

# Challenging Arbitral Awards in the Nordics: 2023 Survey

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

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A report on challenging arbitral awards in the Nordic jurisdictions during 2023 has been published by the law firms Punct, Castrén & Snellman, Wikborg Rein, and Westerberg & Partners. It is intended to be a recurring publication with the goal of facilitating the development of arbitration in the Nordics. The key findings from the report are that the number of challenge cases is low and that it is rare for arbitral awards to be set aside or annulled.

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During the Norwegian Arbitration Day held on 8 February 2024, law firms Punct, Castrén & Snellman, Wikborg Rein, and Westerberg & Partners presented a report of their key findings from a survey of arbitration award challenges brought before the courts in the Nordic jurisdictions. The report, entitled "Challenging Arbitral Awards in the Nordics: 2023 Survey" is intended to be a recurring publication with the goal of facilitating the development of arbitration in the Nordics.

The survey results demonstrate that annulment or set aside of arbitral awards is exceptional. During 2023 there were 22 award challenge cases decided by courts in the four Nordic countries (three in Denmark, six in Finland, three in Norway and ten in Sweden). Only two were successful, both seated in Sweden. In one of them, an award was set aside as a part of a settlement agreement between the parties. In the other, an investment treaty award was annulled as being contrary to Swedish public policy, in light of the prohibition against intra-EU investment arbitration (see [Legal update, Svea Court of Appeal annuls intra-EU ECT arbitration award, including in relation to non-EU investor and costs](#)). The data from Sweden also showed that four out of the challenge cases were settled by the parties.

Other key findings of the 2023 survey included the following:

- In nearly all challenge cases multiple legal grounds were invoked. The most frequently invoked ground was the assertion that there had been a violation of due process. The second most invoked ground was the assertion that the tribunal had exceeded its mandate.
- The length of the proceedings varies considerably depending on the appellate structure. In Denmark, Finland and Norway, challenge cases are initiated before the courts of first instance whereas in Sweden cases are submitted to the courts of second instance, the judgment of which can be appealed only if the court itself, as well as the Swedish Supreme Court, grants leave to appeal.
- Award challenges were made in cases involving both international parties and local parties. In two thirds of cases, the challenge was made to an award rendered under institutional arbitration rules. This distribution can be attributed to the strong position of the local arbitral institutions in Denmark, Finland and Sweden.

Source: *Punct, Castrén & Snellman, Wikborg Rein, and Westerberg & Partners: Challenging Arbitral Awards in the Nordics: 2023 Survey (8 February 2024)*.

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