

LALIVE



**The relation between state courts
and arbitral tribunals
Switzerland and England**

5th DIS Baltic Arbitration Days 2016

Laura Halonen

Riga, 3 June 2016

Common features of Switzerland and England

- Arbitration laws neither new (Switzerland: PILA 1987; England: Arbitration Act 1996) nor based on the UNCITRAL Model Law
- Business opportunities provided by arbitration recognised for a long time → very pro-arbitration stance in both, legislation and court attitude



=



Switzerland: Private International Law Act

- Courts have power to appoint and decide challenges to arbitrators, if not agreed between the parties (Arts 179(2) and 180(3))
- Courts and tribunals have concurrent jurisdiction to grant interim relief
- Courts can enforce interim measures orders of tribunals (Art 183(2))
- Courts can provide assistance to tribunals in gathering evidence (Art 184(2))
- In general, courts at the seat can order whatever assistance is necessary to support an arbitration (Art 185)

England & Wales: Arbitration Act 1996

- Mandatory stay of court proceedings in favour of arbitration (s. 9)
- If appointment process fails, courts may assist in appointing the tribunal (s. 18)
- AA 1996 provides for specific interim measures that a court can take, and only if the tribunal cannot (s. 44)
- Enforcement of “peremptory orders” of tribunals (s. 42)
- Determination of preliminary points of law (s. 45)

Thank You

Laura Halonen
Lalive
lhalonen@lalive.ch