

Switzerland's revised International Arbitration Law will enter into force on 1 January 2021

Switzerland has revised its international arbitration law contained in Chapter 12 of the Swiss Private International Act (« PILA ») during the summer 2020. These new provisions will enter into force on 1 January 2021. Switzerland is one of the leading jurisdictions for international arbitration. The goal of the new PILA is to reinforce Switzerland's attractiveness for international arbitration by offering a new legal framework which is more flexible and accessible. First, the new PILA brings legal certainty on numerous points, by incorporating several principles that were developed by the Swiss Federal Supreme Court's case law, such as the requirements to submit a dispute to Swiss international arbitration law, the formal requirements to enter into an arbitration agreement and the (other) available remedies to contest arbitral awards beside setting aside applications (i.e. requests for correction/interpretation arbitral awards and revision proceedings). Second – and more importantly – this new arbitration includes new features, such as the possibility to file written submissions in English before the Swiss Federal Supreme Court in setting aside proceedings. The objective of this new (and quite revolutionary) provision is to make international arbitration more accessible in Switzerland, including for international law firms involved in this field of practice. It is quite interesting to note that the Swiss Federal Supreme Court firmly objected to this revision on the ground that setting aside proceedings are highly formalistic and technical. It may thus be advisable for international law firms to seek advice from Swiss practitioners specialized in this field when launching setting aside proceedings before the Swiss Federal Supreme Court. The new provisions also increase the autonomy of the parties who may include arbitration clauses in so-called “unilateral legal acts”, such as wills and trust deeds, but also by-laws of corporate entities. The new PILA also provides for Swiss state court assistance in support of foreign international arbitration proceedings. Arbitral tribunals seated in foreign jurisdictions will be empowered to seek interim measures and other protective measures before the competent Swiss court, without having to go through lengthy and costly proceedings of international judicial assistance. This amendment will thus facilitate the enforcement of interim measures and the taking of evidence in Switzerland. There is no doubt that these new modernized arbitration rules will further increase the attraction of Switzerland as a leading place for international arbitration. In this context, 2021 will certainly be a turning point for international arbitration in Switzerland. December 2020.