

# Arbitral claims not tried on the merits do not interrupt a specifically prescribed limitation period (Skåne and Blekinge Court of Appeal)

by *Practical Law Arbitration*, with *Westerberg & Partners*

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In *DHL Global Forwarding (Sweden) AB v Abbekås Åkeri Per-Anders Andersson AB and Malmö Flygfraktterminal AB (Case No T 2116-22)*, the Skåne and Blekinge Court of Appeal held that arbitral claims that had been dismissed due to lack of jurisdiction and without being tried on the merits, do not interrupt a specifically prescribed limitation period.

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The Skåne and Blekinge Court of Appeal has upheld a judgment declaring that a claim by the global logistics and shipping company is time barred, finding that arbitral proceedings dismissed by the tribunal without being tried on the merits did not interrupt the specifically prescribed limitation period for domestic road carriage.

In 2020, DHL Global Forwarding (Sweden) AB (DHL) brought an action before the District Court against the respondents following the theft of certain goods from a domestic road carriage executed by the respondents in 2017. The respondents argued that the claim was time barred.

The action was subject to a specifically prescribed limitation period of three years. In the proceedings, the starting point of the limitation period was subject to dispute. The District Court, as well as the Court of Appeal, held in favour of the respondents, that the earliest relevant point in time was to be applied. As the claim had been lodged more than three years after that day, the claim would be time barred unless the limitation period had been interrupted as argued by DHL.

Before bringing an action before the courts, DHL had initiated arbitration against one of the respondents in November 2018. However, the tribunal dismissed the case in 2019 due to the absence of an arbitration agreement and never tried the case on the merits. The Court of Appeal held that if arbitral proceedings are dismissed because of lack of jurisdiction, such proceedings do not interrupt the limitation period.

Notably, initiating arbitral proceedings is generally considered an interruption of the limitation period in relation to the general limitation period prescribed by the Swedish Limitations Act. This case serves as a reminder that there are important exceptions to the general rule, which is why the aggrieved party should carefully consider the applicable statutory limitation period, when the limitation period starts, as well as possible interruptions to it.

Case: *DHL Global Forwarding (Sweden) AB v Abbekås Åkeri Per-Anders Andersson AB and Malmö Flygfraktterminal AB (Case No T 2116-22)* (Scania Court of Appeal) (9 May 2023).

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