or consider other forms of procedure.

4. Other cases of judicial assistance

Art. 185

If any other judicial assistance is required, the state court at the seat of the arbitration shall have jurisdiction.

5. Judicial assistance in support of foreign arbitrations

Art. 185a

(1) An arbitral tribunal sitting abroad or a party to a foreign arbitration may request the assistance of the state court at the place where a provisional or conservatory measure is to be enforced. Article 183(2) and (3) shall apply by analogy.

(2) An arbitral tribunal sitting abroad or, with the consent of the arbitral tribunal, a party to a foreign arbitration may request the assistance of the state court at the place where the taking of evidence is to be carried out. Article 184(2) and (3) shall apply by analogy.

VII. Jurisdiction

Art. 186

(1) The arbitral tribunal shall decide on its own jurisdiction.

(1bis) It shall decide on its jurisdiction notwithstanding any pending action before a state court or another arbitral tribunal on the same subject-matter between the same parties, unless there are substantial reasons to stay the proceedings.

(2) Any plea of lack of jurisdiction must be raised prior to any defence on the merits.

(3) The arbitral tribunal shall, in general, decide on its jurisdiction by means of a preliminary award.

VIII. Arbitral award

1. Applicable law

Art. 187

(1) The arbitral tribunal shall decide the dispute according to the rules of law chosen by the parties or, in the absence thereof, according to the rules of law with which the dispute has the closest connection.

(2) The parties may authorise the arbitral tribunal to decide ex aequo et bono.

2. Partial award

Art. 188

Unless the parties have agreed otherwise, the arbitral tribunal may render partial awards.

3. Procedure and form

Art. 189

(1) The award shall be rendered in conformity with the rules of procedure and in the form agreed upon by the parties.

(2) In the absence of such agreement, the award shall be made by a majority decision or, in the absence of a majority, by the presiding arbitrator alone. The award shall be made in writing, with reasons, dated and signed. The signature of the presiding arbitrator is sufficient.

4. Correction and interpretation of the award; and supplemental award

Art. 189a

(1) Unless the parties have agreed otherwise, either party may, within 30 days of the notification of the award, request the arbitral tribunal to correct any clerical or computational errors in the award, to interpret certain parts of the award or to issue a supplement to the award on claims which were raised in the arbitral proceedings but not dealt with in the award. Within the same time limit, the arbitral tribunal may, on its own initiative, correct, interpret or supplement the award.

(2) The request does not suspend the time limits for recourse against the award. With respect to the corrected, interpreted or supplemented part of the award, the time limit for recourse shall start anew.

IX. Finality, challenge, revision

1. Challenge

Art. 190

(1) The award is final from the time when it is notified.

(2) The award can only be challenged on the grounds that:

(a) the sole arbitrator was not properly appointed or the arbitral tribunal was not properly constituted;

(b) the arbitral tribunal wrongly accepted or declined jurisdiction;

(c) the arbitral tribunal decided claims which were not submitted to it or failed to decide claims submitted to it;

(d) the principle of equal treatment of the parties or their right to be heard in adversarial proceedings was violated;

(e) the award is incompatible with public policy.

(3) Preliminary awards can only be challenged on the grounds of paragraph 2(a) and (b); the time limit runs from the notification of the preliminary award.

(4) The time limit for the challenge is 30 days from the notification of the award.

2. Revision

Art. 190a

(1) A party may request the revision of an award:

(a) if it subsequently discovers material facts or conclusive evidence which, despite having exercised due diligence, it was unable to invoke in the previous proceedings; facts and evidence which postdate the award are excluded;

(b) if criminal proceedings have established that the award was influenced, to the detriment of the challenging party, by a crime or misdemeanour, even in the absence of any conviction; if criminal proceedings cannot be pursued, proof can be furnished by other means;

(c) if, despite having exercised due diligence, a ground for challenge under Article 180(1)(c) was not discovered until after the conclusion of the arbitration and no other remedy is available.

(2) The request for revision must be filed within 90 days of the discovery of the ground for revision. Except in cases provided for by paragraph 1(b), the right to request revision shall expire ten years from the date on which the award has come into force.

3. Judicial authority for recourse

Art. 191

The Swiss Federal Supreme Court is the sole judicial authority for recourse against an award. The procedure is governed by Articles 77 and 119b of the Federal Supreme Court Act of 17 June 2005.

X. Waiver of recourse

Art. 192

(1) If none of the parties has its domicile, habitual residence, or seat in Switzerland, the parties may, either in the arbitration agreement or in a subsequent agreement, exclude in whole or in part recourse against arbitral awards; the right to revision under Article 190a(1)(b) cannot be waived. The agreement shall meet the conditions as to form set out in Article 178(1).

(2) If the parties have excluded any recourse against arbitral awards and such awards are to be enforced in Switzerland, the New York Convention of 10 June 1958 on the Recognition and Enforcement of Foreign Arbitral Awards shall apply by analogy.

XI. Deposit and certificate of enforceability

Art. 193

(1) Any party may, at its own expense, deposit a copy of the award with the state court at the seat of the arbitration.

(2) At the request of a party, the state court at the seat of the arbitration shall certify the enforceability of the award.

(3) At the request of a party, the arbitral tribunal shall certify that the award has been rendered in conformity with the provisions of this Act; such certificate has the same effect as the deposit of the award.

XII. Foreign arbitral awards

Art. 194

The recognition and enforcement of a foreign arbitral award is governed by the New York Convention of 10 June 1958 on the Recognition and Enforcement of Foreign Arbitral Awards.

Excerpt from the Federal Supreme Court Act

Chapter 3 The Federal Supreme Court as an ordinary court of appeal

Section 1 Appeal in civil matters

Art. 77 Arbitration

(1) An appeal in civil matters is admissible, regardless of the amount in dispute, against the decisions of arbitral tribunals:

(a) in international arbitrations, under the conditions set out in Articles 190-192 of the Private International Law Act of 18 December 1987;

(b) in domestic arbitrations, under the conditions set out in Articles 389 to 395 of the Code of Civil Procedure of 19 December 2008.

(2) Articles 48(3), 90 to 98, 103(2), 105(2) and 106(1), as well as Article 107(2), to the extent that the latter provision allows the Federal Supreme Court to rule on the merits of the case, do not apply in these cases.

(2bis) Written submissions may be in English.

(3) The Federal Supreme Court only examines grounds for challenge that have been raised and substantiated by the challenging party.

Chapter 5a Revision of international arbitral awards

Art. 119a

(1) The Federal Supreme Court decides on requests for revision of international arbitral awards under the conditions set out in Article 190a of the Private International Law Act of 18 December 1987.

(2) The revision procedure is governed by Articles 77(2bis) and 126. Unless the Federal Supreme Court determines the request for revision to be manifestly inadmissible or unfounded, it shall notify it to the opposing party and the arbitral tribunal for comment.

(3) If the Federal Supreme Court grants the request for revision, it shall set the award aside and remand the case to the arbitral tribunal for a new decision or make the necessary findings.

(4) If the arbitral tribunal no longer comprises the required number of arbitrators, Article 179 of the Private International Law Act shall apply.