

Why International Arbitration in Switzerland?

Switzerland is one of the preferred countries for international arbitrations. A number of reasons may account for this success: Political neutrality, a well-developed legal system, geographically convenient location, excellent infrastructure, but above all, openness of mind to the different values, cultures and perceptions of foreign parties coming to arbitrate in Switzerland.

Switzerland is arbitration-friendly.

Switzerland has a modern international Arbitration Law in Chapter 12 of the Swiss Federal Private International Law Statute, in force since January 1, 1989 and reproduced in this brochure.

On a liberal and flexible basis, essential provisions assure a proper constitution and functioning of the arbitral tribunal and give the parties (and the arbitrators) all the necessary flexibility to conduct the arbitral proceedings in accordance with their own fair and reasonable expectations.

Any dispute involving a business interest is per se arbitrable in Switzerland, no matter what other laws say.

If the International Arbitral Tribunal with its seat in Switzerland was set up by an arbitral institution (such as the ICC, or Swiss Chambers' Arbitration), any decision by the institution about a challenge of an arbitrator is not reviewable as such by a state court. The arbitration will follow the agreement of the parties also with respect to multi-party arbitration.

The will of the parties prevails. Agreements to arbitrate, agreements to the applicable procedure, and choice of law agreements are all considered separable agreements. An arbitral tribunal has jurisdiction to decide on its own jurisdiction.

The procedure before the arbitral tribunal may be freely determined. There is no presumption that any local state court procedure applies. Many arbitrations follow modern «hybrid» arbitral procedure, as described in the IBA Rules of Evidence or in the Swiss Rules of International Arbitration.

Arbitral tribunals have the primary power to order provisional and conservatory measures. The state courts in Switzerland must provide assistance to arbitral tribunals upon their request, i.e. by issuing orders or letters rogatory. Arbitral tribunals may issue partial or preliminary awards, e.g., on their jurisdiction.

Arbitral tribunals must apply to the merits the rules of law chosen by the parties, but where none were chosen, will apply the rules of law having the closest connection with the matter in dispute.

Grounds for setting aside an award are strictly limited and comparable to those in the New York Convention, 1958, and in the UNCITRAL Model Law. Such setting aside procedures go straight to the Swiss Federal Supreme Court whose decision is final. The parties may even exclude any setting aside in advance.

Swiss International Arbitration Law deserves the trust of the parties.