Arbitrators Sitting in Switzerland are not Bound by Foreign Court Decision on Jurisdiction

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A foreign court decision upholding the foreign court’s jurisdiction in disregard of an arbitration clause may be disregarded by the arbitrators, even where the arbitration was commenced after the foreign court proceeding, because the foreign court decision cannot be recognized under the New York Convention if the arbitrators correctly find that they have jurisdiction under the arbitration clause. If some of the parties before the foreign court were not parties to the arbitration clause, the foreign court could retain jurisdiction over such non-parties.

This decision was made by the Swiss Supreme Court in proceedings to challenge the arbitral award finding jurisdiction.


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 email (tschanz@ttv.ch).

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