

Svea Court of Appeal dismisses challenge to arbitral award over alleged excess of mandate by reliance on unpleaded contractual terms

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

Legal update: case report | Published on 10-Dec-2024 | Sweden

In *Coreman Trading FZ-LLC v Carbones Holding GmbH (Case No T 8492-23)*, the Svea Court of Appeal rejected Coreman's application to set aside an arbitral award. Coreman alleged that the tribunal exceeded its mandate by relying on unpleaded contractual terms. However, the court found that even if the tribunal had erred by relying on an unpleaded term, this had not likely affected the outcome and upheld the award.

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The Svea Court of Appeal (COA) has rejected Coreman Trading FZ-LLC's (Coreman) challenge to an arbitral award issued in favour of Carbones Holding GmbH (Carbones), finding that the tribunal's reliance on an unpleaded obligation did not affect the outcome of the dispute.

In 2022, Coreman and Carbones entered into a contract for the delivery of hot briquetted iron (HBI). The contract contained a clause requiring that, in the event any quality issues were identified in a final inspection report by an independent surveyor, the parties should engage in negotiations to resolve the dispute. If the parties could not resolve their dispute amicably, either could refer it to arbitration.

After the surveyor issued its report, and without engaging in negotiations, Coreman terminated the contract and commenced arbitration, claiming that Carbones had failed to meet its obligations. Carbones counterclaimed, alleging that Coreman breached its negotiation obligation. The tribunal rendered its final award, finding for Carbones and ruling that Coreman violated the agreement by failing to engage in post-inspection discussions.

Coreman applied to set aside the award, arguing that the tribunal improperly relied on an unpleaded contractual obligation requiring negotiations after the final inspection report. It argued that this reliance exceeded the tribunal's mandate and breached the procedural principle that limits adjudication to matters expressly raised by the parties. Carbones responded that the tribunal's conclusions were consistent with the evidence and arguments presented during the arbitration.

In rejecting Coreman's challenge and upholding the award, the COA acknowledged that the tribunal had relied on the contractual obligation to negotiate, which neither party had invoked during the arbitration.

However, the court emphasised that the tribunal concluded that the same obligation also arose under the applicable Swedish substantive law, which was an issue raised by the parties. Consequently, the fact that the tribunal relied on an unpleaded contractual obligation did not affect the outcome of the case.

This judgment underscores the stringent standard applied by the courts for demonstrating that an alleged procedural defect has affected the outcome of the case in order to justify setting aside an award in Swedish courts.

Case: [Coreman Trading FZ-LLC v Carbones Holding GmbH \(Case No T 8492-23\) \(Svea Court of Appeal\) \(28 November 2024\)](#).

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