

Domestic courts and the review of awards: recent trends

EFILA Annual Conference

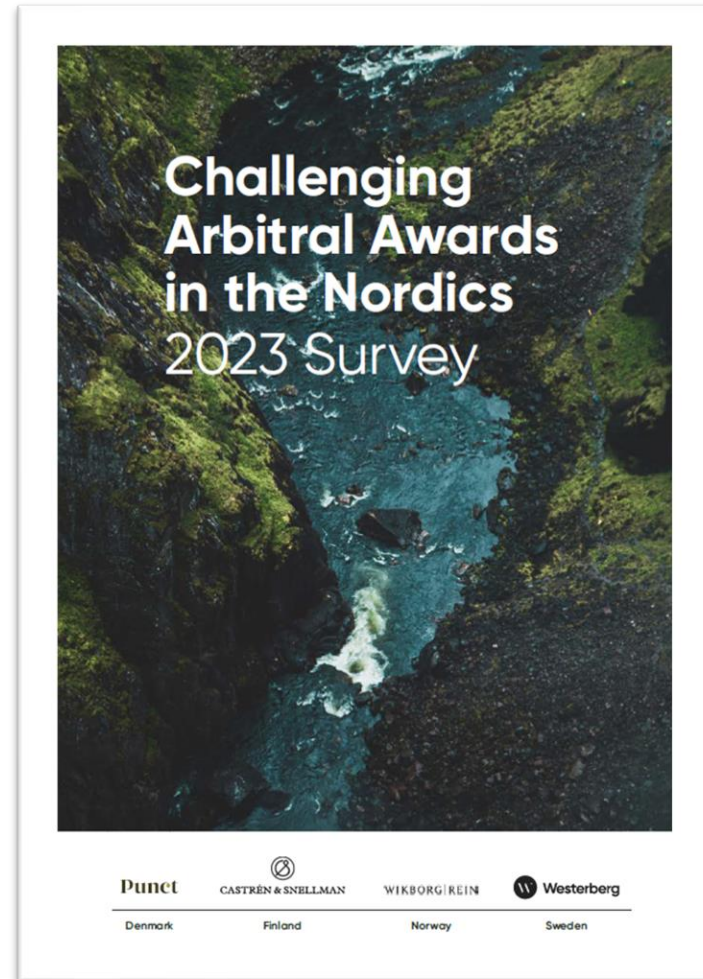
25 April 2024

Maria Fogdestam Agius

Partner, Westerberg & Partners

Westerberg Arbitration Tracker: three reports

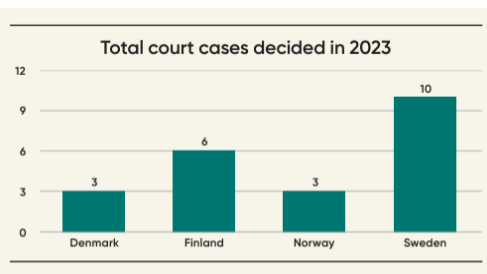
- Survey on set aside and annulment of arbitral awards before the courts of Sweden, Norway, Denmark and Finland, report in February 2024
- Forthcoming in-depth report on Swedish challenge proceedings (May 2024)
- Forthcoming report on challenges of investment awards issued in Sweden (May 2024)



Domestic review of arbitral awards in the Nordics

The number of challenge cases decided per year is very low.

Awards are set aside or annulled only in exceptional circumstances pertaining to breaches of the most fundamental procedural principles.



Ruling on a non-arbitrable issue	Disputes that cannot be subject to out-of-court settlement cannot be resolved through arbitration.
Violation of public policy (<i>ordre public</i>)	An award that is clearly incompatible with the fundamental principles of the national legal system is invalid.
No valid arbitration agreement	If the arbitral tribunal's jurisdiction does not rest on a valid and binding arbitration agreement, the award may be set aside.
Invalid appointment of arbitrator	The parties' agreement on the appointment of an arbitrator and the applicable mandatory procedural rules must be complied with when appointing an arbitrator.
Lack of impartiality, independence or legal capacity	An award can be successfully challenged if an arbitrator lacks legal capacity, is not independent from the parties or has a conflict of interest.
Tribunal's excess of mandate	An arbitral tribunal cannot rule on issues falling outside its mandate.
Violation of due process	An arbitral tribunal must comply with the parties' agreement on the procedure and the applicable mandatory procedural law. Sufficient opportunity to present one's case is an example of such a mandatory procedural rule.



In addition to these common grounds, national legislation allows for an arbitral award to be challenged in a few further situations.

In both Finland and Sweden, an arbitral award must be in writing and signed by the arbitrators. If an award lacks one of these prerequisites, it is considered invalid.

In Finland, an award will be invalid if it is obscure or incomplete to the degree that it is not possible to establish what the arbitrators have decided. Such failure in the drafting of the award could also constitute a procedural irregularity under Swedish law and be a ground for setting aside the award.

In Sweden, it is also possible to challenge an award if it has been rendered after the agreed deadline or if the arbitration should not have taken place in Sweden.

Domestic review of arbitral awards in Sweden

Will Your Award Stand in Court?

Swedish courts' approach
to challenge matters



Prof. Johnny Herre
former Justice of the
Supreme Court



Dr. Patrik Schöldström
Judge, Svea Court of
Appeal



Evelina Wahlström
legal counsel, SCC



Kristoffer Löf
Mannheimer Swartling



James Hope
Vinge



Ginta Ahrel
Westerberg & Partners

[See agenda HERE](#)

When: 23 May 2024, 16.00 – 18.30 CEST

Where: online and at Westerberg & Partners

Please register by e-mail to event@westerberg.com

SAA | The Swedish Arbitration Association

SCC
Arbitration
Institute

W Westerberg

Agenda

16.00 – The key findings in Westerberg Arbitration Tracker 2024



Jacob Ericson
senior associate
Westerberg & Partners

16.15 – 17.15 Panel debate moderated by Ginta Ahrel

Panelists:



Prof. Johnny Herre
former Justice of the
Supreme Court



Dr. Patrik Schöldström
Judge, Svea Court of
Appeal



Evelina Wahlström
legal counsel, SCC



Kristoffer Löf
Mannheimer Swartling



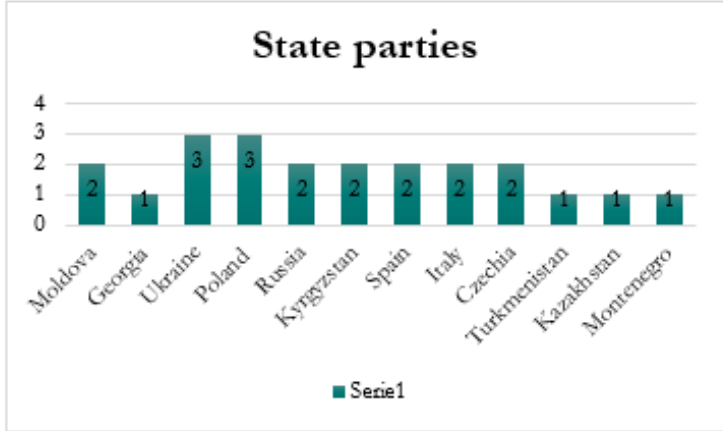
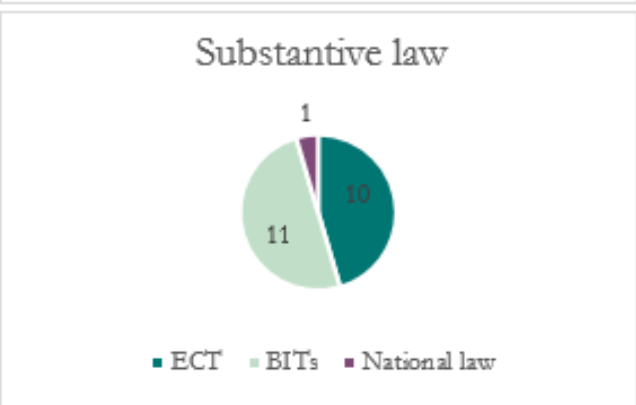
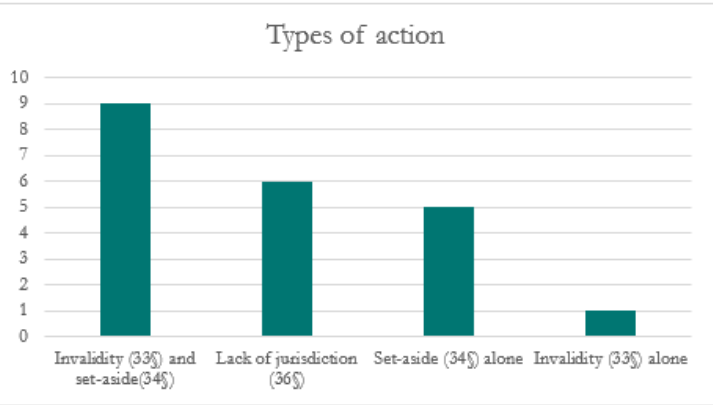
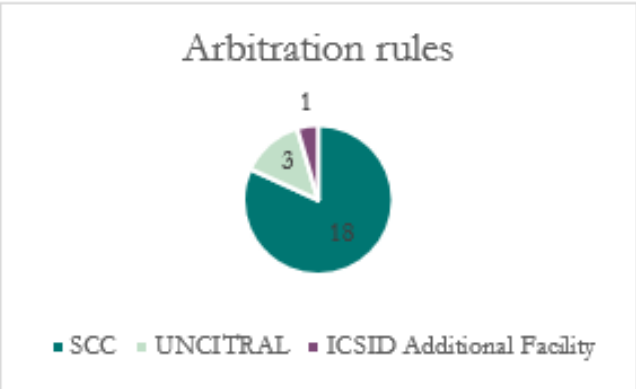
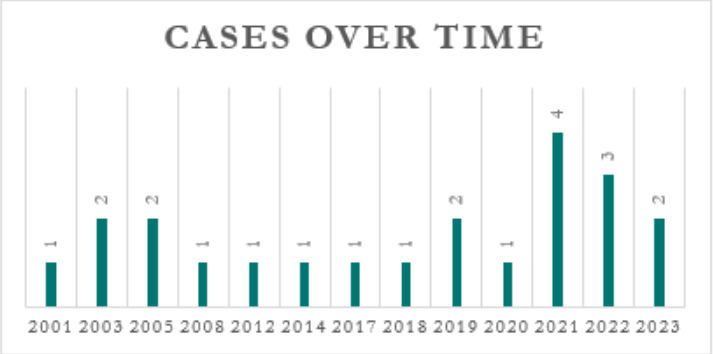
James Hope
Vinge

- Success rate of most commonly invoked grounds for challenges
- How does Sweden's approach to challenging awards differ from other jurisdictions?
- Strategies for drafting enforceable awards: practitioners' insights
- The main trends and the way forward

17.15 – 17.30 Q & A, followed by light refreshments

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Westerberg Arbitration Tracker: the ISDS Track



Annulment of intra-EU awards in Sweden

Kingdom of Spain v. Novenergia II – Energy & Environment (SCA), SICAR, B 124550

Svea Court of Appeal, Case No. T 4658-18, Judgment of 13 December 2022

Poland v. PL Holdings S.á.r.l.

Supreme Court, Case No. T 1569-19, Judgment of 14 December 2022

Festorino Invest Limited and others v. Republic of Poland

Svea Court of Appeal, Case No. T 12646-21, Judgment of 20 December 2023

Kingdom of Spain v. Triodos SICAV II, B115771

Svea Court of Appeal, Case No. 15200-22, Judgment of 27 March 2024





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