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Federal Act on Private International Law (PILA)

of 18 December 1987 (Status as of 1 January 2022)

The Federal Assembly of the Swiss Confederation,

based on the responsibility of the Confederation for foreign relations¹
and on Article 64 of the Federal Constitution²,

and having considered the Federal Council Dispatch of 10 November 1982^{3,4}
decrees:

Chapter 1 General Provisions

Section 1 Scope of Application

Art. 1

¹ This Act governs, in international matters:

- a. the jurisdiction of Swiss judicial or administrative authorities;
- b. the applicable law;
- c. the requirements for the recognition and enforcement of foreign decisions;
- d. bankruptcy and composition;
- e. arbitration.

² International treaties are reserved.

AS **1988** 1776

¹ This wording corresponds to Art. 54 para. 1 of the Federal Constitution of 18 April 1999 (SR **101**).

² [BS **1** 3]. This provision corresponds to Art. 122 of the Federal Constitution of 18 April 1999 (SR **101**).

³ BBl **1983** I 263

⁴ Amended by Annex No 1 of the FA of 8 Oct. 1999 on Workers posted to Switzerland, in force since 1 June 2004 (AS **2003** 1370; BBl **1999** 6128).

Section 2 Jurisdiction

Art. 2

I. In general

Where this Act does not provide for special jurisdiction, the Swiss judicial or administrative authorities at the defendant's domicile have jurisdiction.

Art. 3

II. Jurisdiction by necessity

Where this Act does not provide for jurisdiction in Switzerland and proceedings abroad are impossible or cannot reasonably be required, the Swiss judicial or administrative authorities at the place with which the case has a sufficient connection have jurisdiction.

Art. 4

III. Validation of attachments

Where this Act does not provide for any other forum in Switzerland, the action to validate an attachment may be brought at the Swiss forum of the attachment.

Art. 5

IV. Choice of forum

¹ In matters involving an economic interest, the parties may agree on the court that will have to decide any existing or future dispute arising from a specific legal relationship. The agreement may be done in writing, by telegram, telex, telefax or any other means of communication allowing it to be evidenced by text. Unless otherwise agreed, the choice of forum is exclusive.

² The choice of forum has no effect if it results in abusively depriving a party from the protection granted to it by a forum provided by Swiss law.

³ The chosen court may not decline jurisdiction:

- a. if a party is domiciled or has its habitual residence or an establishment in the canton of the chosen court; or
- b. if, pursuant to this Act, Swiss law is applicable to the dispute.

Art. 6

V. Implied consent

In matters involving an economic interest, the court before which the defendant proceeds on the merits without reservation has jurisdiction, unless such court declines jurisdiction to the extent permitted by Article 5 paragraph 3.

- Art. 7**
- VI. Arbitration agreement
- If the parties have entered into an arbitration agreement with respect to an arbitrable dispute, any Swiss court before which such dispute is brought shall decline jurisdiction, unless:
- a. the defendant has proceeded on the merits without reservation;
 - b. the court finds that the arbitration agreement is null and void, inoperative or incapable of being performed; or
 - c. the arbitral tribunal cannot be appointed for reasons that are clearly attributable to the defendant in the arbitration.
- Art. 8**
- VII. Counterclaim
- The court before which the main claim is brought also hears any counterclaim, provided there is a factual connection between the main claim and the counterclaim.
- Art. 8a⁵**
- VIII. Co-defendants and plurality of actions
- ¹ If an action is brought against several co-defendants who may be sued in Switzerland pursuant to this Act, the Swiss court that has jurisdiction over one defendant has jurisdiction over all of them.
- ² If two or more claims having a factual connection between them can be brought in Switzerland pursuant to this Act against the same defendant, any Swiss court having jurisdiction over one of such claims has jurisdiction over all of them.
- Art. 8b⁶**
- IX. Third party action
- A Swiss court having jurisdiction for the main action also has jurisdiction for a third party action, provided a court in Switzerland has jurisdiction over such third party pursuant to this Act.
- Art. 8c⁷**
- X. Civil claims
- Where it is admissible to pursue civil claims in criminal proceedings, the Swiss court which is seized of the criminal proceedings also has jurisdiction for the civil claims, provided a court in Switzerland has jurisdiction for such claims under this Act.

⁵ Inserted by Art. 3 No 3 of the FD of 11 Dec. 2009 (Approval and Implementation of the Lugano Convention), in force since 1 Jan. 2011 (AS **2010** 5601; BBl **2009** 1777).

⁶ Inserted by Art. 3 No 3 of the FD of 11 Dec. 2009 (Approval and Implementation of the Lugano Convention), in force since 1 Jan. 2011 (AS **2010** 5601; BBl **2009** 1777).

⁷ Inserted by Art. 3 No 3 of the FD of 11 Dec. 2009 (Approval and Implementation of the Lugano Convention), in force since 1 Jan. 2011 (AS **2010** 5601; BBl **2009** 1777).

Art. 9

XI. *Lis pendens*⁸ ¹ If an action having the same subject matter is already pending between the same parties abroad, the Swiss court shall stay the case if it is to be expected that the foreign court will, within a reasonable time, render a decision capable of being recognised in Switzerland.

² In order to determine when an action has been initiated in Switzerland, the conclusive date is that of the first act necessary to initiate the proceedings. A notice to appear for conciliation is sufficient.

³ The Swiss court shall terminate its proceedings as soon as it is presented with a foreign decision capable of being recognised in Switzerland.

Art. 10⁹

XII. *Interim measures*¹⁰

Jurisdiction to order interim measures lies with:

- a. the Swiss courts or authorities that have jurisdiction for the main action; or
- b. the Swiss courts or authorities at the place where the measure is to be enforced.

Art. 11¹¹

XIII. *Legal assistance*

1. *Facilitation of requests*¹²

Requests for legal assistance between Switzerland and other states are facilitated by the Federal Office of Justice.

Art. 11a¹³

2. *Applicable law*

¹ Acts of legal assistance are carried out in Switzerland in accordance with Swiss law.

⁸ Amended by Art. 3 No 3 of the FD of 11 Dec. 2009 (Approval and Implementation of the Lugano Convention), in force since 1 Jan. 2011 (AS **2010** 5601; BBl **2009** 1777).

⁹ Amended by Annex 1 No II 18 of the Civil Procedure Code of 19 Dec. 2008, in force since 1 Jan. 2011 (AS **2010** 1739; BBl **2006** 7221).

¹⁰ Amended by Art. 3 No 3 of the FD of 11 Dec. 2009 (Approval and Implementation of the Lugano Convention), in force since 1 Jan. 2011 (AS **2010** 5601; BBl **2009** 1777).

¹¹ Amended by Annex 1 No II 18 of the Civil Procedure Code of 19 Dec. 2008, in force since 1 Jan. 2011 (AS **2010** 1739; BBl **2006** 7221).

¹² Amended by Art. 3 No 3 of the FD of 11 Dec. 2009 (Approval and Implementation of the Lugano Convention), in force since 1 Jan. 2011 (AS **2010** 5601; BBl **2009** 1777).

¹³ Inserted by Annex 1 No II 18 of the Civil Procedure Code of 19 Dec. 2008, in force since 1 Jan. 2011 (AS **2010** 1739; BBl **2006** 7221).

² Foreign forms of procedure may also be followed or taken into consideration on application of the requesting authorities where this is necessary for the recognition of a right abroad and provided there are no important countervailing reasons relating to the person involved.

³ If a form of procedure under Swiss law is not recognised abroad and as a result a right deemed worthy of protection would not be upheld there, the Swiss courts or authorities may issue documents or take a person's oath pursuant to the form required by the foreign law.

⁴ The Hague Convention of 1 March 1954¹⁴ on Civil Procedure applies to requests to and from Switzerland for service and the taking of evidence.

Art. 11b¹⁵

3. Advance of costs and security for party costs

Advance of costs and security for party costs are governed by the Civil Procedure Code of 19 December 2008¹⁶ (CPC).

Art. 11c¹⁷

4. Legal aid

Legal aid is granted to persons domiciled abroad under the same conditions as apply to persons domiciled in Switzerland.

Art. 12¹⁸

Section 3 Applicable Law

Art. 13

I. Scope of conflict rules

Reference to a foreign law in this Act includes all the provisions which under that law are applicable to the case. The application of a foreign law is not precluded by the mere fact that a provision is considered to have public law character.

Art. 14

II. Renvoi

¹ If the applicable law refers back to Swiss law or to another foreign law, such *renvoi* shall be taken into account only if this Act so pro-

¹⁴ SR 0.274.12

¹⁵ Inserted by Annex 1 No II 18 of the Civil Procedure Code of 19 Dec. 2008, in force since 1 Jan. 2011 (AS 2010 1739; BBl 2006 7221).

¹⁶ SR 272

¹⁷ Inserted by Annex 1 No II 18 of the Civil Procedure Code of 19 Dec. 2008, in force since 1 Jan. 2011 (AS 2010 1739; BBl 2006 7221).

¹⁸ Repealed by Annex 1 No II 18 of the Civil Procedure Code of 19 Dec. 2008, with effect from 1 Jan. 2011 (AS 2010 1739; BBl 2006 7221).