

Arbitration Act

(967/1992; amendments up to 460/1999 included)

Scope

Section 1

Sections 2—50 of this Act shall apply to an arbitration meant to take place in Finland. Sections 51—55 of this Act shall apply to the effects in Finland of an arbitration agreement concerning arbitration in a foreign state as well as to the recognition and enforcement in Finland of an arbitral award made in a foreign state.

Arbitration agreement

Section 2

Any dispute in a civil or commercial matter which can be settled by agreement between the parties may be referred for final decision by one or more arbitrators. It may also be agreed that such disputes, which in the future arise from a particular legal relationship specified in the agreement, shall be finally decided by one or more arbitrators, unless otherwise provided in statutory law.

Section 3

- (1) The arbitration agreement shall be in writing.
- (2) An arbitration agreement is in writing if it is contained in a document signed by the parties or in an exchange of letters between the parties. An arbitration agreement is also in writing when the parties, by exchanging telegrams or telexes or other such documents, have agreed that a dispute shall be decided by one or more arbitrators.
- (3) An arbitration agreement is also in writing if an agreement which has been made in the manner mentioned in paragraph (2) refers to a document containing an arbitration clause.

Section 4

Arbitration clauses in wills, deeds of gift, bills of lading or similar documents, in the bylaws of an association, of a foundation, of a limited-liability company or of another company or corporate entity and by which the parties or the person against whom a claim is made are bound, shall have the same effect as arbitration agreements.

Section 5

- (1) A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his first statement on the substance the dispute, refer the parties to arbitration.
- (2) A court or another authority may, however, before or during the arbitral proceedings, despite the arbitration agreement, grant such interim, including protective, measures which the authority has the power to grant.

Section 6

If a party refuses to refer the subject-matter to arbitration or despite a request by the other party has not within a time limit agreed, provided for or lawfully set, fulfilled his obligation to appoint an arbitrator or not within a reasonable time paid his share of the advance or security for the compensation due to the arbitrators, then the other party may bring his action before a court despite the arbitration agreement.

Arbitrators

Section 7

Unless otherwise agreed by the parties, the number of arbitrators shall be three.

Section 8

- (1) Unless otherwise agreed by the parties, anyone of age who is not bankrupt and whose competence has not been restricted may act as an arbitrator. (460/1999).
- (2) Also a person who is not a Finnish citizen may act as an arbitrator in Finland.

Section 9

- (1) An arbitrator shall be impartial and independent.
- (2) When a person is approached in connection with his possible appointment as an arbitrator, he shall, unless he refuses to accept the appointment, immediately disclose any circumstances likely to give rise to justifiable doubts as to his impartiality and independence.
- (3) An arbitrator, from the time of his appointment and throughout the arbitral proceedings, shall without delay disclose any such circumstances of which the parties have not previously been informed.

Section 10

An arbitrator may be challenged by a party, if he would have been disqualified to handle the matter as a judge, or if circumstances exist that give rise to justifiable doubts as to his impartiality or independence.

Section 11

- (1) The parties shall be free to agree on a procedure for challenging an arbitrator. However, without prejudice to this a party shall have the right to request the setting aside of the award under section 41.
- (2) Failing such agreement as referred to in paragraph (1), a party who intends to challenge an arbitrator shall make his challenge within 15 days from becoming aware of the constitution of the arbitral tribunal and of any circumstance referred to in section 10. The challenge shall be made in writing to the arbitral tribunal and it shall include a statement of the reasons for the challenge.
- (3) Unless the challenged arbitrator withdraws from his office or the other party agrees to the challenge, the arbitral tribunal shall decide on the challenge. The challenging party may pursue his objections before a court only in an action for setting the award aside under section 41.

Section 12

- (1) A party who wishes to refer a dispute to arbitration shall give notice thereof in writing to the other party. The notice shall include a reference to the arbitration agreement and it shall state the dispute which is intended to be referred to arbitration, unless this dispute is mentioned in the arbitration agreement.
- (2) The arbitrator or arbitrators whom the party requesting arbitration shall appoint shall be mentioned in the notice referred to in paragraph (1). The other party shall at the same time be required to appoint the arbitrator or arbitrators he shall appoint.
- (3) If the agreement of the parties provides for the appointment of an arbitrator by someone else than the parties, the notice referred to in paragraph (1) shall also be sent to the appointing authority agreed upon by the parties and this authority shall be requested to make the appointment.

Section 13

If there shall be more than one arbitrator but the parties have not agreed on the arbitrators or on the mode of their appointment, each party shall appoint the same number of arbitrators. The arbitrators thus appointed shall appoint one more arbitrator to act as the chairman, unless the parties have agreed that the dispute shall be decided by the arbitrators they have appointed.

Section 14

- (1) If an arbitrator dies, resigns or is removed, a substitute arbitrator shall be appointed. If the substitute arbitrator dies, resigns or is removed, the court shall appoint a new substitute arbitrator upon request of either party.
- (2) If an arbitrator who is named in the arbitration agreement dies or cannot or does not want to act as an arbitrator or resigns or is removed, and the parties have not been able to agree on the appointment of a substitute arbitrator, then the court shall appoint a substitute arbitrator upon request of either party, unless the parties have agreed that the arbitration agreement in that event shall terminate.

Section 15

- (1) If a party or someone else who shall appoint an arbitrator has not within 30 days of receipt of a notice referred to in section 12(1), made the appointment and informed the party who has requested arbitration thereof in writing, or if the arbitrators appointed by the parties have not within 30 days of their appointment agreed on the chairman, the appointment shall be made by the court upon request of a party.
- (2) The provision of paragraph (1) shall apply also if a party or someone else who shall appoint an arbitrator has not made the appointment within 30 days of receipt of a written request to appoint a substitute arbitrator, or if the arbitrators appointed by the parties have not agreed on the chairman within 30 days of the date when they became aware of the fact that the chairman had died, resigned or been removed.

Section 16

If the dispute is to be decided by a sole arbitrator, but the parties have not agreed on the arbitrator within 30 days of the date when a party received from the other party the notice referred to in section 12(1), any party may request the court to appoint the arbitrator.

Section 17

- (1) When a party has requested the court to appoint an arbitrator in a case provided for in section 14, 15 or 16, the court shall appoint the arbitrator, unless it is obvious that there are no legal grounds for the arbitration.
 - (2) Before the court appoints one or more arbitrators under paragraph (1), it shall give the other party an opportunity to be heard, unless the arbitration thereby will be unduly delayed.
 - (3) The decision of the court regarding the appointment of an arbitrator shall be subject to no appeal.
- (601/1993)

Section 18

A party who has chosen an arbitrator and informed the other party thereof must not revoke his choice without the consent of the other party.

Section 19

- (1) An arbitrator may be removed by an agreement between the parties.
- (2) If an arbitrator is unable to perform his functions in an adequate manner or if he without just cause delays the arbitration, the court shall remove him upon request of a party. Before an arbitrator is removed, he shall, whenever possible, be given an opportunity to be heard.
- (3) The decision of the court regarding the removal of an arbitrator shall be subject to no appeal.

Section 20

The provisions in sections 12 and 14—18 shall apply only if not otherwise agreed by the parties.

Proceedings

Section 21

The arbitral proceedings commence when a party has received a notice referred to in section 12(1).

Section 22

The arbitral tribunal shall give the parties a sufficient opportunity to present their case.

Section 23

Unless otherwise provided in this Act, the proceedings shall be conducted in accordance with what the parties have agreed on the procedure to be followed by the arbitral tribunal. Failing such agreement, the arbitral tribunal may conduct the arbitration in such manner as it considers appropriate, subject to the provisions of this Act and taking into account the requirements of impartiality and speed.

Section 24

- (1) The place of arbitration shall be determined by the arbitral tribunal, unless the parties have agreed thereon.
- (2) The arbitral tribunal may, however, where appropriate, hear parties, witnesses and experts and make inspections also in other places than the place of arbitration agreed upon by the parties or determined by the arbitral tribunal, also outside the territory of Finland.

Section 25

- (1) Within the period of time determined by the arbitral tribunal the parties shall state, the claimant the facts supporting his claim and the relief or remedy sought and the respondent his defence in respect thereof. The arbitral tribunal may at the same time request the parties to submit to the arbitral tribunal all the documents which may be relevant in the case or to specify which documents or other evidence they intend to submit in the arbitration.
- (2) During the course of the arbitral proceedings either party may amend or supplement his claim or defence and rely on new facts in support of his case as well as bring a counterclaim or demand a set-off, unless the arbitration thereby is unduly delayed.
- (3) The provisions in paragraph (1) and (2) shall apply only if not otherwise agreed by the parties.

Section 26

- (1) The arbitral tribunal shall determine the language or languages to be used in the arbitral proceedings unless the parties have agreed thereupon.
- (2) The arbitral tribunal may order that any document submitted to the tribunal shall be accompanied by a translation into a language of the proceedings.

Section 27

- (1) The arbitral tribunal shall promote an appropriate and speedy settlement of the matter. To this end the arbitral tribunal may require a party, a witness or any other person to appear for examination as well as request a party or any other person in possession of a written document or other object which may have relevance as evidence to produce the document or object.
- (2) The arbitral tribunal shall not impose any penalty, nor use other means of constraint, nor shall it administer oaths or equivalent affirmations.

Section 28

- (1) Unless otherwise agreed by the parties, the arbitral tribunal may, if special professional knowledge is needed to evaluate certain issues relevant to the determination of the case, appoint an expert to report to it on such issues.
- (2) The arbitral tribunal may also require a party to give the expert such information as he needs in order to fulfil his task or to produce, or to provide access to, any relevant documents, goods or other property for his inspection.

Section 29

- (1) If the arbitral tribunal deems it necessary that a witness or an expert shall be examined in court, that a party shall be examined on truth affirmation or that a party or any other person shall be ordered to

produce a written document or other object which may be of relevance as evidence, then a party may request court assistance.

- (2) A request referred to in paragraph (1) shall be submitted to the court of first instance for the place where the person concerned is staying.
- (3) The court shall, whenever possible, execute the request according to the rules on taking evidence in chapter 17 of the Code of Judicial Procedure.

Section 30

- (1) If the parties agree on the termination of the proceedings or if the arbitral tribunal finds that the continuation of the proceedings has for any other reason become impossible, the arbitral tribunal shall issue an order for the termination of the arbitral proceedings.
- (2) If the claimant withdraws his claim, the arbitral tribunal shall also issue an order for the termination of the arbitral proceedings. However, if the respondent objects thereto and the arbitral tribunal recognises a legitimate interest on his part in obtaining a final settlement of the dispute, the proceedings may be continued and the dispute decided by an arbitral award.
- (3) The mandate of the arbitrators terminates when the arbitral tribunal has issued an order referred to in this section or decided the dispute by an arbitral award, subject to the provisions of sections 38, 39 and 42.

Arbitral award

Section 31

- (1) The arbitral tribunal shall decide the dispute in accordance with the rules of law applicable to the substance of the dispute.
- (2) If the parties have designated the law of a given state as applicable to the substance of the dispute, the arbitral tribunal shall apply that law.
- (3) The arbitral tribunal shall decide *ex aequo et bono* only if the parties have expressly authorized it to do so.

Section 32

- (1) If there is a divergence of opinion among the arbitrators, the award shall be made by a majority of the arbitrators. If the divergence concerns the amount claimed, the votes for the highest amount shall be added to the votes for the nearest lower amount until the number of votes exceeds half of the total amount of the votes.
- (2) If no majority of votes is attained for any opinion, the opinion of the chairman shall prevail, unless otherwise agreed by the parties.

Section 33

If, during the arbitral proceedings, the parties settle the dispute, the arbitral tribunal may record the settlement in the form of an arbitral award in accordance with section 36.

Section 34

- (1) Where several independent claims have been made, an independent claim may be decided by a separate award. The arbitral tribunal may also by a separate award decide the part of a claim that has been admitted by the respondent.
- (2) A decision on a claim and a demand for set-off with regard thereto shall, however, be made in the same award.

Section 35

The arbitral tribunal may, if the parties have so agreed, decide by a separate award a certain issue which is relevant for the resolution of the dispute.

Section 36

- (1) The award shall be made in writing and signed by the arbitrators.
- (2) The arbitral award shall state its date and the place of arbitration as agreed or determined.

Section 37

A copy of the award signed by the arbitrators shall be given to each party at the session of the arbitral tribunal or delivered to them in another verifiable way.

Section 38

- (1) A party may request the arbitral tribunal to correct in the award any errors in computation, any clerical or typographical errors and any other errors of similar nature. A party shall, after having notified the other party thereof, request the correction within 30 days of receipt of a copy of the award, unless some other period of time has been agreed upon by the parties.
- (2) If the arbitral tribunal considers the request to be justified, it shall make the correction without delay and, if possible, within 30 days of receipt of the request by the chairman.
- (3) The arbitral tribunal may, at its own initiative, within 30 days of the date of the award, correct any error of the type referred to in paragraph (1). Before such a correction is made, the parties shall, where necessary, be given an opportunity to give their comments with regard to the correction to be made.
- (4) The provisions of sections 36 and 37 on an arbitral award shall apply also to corrections referred to

in this section.

Section 39

- (1) Unless otherwise agreed by the parties, either party may, with notice to the other party, request within 30 days of receipt of the award the arbitral tribunal to make an additional award as to claims presented in the arbitral proceedings but omitted from the award. If the arbitral tribunal considers the request to be justified, it shall make the additional award as soon as possible.
- (2) The provisions of sections 36 and 37 shall also apply to additional awards referred to in paragraph (1).

Null and void arbitral awards

Section 40

- (1) An award shall be null and void
 - (1) to the extent that the arbitral tribunal has in the award decided an issue not capable for settlement by arbitration under Finnish law;
 - (2) to the extent that the recognition of the award would be contrary to the public policy of Finland (*ordre public*);
 - (3) if the arbitral award is so obscure or incomplete that it does not appear in it how the dispute has been decided; or
 - (4) if the arbitral award has not been made in writing or signed by the arbitrators.
- (2) However, the absence of the signature of one or more arbitrators shall not make the award null and void if it has been signed by a majority of all members of the arbitral tribunal provided that they on the award have stated the reason why an arbitrator who has participated in the arbitration has not signed the arbitral award.

Setting aside arbitral awards

Section 41

- (1) An arbitral award may be set aside by the court upon request of a party if
 - (1) the arbitral tribunal has exceeded its authority;
 - (2) an arbitrator has not been properly appointed;
 - (3) an arbitrator could have been challenged under section 10, but a challenge properly made by a party has not been accepted before the arbitral award was made, or if a party has become aware of the ground for the challenge so late that he has not been able to challenge the arbitrator before the arbitral award was made; or

- (4) the arbitral tribunal has not given a party a sufficient opportunity to present his case.
- (2) A party shall not request the setting aside of an arbitral award under paragraph (1)(1)—(3), if he, by taking part in the proceedings without stating his objection or otherwise, shall be considered to have waived his right to rely on a ground referred to in the said points.
- (3) A party shall bring his action for setting aside an arbitral award within three months of the date on which he received a copy of the award or, if a request has been made under section 38 or 39, of the date on which he received a copy of the decision of the arbitral tribunal regarding such a request.

Section 42

The court, when asked to declare an award null and void or set it aside, may, when so requested by a party, suspend the proceedings for a period of time determined by it and give the arbitral tribunal an opportunity to resume the arbitral proceedings or take such other action which will eliminate the ground for declaring the award null and void or for setting it aside.

Enforcement of arbitral awards

Section 43

- (1) A decision on enforcement of an arbitral award shall be made by a court of first instance.
- (2) An application for the enforcement of an arbitral award, submitted to the court of first instance, shall be accompanied by the original arbitration agreement or the provision referred to in section 4 and by the original arbitral award, or certified copies thereof. A document drawn up in any other language than Finnish or Swedish shall, furthermore, be accompanied by a certified translation into either of these languages, unless the court grants an exemption.
- (3) Before an application under paragraph (2) is granted, the party against whom enforcement is sought shall be given an opportunity to be heard, unless there is a special reason to the contrary. Unless a witness or another person is to be heard in person, the District Court shall deal with the matter in chambers. (817/1996)

Section 44

The court may refuse an application referred to in section 43 only if it finds that the award, on a ground referred to in section 40, is null and void or if the arbitral award has been set aside by a court, or if a court, because of an action for declaring an award null and void or for setting it aside, has ordered that any enforcement of the award shall be interrupted or suspended.

Section 45

When enforcement of an arbitral award has been granted by the court, the enforcement of the award

shall be governed by the provisions of chapter 3, section 16 of the Enforcement Act.

Costs of the arbitration

Section 46

- (1) Unless otherwise agreed or provided, the parties shall be jointly and severally liable to pay compensation to the arbitrators for their work and expenses.
- (2) The compensation to the arbitrators shall be reasonable in amount, taking into account the time spent, the complexity of the subject-matter and the other relevant circumstances.
- (3) The arbitrators shall have the right to demand an advance on the compensation or a security therefor.

Section 47

- (1) Unless otherwise provided in a manner binding on the arbitrators, the arbitral tribunal may in its award fix the compensation due to each arbitrator and order the parties to pay.
- (2) A party shall have the right, within 60 days of the date on which he received a copy of the arbitral award, to appeal against the decision of the arbitrators with regard to the amount of compensation due to them.
- (3) The appeal shall be made by submitting a written application and a copy of the arbitral award to the court of first instance for the place where the award was made.
- (4) The parties shall in the award be informed of what they have to observe, if they want to make an appeal under paragraph (2).

Section 48

Before the court decides on an appeal referred to in section 47(2), it shall give the other parties to the arbitration and those arbitrators, whose fees are concerned by the appeal, an opportunity to be heard.

Section 49

Unless otherwise agreed by the parties, the arbitral tribunal may, in its award or in any other decision concerning the termination of the arbitral proceedings, order a party to compensate, in whole or in part, the other party for his normal legal costs, in accordance with the provisions of the Code of Judicial Procedure on the compensation for legal costs, where applicable.

Competent court

Section 50

- (1) An action for declaring an award null and void or for setting it aside shall be brought before the court of first instance for the place where the award was made.
- (2) Applications referred to in sections 14—16 and 19 shall be submitted to and actions concerning the validity and applicability of the arbitration agreement shall be brought before the court of first instance for the place where either party is domiciled or, if neither party has his domicile in Finland, in the Helsinki District Court.
- (3) The parties may agree that an application or action referred to in paragraph (1) or (2) shall be considered by another court of first instance.

Arbitration in a foreign state

Section 51

- (1) Where a court is seised of an action in a matter which according to an arbitration agreement made in compliance with section 3 or to a provision referred to in section 4 shall be submitted to arbitration in a foreign state, the court shall, if a party so requests not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration, unless it finds that the arbitration agreement or the provision under the law applicable to it is null and void, inoperative or incapable of being performed.
- (2) A court or another authority may, however, before or during the arbitral proceedings, despite the arbitration agreement, grant such interim, including protective, measures which the authority has the power to grant.

Section 52

- (1) An arbitral award which has been made in a foreign state by virtue of an arbitration agreement made in compliance with section 3 or of a provision referred to in section 4 shall be recognised in Finland, unless otherwise provided for below.
- (2) An arbitral award referred to in paragraph (1) shall, however, not be recognised to the extent that it is contrary to the public policy of Finland.

Section 53

An arbitral award referred to in section 52 shall, however, not be recognised in Finland against a party who furnishes proof that

- (1) he did not have the capacity to enter into the arbitration agreement or that he was not properly

represented when the arbitration agreement was entered into, or that an arbitration agreement which complies with the formal requirements referred to in section 3 for some other reason than such concerning the form of the arbitration agreement is not valid under the law to which the parties have subjected it, or failing any indication thereon, under the law of the state where the award was made;

- (2) he was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his case;
- (3) the arbitral tribunal has exceeded its authority,
- (4) the composition of the arbitral tribunal or the arbitral proceedings substantially deviated from the agreement of the parties or, failing such agreement, from the law of the state where the arbitration took place; or
- (5) the arbitral award has not yet become binding on the parties or it has been declared null and void or set aside or suspended in the state in which, or under the law of which, that award was made.

Section 54

- (1) An arbitral award which has been made in a foreign state and which under this Act shall be recognised in Finland shall be enforced here upon request. An application for enforcement shall be submitted to the court of first instance.
- (2) The application shall be accompanied by the original arbitration agreement or by a provision referred to in section 4 and by the original award, or certified copies thereof. A document drawn up in any other language than Finnish or Swedish shall, furthermore, be accompanied by a certified translation into either of these languages, unless the court grants an exemption.

Section 55

- (1) Before an arbitral award made abroad is declared enforceable, the court shall give the party against whom enforcement is sought an opportunity to be heard, unless there is a special reason to the contrary. Unless a witness or another person is to be heard in person, the District Court shall deal with the matter in chambers. (817/1996)
- (2) If the party against whom enforcement is sought invokes that he has made an application for declaring the award null and void or for setting it aside or for suspension of the award to a competent authority in a state referred to in section 53(5), the court may, if it considers it proper, adjourn a decision on the enforcement of the award. The court may at the same time, on the application of the party claiming enforcement, order the other party to give suitable security and decide that the adjournment is subject to the condition that such security is given.

Entry into force

Section 56

- (1) This Act shall enter into force on 1 December 1992.
- (2) This Act shall not, however, apply to arbitrations commenced before its entry into force.
- (3) However, if an arbitral award is made in Finland after the entry into force of this Act, the award shall be made in accordance with this Act and it shall not be considered null and void, nor set aside, on other grounds than those set forth in this Act.

Section 57

- (1) This Act shall repeal the Act on Arbitration (46/1928) as amended, as well as sections 2 and 3 of the Act on the Implementation of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards done in New York on 10 June 1958 and on the Enforcement of such Arbitral Awards (200/1962).
- (2) If there is a reference in a provision in legislation to the Act on Arbitration of 4 February 1928, this Act shall apply instead.