

Swiss Supreme Court rules on calculation of time limits for rendering award

by Prof Nathalie Voser (Partner) and Benjamin Gottlieb (Associate), [Schellenberg Wittmer Ltd](#)

In *decision 4A_188/2016*, the Swiss Supreme Court considered whether a sole arbitrator, acting under the expedited procedure of the Swiss Rules, who allegedly rendered an award after the six-month deadline had lapsed, ceased to have jurisdiction over the dispute.

In a French language decision, dated 11 January 2017 and only recently published, the Swiss Supreme Court rejected an application to set aside an award.

The Supreme Court only considered the jurisdictional challenge because other challenges were not properly substantiated. Relying on the procedural timetable, the appellant submitted that the sole arbitrator, who received the file on 24 August 2015 and rendered the award on 25 February 2016, ceased to have jurisdiction because the six-month time limit to render the final award under the expedited procedure of the Swiss Rules had lapsed.

The court dismissed this argument, based on the facts as established in the award which reflected that the aforementioned dates in the procedural timetable were mere clerical errors: the sole arbitrator actually received the file on 25 August 2016. The court noted that it was generally bound by the established procedural facts and therefore held that the deadline to render the final award was met.

Furthermore, referring to the rules of the Swiss Code of Obligations as the relevant rules for calculating deadlines under the Swiss *lex arbitri* (law of arbitration), the court clarified that even if the arbitrator had received the file on 24 August 2015, the deadline would have been met. This is because according to these rules, the starting day for the calculation of deadlines is the day after receipt of the relevant documents.

Finally, the Supreme Court distinguished this case from an earlier decision on temporal jurisdiction (see [Legal update, Annulment of ad hoc award rendered after expiry of agreed deadline \(Swiss Supreme Court\)](#)), which rested on peculiar facts. The court seemed to indicate that it would be overly formalistic, in cases where the deadline for rendering an award pursuant to arbitral rules is missed by only one day, to hold that the arbitrator had ceased to have jurisdiction.

Case: [Decision 4A_188/2016](#) (Swiss Supreme Court).

Related Content

Practice Notes

[Arbitration in Switzerland](#)

[Jurisdictional issues: a quick guide](#)

Country Q&A

[Arbitration procedures and practice in Switzerland: overview](#)

Legal Update: Case Report

[Annulment of ad hoc award rendered after expiry of agreed deadline \(Swiss Supreme Court\)](#) • **Published on 26-Mar-2014**

Published on 21-Feb-2017

Resource Type

Legal update: case report

Jurisdiction

Switzerland