DELOS
dispute resolution

GUIDE TO ARBITRATION PLACES (GAP)

FINLAND

CHAPTER PREPARED BY

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7. Tech friendliness
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There have not been any material changes requiring an update to this chapter (including the traffic lights) since the date of the latest version. Nonetheless, please note that this chapter does not constitute legal advice and its authors, the contributing law firm and Delos Dispute Resolution decline any and all responsibility.

IN-HOUSE AND CORPORATE COUNSEL SUMMARY

Finland is an arbitration friendly jurisdiction. Finland has a long history of arbitration, and in commercial disputes between business entities, arbitration is the rule rather than the exception. A majority of the arbitrations in Finland are institutional. Finland is a party to, *inter alia*, the New York Convention and the ICSID Convention on the Settlement of Investment Disputes between States and Nationals of other States.

Key places of arbitration in the jurisdiction?	Helsinki.
Civil law / Common law environment? (if mixed or other, specify)	Civil law jurisdiction.
Confidentiality of arbitrations?	Arbitrations are not public, but also not automatically confidential. Confidentiality requires an agreement between the parties. Institutional rules may also provide for confidentiality.
Requirement to retain (local) counsel?	There is no requirement to retain local counsel. In-house counsel may also act as legal representatives.
Ability to present party employee witness testimony?	There are no limitations as to who can act as a witness. Thus, for example, employee witness testimony is allowed. However, special legislation may prevent certain people such as doctors, priests and attorneys from giving testimony about issues that are confidential.
Ability to hold meetings and/or hearings outside of the seat and/or remotely?	The Finnish Arbitration Act (967/1992, "FAA") explicitly allows hearings to be held outside the seat. Meetings can also be held at any location without restrictions. In addition, parties can agree to hold remote hearings. Whether hearings can be held remotely without the consent of all parties depends on the circumstances of the case. However, unless particular circumstances demand the physical presence of witnesses, counsel and the tribunal, it should be considered to fall within the discretionary powers of the arbitrators to arrange remote hearings also without the consent of all parties.
Availability of interest as a remedy?	Interest can and normally is awarded. The parties can agree on the interest rate.
Ability to claim for reasonable costs incurred for the arbitration?	Generally, the losing party bears the costs of the arbitration. However, an arbitral tribunal is free to apportion the costs between the parties in such a manner as it considers appropriate having regard to the circumstances of the case.
Restrictions regarding contingency fee arrangements and/or third-party funding?	The most common fee arrangement for counsel is based on hourly rates, but a party and its counsel may also agree on contingency fees and other alternative fee arrangements, as well as third party funding.
Party to the New York Convention?	Yes.
Party to the ICSID Convention?	Yes.

Compatibility with the Delos Rules?	Yes.
Default time-limitation period for civil actions (including contractual)?	As a main rule, the limitation period is three years and starts running from the due date or from when the claimant becomes or ought to have become aware of the damage, defect or breach. The limitation period can be extended by three years at a time by free-form interruptions of the period. The limitation period must be interrupted at the latest within ten years from the breach of contract or the event leading to the damages. Consequently, legal proceedings do not necessarily need to be instituted within the first three years period if the debtor extends the limitation period by interruptions of the periods. If the creditor is a private person, the maximum limitation period is 20 years and if also the debtor is a private person, 25 years.
Other key points to note?	ϕ
World Bank, Enforcing Contracts: *Doing Business* score for 2020?	66.4
World Justice Project, Rule of Law Index: *Civil Justice* score for 2020?	0.81

ARBITRATION PRACTITIONER SUMMARY

Arbitration in Finland is very common, especially in business-to-business disputes. Finnish courts grant deference to arbitration agreements, and are able and willing to provide swift assistance to arbitral proceedings, *inter alia*, by providing provisional relief in support of arbitration. Finland has an active arbitration community with internationally highly regarded arbitration experts.

Date of arbitration law?	The Finnish Arbitration Act (967/1992, "FAA") came into force in 1992.
UNCITRAL Model law? If so, any key changes thereto? 2006 version?	The FAA is based on the 1985 version of the UNCITRAL Model law, but like for example Sweden, Switzerland and France, Finland is not formally a model law country.
Availability of specialised courts or judges at the key seat(s) in the jurisdiction for handling arbitration-related matters?	There are no special arbitration courts in Finland. All arbitration related matters are handled by the ordinary courts (District Courts, Courts of Appeal and the Supreme Court).
Availability of *ex parte* pre-arbitration interim measures?	Courts may and often do issue *ex parte* interim measures.
Courts' attitude towards the competence-competence principle?	The competence-competence principle is accepted and applied in Finland.
May an arbitral tribunal render a ruling on jurisdiction (or other issues) with reasons to follow in a subsequent award?	There are no provisions in the FAA prohibiting such a ruling. Thus, there should be *prima facie* no hindrance to render such a ruling.
Grounds for annulment of awards additional to those based on the criteria for the recognition and enforcement of awards under the New York Convention?	Foreign arbitral awards can be challenged on the grounds set out in the New York Convention. The only exception is that a foreign arbitral award cannot be challenged if the subject matter of the dispute is not capable of settlement by arbitration under Finnish law. The grounds for challenging a domestic arbitral award are similar to those set out in the New York Convention and the UNCITRAL Model law. A notable difference is that an arbitral award under limited circumstances can be considered null and void. One reason for an arbitral award to be declared null and void is if it is not signed by the arbitrator. An arbitrator's refusal to sign the award will not lead to it being null and void if the award is signed by the majority of arbitrators and contains a statement by them on why the non-signing arbitrator has refused to sign the award. Annulment proceedings can generally be handled quite rapidly, as there seldom is a need for extensive witness testimony in annulment proceedings. There are no official statistics, but recent case law suggests that annulment proceedings last approximately 12 – 18 months in the district courts. The district court decision may be appealed if a leave of appeal is granted, and proceedings in the Court of Appeal last approximately as long as in the district courts.

	If leave of appeal to the Supreme Court is granted it will generally take at least 18 months before the decision is rendered. Only final awards are enforceable in Finland. Thus, interim awards are not enforceable in Finland, whereas separate awards can be enforced.
Do annulment proceedings typically suspend enforcement proceedings?	Annulment proceedings do not automatically stay the enforcement of arbitral awards. However, the court before which an action for challenging an award is pending may order that enforcement shall be stayed. According to the Finnish Enforcement Code, the enforcement of an arbitral award can only be suspended, if there are cogent reasons to stay the enforcement.
Courts' attitude towards the recognition and enforcement of foreign awards annulled at the seat of the arbitration?	A foreign award which has been set aside in the state in which, or under the law of which, that award was made will as a rule not be recognised and enforced in Finland.
If an arbitral tribunal were to order a hearing to be conducted remotely (in whole or in part) despite a party's objection, would such an order affect the recognition or enforceability of an ensuing award in the jurisdiction?	There are no precedents assessing whether remote hearings can be held without the consent of the parties. However, unless particular circumstances demand the physical presence of witnesses, counsel and the tribunal, it should be considered unlikely that such a challenge would be successful as ordering remote hearings should fall within the broad discretionary powers of the arbitrators with respect to the conduct of the proceedings in the absence of an agreement between the parties.
Key points to note in relation to arbitration with and enforcement of awards against public bodies at the jurisdiction?	States can be parties to arbitration agreements in Finland. By doing so states are generally considered to have waived their right to invoke immunity. The Arbitration Act does not contain any special provisions on enforcement of awards against States or State entities.
Is the validity of blockchain-based evidence recognised?	Arbitrators have broad discretionary powers when it comes to evidentiary issues. The assessment of the evidentiary value is generally based on the principle of free evaluation of evidence. Thus, it is for the arbitrators to decide on the acceptability and evidentiary value of blockchain-based evidence. Consequently, there should be *prima facie* no hurdles for using blockchain-based evidence in Finnish arbitrations.
Where an arbitration agreement and/or award is recorded on a blockchain, is it recognised as valid?	The main formal requirement for both the arbitration agreement and the arbitral award is that they must be made in writing. In addition, the award must be signed by the arbitrators. Blockchains can be traced, they remain unchanged and offer the possibility for digital signatures. Thus, we consider it *prima facie* more likely than not that arbitration agreements and arbitral awards recorded in blockchains would meet the formal requirements of the FAA even if there are yet no Finnish precedents or scholar writings assessing the validity of such arbitration agreements and arbitral awards.

Would a court consider a blockchain arbitration agreement and/or award as originals for the purposes of recognition and enforcement?	If blockchain arbitration agreements and awards would be recognized as valid, it is likely that they would also be considered originals for recognition and enforcement purposes.
Other key points to note?	ϕ

JURISDICTION DETAILED ANALYSIS

1. The legal framework of the jurisdiction

1.1 Legislation

The current Finnish Arbitration Act (967/1992, "FAA") came into force on 1 December 1992, with no major revisions taking place ever since. The FAA contains both mandatory provisions, mainly relating to due process and annulment proceedings, as well as non-mandatory provisions, such as provisions concerning the appointment of arbitrators and to a limited extent the conduct of the arbitral proceedings.[1]

The FAA is largely compatible with the 1985 version of the UNCITRAL Model law, but like, e.g. Sweden, Switzerland and France, Finland is not formally a model law country. The most noticeable difference is that, in addition to the possibility for an award being set aside on certain specified grounds, an arbitral award according to the FAA can be considered null and void under certain conditions. There is no time limit for presenting a challenge on such grounds. The conditions which can lead to an award being declared null and void are 1) when the arbitral tribunal has decided a non-arbitrable issue, 2) when the award is contrary to Finnish *ordre public*, 3) if the award is so obscure or incomplete that it does not reveal how the dispute has been decided or 4) if the arbitral award has not been made in writing or is not signed by the arbitrators. An arbitrator's refusal to sign the award will not lead to it being null and void, if the award is signed by the majority of arbitrators and contains a statement by them on why the non-signing arbitrator has refused to sign the award.

1.2 Institutional rules

Although there are no statistics on the number of *ad hoc* arbitrations in Finland, it is generally held that the majority of arbitrations taking place in Finland are institutional arbitrations.

2. The arbitration agreement

Any dispute in a civil or commercial matter that can be settled by agreement between the parties may be referred to arbitration. Consequently, for example, criminal matters or matters concerning the legal capacity of natural persons, divorce, adoption or child custody cannot be decided by arbitration.

According to the FAA, an arbitration agreement must be made in writing in order to be valid. Normally an arbitration agreement is contained in a document duly signed by both parties, but an arbitration agreement is also regarded to be made in writing if it is agreed upon in an exchange of letters or electronic communication. An arbitration agreement is further considered to be made in writing if it is referred to in an agreement that fulfils the requirements mentioned above.

An arbitration agreement may also be binding on third parties. Arbitration agreements are generally binding for the successor in a situation where a valid assignment of rights and obligations has occurred. Thus, arbitration agreements are, for example, generally binding for the acquiring party in a general corporate succession or for a bankruptcy estate in insolvency situations. The Supreme Court of Finland has also considered a third-party beneficiary to be bound by an arbitration clause contained in a shareholders' agreement.

The separability doctrine is accepted in Finland. Thus, the arbitration agreement will be reviewed and interpreted separately from the contract in which it is set forth. There are no separate provisions in the FAA on how to determine the law governing the arbitration agreement. The parties may agree on the law applicable to the arbitration agreement, but in practice, this is rarely done. If the parties have not agreed on

[1] An unofficial English translation of the FAA is available at: HTTP://WWW.FINLEX.FI/FI/LAKI/KAANNOKSET/1992/EN19920967.PDF.

the law governing the arbitration agreement, it is up to the arbitral tribunal or the national court examining the arbitration agreement to determine the applicable law. In practice, a court or arbitral tribunal will often apply either the law applicable to the main agreement or the law of the seat of arbitration (*lex arbitri*).

When determining the seat of the arbitration, the court or arbitral tribunal aims to determine the seat intended by the parties in accordance with general principles of contractual interpretation. As a main rule, a specification of a certain "venue" or a "place" in the arbitration agreement should be interpreted as also a reference to the intended seat, if there are no strong indications to the opposite.

2.1 Intervention of state courts

Finnish state courts are considered "arbitration friendly". A valid arbitration agreement excludes the jurisdiction of the courts, regardless of the place of arbitration. If a dispute is covered by an arbitration agreement, the court cannot take the matter into consideration, but shall refer the matter to arbitration, provided that the opposing party invokes the arbitration agreement before stating its case on the merits in court. If the arbitration agreement is invoked in time, the court can only determine whether the arbitration agreement is valid, in force and applicable to the dispute. A party may also seek declaratory relief that an arbitration agreement is not valid, in force or applicable to a certain dispute.

The court cannot decline jurisdiction because of an arbitration agreement unless the arbitration agreement is invoked by a party. If a party does not object to the jurisdiction of the court in its first statement on the substance of the dispute, the party loses the right to invoke the arbitration agreement.

An arbitral tribunal can and shall determine its own jurisdiction. However, an arbitral tribunal's decision on its jurisdiction is not binding on the courts. Consequently, an arbitral tribunal does not have powers to enjoin courts to stay proceedings. If a matter is initiated in court despite arbitral proceedings already taking place, the court will independently review the validity of the arbitration agreement, and will do so only if the arbitration agreement is invoked by the opposing party before he states his case on the merits. If a court decision denying the arbitrators' jurisdiction has become final, the arbitrators should issue an order for the termination of the arbitral proceedings.

An arbitral tribunal can issue anti-suit injunctions against parties. However, according to the FAA an arbitral tribunal does not have the power to impose fines or order other coercive measures, and as mentioned such an injunction would not be binding on courts.

State courts have limited, if any, possibilities to intervene in arbitrations outside Finland, but can refuse recognition and enforcement under the conditions set out in the New York Convention as explained below.

3. Conduct of the proceedings

3.1 Parties and party representation

An arbitration agreement can be entered into between any persons with legal capacity. Thus, natural persons as well as businesses and state entities can be parties to arbitration agreements. However, consumers are not bound by arbitration agreements concluded before a dispute has arisen.

There are no limitations as to who can act as counsel for a party in arbitration. Parties may engage counsel from Finland or from other jurisdictions or they may be self-represented.

3.2 Court assistance in the arbitral proceedings

Firstly, state courts can intervene in arbitral proceedings by assisting in the appointment of arbitrators in *ad hoc* proceedings. According to the FAA, unless otherwise agreed, each party shall appoint one arbitrator and the party appointed arbitrators shall together appoint a third arbitrator to act as chairperson. The claimant shall appoint one arbitrator in the notice of arbitration and the respondent shall appoint one arbitrator within 30 days of receipt of the notice of arbitration.

If the party fails to appoint an arbitrator in time, the appointment shall be made by the court upon request of a party. The same applies if the party-appointed arbitrators cannot agree on a chairperson within 30 days of their appointment. If the dispute is to be decided by a sole arbitrator, the court shall, at the request of a party, appoint the arbitrator if the parties have not been able to agree on the arbitrator within 30 days of the commencement of the arbitral proceeding.

According to the FAA, an arbitrator must immediately disclose any circumstances likely to endanger his or her impartiality and independence as an arbitrator or to raise justifiable doubts related thereto. This obligation stays in force until the end of the proceedings. An arbitrator is obliged to disclose such information that could raise a party's doubts as to his or her impartiality or independence even if the circumstance would not ultimately lead to his or her disqualification. The Supreme Court has established that the threshold for disclosure should be relatively low.

Failure to disclose does not lead to disqualification unless it raises justifiable doubts as to the independence and impartiality of the arbitrator. Failure to disclose may, however, lead to liability for damages as described in section 4.4.

If a party challenges the appointment of an arbitrator, it is for the arbitral tribunal to decide the matter unless the other party accepts the challenge or the challenged arbitrator withdraws willingly. A court may review the impartiality and independence of an arbitrator only in set-aside proceedings.

An arbitrator may be disqualified if he or she would have been disqualified to handle the matter as a judge or if circumstances exist that give rise to justifiable doubts as to his or her impartiality or independence. The Code of Judicial Procedure (4/1734) contains provisions on the disqualification of judges.[2]

Secondly, state courts may provide assistance with respect to the gathering of evidence and the hearing of witnesses under oath. A party may request court assistance if it wishes to have a witness heard under oath, a witness or an expert examined in court or a document or other evidence produced. The request is subject to the consent of the arbitrators. In other words, an arbitral tribunal cannot on its own motion request court assistance, nor can a party do so without the consent of the arbitral tribunal.

In practice parties rarely need to seek court assistance with respect to evidence, as the arbitral proceedings provide sufficient means to gather evidence and hear witnesses. An arbitral tribunal may, at the request of a party or on its own initiative, request that a party or any other person in possession of a document (or other object) produce the document (or object). Arbitrators may also request that a party, a witness or any other person appear to be heard in the matter. An arbitrator may not, however, impose sanctions in case a party disregards such a request, but may take this into consideration and draw all necessary inferences when determining what shall be deemed proven in the matter. Hence, arbitrators' requests to produce evidence are usually respected.

Thirdly, courts may provide assistance with respect to provisional relief. A party may at any time before or during the arbitral proceedings request that the court grant an interim measure. A request for interim measures is not regarded as a waiver of a party's right to submit a dispute to arbitration.

Finnish courts can and often do grant interim measures *ex parte*. In order for the court to be able to provide interim relief *ex parte* the party seeking the interim relief must show that it has a receivable or other enforceable right against the respondent and that there is a risk that this right will be endangered by the respondent if the interim relief is not immediately granted. After an *ex parte* interim relief is granted, the court will grant the respondent an opportunity to reply to the request and will then provide its final decision on the interim relief.

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[2] An unofficial English translation of the Code of Judicial Procedure can be found at HTTP://WWW.FINLEX.FI/FI/LAKI/KAANNOKSET/1734/EN17340004.PDF.

3.3 Provisions regarding the conduct of the proceedings

3.3.1 General overview

The FAA contains only limited provisions on the conduct of the proceedings. According to the FAA, the proceedings must be conducted in accordance with the parties' agreements. In the absence of such an agreement, the arbitral tribunal shall decide on the conduct of the proceedings, taking into consideration the requirements of impartiality and expediency and ensuring that each of the parties is given a sufficient opportunity to present its case.

In good arbitration practice, the arbitral tribunal as a rule shall arrange a preparatory conference with the parties at an early stage of the arbitration for the purpose of organising and scheduling the subsequent proceedings. The arbitral tribunal shall also typically prepare a procedural timetable. The arbitral tribunal shall also close the proceedings as soon as possible after the last hearing date and inform the parties of the date by which it expects to issue the final award.

3.3.2 Confidentiality

The FAA does not regulate confidentiality and *ad hoc* proceedings are not automatically confidential. *Ad hoc* proceedings are not public, but in order for the proceedings to be confidential, the parties must agree on confidentiality or must agree to apply institutional rules that provide for confidentiality.

3.3.3 Length of the proceedings

There are no specific provisions in the FAA with respect to the length of the proceedings. The FAA only states that the arbitral tribunal shall conduct the proceedings taking into consideration, inter alia, the requirement of expediency.

The median duration of institutional arbitration seated in Finland is approximately 8–12 months.

3.3.4 Oral hearings

The FAA does not impose an obligation on the arbitral tribunal to arrange oral hearings unless the parties have agreed that oral hearings shall be held. If oral witness testimony is to be heard, oral hearings must, of course, be held.

The FAA also does not contain specific provisions on the conduct of the oral hearings. The hearings shall be conducted in accordance with the parties' agreement and in the absence of such agreement, it is for the arbitrators to decide on the conduct of the hearings.

According to the FAA, the arbitral tribunal may also, where appropriate, hear parties, factual and expert witnesses and conduct inspections in other places than the seat of arbitration, including outside the territory of Finland.

There are no restrictions in the FAA as to where meetings can be held. In addition, parties can also agree to hold remote hearings.

The arbitral tribunal has broad discretionary powers when it comes to hearings, the taking of evidence and conducting the proceedings in general. Thus, unless particular circumstances demand the physical presence of witnesses, counsel and the tribunal, holding remote hearings without the consent of one of the parties should be considered to fall within the discretionary powers of the arbitral tribunal. However, to our understanding there are not yet any precedents assessing whether remote hearings can be held without the consent of one of the parties. Despite the lack of case law, we consider it unlikely that such a challenge would be successful since if conducted properly, remote hearings are unlikely to infringe the due process rights of the parties.

3.3.5 Interim measures

The FAA does not contain provisions on the arbitral tribunal's powers to order interim measures. Nevertheless, it is generally held that an arbitral tribunal may do so when the parties have so agreed.

Interim measures ordered by an arbitral tribunal are not enforceable in Finland and the FAA specifically prohibits the arbitral tribunal from imposing any penalty or using other means of constraint. Nevertheless, parties often comply voluntarily with interim measures ordered by the arbitral tribunal, as the arbitral tribunal may draw adverse inferences from a party's failure to comply with arbitrator-ordered interim measures. The right to draw adverse inferences is, however, debatable in respect of non-compliance with other than evidentiary-related orders.

As mentioned above, a party may at any time before or during the arbitral proceedings also request interim relief from a state court.

3.3.6 Admission of evidence

The FAA does not contain any specific provisions on the admissibility of evidence. It is for the arbitral tribunal to determine the admissibility, relevance, materiality and weight of evidence.

According to the FAA, an arbitral tribunal may, at the request of a party or on its own initiative, request that a party or any other person in possession of a document (or other object) produce the document (or object). Arbitrators may also request that a party, a witness or any other person appear to be heard in the matter. The arbitral tribunal may also appoint one or more experts on its own motion, taking into consideration the requirement of impartiality. However, it is not very common that arbitrators appoint experts in addition to experts appointed by the parties.

There are no limitations as to who can be heard as a witness. Thus, for example, employee witness testimony is allowed. However, a witness's position, for example, as a legal representative of a party, may be taken into account when evaluating the credibility of the testimony. Furthermore, special legislation may prevent certain people such as doctors, priests and attorneys from giving testimony about issues that are confidential.

3.4 Liability of arbitrators

3.4.1 Civil liability

The liability of arbitrators in *ad hoc* proceedings is not excluded or limited. However, the Supreme Court has established that an arbitrator can be liable for damages only under exceptional circumstances. In Supreme Court practice, failure to disclose relevant information which would have led to disqualification has been considered to constitute grounds for liability.

Institutional arbitration rules may limit the liability of the arbitrators. However, when Finnish law is applied, limitations of liability clauses are not applicable when the damage has been caused by gross negligence or wilful misconduct.

3.4.2 Criminal liability

Apart from the criminal provisions on bribery in business, there are no criminal provisions that explicitly concern arbitrators.

According to the provision on the taking of bribes in business, it is explicitly criminalised to take or receive a bribe when serving as an arbitrator (Criminal Code of Finland (39/1889), chapter 30 article 7)[3]. The provisions on bribery in business are applicable to foreign and Finnish nationals also when the FAA is not the *lex arbitri*.

[3] An unofficial English translation of the Criminal Code of Finland can be found at HTTPS://FINLEX.FI/FI/LAKI/KAANNOKSET/1889/EN18890039_20150766.PDF.

The two other criminal provisions that may, in practice, become applicable to arbitrators, concern money laundering (e.g., Criminal Code of Finland (39/1889), chapter 32) and fraud (e.g., Criminal Code of Finland (39/1889), chapter 36). Money laundering takes place, for example, when money acquired through illegal means is handled so that the criminal nature of the money is concealed. Fraud occurs, for example, when a person acquires unlawful gains for him or herself or for a third party through deception or other fraudulent behaviour.

The taking of bribes and fraud both require intent from the perpetrator. Money laundering can also come into question when the arbitrator has been grossly negligent. In practice, this means that the arbitrator should have known that money is being laundered through the arbitration in the circumstances.

To the knowledge of the authors of this chapter, no arbitrator has ever been tried in Finland for a criminal offence committed when serving as an arbitrator.

4. The award

4.1 Formal requirements for awards

The arbitral award shall be made in writing and signed by all of the arbitrators. However, the FAA provides that the absence of the signature of one or more arbitrators shall not make the award null and void if a majority of the arbitrators have signed the award and have stated the reason why an arbitrator who participated in the arbitration has not signed the award.

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

The FAA does not impose an obligation on the arbitrators to state the reasons of the award. However, good arbitration practice requires the arbitrators to state the reasons, unless the parties have agreed otherwise.

4.2 Awarding interest

The FAA does not regulate or prescribe any principles governing the awarding of interest. When Finnish law applies, the parties may agree how interest shall accrue on debts. Lacking such agreement, interest will accrue in accordance with the Finnish Interest Act (633/1982).

4.3 Cost allocation

Generally, the losing party is ordered to bear the costs of the arbitration. However, the arbitral tribunal may also allocate any of the costs of the arbitration between the parties, taking into consideration the circumstances of the case.

4.4 Challenging an award

An award cannot be appealed. An award can only be declared null and void or set aside. The grounds for declaring an award null and void or for setting aside an award are similar to those based on which the recognition and enforcement of an arbitral award may be refused under the New York Convention.

An award is null and void if: the arbitral tribunal has decided an issue not capable of settlement by arbitration under Finnish law; recognition of the award would be against Finnish *ordre public*; the arbitral award is so obscure or incomplete that it does not appear in it how the dispute has been decided; or the arbitral award has not been made in writing or signed by the arbitrators. There is no time limit to challenge an award as null and void.

A court may also set aside an award if: the arbitral tribunal exceeded its authority; an arbitrator had not been properly appointed; an arbitrator could have been disqualified but a challenge duly made by a party had not been accepted before the arbitral award was made; a party was not aware of the ground for disqualification and was not able to challenge the arbitrator before the arbitral award was made; or the arbitral tribunal did not give a party sufficient opportunity to present its case. Unlike a challenge against an award as null and

void, an action for setting aside an award must be brought within three months of the date on which the party received a copy of the award. As mentioned, the three-month time limit does not apply to request to declare an award null and void, for such challenges there are no time limits.

A party cannot waive its right to challenge an award before the award has been rendered. However, a party may through its actions be deemed to have waived its right to invoke certain grounds for setting aside an award. If a party for example has not invoked grounds for challenging an arbitrator of which it has been aware, a party can be deemed to have waived its right to challenge the award based on such grounds.

Annulment proceedings do not automatically stay the enforcement of arbitral awards. However, the court before which an action for challenging an award is pending may order that enforcement shall be stayed. According to the Finnish Enforcement Code, the enforcement can be suspended "*for a cogent reason*". According to the preparatory works, the prerequisite of "*a cogent reason*" was added to the Act to tackle the issue with courts ordering suspension orders too generously. Since the amendment is aimed at restricting the usage of suspension orders, courts will generally use their power to suspend enforcement proceedings with caution.

4.5 Recognition and enforcement of awards

A decision on enforcement (*exequatur*) is required for an award to be enforceable. Exequatur is granted by the court of first instance. The decision on enforcement may be appealed.

The procedure for obtaining an exequatur is practically the same regardless of whether the arbitral award is domestic or foreign. In either case, a party must file the original arbitration agreement and the original arbitral award, or certified copies thereof together with the application for the enforcement of an award. A document drawn up in any language other than Finnish or Swedish shall be accompanied by a certified translation into either of these languages, unless the court grants an exemption.

Before exequatur is granted, the court will give the party against whom enforcement is sought the opportunity to be heard, unless there is a special reason not to provide the party with such an opportunity. Unless a witness or another person is to be heard in person, the court of first instance shall deal with the matter in written proceedings in chambers.

A court may refuse an application for the enforcement of a domestic award only if it finds that the award is null and void, if the award has been set aside by a court on the grounds described above, or if a court has ordered that enforcement of the award shall be interrupted or suspended.

Foreign arbitral awards are readily enforceable in Finland. A foreign award will not be recognised in Finland only if the party against whom the award is being enforced can prove that (i) the arbitration agreement was not valid, (ii) the party was not given proper notice of the appointment of the arbitrator or of the arbitration proceedings or was otherwise unable to present its case, (iii) the arbitral tribunal has exceeded its authority, (iv) the composition of the arbitral tribunal or the arbitral proceedings substantially deviated from the agreement or the *lex arbitri*, or (v) 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. A foreign arbitral award cannot be challenged if the subject matter of the dispute is not capable of settlement by arbitration under Finnish law, unless the award as a result would also be against Finnish *ordre public*.

A foreign award, which has been set aside in the state in which, or under the law of which, that award was made, will not as a rule be recognised and enforced in Finland.

5. Funding arrangements

A party may acquire external funding for an arbitration from third parties, including third-party funders, insurance companies, banks, etc. Special third-party funding companies are not very active in the Finnish

market, but it is quite common for Finnish parties to have insurance that covers the costs of disputes up to an agreed amount.

The most common fee arrangement is based on hourly rates, but a party and its counsel may also agree on contingency fees and other alternative fee arrangements.

6. Arbitration and technology

6.1 Arbitration and blockchain

In Finland the discussion concerning the usage of blockchain for arbitration purposes has recently begun. Thus, to which extent and for which purposes blockchain can assist and be used in arbitrations remains to be seen in the coming years.

Arbitrators have broad discretionary powers when it comes to evidentiary issues. The assessment of the evidentiary value is generally based on the principle of the free evaluation of evidence. Thus, it is for the arbitrators to decide on the acceptability and evidentiary value of blockchain-based evidence. Consequently, there should be *prima facie* no hurdles for using blockchain-based evidence in Finnish arbitrations.

When it comes to assessing arbitration agreements and arbitral awards recorded in a blockchain, the main formal requirement for both the arbitration agreement and the arbitral award is that they must be made in writing. In addition, the award must be signed by the arbitrators. Blockchains can be traced, they remain unchanged and offer the possibility for digital signatures. Thus, we consider it *prima facie* more likely than not that arbitration agreements and arbitral awards recorded in blockchains would meet the formal requirements of the FAA even if there are yet no Finnish precedents or scholar writings assessing the validity of such arbitration agreements and arbitral awards.

If blockchain arbitration agreements and arbitral awards were recognized as valid, it is likely that they would also be considered originals for recognition and enforcement purposes.

As Finland is both an arbitration and technology friendly jurisdiction, there should be no reason why blockchain and its benefits could not at least be used for facilitating arbitral proceedings in the future, especially as a tool for automating suitable parts of the arbitral proceeding to the extent the usage of blockchain does not endanger the procedural safeguards of the parties.

6.2 Arbitration and e-signatures

There are no precedents on whether an award that has been electronically signed (by inserting the image of a signature) or more securely digitally signed (by using encrypted electronic keys authenticated by a third-party certificate) would be accepted for the purposes of recognition and enforcement. However, in legal doctrine, e-signatures have been considered as an acceptable means of signing an award and we consider it more likely than not that an electronically or digitally signed award would be accepted as an enforceable award.

7. Future reform

A revision of the FAA has in the recent years been discussed within the Finnish arbitration community and in 2018 the Ministry of Justice started the process of revising the FAA by requesting comments and feedback on the possible needs for reform and the functionality of the FAA. In the spring of 2019, the Ministry of Justice appointed an expert group to follow and assess the reform work. The Ministry will first prepare an international comparison of the arbitral legislation in certain European countries and the statute drafting will begin when the comparative report has been finalized. However, opinions differ on how the law should be amended and it remains to be seen when and to what extent the amendments will take place.

8. Compatibility of the Delos Rules with local arbitration law

The Delos Rules are compatible with the FAA.

9. Literature regarding arbitration in Finland

- Mika Savola, "*Guide to the Finnish Arbitration Rules*", Helsinki 2015.
- Tom Ehrström, Tuuli Timonen, Santtu Turunen et al., "*Arbitration in Finland"*, Helsinki 2017.
- In 2004, the Finnish Arbitration Association published a booklet entitled, "*Law and Practice of Arbitration in Finland*".
- There are also articles in English in various journals which cover issues relating to arbitration in Finland, for example in volume 4-5/2011 of "*Tidskrift utgiven av Juridiska Föreningen i Finland*", which is a commemorative volume to justice Gustaf Möller on the theme of arbitration.

ARBITRATION INFRASTRUCTURE AT THE JURISDICTION

Leading national, regional and international arbitral institutions based out of the jurisdiction, *i.e.* with offices and a case team?	THE ARBITRATION INSTITUTE OF THE FINLAND CHAMBER OF COMMERCE ("FAI")
Main arbitration hearing facilities for in-person hearings?	FAI does not facilitate hearings and there are no businesses specialized in providing arbitration hearing facilities. Instead, hearings are usually held, for instance, in hotels, conference centres and premises of attorneys.
Main reprographics facilities in reasonable proximity to the above main arbitration hearing facilities?	There are several reprographics facilities in the Helsinki area.
Leading local providers of court reporting services, and regional or international providers with offices in the jurisdiction?	International providers providing court reporting services in Finland are for instance, PLANET DEPOS, INTERNATIONAL COURT REPORTERS and OPTIMA JURIS.
Leading local interpreters for simultaneous interpretation between English and the local language, if it is not English?	LIISA LAAKSO-TAMMISTO (Käännöstoimisto IDE Oy) HELENA KARUNEN KIRSI LAMMI
Other leading arbitral bodies with offices in the jurisdiction?	ICC FINLAND