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Sweden

INTERNATIONAL ARBITRATION

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This country-specific Q&A provides an overview of international arbitration laws and regulations applicable in Sweden.

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SWEDEN

INTERNATIONAL ARBITRATION



1. What legislation applies to arbitration in your country? Are there any mandatory laws?

The Swedish Arbitration Act (1999:116) (Sw.: Lagen om skiljeförfarande, below referred to as the Act and by Sections) applies to arbitration if the arbitration is seated in Sweden. The Act contains a few mandatory procedural rules, such as the following:

- Arbitration can only be used in disputes concerning matters in respect of which the parties may reach a settlement (Section 1).
- The arbitrators must be impartial and independent (Section 8).
- Each party must be given the opportunity (to the extent necessary) to be heard in adversarial proceedings, and to present its case in writing or orally (Section 24).
- The award, and the way in which the award arose, must be compatible with the basic principles of the Swedish legal system and be in writing and duly signed by the arbitrators (Section 33).

2. Is your country a signatory to the New York Convention? Are there any reservations to the general obligations of the Convention?

Sweden ratified the New York Convention 28 January 1972 and has not made any reservations to the Convention. Foreign arbitration awards based on an arbitration agreement will be recognized and enforced in Sweden.

The grounds for refusing recognition and enforcement in Article V (1) of the 1958 New York Convention have been incorporated in Section 54 of the Act, and Article V (2) has been implemented by Section 55 of the Act.

3. What other arbitration-related treaties and conventions is your country a party to?

Sweden has adopted the Convention on the Settlement of Investment Disputes between States and National of Other States 1965 (ICSID Convention). Further, Sweden is a party of multiple bilateral treaties.

4. Is the law governing international arbitration in your country based on the UNCITRAL Model Law? Are there significant differences between the two?

The Act is not based on the UNCITRAL Model Law. The Act is, however, influenced by the Model Law and has few material differences as compared to the Model Law.

5. Are there any impending plans to reform the arbitration laws in your country?

The Act was recently amended with the aim of modernizing the rules as well as attracting international arbitration to Sweden. The amendments have come into force as of 1 March 2019. We are not aware of any further impending plans.

6. What arbitral institutions (if any) exist in your country? When were their rules last amended? Are any amendments being considered?

The Arbitration Institute of the Stockholm Chamber of Commerce (SCC) is the principal arbitration institute in Sweden. There are also arbitration institutes set up by the Chambers of Commerce in Gothenburg and Malmö.

The ICC International Court of Arbitration in Paris is supported by the Swedish national committee of the ICC. The latest version of the ICC Rules of Arbitration entered into force on 1 January 2021.

The SCC was established in 1917 and is part of, but independent from, the Stockholm Chamber of Commerce. The SCC consists of a Board and a Secretariat and provides efficient dispute resolution services for both Swedish and international parties.

The SCC was recognized in the 1970's by the United States and the Soviet Union as a neutral centre for the resolution of East West trade disputes. China recognized the SCC as a forum for resolving international disputes around the same time. The SCC has since expanded its services in international commercial arbitration and emerged as one of the most important and frequently used arbitration institutions worldwide. This basis of a neutral centre, based on the historic Swedish neutrality, is a concern for the future development of the SCC in view of the Swedish accession to NATO.

In recent years the number of cases filed with the SCC – both domestic and international – has increased considerably. The high number of international cases – nearly 50 percent – clearly evidence the strong position of the SCC as a preferred venue for dispute resolution among the international business community. Every year parties from as many as 30-40 countries use the services of the SCC.

The SCC provides dispute resolution under its own rules, the SCC Arbitration Rules (the SCC Rules) and the SCC Expedited Arbitration Rules. It may be noted that the SCC Rules are highly adapted to the Swedish Act. The current version of the SCC Rules and the SCC Expedited Arbitration Rules, entered into force on 1 January 2023. In 2021 the SCC launched a new dispute resolution tool: the SCC Express. the current version of the rules for Express Dispute Assessment were adopted on 1 January 2023

7. Is there a specialist arbitration court in your country?

No. However, it should be noted that Svea Court of Appeal handles by far most of the challenge proceedings concerning Swedish arbitration awards.

8. What are the validity requirements for an arbitration agreement under the laws of your country?

The following substantive requirements must be fulfilled to form a valid arbitration agreement:

- The parties must have legal capacity to conclude an arbitration agreement.
- The arbitration agreement must be valid

according to general rules of Swedish contract law (for example, it must not be tainted by fraud, duress or error).

- The arbitration agreement must refer to a dispute arising out of a specific legal relationship or concern a specific dispute.
- The matter must be arbitrable.

An arbitration agreement does not under Swedish law need to be in a specific form. It can be concluded either in writing, orally, or be implied by the actions and behavior etc. of the parties.

9. Are arbitration clauses considered separable from the main contract?

The doctrine of separability is well established in Swedish arbitration and is codified in the Act (Section 3). Thus, if an arbitration agreement constitutes part of another agreement, the arbitration agreement shall be deemed to constitute a separate agreement.

10. Do the courts of your country apply a validation principle under which an arbitration agreement should be considered valid and enforceable if it would be so considered under at least one of the national laws potentially applicable to it?

The validation principle is not applicable under Swedish law.

11. Is there anything particular to note in your jurisdiction with regard to multi-party or multi-contract arbitration?

Multi-party arbitration is possible when the arbitration agreement has been entered into by more than two parties, or when a party wishes to intervene in the arbitration. Under such circumstances, each party will have to agree on the choice of arbitrator. If the parties cannot agree, the counterparty can make an application to the district court, which may appoint an arbitrator.

Multiple contract arbitration is regulated in the SCC Rules. Under the SCC Rules, parties may make claims arising out of or in connection with more than one contract in a single arbitration. If the counterparty makes objections as to handling of the issues in a single arbitration, the SCC will decide on the matter after consulting the parties.

12. In what instances can third parties or non-signatories be bound by an arbitration agreement? Are there any recent court decisions on these issues?

As a general rule, an arbitration agreement will only be binding in respect of the parties to it. However, there are circumstances in which a non-signatory can be bound by an arbitration agreement. Following a universal succession, a successor is bound by an arbitration agreement.

Furthermore, the Swedish Supreme Court has ruled that, following a singular succession, a successor is normally bound by an arbitration agreement unless it would be unreasonable (see case number NJA 1997 p. 866).

13. Are any types of dispute considered non-arbitrable? Has there been any evolution in this regard in recent years?

As mentioned, disputes which the parties may not settle by agreement cannot be subject to arbitration. Thus, disputes relating to criminal law or (normally) family law may not be decided by arbitration. In addition, arbitration agreements concluded with respect to consumer-related disputes are not binding on the consumer, if the arbitration agreement has been entered into before the dispute arose. Furthermore, future disputes relating to certain legal relationships, such as labour disputes, are non-arbitrable. Arbitrators can only rule on the civil law effects of competition law between parties and not on the substance of the competition law.

14. Are there any recent court decisions in your country concerning the choice of law applicable to an arbitration agreement where no such law has been specified by the Parties?

Not that the authors are aware of. However, it follows from Section 48 of the Act that if an arbitration agreement has an international connection, the agreement shall be governed by the law agreed upon by the parties. If the parties have not reached such an agreement, the arbitration agreement shall be governed by the law of the country where, in accordance with the parties' agreement, the arbitration had or shall have its seat.

15. How is the law applicable to the

substance determined? Is there a specific set of choice of law rules in your country?

The dispute shall be determined with application of the law or rules agreed to by the parties. Unless otherwise agreed by the parties, a reference to the application of a certain state's law shall be deemed to include that state's substantive law and not its rules of private international law.

If the parties have not agreed on which law should be applied, the arbitrators shall determine the applicable law (Section 27 a). In order to determine the applicable law, the arbitrators may consider the applicable conflict of law rules or apply the law most closely connected to the dispute.

The arbitrators may base the award on ex aequo et bono considerations only if the parties have authorized them to do so.

16. In your country, are there any restrictions in the appointment of arbitrators?

Any person who possesses full legal capacity in regard to his or her actions and property may act as an arbitrator (Section 7).

An arbitrator shall be impartial and independent (Section 8).

17. Are there any default requirements as to the selection of a tribunal?

The parties may determine the number of arbitrators and the manner in which they shall be appointed (Section 12).

Unless the parties have agreed otherwise, there shall be three arbitrators, of which each party appoints one and the arbitrators so appointed appoint the third (Section 13).

If the opposing party fails to appoint an arbitrator, the District Court shall appoint an arbitrator upon the request of the first party (Section 14).

If there is more than one arbitrator, one of them shall be appointed chairman. Unless the parties or the arbitrators have decided otherwise, the chairman shall be the arbitrator appointed by the other arbitrators or by the District Court (Section 20).

18. Can the local courts intervene in the selection of arbitrators? If so, how?

As previously mentioned, if the opposing party fails to appoint an arbitrator if it is required to do so, the District Court shall appoint an arbitrator upon the request of the first party.

19. Can the appointment of an arbitrator be challenged? What are the grounds for such challenge? What is the procedure for such challenge?

If a party so requests, an arbitrator shall be released from appointment if there exists any circumstance that may diminish confidence in the arbitrator's impartiality or independence (Section 8).

A challenge of an arbitrator on account of a circumstance set forth in Section 8 shall be presented within fifteen days from the date on which the party became aware of both the appointment of the arbitrator and of the existence of the circumstance. The challenge shall be adjudicated by the arbitrators, unless the parties have decided that it shall be conclusively determined by an arbitration institution. If the challenge is successful, the decision shall not be subject to appeal. A party who is dissatisfied with a decision denying a challenge or dismissing a challenge as untimely may file an application with the District Court that the arbitrator be released from appointment. The application must be submitted within thirty days from the date on which the party was notified of the decision. The arbitrators may continue the arbitral proceedings pending the determination of the District Court. (Section 10 and 11)

20. Have there been any recent developments concerning the duty of independence and impartiality of the arbitrators

In a recent amendment to Section 8 of the Act it was expressly clarified that the requirement on arbitrators to be impartial also means that they must be independent.

A person who is asked to accept an appointment as arbitrator shall immediately disclose all circumstances which might be considered to prevent the person from serving as arbitrator. An arbitrator shall inform the parties and the other arbitrators of such circumstances as soon as all arbitrators have been appointed and thereafter in the course of the arbitral proceedings as soon as the arbitrator has learned of any new circumstance (Section 9).

In a case decided on 2 January 2019 (case number Ö 5308-17, Notice 1 in NJA 2019), the Swedish Supreme Court commented on these rules as follows:

'9. An arbitrator shall be impartial. If there is any circumstance which may upset confidence in the impartiality of the arbitrator, he or she may, at the request of a party, be separated from the assignment. The existence of a lack of confidence may also lead to the suspension of the arbitration after challenge in whole or in part. (See Sections 8 and 34 of the Arbitration Act, 1999:116.)

10. There are high demands on the impartiality of an arbitrator. The arbitrator must be free in relation to the parties and the case in order to be able to rule in the arbitration. The assessment shall be carried out on objective grounds, which means that it shall be based on observable conditions, which are typically such as to affect the arbitrator's ability to behave impartially. (See, inter alia, Prop. 1998/99:35 p. 215 f., NJA 1981 p. 1205 and NJA 2010 p. 317 paragraph 4.)

11. Anyone who is asked to accept an appointment as arbitrator has an obligation to disclose circumstances that may prevent the person from serving as arbitrator (see Section 9 of the Arbitration Act). Similar disclosure requirements can be found in Article 12 of the UNCITRAL Model Law on International Arbitration and in guidelines of the International Bar Association (IBA Guidelines on Conflicts of Interest in International Arbitration). The obligation to disclose is not sanctioned by the Arbitration Act and does not constitute an independent basis for challenge. However, the fact that the arbitrator has withheld a particular circumstance may be the additional factor needed, in borderline cases where the issue is particularly difficult to assess, for there to be considered a conflict of interest (see NJA 2010 p. 317 paragraphs 11 and 12).

21. What happens in the case of a truncated tribunal? Is the tribunal able to continue with the proceedings?

If an arbitrator resigns or is released due to circumstances which were known at the time of appointment, the District Court shall, upon the request of a party, appoint a new arbitrator. If the arbitrator was appointed by a party, the District Court shall appoint the person suggested by that party, unless there are special reasons against it. If an arbitrator cannot complete the assignment due to circumstances which arise after his or her appointment, the person who originally was required to make the appointment shall instead appoint a new arbitrator. (Section 16)

If an arbitrator has delayed the proceedings, the District Court shall, upon the request of a party, release the arbitrator and appoint another arbitrator. The parties may decide that such a request shall, instead, be conclusively determined by an arbitration institution. (Section 17)

If a party has requested that the District Court appoint an arbitrator in accordance with the provisions of the Act, the Court may reject the request only if it is manifestly obvious that the arbitration is not legally permissible (Section 18).

An award shall be made in writing and be signed by the arbitrators. It suffices that the award is signed by a majority of the arbitrators, provided that the reason why all of the arbitrators have not signed the award is noted therein. The parties may decide that the chairman of the arbitral tribunal alone shall sign the award. (Section 31)

Whether a truncated tribunal may continue the proceedings will depend on the parties. They may decide that the proceedings shall continue. However, any party may request the Court to appoint another arbitrator. (Section 12)

22. Are arbitrators immune from liability?

Under Swedish law an arbitrator is subject to general rules of liability for negligence in respect of the appointment. However, under Article 52 of the SCC Rules an arbitrator is not liable to any party for any acts or omissions in connection with the arbitration, unless such act or omission constitutes wilful misconduct or gross negligence.

23. Is the principle of competence-competence recognized in your country?

Yes, the arbitrators' authority to rule on their own jurisdiction is recognized in the Act. However, if the arbitrators have rendered a decision finding that they have jurisdiction to adjudicate the dispute, any party that disagrees with the decision may request the Court of Appeal to review the decision. Such a request shall be brought within thirty days from when the party was notified of the decision. The arbitrators may continue the arbitration pending the court's determination. An award may be challenged on the ground that the arbitrators did not have jurisdiction. (Section 2)

24. What is the approach of local courts towards a party commencing litigation in

apparent breach of an arbitration agreement?

A court may not, over an objection of a party, rule on an issue which, pursuant to an arbitration agreement, shall be decided by arbitrators. A party must invoke an arbitration agreement on the first occasion the party pleads its case on the merits in court. Invoking an arbitration agreement on a later occasion shall have no effect unless the party had a legal excuse and invoked the arbitration agreement as soon as the excuse ceased to exist. During the pendency of a dispute before arbitrators or prior thereto, a court may, irrespective of the arbitration agreement, issue such decisions in respect of security measures as the court has jurisdiction to issue. (Section 4)

25. What happens when a respondent fails to participate in the arbitration? Can the local courts compel participation?

Failure of the defendant will not prevent the continuation of the proceedings. The dispute will then be resolved on the basis of the existing material. (Section 24)

Thus, the local courts cannot compel the respondent to participate in the arbitration proceedings.

26. Can third parties voluntarily join arbitration proceedings? If all parties agree to the intervention, is the tribunal bound by this agreement? If all parties do not agree to the intervention, can the tribunal allow for it?

A third party cannot voluntarily join the arbitration proceedings, and the tribunal cannot allow for it without the consent of the parties. Whether an arbitrator may oppose the intervention of a third party accepted by all the parties will depend on an interpretation of his contractual undertaking to sit on the tribunal.

27. What interim measures are available? Will local courts issue interim measures pending the constitution of the tribunal?

Unless the parties have agreed otherwise, the arbitrators may, at the request of a party, decide that, during the proceedings, the opposing party must undertake a certain interim measure to secure the claim which is to be adjudicated by the arbitrators. The arbitrators may prescribe that the party requesting the interim measure

must provide reasonable security for the damage which may be incurred by the opposing party as a result of the interim measure. However, the arbitrators have no authority to use compulsory measures.

Any competent court may, however, issue interim measures pending the constitution of the tribunal, or thereafter, subject to the general procedural rules applicable. (Section 4)

28. Are anti-suit and/or anti-arbitration injunctions available and enforceable in your country?

As for EU law, in *Turner v Grovit* (case C 159/02), the ECJ ruled that it is incompatible with EU law for a court of a member state to make an order restraining a party from commencing or continuing proceedings in the court of another member state in breach of an arbitration agreement. The internal legal situation is unclear.

29. Are there particular rules governing evidentiary matters in arbitration? Will the local courts in your jurisdiction play any role in the obtaining of evidence? Can local courts compel witnesses to participate in arbitration proceedings?

The parties shall supply the evidence. However, the arbitrators may appoint experts, unless both parties are opposed thereto. The arbitrators may refuse to admit evidence presented if it is manifestly irrelevant to the dispute or if such refusal is justified having regard to the time at which the evidence is invoked. The arbitrators may not administer oaths or truth affirmations. Nor may they impose conditional fines or otherwise use compulsory measures in order to obtain requested evidence. (Section 25)

If a party wishes a witness or an expert to testify under oath, or a party to be examined under truth affirmation, the party may, after obtaining the consent of the arbitrators, submit an application to such effect to the District Court. The aforementioned shall also apply if a party wishes that a party or other person be ordered to produce as evidence, a document or an object. If the arbitrators consider that the measure is justified having regard to the evidence in the case, they shall approve the request. If the measure may lawfully be taken, the District Court shall grant the application. (Section 26)

30. What ethical codes and other

professional standards, if any, apply to counsel and arbitrators conducting proceedings in your country?

There are no specific ethical requirements in the Act or otherwise in respect of arbitration. However, members of the Swedish Bar Association, an association regulated in the Code of Civil Procedure, (Sw. advokater) have an obligation to meet certain ethical standards (Sw. god advokatsed), summarized in a Code of Professional Conduct. These ethical standards are interpreted and enforced by the Swedish Bar Association and, on appeal, by the Supreme Court. Counsel in Swedish arbitration proceedings are regularly members of the Bar.

31. In your country, are there any rules with respect to the confidentiality of arbitration proceedings?

The Arbitration Act does not contain any provisions on confidentiality. However, agreements to arbitrate often contain a clause requiring the parties to observe confidentiality. As a consequence of their appointment, the arbitrators are considered to have a duty of confidentiality in respect of what they learn during the proceedings.

Under Article 3 of the SCC Rules, the arbitrators and the institute must maintain the confidentiality of the arbitration and the award.

However, if an award is challenged by a party, it becomes public in the relevant court, unless the court on request of one a party restricts public access in the matter, e.g. in order to protect commercial secrets.

32. How are the costs of arbitration proceedings estimated and allocated?

In institutional arbitrations, the arbitrators' fees and the administrative fee of the institute are usually fixed. The fees in an arbitration under the SCC Rules are decided by the Board of the SCC within a range of a minimum and a maximum amount, based on the amount in dispute. The SCC has a cost calculator on its website which enables the parties to estimate the cost within this range of amounts. (See: <https://sccarbitrationinstitute.se/en/our-services/cost-calculator>).

Unless otherwise agreed by the parties, the arbitrators may, upon the request of a party, order the opposing party to pay compensation for the party's costs and determine the manner in which the compensation to the

arbitrators shall be finally allocated between the parties. The arbitrators' order may also include interest, if a party has so requested. (Section 42)

33. Can pre- and post-award interest be included on the principal claim and costs incurred?

Yes, if so requested by a party. Unless otherwise agreed by the parties the interest rate depends on the applicable substantial law.

34. What legal requirements are there in your country for the recognition and enforcement of an award? Is there a requirement that the award be reasoned, i.e. substantiated and motivated?

General requirements are that the award determines an issue which, in accordance with Swedish law, may be decided by arbitrators, and that the award is not clearly incompatible with the basic principles of the Swedish legal system. (Section 33, first paragraph, 1 and 2)

The award must also be made in writing and signed by the arbitrators. However, it suffices that the award is signed by a majority of the arbitrators, provided that the reason why all of the arbitrators have not signed the award is noted therein. The parties may decide that the chairman of the arbitral tribunal alone shall sign the award. The award shall state the seat of the arbitration and the date when the award is made. (Section 31)

If these requirements are not fulfilled, the award will be null and void, and therefore not be enforceable. (Section 33, first paragraph, p. 3)

The Act does not require the arbitrators to motivate the award. However, it is generally considered that the award should be reasoned in respect of the matters referred to the arbitrators for resolution. It should also be noted that the rules of the SCC require that the arbitral tribunal state the reasons upon which the award is based, unless otherwise agreed by the parties.

35. What is the estimated timeframe for the recognition and enforcement of an award? May a party bring a motion for the recognition and enforcement of an award on an ex parte basis?

To enforce a Swedish arbitral award, a party must apply for enforcement with the Swedish Enforcement

Authority. The most important factor in the length of this proceeding is the time spent serving the opposing party with the application for enforcement.

The Swedish Enforcement Authority will review the award on its own motion to ascertain that it fulfils the basic formalities and is not suffering from any apparent invalidity. An arbitral award is enforceable even if it is challenged in court, although the court can stay the enforcement proceedings. However, if the Enforcement Authority believes that there is reason to assume that the arbitration award is invalid, and litigation is not already pending, it will allow the applicant to institute proceedings in the matter against the defendant within one month (Swedish Enforcement Code (1981:774) (Sw. Utsökningsbalken), chapter 3, Sections 15 and 16).

There is no expedited enforcement procedure. A party can, however, seek provisional attachment of the other party's property pending the final enforcement order.

36. Does the arbitration law of your country provide a different standard of review for recognition and enforcement of a foreign award compared with a domestic award?

The Act contains a list of reasons preventing foreign arbitral awards to be recognized and enforced in Sweden (Section 54). This provision is in accordance with Article V, 1 a)-e) of the 1958 New York Convention.

Enforcement of a foreign arbitral award is subject to an application for recognition of the award with the Svea Court of Appeal and serving the application for enforcement. The application must include either the original award or a certified copy of it, and a certified translation of the award into Swedish. The application for enforcement must be served on the other party. (Sections 56 and 57)

The enforcement proceedings in the Svea Court of Appeal are not very time consuming, unless there are difficulties in serving the application with the other party.

37. Does the law impose limits on the available remedies? Are some remedies not enforceable by the local courts

No, generally, there are no such limitations, provided that the remedy has been specifically requested by one of the parties and is not clearly incompatible with the basic principles of the Swedish legal system.

38. Can arbitration awards be appealed or challenged in local courts? What are the grounds and procedure?

It is a fundamental principle that an arbitration award cannot be appealed on its merits. An award can, however, be set aside by the courts after it has been challenged on formal or procedural grounds.

An award can be declared invalid (in whole or in part) if one of the following circumstances are met (Section 33):

- The disputed matter was excluded from arbitration under Swedish law.
- The award, or the manner in which it arose, violates Swedish public policy.
- The award is not in writing or has not been signed by a majority of the arbitrators or, if the parties so decide, by the chairman of the arbitral tribunal alone.

Further, an award is challengeable and may be set aside by the court in the following cases (Section 34):

- If the award is not covered by a valid arbitration agreement.
- If the arbitrators have rendered the award after the expiration of the time limit set by the parties.
- If the arbitrators have exceeded their mandate, in a manner that probably influenced the outcome.
- If the arbitral proceedings should not have taken place in Sweden.
- If an arbitrator has been appointed in a manner that violates the parties' agreement or the Act.
- If an arbitrator was unauthorized to adjudicate the dispute due to lack of legal capacity or because an arbitrator was not impartial or not independent.
- If, without fault of the party, there otherwise occurred an irregularity in the course of the proceedings which probably influenced the outcome of the case. (In NJA 2019 p. 171 the Supreme Court has qualified this requirement by expressly disregarding a procedural error which was deemed to have been of only minor importance to the challenging party.)

A party shall not be entitled to rely upon a circumstance which, through participation in the proceedings without objection, or in any other manner, the party may be deemed to have waived. A party shall not be regarded as having accepted the arbitrators' jurisdiction to determine the issue referred to arbitration solely by

having appointed an arbitrator.

An action must be brought within two months from the date upon which the party received the award or, if correction, supplementation, or interpretation has taken place, within a period of two months from the date when the party received the award in its final wording. Following the expiration of the time limit, a party may not invoke a new ground of objection in support of its claim.

An action shall be considered by the Court of Appeal within the jurisdiction of which the arbitration had its seat. If the seat of arbitration is not determined, or not stated in the award, the action may be brought in the Svea Court of Appeal. (Section 43)

The determination of the Court of Appeal may not be appealed. However, the Court of Appeal may grant leave to appeal its determination if it is of importance as a matter of precedent that the appeal be considered by the Supreme Court. For the Supreme Court to review the Court of Appeal's determination, the Supreme court must first grant leave of appeal. This does not apply, however, to the appeal of a decision by which the Court of Appeal has dismissed an appeal of a determination made by the Court of Appeal.

There is no time limit for initiating proceedings concerning the invalidity of an award. It is, however, possible for one or both parties to request that an award be remitted to arbitration to remedy an error. (Section 35)

39. Can the parties waive any rights of appeal or challenge to an award by agreement before the dispute arises (such as in the arbitration clause)?

If none of the parties is domiciled or has its place of business in Sweden, such parties may in a commercial relationship through an express written agreement exclude or limit the application of the grounds for setting aside an award as are set forth in Section 34. An award which is subject to such an agreement shall be recognized and enforced in Sweden in accordance with the rules applicable to a foreign award. (Section 51)

40. In what instances can third parties or non-signatories be bound by an award? To what extent might a third party challenge the recognition of an award?

As a main principle an arbitration award is only binding

in respect of the parties to the arbitration proceeding. Only in particular or exceptional situations may a third party or non-signatory be bound by an award. A third party may not challenge the recognition of an award.

41. Have there been any recent court decisions in your jurisdiction considering third party funding in connection with arbitration proceedings?

We are not aware of any such court decisions.

In 2019 the board of the SCC adopted a policy for disclosure of third parties with an interest in the outcome of the dispute to minimize risks of conflicts of interest among arbitrators. This policy stipulates that each party should, in its first written submission, disclose the identity of any third-party interests in the dispute, including third-party funders. However, the requirement is not mandatory. If a party suspects that a third-party funder is funding the other party and that it may affect the court's independence, it may request that the court demand the other party to disclose his third-party funder. If it turns out that the third-party funder is causing a conflict of interest, it may have the effect that the arbitrator who the conflict refers to must resign. It can also be a basis for challenge action against the arbitral award pursuant to Section 34.

42. Is emergency arbitrator relief available in your country? Are decisions made by emergency arbitrators readily enforceable?

Yes. The SCC provides Emergency Arbitrator Proceedings. There are no rules under Swedish arbitration law or enforcement law that allow enforcement of decisions by an emergency arbitrator.

43. Are there arbitral laws or arbitration institutional rules in your country providing for simplified or expedited procedures for claims under a certain value? Are they often used?

Yes. An expedited procedure administered by the SCC is possible provided that the parties have agreed that the dispute shall be resolved under the SCC Rules for Expedited Arbitration, either before or after the dispute arose. In an expedited procedure, the parties may only submit a limited number of petitions and shorter deadlines are applied. Thus, this procedure is appropriate for disputes without greater complexity or concerning only relatively minor values. In 2022, 31

percent of the cases registered with the SCC were registered under the SCC Rules for Expedited Arbitration.

In addition to the SCC Rules for Expedited Arbitration, the recently introduced SCC Express rules provide a dispute resolution tool designed to help resolve a disagreement between business partners on an issue that needs to be investigated quickly as an alternative to a full-length arbitration or court proceeding. It is a consent-based and confidential process through which parties to a dispute receive a legal assessment of the dispute from a neutral legal expert in three weeks for a fixed fee of EUR 29,000. The findings of the neutral legal expert are non-binding upon the parties – unless they explicitly agree to make it binding – and can be used to guide settlement discussions or other ways forward.

44. Is diversity in the choice of arbitrators and counsel (e.g. gender, age, origin) actively promoted in your country? If so, how?

The SCC is promoting the participation of women and other underrepresented groups in the dispute resolution field, for example by providing seminars and discussions on the topic. The SCC has also signed the Equal Representation in Arbitration Pledge and is a partner of the Racial Equality for Arbitration Lawyers initiative. When there are many candidates of similar qualifications, the SCC actively considers diversity of gender, age and national origin.

Further, statistics regarding the appointed arbitrators show a continued increase in the number of women appointed by the SCC. In 2022, 54 percent of the arbitrators appointed by the SCC were women.

45. Have there been any recent court decisions in your country considering the setting aside of an award that has been enforced in another jurisdiction or vice versa?

No, not as far as the authors are aware.

46. Have there been any recent court decisions in your country considering the issue of corruption? What standard do local courts apply for proving of corruption? Which party bears the burden of proving corruption?

No, not to the authors' knowledge. Generally, the burden of proof lies on the party contending corruption.

47. What measures, if any, have arbitral institutions in your country taken in response to the COVID-19 pandemic?

In addition to regular precautions in the day-to-day work the SCC has strived to facilitate the implementation of arbitration proceedings under new conditions caused by the COVID-19 pandemic. In this context the SCC has been working in close cooperation with a number of other arbitration institutions including, inter alia, the ICC.

The SCC has also launched a special version of the SCC Platform open to ad hoc arbitrations. The use of the platform was free of charge from start to finish for any ad hoc arbitration commenced during the COVID-19 outbreak until 31 May 2021.

48. Have arbitral institutions in your country implemented reforms towards greater use of technology and a more cost-effective conduct of arbitrations? Have there been any recent developments regarding virtual hearings?

The SCC case management has been fully digitized since 2013. From September 2019, all new SCC arbitrations are administered on the SCC Platform. The SCC Platform provides participants with a secure and efficient way of communicating and filing all case materials in the arbitration, such as procedural orders, submissions, and exhibits, and constitutes the forum through which the SCC communicates with the parties, counsel, and arbitrators throughout the proceedings.

During the Covid-19 pandemic outbreak nearly 40 percent of the hearings in SCC arbitration cases were conducted online. In October 2020, the SCC conducted a survey with SCC arbitrators to learn more about the use and attitudes towards using virtual hearings. The survey findings suggested that the pandemic may have served as a catalyst for renewal and improvement of the international arbitration process.

In a recent ruling by the Svea Court of Appeal (Case T 7158-20 decided on 30 June 2022), the court confirmed that the right to an oral hearing under Section 24 of the Act is technology neutral and allows for remote hearings. In regard to the question whether it is possible to conduct virtual hearings even if one of the parties objects, the court concluded as follows:

'If not otherwise agreed by the parties, it falls within the mandate of an arbitral tribunal to decide if participants in a hearing shall participate remotely. The fact that a party opposes such participation cannot preclude such participation. The arbitral tribunal should, however, determine on a case-by-case basis whether remote participation is appropriate. In this assessment, the right of the parties to adequately present their case, the impartiality, efficiency, and expeditiousness of the proceedings should be taken into consideration (Section 21 and 24 of the Act). The technical elements must enable adequate communication.'

49. Have there been any recent developments in your jurisdiction with regard to disputes on climate change and/or human rights?

As far as the authors are aware, there have, as of yet, been no significant developments with regard to disputes on climate change and/or human rights. However, in 2015, two Swedish environmental non-governmental organizations and numerous individuals initiated a climate change litigation case against the Swedish state (Svea Court of Appeal, case T 7261-17). The claimants alleged that the state, by the sale of coal power plants to a Czech company, had breached the claimants right to life and the right to respect for private and family life under Articles 2 and 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. Further, the claimants alleged that the sale meant a large, immediate and foreseeable risk of significantly increased emissions of greenhouse gases, which would have a direct impact on climate changes. In its judgement, the Stockholm District Court rejected the claims. The court held that the claim was based on a risk analysis based on a hypothetical reasoning of a possible course of events due to the sale of the power plants. Further, the action did not mean that the claimants had been exposed to a concrete danger to life or that there had been any form of concrete harmful effects. Consequently, the court held that the claimants' rights under Article 2 and 8 ECHR had not been breached. The Svea Court of Appeal upheld the judgement from Stockholm District Court.

On 24 November 2022 an environmental organization along with a number of individuals initiated a further climate change litigation case against the Swedish state (Nacka District Court, case T 8304-22). The claimants argued that the Swedish state, by not taking sufficient and adequate measures against the climate crisis, violated several of the rights and freedoms set forth in the ECHR. The rights that the claimants considered that the state has violated are the right to life, the prohibition

of inhuman and degrading treatment, the right to respect for private and family life, the prohibition of discrimination, and the right to protection of property. Primarily, the claimants have requested that the court establish that the Swedish state, through a lack of climate work, has violated their rights under the ECHR. In the alternative, they request the court to order the state to take measures to reduce the greenhouse gas concentration in the atmosphere and to keep the increase in the global average temperature to 1.5 degrees compared to pre-industrial levels.

The state has requested that the case be dismissed. The proceedings are still pending.

50. Do the courts in your jurisdiction consider international economic sanctions

as part of their international public policy? Have there been any recent decisions in your country considering the impact of sanctions on international arbitration proceedings?

Not as far as the authors are aware.

51. Has your country implemented any rules or regulations regarding the use of artificial intelligence, generative artificial intelligence or large language models in the context of international arbitration?

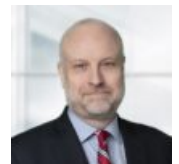
Not as far as the authors are aware.

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