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Arbitration Act

(967/1992; amendments up to 754/2015 included)

Scope

Section 1

Sections 2—50 of this Act apply to arbitration that is to take place in Finland. Sections 51—55 of this Act apply to the effects in Finland of an arbitration agreement in a foreign state as well as to the recognition and enforcement in Finland of an arbitration 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 to be made by one or more arbitrators. It may also be agreed that disputes which arise in the future 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 deemed to be 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 deemed to be in writing when the parties, by exchanging telegrams or telex messages or documents produced in another such manner, have agreed that a dispute shall be decided by one or more arbitrators.

(3) An arbitration agreement is also deemed to be in writing if an agreement which has been made in the manner mentioned in subsection (2) refers to a document containing an arbitration clause.

Section 4

Arbitration clauses in wills, deeds of gift, bills of lading or documents that correspond to these, in the bylaws of an association or of a foundation, in the articles of association of a limited-liability company or of another company or of a 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 may not hear an action that is brought in a matter that is subject to arbitration if a party, before responding to the main claim, enters a plea that the matter is subject to arbitration.

(2) Notwithstanding an arbitration agreement, however, a court or other authority may before or during the arbitration proceedings grant such interim orders and prohibitions which the authority has the statutory 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 the time limit that has been agreed, provided for in law or lawfully established, fulfilled his or her obligation to appoint an arbitrator or not within a reasonable time paid his or her share of the advance or security for the compensation due to the arbitrators, then the other party may notwithstanding the arbitration agreement bring an action before court.

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, any person of full 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 in his or her duties.

(2) When a person is asked to consent to appointment as an arbitrator, he or she shall, unless he or she refuses to accept the appointment, immediately disclose any circumstances likely to endanger or give rise to justifiable doubts as to his or her impartiality and independence as an arbitrator.

(3) Until the conclusion of the arbitration proceedings, an arbitrator is obliged to disclose without delay any circumstances referred to above of which the parties have not previously been informed.

Section 10

On the challenge of a party, an arbitrator shall be disqualified if he or she would have been disqualified from hearing the case as a judge, or if other circumstances exist that give rise to justifiable doubts as to his or her impartiality or independence as an arbitrator.

Section 11

(1) The parties may agree on a procedure for considering a challenge for disqualification of an arbitrator. Notwithstanding this, a party has the right to request the annulment of the award on the basis of section 41.

(2) Failing an agreement as referred to in subsection 1, a party who intends to challenge an arbitrator shall present the challenge within 15 days from becoming aware of the appointment of the arbitrators and of any circumstance referred to in section 10 above. The challenge shall be made in writing to the arbitrators. The challenge shall include a statement of the reasons for the challenge.

(3) Unless the challenged arbitrator withdraws from his or her office or the other party agrees to the challenge, the arbitrators shall decide on the challenge. The question may be submitted to the consideration of a court only if the annulment of the award is requested on the basis of 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 subsection 1 above. The other party shall at the same time be required to appoint the arbitrator or arbitrators that he or she is to appoint.

(3) If the agreement of the parties provides for the appointment of an arbitrator by someone other than the parties, the notice referred to in subsection 1 shall be sent also to the appointing authority agreed upon by the parties and this authority shall be requested to make the appointment.

Section 13

If there are to 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, un-

less the parties have agreed that the arbitration agreement in that event shall terminate.

Section 15

(1) If a party or someone else to whom the notice referred to in section 12(1) has not within 30 days of receiving the notice fulfilled his or her obligation to appoint an arbitrator 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, a party may request that the court appoint the missing arbitrator or arbitrators.

(2) What is provided in subsection 1 applies also if the person who has been requested in writing to appoint an arbitrator as substitute for an arbitrator who has died, resigned or been removed has not within 30 days of the arrival of the request fulfilled his or her obligation to appoint an arbitrator or if the arbitrators appointed by the parties have not agreed on a 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 apparent that there are no legal grounds for the arbitration.

(2) Before the court appoints one or more arbitrators on the basis of subsection 1, it shall give the other party an opportunity to be heard, unless this would unreasonably delay the arbitration.

(3) The decision of the court regarding the appointment of an arbitrator is not subject to appeal (601/1993).

Section 18

A party who has chosen an arbitrator and informed the other party thereof must not revoke his or her 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 or her functions in an adequate manner or if he or she, without just cause, delays the arbitration, the court shall remove him or her upon request of a party. Before an arbitrator is removed, he or

she shall be reserved an opportunity to be heard, unless there is a special barrier to doing so.

(3) The decision of the court regarding the removal of an arbitrator is not subject to appeal.

Section 20

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

Proceedings

Section 21

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

Section 22

The arbitrators shall give the parties 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 in respect of the procedure. In the absence of such agreement, the arbitrators may conduct the arbitration in such manner as they considers appropriate, subject to the provisions of this Act and taking into account the requirements of impartiality and expediency.

Section 24

(1) The place of arbitration shall be determined by the arbitrators, unless the parties have agreed thereon.

(2) The arbitrators may, however, where appropriate, hear parties, witnesses and expert witnesses and conduct judicial views also in other places than the place of arbitration agreed upon by the parties or determined by the arbitrators, also outside the territory of Finland.

Section 25

(1) Within the period of time determined by the arbitrators, the claimant shall state the facts supporting his or her claim and the relief or remedy sought, and the respondent shall present his or her response thereto. The arbitrators may at the same time request the parties to submit to the arbitrators 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 arbitration proceedings either party may amend or supplement his or her claims and their grounds as well as bring a counterclaim or demand a setoff, unless the arbitration thereby would be unduly delayed.

(3) The provisions in subsections 1 and apply only if not otherwise agreed by the parties.

Section 26

(1) The arbitrators shall determine the language or languages to be used in the arbitration proceedings unless the parties have agreed thereupon.

(2) The arbitrators 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 arbitrators shall promote an appropriate and expedient settlement of the matter. To this end the arbitrators may request that a party, a witness or any other person appear to be heard in the matter as well as request a party or any other person in possession of a document or other object which may have relevance as evidence to produce the document or object.

(2) The arbitrators may not impose the threat of a fine nor issue orders regarding other coercive means. They may also not administer oaths, affirmations or affirmations of truth.

[subsection 2 has been amended as of 1 January 2016 to read as follows:

(2) The arbitrators may not impose the threat of a fine nor issue orders regarding other coercive measures. They may also not administer an affirmation. (754/2015)]

Section 28

(1) Unless otherwise agreed by the parties, the arbitrators may, if special professional knowledge is needed to evaluate certain issues relevant to the determination of the case, appoint an expert witness to conduct examinations and report to the arbitrators.

(2) The arbitrators may also require a party to give the expert witness such information as he or she needs in order to fulfil his or her task and to provide access to documents, goods or other property for his or her inspection.

Section 29

(1) If the arbitrators deem it necessary that a witness or an expert witness be heard in court, that a party be examined on affirmation of truth or that a party or any other person be ordered to produce a document or object which may be of relevance as evidence in the case, then a party may submit an application to the court to this effect.

[subsection 1 has been amended as of 1 January 2016 to read as follows:

(1) If the arbitrators deem it necessary that a party, a witness or an expert witness be heard in court or that a party or any other person be ordered to produce a document or object which may be of relevance as evidence in the case, then a party may submit an application to the court to this effect. (754/2015)]

(2) A request referred to in subsection 1 shall be submitted to the court of first instance with jurisdiction over the place where the person to be heard or otherwise concerned in the matter is staying.

(3) The court shall, unless there is a barrier thereto, execute the request according to the provisions 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 arbitrators find that the proceedings cannot for any other reason be continued, the arbitrators shall decide to terminate the arbitration proceedings.

(2) If the claimant withdraws his or her claim, the arbitrators shall also decide to terminate the arbitration proceedings. However, if the respondent requests an award and the arbitrators recognise a legitimate interest on his or her part in obtaining a final settlement of the dispute, the proceedings may be continued and the dispute decided by an arbitration award.

(3) The mandate of the arbitrators terminates when the arbitrators have issued the order referred to in this section or decided the dispute by an arbitration award, subject to the provisions of sections 38, 39 and 42.

Arbitration award

Section 31

(1) The arbitrators shall decide the dispute in accordance with law.

(2) If the parties have designated the law of a given state as applicable to the substance of the dispute, the arbitrators shall apply that law.

(3) If the parties have agreed thereon, the arbitrators may nevertheless decide on the basis of what they deem reasonable (*ex aequo et bono*).

Section 32

(1) If the arbitrators disagree on the award, the award shall be made by a majority of the arbitrators. If the disagreement 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 arbitration proceedings, the parties settle the dispute, the arbitrators may record the settlement in the form of an arbitration award in accordance with section 36.

Section 34

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

Section 35

The arbitrators 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 arbitration award shall indicate its date and the place of arbitration as agreed or determined.

Section 37

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

Section 38

- (1) A party may request the arbitrators to correct in the award any errors in computation and any clerical errors and any other corresponding errors. 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 arbitrators considers the request for correction to be justified, they shall make the correction without delay and, if possible, within 30 days of receipt of the request by the chairman.
- (3) The arbitrators may, on their own initiative, correct any error of the type referred to in subsection 1 within 30 days of the date of the award. Before such a correction is made, the parties shall, where necessary, be given an opportunity to be heard with regard to the correction to be made.
- (4) The provisions of sections 36 and 37 on an arbitration 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 arbitrators to make an additional award as to claims presented in the arbitration proceedings but omitted from the award. If the arbitrators consider the request to be justified, they shall make the additional award as soon as possible.
- (2) The provisions of sections 36 and 37 also apply to additional awards referred to in subsection 1.

Null and void arbitration awards

Section 40

(1) An award shall be null and void

- (1) to the extent that the arbitrators have 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 is to be deemed contrary to the public policy of Finland;
- (3) if the arbitration award is so obscure or incomplete that it does not indicate how the dispute has been decided; or
- (4) if the arbitration award has not been made in writing or signed by the arbitrators.

(2) Notwithstanding the provision in subsection 1(4), 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 arbitrators provided that they on the award have stated the reason why an arbitrator who has participated in the arbitration has not signed the arbitration award.

Setting aside arbitration awards

Section 41

(1) An arbitration award may be set aside by the court upon request of a party if

- (1) the arbitrators have exceeded their 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 had not been accepted before the arbitration award was made, or if a party has become aware of the grounds for a challenge so late that he or she could not have been able to challenge the arbitrator before the arbitration award was made; or
- (4) the arbitrators had not given a party sufficient opportunity to present his or her case.

(2) A party may not request the setting aside of an arbitration award on the basis of subsection (1)(1)—(3), if he or she, by responding to the principal claim or in some other manner, is to be deemed to have waived his or her right to rely on a ground referred to in said paragraphs.

(3) A party shall bring his or her action for setting aside an arbitration award within three months of the date on which he or she received a copy of the award or, if a request has been made on the basis of section 38 or 39, of the date on which he or she received a copy of the decision of the arbitrators 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 consideration of the case and provide

the arbitrators an opportunity to resume the arbitration proceedings or take such other necessary action which would eliminate the ground for declaring the award null and void or for setting it aside.

Enforcement of arbitration awards

Section 43

(1) A decision on enforcement of an arbitration award shall be made by a court of first instance.

(2) An application for the enforcement of an arbitration award, submitted to the court of first instance, shall be accompanied by the original arbitration agreement or the corresponding provisions referred to in section 4 and by the original arbitration 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 subsection 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 arbitration award has been set aside by a court, or if a court, on the basis of an action for declaring an award null and void or for setting it aside, has ordered that the award may not be enforced.

Section 45 (689/2003)

When enforcement of an arbitration award has been granted by the court, the provisions of Chapter 2, section 19 of the Enforcement Act (37/1895) apply to the enforcement of the award.

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 amount of the compensation to the arbitrators shall be reasonable, taking into account the time spent, the complexity of the subject-matter and the other relevant circumstances.

(3) The arbitrators 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 arbitrators may in their 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 or she received a copy of the arbitration award, to appeal 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 arbitration award to the court of first instance with jurisdiction over the place where the award was made.

(4) The arbitration award shall indicate how a party is to proceed if he or she wants to appeal the amount of compensation to be paid to the arbitrators under the terms of the arbitration award.

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 arbitrators may, in their award or in any other decision concerning the termination of the arbitration proceedings, order a party to compensate, in whole or in part, the other party for his or her costs in the arbitration proceedings, in accordance, as appropriate, with the provisions of the Code of Judicial Procedure on the compensation for legal costs.

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 with jurisdiction over 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 force of the arbitration agreement and its applicability to a certain dispute shall be brought before the court of first instance with jurisdiction over the place where either party is domiciled or, if neither party has his or her domicile in Finland, in the Helsinki District Court.

(3) The parties may agree that that a matter referred to in subsection 1 or 2 shall be considered by another court of first instance.

Arbitration in a foreign state

Section 51

(1) A court may not, if the opposing party before responding to the main claim enters a plea that the matter is subject to arbitration, hear an action that in accordance with an arbitration agreement made in accordance with section 3 or on

the basis of provisions referred to in section 4 is to be decided in arbitration in a foreign state, unless the arbitration agreement or the provision under the law applicable to it is null and void.

(2) Notwithstanding an agreement referred to in subsection 1, a court or other authority may before or during the arbitration proceedings grant such interim orders and prohibitions which the authority has the statutory power to grant.

Section 52

(1) An arbitration 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 arbitration award referred to in subsection 1 shall, however, not be recognised to the extent that it is contrary to the public policy of Finland.

Section 53

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

- (1) he or she did not have the capacity to enter into the arbitration agreement or that he or she was not properly represented when the arbitration agreement was entered into, or that an arbitration agreement made in the manner referred to in section 3 is not, for a reason other than the form of the arbitration agreement, valid under the law to which the parties have subjected it, or if no conclusions can be drawn regarding what law the parties have intended to have applied, under the law of the state where the award was made;
- (2) he or she was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present his or her case;
- (3) the arbitrators have exceeded their authority,
- (4) the composition of the arbitral tribunal or the arbitration proceedings substantially deviated from the agreement of the parties or, in the absence of such agreement, from the law of the state where the arbitration took place; or
- (5) the arbitration award has not yet become binding on the parties or its enforcement has been suspended in the state in which, or under the law of which, that award was made, or it has been declared null and void or annulled in said state.

Section 54

(1) An arbitration 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 declaring an arbitration award that has been made abroad 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 or she 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 arbitration commenced before its entry into force.

(3) However, if an arbitration award is made in Finland after this Act enters into force, 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 repeals 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 Arbitration Awards done in New York on 10 June 1958 and on the Enforcement of Such Arbitration Awards (200/1962).

(2) If there is a reference in a provision in an Act or Decree to the Act on Arbitration of 4 February 1928, this Act shall apply instead.