

The choice of seat: Lugano, Zurich or Geneva

*Dr Alexander Ressos, TEP
Attorney-at-Law (Switzerland), Solicitor (Hong Kong),
Solicitor (England & Wales)*

The seat of arbitration determines the state court competent to support the arbitration and the law on setting aside. Under Article 191 PILA, the only state court competent to hear an action for setting aside an international award is the Federal Supreme Court, wherever in Switzerland the seat is located. The supporting functions of the state courts, such as the appointment and challenge of arbitrators and the assistance with interim measures, are exercised by the courts of the canton of the seat.¹ A seat in Lugano therefore brings the Ticinese courts into play for these functions, with proceedings in Italian. The final review of the award by the Federal Supreme Court is the same as for a seat in Zurich or Geneva.

Lugano as a seat has advantages for disputes with an Italian dimension. The Ticino bar includes lawyers who are fluent in Italian legal language and familiar with Italian law. The supporting courts work in Italian, and Milan, where many of the parties, their counsel and their witnesses are found, is an hour away. Zurich and Geneva have the larger pools of experienced international arbitrators and the larger hearing facilities, and they are the seats of choice in most international commodity cases. For a Lugano trader the practical choice often depends on the counterparty. Lugano or Zurich suit Italian disputes and Geneva suits counterparts accustomed to French-language or commodity-focused arbitration. Grains and oilseeds go to London under the GAFTA and FOSFA rules. Domestic disputes between Swiss parties, or arbitrations in which all parties are Swiss, are governed by Part 3 of the Civil Procedure Code unless the parties choose Chapter 12 PILA.²

1 London arbitration and the Arbitration Act 2025

For trades under GAFTA and FOSFA forms and for charter party disputes under the LMAA terms, London is the seat and English law the law of the contract. The Arbitration Act 1996 has been amended by the Arbitration

Act 2025, which entered into force on 1 August 2025. Among its changes is a new section 6A. For arbitrations commenced on or after that date where the parties have made no express choice, the law applicable to the arbitration agreement is the law of the seat.³ The rule replaces the approach of the Supreme Court in *Enka v Chubb*, under which the law governing the main contract would generally also govern the arbitration clause. For commodity contracts governed by English law with a London seat the change makes no difference. For contracts governed by Swiss law with a London seat, or by English law with a Swiss seat, it simplifies the analysis. The Act also introduced a statutory duty of disclosure for arbitrators, a power to make awards on a summary basis and clarifications on the court's powers in support of arbitration.⁴

2 Notes

1. PILA, Art. 191 (Federal Supreme Court as the only appeal authority), <https://www.droit-bilingue.ch/en-de/2/29/291-191-232.html>, Art. 179 para. 2 (appointment by the state court at the seat), <https://www.droit-bilingue.ch/en-de/2/29/291-179-215.html>, and Art. 185 (further assistance by the court at the seat), <https://www.droit-bilingue.ch/en-de/2/29/291-185-223.html>; CPC, Art. 356 para. 2, <https://www.droit-bilingue.ch/en-de/2/27/272-356-363.html>. ↩
2. CPC, Art. 353 para. 1 and 2 (opting into Chapter 12 PILA), <https://www.droit-bilingue.ch/en-de/2/27/272-353-360.html>; PILA, Art. 176 para. 1 and 2 (scope and opt-out), <https://www.droit-bilingue.ch/en-de/2/29/291-176-212.html>. ↩
3. Shelby McGreachan (HFW), article on the law governing different aspects of commodity arbitrations, 14 July 2026, <https://www.hfw.com/?p=90780>. ↩
4. McGreachan (above) on *Enka Insaat ve Sanayi AS v OOO Insurance Company Chubb* [2020] UKSC 38. ↩

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