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Launch of Westerberg Arbitration Tracker 2024: "Will Your Award Stand in Court?"

The much-anticipated report "Westerberg Arbitration Tracker 2024" was presented on 23 May 2024, during the high-profile debate titled "Will Your Award Stand in Court?" hosted by Westerberg & Partners and co-organised with SCC Arbitration Institute and Swedish Arbitration Association.

Introduction

The event commenced with a welcome from Westerberg's **Ginta Ahrel**, setting the stage for presentation, the background and objectives of the report. The report, which draws on extensive data and analysis, provides an overview of challenges to arbitral awards in Swedish courts over the past 20 years.

Jacob Ericson, who led the project, presented the key findings, focusing on how the number of challenge cases has developed over time, case processing times, the success rate of challenge cases, and the grounds on which arbitral awards are set aside or declared invalid.

**The Westerberg
Arbitration Tracker 2024**
– a unique analysis of
challenges to arbitration
awards in Swedish courts
spanning two decades

**Average of
19 challenge cases
filed each year**

**367 challenge
cases filed in
20 years**

**75% of parties
to challenge
cases have their
challenge resolved
within 18 months**

**Overview of 4
guiding arbitration
related cases
from 2023**

**6% of
challenges
were
successful**

Panel Discussion

The core of the event featured a panel discussion moderated by **Ginta Ahrel**, with panellists including **Professor Johnny Herre** (former Justice of the Supreme Court), **Dr. Patrik Schöldström** (judge at Svea Court of Appeal), **Evelina Wahlström**, (legal counsel at SCC Arbitration Institute), **Kristoffer Löf** (partner at Mannheimer Swartling law firm) and **James Hope** (partner at Vinge law firm).

One of the first topics addressed was the universe of arbitral awards in Sweden and the volume of arbitration cases initiated, particularly focusing on the SCC Arbitration Institute. **Evelina Wahlström** noted the difficulty in assessing the exact number of arbitrations, estimating around 300 per year with an even split between institutional and ad hoc arbitrations. **Kristoffer Löf** emphasized the importance of also considering arbitrations conducted under the rules of the Arbitration Court of the ICC, which also influence the overall numbers.

A recurring theme was the grounds for setting aside arbitral awards. **Professor Johnny Herre** and **Kristoffer Löf** discussed notable cases, where tribunals had based decisions on facts not invoked by the parties or went beyond the parties' requests for relief, leading to awards being partially or wholly set aside.

Discussing the key finding in the report that 44 % of all awards that are set aside were due to the tribunals' excess of mandate, the panel agreed that maintaining adherence to the adversarial principle is crucial to avoid surprises in awards.

The discussion also covered potential improvements to the challenge proceedings at the Swedish Courts of Appeal. **Dr. Patrik Schöldström** suggested streamlining case handling procedures and setting more rigid timetables, while **Kristoffer Löf** proposed earlier scheduling and time bars for preparation of statements of defence to expedite proceedings. **James Hope** underscored the importance of balancing quick resolutions with the thoroughness needed to ensure fair judgments.

James Hope presented a comparative analysis of challenge proceedings in other jurisdictions, such as England, Switzerland, France, Hong Kong, and Singapore. He noted that while Sweden's rate of successful challenge cases aligns with international standards, there are differences in procedural approaches, such as document-only procedure before the Supreme Court in Switzerland. **Professor Johnny Herre** clarified the necessary prerequisites for a challenge case to be brought before and decided by the Swedish Supreme Court.

Conclusion

Westerberg Arbitration Tracker 2024 provides invaluable insights into the jurisprudence related to challenges of arbitral awards in Sweden. The debate highlighted the complexities faced by practitioners and underscored the value of empirical data and statistical analysis for improvement and development of international and domestic arbitration.

Full text of Westerberg Arbitration Tracker 2024