MILAN
CHAMBER OF
ARBITRATION

ITALIAN CODE OF CIVIL PROCEDURE

As amended by Law 137/2023, converting D.L.105/2023.
Entry into force 10/10/2023

BOOK IV, TITLE I – SUMMARY PROCEEDINGS

CHAPTER III – INTERIM MEASURES PROCEEDINGS

Article 669-quinquies – JURISDICTION IN CASE OF ARBITRATION CLAUSE, COMPROMIS AND PENDING ARBITRATION PROCEEDINGS

Without prejudice to Article 818, first paragraph, if the dispute is subject to an arbitration clause or is referred to arbitration, including to 'arbitrato irrituale', or if arbitration proceedings are pending, the request for interim measures shall be filed before the court that would have had jurisdiction to hear the case on the merits.

BOOK IV, TITLE VIII – ON ARBITRATION

CHAPTER I – THE ARBITRATION AGREEMENT

Article 806 – ARBITRABLE DISPUTES

The parties may refer to arbitrators the decision of disputes which have arisen between them when their subject matter does not concern rights which may not be disposed of, unless arbitration is expressly prohibited by law.

The disputes referred to in Article 409 may be decided by arbitrators only if so provided by the law or by collective labour contracts or agreements.

Article 807 – COMPROMIS

Under sanction of nullity, the compromis must be made in writing and must indicate the subject matter of the dispute.

The written form requirement is deemed complied with also when the will of the parties is expressed by telegram, telex, fax or telematic message in accordance with the rules, which may also be laid down by regulations, regarding the transmission and receipt of documents which are teletransmitted.

Article 808 – ARBITRATION CLAUSE

The parties may establish, in their contract or in a separate document, that disputes arising out of the contract be decided by arbitrators, provided that such disputes may be made subject to an arbitration agreement. The arbitration clause must be contained in a document meeting the form required for a compromis under Article 807.

The validity of the arbitration clause must be evaluated independently of the underlying contract: nevertheless, the power to enter into the contract includes the power to agree to the arbitration clause.

Article 808-bis – ARBITRATION AGREEMENT IN NON-CONTRACTUAL MATTERS

By entering into a specific agreement, the parties may establish that future disputes relating to one or more determined non-contractual relations be decided by arbitrators. The agreement must be contained in a document meeting the form required for the compromis under Article 807.

Article 808-ter – 'ARBITRATO IRRITUALE'

By an express agreement in writing, the parties may establish that the dispute be settled by arbitrators through a contractual determination, as an exception to Article 824-bis. Otherwise, the provisions of this Title shall apply.

The contractual award may be set aside by the competent court according to the provisions of Book I:

1) if the arbitration agreement is invalid or the arbitrators have decided upon claims exceeding the limits of the arbitration agreement, and the relevant objection has been raised during the arbitral proceedings;

2) if the arbitrators have not been appointed in the form and according to the modalities contemplated by the arbitration agreement;

3) if the award has been rendered by a person which could not be appointed as arbitrator according to Article 812;

4) if the arbitrators have not applied the rules prescribed by the parties as a condition for the validity of the award;

5) if the right to be heard has not been respected in the arbitral proceedings.

Article 825 does not apply to the contractual award.

Article 808-quater – INTERPRETATION OF THE ARBITRATION AGREEMENT

In case of doubt, the arbitration agreement shall be construed in the sense that the arbitral jurisdiction extends to all disputes arising from the contract or from the relationship to which the agreement refers.

Article 808-quinquies – EFFICACY OF THE ARBITRATION AGREEMENT

The conclusion of the arbitral proceedings without a decision on the merits shall not deprive the arbitration agreement of its efficacy.

CHAPTER II – THE ARBITRATORS

Article 809 – NUMBER OF ARBITRATORS

There may be one or more arbitrators, provided that their number is odd.

The arbitration agreement must contain the appointment of the arbitrators or establish their number and the modalities of their appointment.

Where an even number of arbitrators is indicated, an additional arbitrator shall be appointed by the president of the tribunal in the manner specified by Article 810, unless the parties have agreed otherwise. Where the number of arbitrators is not indicated and the parties do not reach an agreement in that regard, the arbitrators shall be three and, failing their appointment, the president of the tribunal shall proceed to the appointment in the manner specified in Article 810, unless the parties have agreed otherwise.

Article 810 – APPOINTMENT OF ARBITRATORS

When in accordance with the arbitration agreement the arbitrators shall be appointed by the parties, each party, by written notice, shall inform the other party of its appointment of an arbitrator or arbitrators and invite the other party to proceed to the

appointment of its own arbitrators. The party so invited shall, within the following twenty days, serve written notice of the personal data of the arbitrator or the arbitrators appointed by it.

Failing this, the party which has made the request may file an application asking the president of the tribunal of the district where the arbitration has its seat to make the appointment. If the parties have not yet determined the seat of the arbitration, the application shall be filed to the president of the tribunal of the place where the arbitration agreement has been concluded or, if such place is abroad, to the president of the tribunal of Rome.

The president of the competent tribunal shall make the requested appointment unless the arbitration agreement is manifestly non-existent or manifestly provides for a foreign arbitration. The appointment shall be made in compliance with criteria that guarantee transparency, turnover and efficiency and, to that end, the website of the judicial office shall give notice of the appointment.

The same provisions apply in case the arbitration agreement has entrusted the appointment of one or more arbitrators to the judicial authority, or to a third person who has failed to act.

Article 811 – REPLACEMENT OF ARBITRATORS

When, for whatever reason, all or some of the appointed arbitrators are unable to act, they shall be replaced in accordance with the procedures established for their appointment in the arbitration agreement. If the party or the third party responsible for the appointment fails to act, or if the arbitration agreement is silent in that regard, the provisions of the preceding Article apply.

Article 812 – INCAPACITY TO ACT AS ARBITRATOR

A person who, in whole or in part, has no legal capacity to act cannot serve as arbitrator.

Article 813 – ACCEPTANCE OF ARBITRATORS

The acceptance of the arbitrators is given in writing, also by means of signing the compromis or the minutes of the first meeting, and shall be accompanied, under sanction of nullity, by a declaration stating any circumstances relevant under Article 815, first paragraph, or the non-existence thereof. The arbitrator must renew the declaration in case of supervening circumstances.

In the event of failure to make a declaration or to indicate any circumstances legitimizing the objection, a party may request, within ten days from the acceptance of the arbitrator or from the discovery of the circumstances, the removal of the arbitrator in the manner and with the forms indicated in Article 813-bis.

The arbitrators are not public officials or persons entrusted with a public service.

Article 813-bis – REMOVAL OF ARBITRATORS

Unless the parties have agreed otherwise, the arbitrator who omits or delays to carry out an act related to his or her office may be replaced by agreement of the parties or by a third party so empowered in the arbitration agreement. Failing this, after a period of fifteen days from a notice requiring action sent by registered letter to the arbitrator, each of the parties may file an application to the president of the tribunal according to Article 810, paragraph 2. The president, having heard the arbitrators and the parties, shall issue an order against which there shall be no challenge and, if he or she finds that there has been such omission or delay, shall declare the removal of the arbitrator and shall replace him or her.

Article 813-ter – LIABILITY OF ARBITRATORS

The arbitrator shall be liable for damages caused to the parties if he or she:

1) has fraudulently ('dolo') or with gross negligence ('colpa grave') omitted or delayed acts that he or she was bound to carry out and has been removed for this reason, or has resigned from the office without a justified reason;

2) has fraudulently or with gross negligence omitted or prevented the rendering of the award within the time limit fixed according to Articles 820 or 826.

Except for these cases, the arbitrators shall be liable only for fraud or gross negligence within the limits provided by Article 2, paragraphs 2 and 3, of Law no. 117 of 13 April 1988.

An action for liability may be filed during the arbitral proceedings only in the case contemplated by the first paragraph, no. 1), above.

In case the award has been rendered, the action for liability may be filed only after the challenge against the award has been upheld by a final judgment and on the grounds on which the challenge was upheld.

Unless the liability arises from the arbitrator's wilful misconduct, the amount of damages may not exceed a sum equal to three times the agreed fee or, absent such agreement, three times the fee established by the applicable tariff.

In case of liability of the arbitrator, neither the fee nor the reimbursement of expenses shall be due to the arbitrator; in case of partial nullity of the award, they shall be subject to reduction.

Each arbitrator shall be liable only for his or her own behaviour.

Article 814 – RIGHTS OF ARBITRATORS

The arbitrators shall be entitled to the reimbursement of their expenses and to a fee for the services rendered, except where they have waived their right thereto at the time of their acceptance or in a subsequent written document. The parties shall be jointly and severally liable for payment, subject to the right of mutual recovery.

When the arbitrators determine by themselves the amount of the expenses and of the fee, such determination shall not bind the parties unless they accept it. In case the parties do not accept the determination, the amount of the expenses and of the fee shall be determined upon the arbitrators' application and after hearing the parties, by an order of the president of the tribunal indicated in Article 810, paragraph 2.

The order shall be enforceable against the parties and may be challenged pursuant to Article 825, paragraph 4. Article 830, paragraph 4, applies.

Article 815 – CHALLENGE OF ARBITRATORS

An arbitrator may be challenged:

1) if he or she does not have the qualifications expressly agreed by the parties;

2) if he or she or an entity, association or company of which he or she is a director, has an interest in the case;

3) if he or she or his or her spouse is a relative up to the fourth degree, a cohabitant, or a habitual dining companion of a party, one of its legal representatives, or any of the counsel;

4) if he or she or his or her spouse has a suit pending against, or a serious enmity towards, one of the parties, one of its legal representatives or any of the counsel;

5) if he or she is linked to one of the parties, to a company controlled by that party, to its controlling entity or to a company subject to common control, by an employment relationship or by a continuous relationship of consultancy or paid work or by other relationships of a patrimonial or associative nature which might affect his or her independence; furthermore, if he or she is a guardian or a curator of one of the parties;

6) if he or she has given advice, assistance or has acted as legal counsel to one of the parties in a prior phase of the same dispute or has testified as a witness therein;

6-bis) If there are other serious reasons of convenience, such as to affect the independence or impartiality of the arbitrator.

A party may not challenge the arbitrator appointed by it or that it has contributed to appoint unless for reasons which have become known after the appointment.

The challenge shall be made by filing an application to the president of the tribunal indicated in Article 810, paragraph 2, within the mandatory time limit of ten days from the notification of the appointment or the supervening knowledge of the ground for the challenge. The president shall decide by means of an order which is not subject to challenge, after having heard the challenged arbitrator and the parties and, where necessary, after having acquired summary information.

By order, the president shall decide on the costs. In case the challenge is manifestly inadmissible or manifestly groundless, the president condemns the applicant to the payment in favour of the other party of a sum to be equitably determined, but not higher than three times the maximum fee to which a single arbitrator is entitled based on the lawyers' professional tariff.

The challenge application does not suspend the arbitral proceedings, except in case the arbitrators decide otherwise. However, if the application is granted, the activity performed by the challenged arbitrator or with his or her cooperation is without effects.

CHAPTER III – THE PROCEEDINGS

Article 816 - SEAT OF THE ARBITRATION

The parties shall determine the seat of the arbitration in the territory of the Republic; failing this, the arbitrators shall determine the seat. If neither the parties nor the arbitrators have determined the seat of the arbitration, the seat shall be in the place where the arbitration agreement was concluded. If such a place is not in the national territory, the seat shall be in Rome.

Unless the arbitration agreement provides otherwise, the arbitrators may hold hearings, perform procedural activities, deliberate and sign the award also in places other than the seat of the arbitration, and also abroad.

Article 816-bis – CONDUCT OF THE PROCEEDINGS

In the arbitration agreement or in a separate act in writing, provided that it is prior to the commencement of the arbitral proceedings, the parties may determine the rules that the arbitrators must apply in the proceedings and the language of the arbitration. In the absence of such rules, the arbitrators are free to regulate the course of the proceedings and to determine the language of the arbitration in the manner they deem most convenient. In any case, they must guarantee the right to be heard, granting both parties reasonable and equivalent opportunities to present their case. The parties may take part in the proceedings through counsel. Absent an express limitation, the power of attorney granted to counsel shall extend to any procedural act, including the withdrawal of the claims and the setting and the extension of the time limit for the rendering of the award. In any case, the communication of the notification of the award and of the notification of its challenge may be served to counsel.

The parties or the other arbitrators may authorize the president of the arbitral tribunal to issue orders relating to the conduct of the proceedings.

All issues arising in the course of the proceedings shall be decided by the arbitrators by means of an order, which is not subject to deposit and may be revoked, unless they elect to decide by means of an interim award.

Article 816-bis.1 – REQUEST FOR ARBITRATION

The request for arbitration shall have the same substantive effects of the filing of a claim before State Courts and shall retain those effects in the cases provided for in Article 819-quater.

Article 816-ter – TAKING OF EVIDENCE

The taking of evidence or individual evidence-gathering activities may be delegated by the arbitrators to one of them.

The arbitrators may hear a witness directly before them or may decide to hear his or her deposition at his or her home or office, if he or she agrees. They may also decide to hear a witness by requesting him or her to give written answers to questions within the time-limit they establish to that end.

Should a witness refuse to appear before the arbitrators, the arbitrators, if they deem it convenient in light of the circumstances, may file an application to the president of the tribunal of the seat of the arbitration asking him or her to summon the witness to appear before them.

In the case contemplated by the preceding paragraph, the time limit for the rendering of the award is suspended from the date of the order until the date of the hearing fixed for the taking of the testimonial evidence.

The arbitrators may be assisted by one or more expert witnesses. Both physical persons and entities may be appointed as expert witnesses.

The arbitrators may request the public administration ("pubblica amministrazione") to provide written information related to the acts and the documents of said administration that the arbitrators deem necessary for the proceedings.

Article 816-quater – MULTIPLE PARTIES

Should more than two parties be bound by the same arbitration agreement, each party may commence arbitration proceedings against all or some of them, if the arbitration agreement defers the appointment of the arbitrators to a third party, if the arbitrators are appointed by agreement of all parties or if, following the appointment by the first party of an arbitrator or the arbitrators, the other parties agree on the appointment of an equal number of arbitrators or entrust their appointment to a third party.

Except in the cases contemplated by the previous paragraph, the proceedings initiated by a party against the other parties shall be divided into as many proceedings as the number of such other parties.

If the situation contemplated by the first paragraph does not occur and the joinder of the parties to the proceedings is mandatory under the law, the arbitration cannot proceed.

Article 816-quinquies – THIRD PARTY INTERVENTION AND SUCCESSION IN THE DISPUTED RIGHT

The voluntary intervention or the joinder of a third party in the arbitration is admissible only with the agreement of the third party and the original parties and with the arbitrators' consent.

The intervention foreseen by Article 105, paragraph 2, and the intervention of a necessary third party are always admissible.

Article 111 applies.

Article 816-sexies – DEATH, EXTINCTION OR LOSS OF CAPACITY OF A PARTY

Should a party cease to exist because of death or other reasons or should it lose its legal capacity, the arbitrators shall adopt the measures appropriate to ensure the respect of the right to be heard in view of the continuation of the proceedings. They may suspend the proceedings.

Should none of the parties abide by the measures adopted by arbitrators for the continuation of proceedings, the arbitrators may withdraw from their office.

Article 816-septies – ADVANCE ON COSTS

The arbitrators may make the continuation of the proceedings conditional upon the advance payment of the foreseeable costs. Unless the parties have agreed otherwise, the arbitrators shall fix the amount of the advance that each party should pay.

If a party fails to pay the requested advance, the other party may pay the total amount of the advance on costs. Should the parties fail to provide for the advance within the time limit established by the arbitrators, the parties are no longer bound by the arbitration agreement with regard to the dispute giving rise to the arbitral proceedings.

Article 817 – OBJECTION TO JURISDICTION

Should the validity, content or scope of the arbitration agreement or the regularity of the arbitrators' appointment be challenged in the course of the arbitration, the arbitrators shall decide on their own jurisdiction.

This provision shall apply also in case the arbitrators' powers are challenged in any venue for whatever reason has supervened in the course of the proceedings. The party that does not object in the first submission after the arbitrators' acceptance that they lack jurisdiction by reason of the non-existence, invalidity or ineffectiveness of the arbitration agreement, may not challenge the award on this ground, except in case the subject matter of the dispute is not arbitrable.

The party that during the arbitration proceedings fails to raise the objection that the other parties' requests for relief exceed the limits of the arbitration agreement may not challenge the award on this ground.

Article 817-bis – SET-OFF

The arbitrators shall be competent to decide on set-off objections, within the limits of the value of the main claim, even if the credit on which the set-off is based does not fall within the scope of the arbitration agreement.

Article 818 – INTERIM MEASURES

The parties, by means of the arbitration agreement or a written act prior to the initiation of the arbitration proceedings, including by reference to arbitration rules, may grant the arbitrators the power to issue interim measures. The arbitrators' competence on interim measures is exclusive.

Prior to the acceptance of the sole arbitrator or the establishment of the arbitral tribunal, the request for interim measures shall be filed before the competent court pursuant to Article 669-quinquies.

Article 818-bis – CHALLENGE OF THE INTERIM MEASURE

The order of the arbitrators granting or denying an interim measure may be challenged pursuant to Article 669-terdecies before the court of appeal of the district where the seat of arbitration is located, on the grounds set forth in the first paragraph of Article 829, insofar as compatible, and on the ground of contrariety to public policy.

Article 818-ter – EXECUTION

The execution of the interim measures issued by arbitrators is governed by Article 669-duodecies and shall be carried out under the supervision of the court of the district where the seat of arbitration is located or, if the seat of the arbitration is not in Italy, the court of the place where the interim measure must be implemented.

This is without prejudice to the provisions of Articles 677 et seq. regarding the enforcement of orders of seizure issued by the arbitrators. The court indicated in the first paragraph shall have jurisdiction.

Article 819 – PRELIMINARY ISSUES ON THE MERITS

The arbitrators shall decide without res judicata effects all issues that are relevant for the adjudication of the dispute, even if they relate to matters that are not arbitrable, unless the law provides that such issues shall be decided with res judicata effects.

Upon a party's request, preliminary issues shall be decided with res judicata effects if they relate to subject matters that are arbitrable. In case such issues fall outside the scope of the arbitration agreement, a decision with res judicata effects is conditioned upon a request by all the parties.

Article 819-bis – STAY OF THE ARBITRAL PROCEEDINGS

Without prejudice to Article 816-sexies, the arbitrators shall stay the arbitral proceedings with a reasoned order in the following cases:

1) when the proceedings would have been stayed pursuant to Article 75, paragraph 3, of the Code of Criminal Procedure, were the dispute pending before the judicial authority;

2) if a preliminary issue arises regarding a subject matter that is not arbitrable and the law provides that it must be decided with res judicata effects;

3) when they submit to the Constitutional Court an issue of constitutional legitimacy according to Article 23 of Law n. 87 of 11 March 1953.

If the authority of a judgment is relied upon in the arbitral proceedings and such judgment is challenged, Article 337, paragraph 2, shall apply.

Once the stay of the proceedings has been ordered, the proceedings shall be extinguished if none of the parties files with the arbitrators a request for resumption within the time limit fixed by the arbitrators or, in the absence of that, within one year from the date when the ground for the stay ended. In the case contemplated by the first paragraph, number 2), the proceedings shall also be extinguished if, within ninety days from the stay order, none of the parties files with the arbitrators an authentic copy of the act whereby the dispute over the preliminary issue was submitted to the judicial authority.

Article 819-ter – RELATIONS BETWEEN ARBITRATORS AND THE JUDICIAL AUTHORITY

The arbitrators' jurisdiction is not excluded because the same dispute is pending before the judge or due to the connection between the dispute referred to them and a dispute pending before the judge. The judgment or the order by which the judge upholds or denies her own jurisdiction with regard to an arbitration agreement may be challenged according to Articles 42 and 43.

The objection to the judge's jurisdiction on the basis of the arbitration agreement must be raised in the statement of defence, under sanction of forfeiture. If such objection is not raised, the arbitral jurisdiction shall be excluded only in respect of the dispute decided in those court proceedings.

The provisions corresponding to Articles 44, 45, 48, 50 and 295 do not apply to the relations between arbitration and judicial proceedings.

Pending the arbitral proceedings, no claims may be submitted to the judicial authorities regarding the invalidity or lack of efficacy of the arbitration agreement.

Article 819-quater – RESUMPTION OF THE CASE

The proceedings commenced before the court shall continue before the arbitrators if either party proceeds pursuant to Article 810 within three months from the date when the judgment declining jurisdiction by reason of an arbitration agreement or pursuant to a jurisdiction settlement order obtains res judicata effects.

The proceedings commenced before the arbitrators shall continue before the competent court if the resumption of the case pursuant to Article 125 of the implementing provisions of this Code takes place within three months from the date when the award declining arbitral jurisdiction over the dispute becomes final or the judgment or the order deciding on the challenge of the award is published.

The pieces of evidence gathered in the proceedings before the court or the arbitrator who did not have jurisdiction may be evaluated as evidentiary elements in the proceedings resumed under this Article.

Failure to comply with the time limits set for resumption under this article shall result in the extinction of the case. Articles 307, fourth paragraph, and 310 apply.

CHAPTER IV – THE AWARD

Article 820 – TIME-LIMIT FOR RENDERING THE AWARD

In the arbitration agreement or by means of an agreement preceding the arbitrators' acceptance, the parties may establish a time limit for the rendering of the award.

If no such time limit has been established, the arbitrators shall render the award within the time limit of two hundred and forty days from the acceptance of the appointment.

In any case, the time limit may be extended:

a) By means of written declarations by all the parties addressed to the arbitrators;

b) By the president of the tribunal indicated in article 810, second paragraph, upon a reasoned motion filed by one of the parties or the arbitrators, having heard the other parties; the time-limit may be extended only before it expires.

Unless the parties have provided otherwise, the time-limit is extended by a hundred and eighty days in the following cases, and not more than once in each of these cases:

a) If evidence must be taken;

b) If expert witness evidence has been required by the arbitrators ex officio;

c) If an interim or partial award has been rendered;

d) If the composition of the arbitral tribunal is modified or the sole arbitrator is replaced.

The time-limit for the rendering of the award is suspended during the stay of the proceedings. In any case, after the proceedings resume, the residual time limit, if shorter, is extended to ninety days.

Article 821 – RELEVANCE OF THE EXPIRY OF THE TIME-LIMIT

The expiry of the time-limit indicated in the previous article may not be invoked as a ground for nullity of the award if the party, before the deliberation of the award as evidenced by the signature of the dispositive part by the majority of the arbitrators, has failed to notify the other parties and the arbitrators of its intention to rely on the termination of the arbitrators' authority.

If the party relies on the termination of the arbitrators' authority, the arbitrators, having verified the expiry of the time-limit, shall declare the proceedings extinguished.

Article 822 – RULES OF THE DELIBERATION

The arbitrators shall decide according to the rules of law, unless the parties have provided by any expression that the arbitrators shall render the award ex aequo et bono.

When arbitrators are required to decide according to the rules of law, the parties, in the arbitration agreement or by a written act prior to the commencement of the arbitration, may indicate rules or foreign law as the law applicable to the merits of the dispute. Absent this indication, the arbitrators shall apply the rules or the law identified pursuant to the conflicts of law criteria deemed applicable.

Article 823 – DELIBERATION OF AND REQUIREMENTS FOR THE AWARD

The award is deliberated by majority vote with the participation of all the arbitrators and is thereafter set down in writing. Any arbitrator may request that the award, or a part thereof, be deliberated in an in-person meeting of the arbitrators.

The award must contain:

1) the name of the arbitrators;

2) the indication of the seat of the arbitration;

3) the indication of the parties;

4) the indication of the arbitration agreement and of the parties' requests for relief;

5) a summary statement of the reasons;

6) the dispositive part;

7) the signature of the arbitrators. The signature of a majority of the arbitrators shall suffice, provided that mention is made that it was deliberated with the participation of all the arbitrators and that the other arbitrators were either unwilling or unable to sign.

8) the date of the signatures.

Article 824 – ORIGINALS AND COPIES OF THE AWARD

The arbitrators draft one or more originals of the award. The arbitrators shall serve notice of the award to each party by delivering, also by registered mail, an original, or a copy certified as conforming to the original by the same arbitrators, within ten days from the date of the signature of the award.

Article 824-bis – EFFICACY OF THE AWARD

Without prejudice to Article 825, from the date of its last signature the award shall have the same effects as a judgment rendered by the judicial authority.

Article 825 – DEPOSIT OF THE AWARD

The party wishing to enforce the award in the territory of the Republic shall file a request to that effect by submitting an original or a certified copy of the award, together with the original or a certified copy of the arbitration agreement, before the registry of the tribunal of the district where the arbitration has its seat. After ascertaining that the award meets all formal requirements, the tribunal declares it enforceable by decree. The award declared enforceable may be registered or annotated in all cases where a judgment with the same content would be subject to registration or annotation.

The registry office shall give notice to the parties of the deposit and of the tribunal's decree in the manner set out in Article 133, paragraph 2.

A challenge against the decree denying or granting the enforcement of the award may be filed by means of an application to the court of appeal within thirty days of said notice; the court of appeal, having heard the parties, shall decide in chambers by means of an order.

Article 826 – CORRECTION OF THE AWARD

Each party may request the arbitrators, within one year from the communication of the award:

a) to correct any omissions, material errors or miscalculations in the text of the award, also in case they have caused a divergence among the various originals of the award, even if relating to the signature of the arbitrators;

b) to complete the award with one of the elements indicated in Article 823, nos. 1), 2), 3), 4).

The arbitrators, having heard the parties, shall take action within sixty days. The correction shall be communicated to the parties according to Article 824.

Should the arbitrators fail to act, the request for correction shall be filed with the tribunal of the district where the arbitration has its seat.

If the award has already been submitted, the request for correction shall be filed with the tribunal of the place where the award has been submitted. The provisions of Article 288 shall be applicable in so far as they are compatible. The correction may be made also by the court before which the award has been challenged or invoked.

CHAPTER V – CHALLENGES

Article 827 – MEANS OF CHALLENGE

The award may be subject to a challenge for nullity, for revocation or to a third-party opposition.

A challenge may be filed irrespective of the deposit of the award.

The award which decides partially the merits of the dispute may be challenged immediately, whereas the award which decides some of the issues without resolving the dispute submitted to arbitration may be challenged only together with the final award.

Article 828 – CHALLENGE FOR NULLITY

A challenge for nullity may be filed with the court of appeal of the district where the arbitration has its seat within ninety days from the notification of the award.

No challenge may be filed after six months from the date of the last signature.

An application for the correction of the award does not suspend the time-limit for filing a challenge; however, the parts of the award which have been corrected may be challenged within the ordinary time-limit, which begins to run after notification of the decision on the correction.

Article 829 – GROUNDS FOR NULLITY

Notwithstanding any prior waiver, a challenge for nullity may be filed in the following cases:

1) if the arbitration agreement is invalid, without prejudice to the provision of Article 817, paragraph 3[1];

2) if the arbitrators have not been appointed in the form and manner laid down in Chapters II and VI of this Title, provided that this ground for nullity has been raised in the arbitral proceedings;

3) if the award has been rendered by someone who could not be appointed as arbitrator according to Article 812;

4) if the award exceeds the limits of the arbitration agreement, without prejudice to the provision of Article 817, paragraph 4[2], or has decided the merits of the dispute in any other case in which the merits could not be decided;

5) if the award does not comply with the requirements of Article 823, nos. (5), (6) and (7);

6) if the award has been rendered after the expiry of the prescribed time-limit, without prejudice to the provision of Article 821;

7) if during the proceedings the formalities prescribed by the parties under express sanction of nullity have not been observed and the nullity has not been remedied;

8) if the award is contrary to a previous award which is no longer subject to challenge or to a previous judgment having res judicata effects between the parties, provided that such award or judgment has been filed in the proceedings;

9) if the right to be heard has not been respected in the arbitration proceedings;

10) if the award terminates the proceedings without deciding the merits of the dispute and the merits of the dispute had to be decided by the arbitrators;

11) if the award contains contradictory provisions;

[1] To be read: paragraph 2
[2] To be read: paragraph 3

12) if the award has not decided some of the claims and objections raised by the parties in accordance with the arbitration agreement.

The party that caused a ground for nullity, waived such ground, or has not objected to the violation of a rule regulating the conduct of the arbitral proceedings in the first submission or statement of defence following the violation, cannot challenge the award on that ground.

The challenge for violation of the rules of law applicable to the merits of the dispute is admissible only if expressly provided by the parties or by the law. Challenges against decisions which are contrary to public policy shall always be admissible.

The challenge for violation of the rules of law applicable to the merits of the dispute shall always be admitted:

1) with regard to the disputes contemplated by Article 409;

2) if the violation of the rules of law concerns the resolution of a preliminary issue on a subject matter that was not arbitrable.

With regard to the disputes contemplated by Article 409, the award may be subject to challenge also on the ground of violation of the collective contracts and agreements.

Article 830 – DECISION ON THE CHALLENGE FOR NULLITY

The court of appeal decides on the challenge for nullity and, when it grants the challenge, it renders a judgment declaring the award null and void. When the defect affects only a part of the award that is separable from the others, it declares the partial nullity of the award.

If the award is annulled on the grounds indicated in Article 829, paragraph 1, nos. 5), 6), 7) 8), 9), 11) or 12), or paragraphs 3, 4 or 5, the court of appeal decides the merits of the dispute, unless the parties have otherwise provided in the arbitration agreement or in a subsequent agreement. However, if on the date of the signature of the arbitration agreement one of the parties has its residence or its actual seat abroad, the court of appeal decides the merits of the dispute only if the parties have so provided in the arbitration agreement or if they make a joint request to that effect.

When the court of appeal does not decide on the merits, the arbitration agreement shall apply to the dispute, unless the nullity depends on its invalidity or inefficacy.

Upon a party's request, also subsequent to the filing of the challenge, the court of appeal may suspend by means of an order the efficacy of the award, when there are serious grounds to do so.

Article 831 – REVOCATION AND THIRD-PARTY OPPOSITION

Notwithstanding any waiver, the award may be revoked in the cases indicated in Article 395, nos. 1), 2), 3) and 6), within the time-limits and according to the formalities provided for in Book II.

If the cases mentioned in the first paragraph arise during the challenge for nullity proceedings, the time-limit for filing a request for revocation shall be suspended until notification of the judgment deciding on the challenge for nullity.

The award shall be subject to third party opposition in the cases indicated in Article 404. The challenge for revocation and the third-party opposition shall be filed with the court of appeal of the district where the arbitration has its seat, within the time-limits and according to the formalities provided for in Book II.

The court of appeal may consolidate the challenge for nullity, the revocation and the third-party opposition in the same proceedings, if the stage reached by the proceedings which were commenced first allows an exhaustive discussion and decision of the other challenges.

CHAPTER VI – ARBITRATION ACCORDING TO PRE-ESTABLISHED RULES

Article 832 – REFERENCE TO ARBITRATION RULES

The arbitration agreement may refer to a pre-established set of arbitration rules.

In case of conflict between the provisions of the arbitration agreement and the arbitration rules, the arbitration agreement shall prevail.

Unless the parties have agreed otherwise, the rules in force on the date on which the arbitral proceedings begin shall apply.

The institutions of associative nature and those set up for the representation of the interests of professional categories may not appoint arbitrators in disputes where their own associates or members of the professional category are opposed to third parties.

The arbitration rules may provide for cases of replacement or challenge of the arbitrators in addition to those provided by the law.

Should the arbitral institution decline to administer the arbitration, the arbitration agreement shall remain effective, and the preceding Chapters of this Title shall be applicable.

[Articles 833, 834, 835, 836, 837, 838 have been repealed]

CHAPTER VI-BIS – CORPORATE ARBITRATION

Article 838-bis – SUBJECT MATTER AND EFFECTS OF ARBITRATION CLAUSES CONTAINED IN THE CERTIFICATE OF INCORPORATION

The certificates of incorporation of companies, with the exclusion of those companies that make recourse to the venture capital market under Article 2325-bis of the Civil Code, may, by means of arbitration clauses, provide that some or all disputes arising between shareholders or between shareholders and the company and concerning disposable rights relating to the corporate relationship must be referred to arbitrators.

The clause must provide for the number and the modalities of appointment of arbitrators, and in any case, under sanction of nullity, it must grant the power to appoint all arbitrators to an authority external to the company. If such authority fails to act, the appointment must be requested to the president of the tribunal of the place where the company has its registered office.

The clause shall be binding on the company and all the shareholders, including those whose status of shareholder is the subject matter of the dispute.

The certificates of incorporation may provide that the arbitration clause encompasses disputes brought by or against directors, liquidators and auditors, and in such a case, the arbitration clause shall be binding on them upon their acceptance of the office.

Disputes in which the law requires the mandatory intervention of the public prosecutor cannot be subject to an arbitration clause.

Amendments to the certificates of incorporation, introducing or eliminating arbitration clauses, must be approved by shareholders representing at least two-thirds of the share capital. Absent or dissenting shareholders may, within the following ninety days, exercise the right of withdrawal.

Article 838-ter – MANDATORY PROVISIONS APPLICABLE TO ARBITRATION PROCEEDINGS

The request for arbitration submitted by or against the company shall be filed with the commercial register and be accessible to the shareholders.

In arbitration proceedings brought on the basis of the arbitration clause referred to in Article 838-bis, the intervention of third parties under Article 105 as well as the intervention of other shareholders under Articles 106 and 107 is allowed until the first hearing of discussion. Article 820, second paragraph, applies.

The award is binding on the company.

Without prejudice to Article 818, in case disputes having as subject matter the validity of the resolutions of the shareholders' meeting are referred to arbitration, the arbitrators have the power, by means of an order that may be challenged under Art. 818-bis, to stay the effects of those resolutions.

The dispositive part of the stay order and the award deciding on the challenge must be registered by the directors in the Commercial Register.

Article 838-quater – DECISION IN ACCORDANCE WITH THE LAW

Even if the arbitration clause authorizes the arbitrators to decide ex aequo et bono or if it declares the award not to be subject to challenge, the arbitrators must decide according to the law, and in case the arbitrators, in order to render their decision, decide on non-arbitrable matters, or the subject matter of the dispute is the validity of the resolutions of the shareholders' meeting, the award may also be challenged in accordance with Article 829, second paragraph.

Article 838-quinquies – RESOLUTION OF DISAGREEMENTS OVER THE MANAGEMENT OF COMPANIES

The certificates of incorporation of limited liability companies and partnerships may also contain clauses whereby disagreements between those with the power of administration regarding decisions made in the management of the company are referred to one or more third parties.

The certificates of incorporation may provide that the decision may be appealed before a panel, within the terms and according to the modalities established by them.

The certificates of incorporation may also provide that the person or the panel called upon to settle the disagreements referred to in paragraphs 1 and 2 may provide binding directions also on matters related to those expressly referred to it.

A decision rendered under this article may be challenged pursuant to Article 1349, Paragraph 2, of the Civil Code.

CHAPTER VII – FOREIGN AWARDS

Article 839 – RECOGNITION AND ENFORCEMENT OF FOREIGN ARBITRAL AWARDS

A party wishing to enforce a foreign award in the Republic must file a motion with the president of the court of appeal of the district where the other party resides; if that party does not reside in Italy, the court of appeal of Rome has jurisdiction.

The applicant must file either the original or a certified copy of the award, together with the original or a certified copy of the act of compromis, or an equivalent document.

If the documents referred to in the second paragraph are not written in Italian language, the applicant must also file a certified translation thereof.

The president of the court of appeal, having ascertained the formal regularity of the award, declares by decree the immediate enforceability of the foreign award in the Republic, unless:

1) the subject matter of the dispute was not arbitrable under Italian law;

2) the award contains provisions contrary to public policy.

Article 840 – OPPOSITION

An opposition may be brought against the decree granting or denying the enforceability of the foreign award by filing a writ of summons before the court of appeal within thirty days from either the communication of the decree denying the enforceability or the notification of the decree granting it.

Pursuant to the opposition, the proceedings shall be conducted in accordance with Articles 645 and following in so far as applicable. The examining judge, upon request of the opposing party, may by means of a non-challengeable order stay the enforceability or the execution of the award when serious grounds exist. The court of appeal shall decide by means of a judgment that may be challenged before the Court of Cassation.

The court of appeal shall refuse the recognition or the enforcement of the foreign award if in the opposition proceedings the party against whom the award is invoked proves the existence of any of the following circumstances:

1) the parties to the arbitration agreement were, under the law applicable to them, under some incapacity, or the arbitration agreement was invalid under the law to which the parties submitted it or, absent any indication thereon, under the law of the State where the award was made;

2) the party against whom the award is invoked was not informed of the appointment of the arbitrator, of the arbitration proceedings or was otherwise unable to present its case during the proceedings;

3) the award decided upon a dispute that was not contemplated in the compromis or the arbitration clause, or fell outside the limits of the compromis or the arbitration clause; nevertheless, if the decisions of the award concerning matters submitted to arbitration can be separated from those concerning matters not submitted to arbitration, the former may be recognized and declared enforceable;

4) the constitution of the arbitration tribunal or the arbitration proceedings were not in accordance with the agreement of the parties or, in the absence of such agreement, with the law of the place where the arbitration was held;

5) the award has not yet become binding on the parties or has been annulled or suspended by a competent authority of the State in which, or under the law of which, it was rendered.

If a request for the annulment or suspension of the efficacy of the foreign award has been filed with the competent authority indicated in number 5) of the third paragraph, the court of appeal may suspend the proceedings for the recognition or enforcement of the award; in case of suspension, and upon request of the party seeking enforcement, it may order the other party to give appropriate security.

The recognition or enforcement of the foreign award shall also be refused when the court of appeal finds that:

1) the subject matter of the dispute was not arbitrable under Italian law;

2) the award contains provisions contrary to public policy.

In any case, this is without prejudice to the rules established by international conventions.