

Arbitration - Switzerland

Appointing an Arbitrator

August 27 1999

No appeal may be taken to the Supreme Court against the decision appointing an arbitrator pursuant to PIL Act Article 179. However, a denial of the application to appoint an arbitrator may be challenged in a public law appeal.

The parties are free to choose the number of arbitrators, including an even number. Absent an agreement of the parties about the deciding vote, the award can only be made by unanimous vote if there are two arbitrators. The parties must, however, have clearly expressed their intent that the award be made by unanimous vote. If the two arbitrators cannot concur, the parties will have no other option than to go to the courts. Barring exceptional circumstances, the intent of the parties is not to end up in court. In particular, the parties' intent to have a unanimous vote does not result from the mere fact that the tribunal shall consist of 'not less than two arbitrators'. The two arbitrators appointed having found that they were unable to decide the case, the court at the place of arbitration should have appointed a third arbitrator.

X. Inc. v S. et consorts et Tribunal de Première Instance de Genève, ATF 121 I 81 (1995).

For further information on this topic please contact Pierre-Yves Tschanz at Tavernier Tschanz by telephone (+ 41 22 704 37 00) or by fax (+41 22 704 3777) or by e-mail (tschanz@ttv.ch).

The materials contained on this web site are for general information purposes only and are subject to the [disclaimer](#).

The materials contained on this website are for general information purposes only and are subject to the [disclaimer](#).

ILO is a premium online legal update service for major companies and law firms worldwide. In-house corporate counsel and other users of legal services, as well as law firm partners, qualify for a free subscription. Register at www.iloinfo.com.

Author

Pierre-Yves
Tschanz

