Title:
XIII.1.2 - Arbitration agreement and substantive claim before court

Content:
No. XIII.1.3 - Arbitration agreement and substantive claim before court

(a) A court before which an action is brought in a matter which is the subject of an arbitration agreement shall, if a party so requests not later than when submitting his first statement on the substance of the dispute, refer the parties to arbitration unless it finds that the agreement is null and void, inoperative or incapable of being performed.

(b) Where an action referred to in paragraph (a) of this Principle has been brought, arbitral proceedings may nevertheless be commenced or continued, and an award may be made, while the issue is pending before the court.

Commentary:
Subsection (b) serves to avoid delays in the arbitration but is not mandatory ("...may..."). If the arbitral tribunal has serious doubts as to its jurisdiction (i.e. as to the validity of the arbitration agreement), it can always suspend the proceedings and await the decision of the court before proceeding with the arbitration.