

Swedish award partially set aside where arbitrator awarded party more than it had claimed (Court of Appeal of Western Sweden)

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

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In *Link Norge A/S v Oxe Marine AB (Case No T 1747-23)*, the Court of Appeal of Western Sweden partially set aside an SCC award, holding that the arbitrator had exceeded their mandate by awarding one of the parties more than it had claimed in the arbitration.

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The Court of Appeal of Western Sweden (Court) has partially set aside an award rendered in a Swedish-seated SCC Arbitration Institute expedited arbitration between Link Norge A/S (Link) and Oxe Marine AB (Oxe Marine).

In the arbitration, both parties claimed compensation for unpaid invoices under a distribution agreement. Each contested the other's claims but agreed to pay parts of the claimed amounts by way of deductions. The arbitrator awarded compensation to both parties.

Link applied to the Court to have the award set aside, arguing that the sole arbitrator exceeded their mandate by awarding Oxe Marine more than it had claimed. The Court noted that, generally, in international arbitrations, the Swedish courts cannot expect parties and tribunals to strictly follow Swedish procedural rules and concepts. However, an arbitrator must keep within the confines of the parties' claims.

Here, the sum of all Oxe Marine's invoices submitted in the arbitration significantly exceeded the amount it had claimed for unpaid invoices. However, it was not clear in the arbitration which invoices and amounts Oxe Marine claimed, nor how Link's agreement to pay certain amounts as deductions related to Oxe Marine's claim. In the Court's judgment, there was no sufficient basis for the arbitrator's conclusion that Link's agreement to pay must have covered invoices not covered by Oxe Marine's claim.

Therefore, the admission by Link that it was liable for some part of Oxe Marine's claim did not entitle the arbitrator to award Oxe Marine an amount higher than it had claimed. As such, the arbitrator had exceeded their mandate.

In the interest of finality of the award, the Court did not set aside the award as regards Link's claim, as it held this was separable from the rest of the award. As for the awarded costs, the Court only set aside the parts that were affected by the excess of mandate.

This case highlights the importance of arbitrators carefully scrutinising how claims and any admissions of liability interact, and not awarding more than a party has claimed. Interestingly, the Court gave leave to appeal the judgment to the Supreme Court, as the case raised questions of precedential importance. However, if Oxe Marine decides to appeal, the Supreme Court would also need to grant leave.

Case: [Link Norge A/S v Oxe Marine AB \(Case No T 1747-23\) \(Court of Appeal of Western Sweden\) \(20 May 2024\)](#).

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