

**CHALLENGING AWARDS TAINTED BY FRAUD :  
REVISION, SETTING ASIDE, NON ENFORCEMENT**

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**Introductory remarks**

**I. The Clear Cut, Double-or-Nothing Procedures : Non enforcement and Setting Aside**

- a. Non enforcement of Awards Obtained Fraudulently
- b. Setting Aside Awards Obtained Fraudulently

**II. The “Adaptative” Procedures: Revision as The Procedural Means to Modify a Fraudulently Obtained Award.**

- a. Jurisdiction Without a Revision Procedure for Awards  
*E.g. France (in principle), Germany or the United States as well as in the UNCITRAL Model Law*
- b. Type 1 of Revision Procedures: Revision by the Arbitrators themselves of the Award
  - i. *France (in practice)*
  - ii. *Under the ICSID Convention*
- c. Type 2 of Revision Procedures: Revision by a Domestic Judicial Authority
  - i. *The Netherlands*
  - ii. *Italy*
- d. Type 3 of the Revision Procedures: Hybrid procedure between Type 1 and 2 where the Arbitrators will only Review the Awards if a Domestic Judicial Authority Accepts that there is a Ground for Revision
  - i. *United Kingdom*
  - ii. *Swiss*

**III. On the Numerous and Conflicting Procedural Issues Arising From These Two Categories of Procedures**

- a. *Functus officio* issue
- b. Of the possibility to foresee such an issue in arbitration agreements
- c. Limitation periods / Prescription
- d. Necessity of revision procedures to ensure consistency and fairness or Pandora’s box against finality of Arbitral Awards?
- e. Who should have the power to decide on the challenges: same arbitrators, other arbitrators if the original Arbitral Tribunal cannot be reconvened or national courts?

**Concluding Remarks**