young
arbitrators
sweden

# Swedish Law and Arbitration

## Reasons for choosing Swedish law and dispute resolution in international commercial contracts

A YAS Initiative Supported by the SAA

# Introduction

Sweden is praised and recognised globally for being a transparent and open society and one of the least corrupt countries in the world. Based on such recognition, and with a modern legal framework, Sweden and Stockholm has become one of the leading venues for international commercial arbitration, as well as a preferred seat for many investment arbitrations. Sweden has a stable, predictable, and long-standing legal system based on solid democratic traditions.

Sweden is a civil law jurisdiction and as such Swedish law is predominately based on statutes. That being said, Swedish case law is well developed, and an important part of the legal sources applied by courts and tribunals. On this basis, Sweden is characterised as a mixture of common and civil law which will contribute to making parties, counsel and arbitrators from both legal traditions feel equally at home when arbitrating in Sweden. Swedish substantive law is easily accessible, and its application seldom offers any surprises to the international tradesman, making also non-Swedish lawyers and arbitrators feel familiar with the legislation. Indeed, Swedish substantive law is already a preferred choice in many commercial contracts with no other connection to Sweden than the parties' choice of law.

In this document, Young Arbitrators Sweden ("YAS"), has set out to shortly label some features of Swedish substantive law and describe the characteristics of arbitration in Sweden.[1] The document does not set out to comprehensively cover these areas but rather to provide the reader with a quick guide of what can be expected when choosing Swedish substantive law and arbitration in Sweden.

YAS is an organisation with more than four hundred members from Sweden and internationally. YAS aims to increase knowledge and interest amongst young practitioners in the field of arbitration by arranging seminars, conferences, and other activities and by coordinating arbitration events with other international arbitration networks.

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1 This is the second and revised version of a previous document from 2016, which in turn was based on YAS Initiative 2012 authored by Linn Bergman, Gisela Knuts, Kristoffer Löf, Fredrik Norburg, Björn Rundblom Andersson, Rikard Wikström and Marie Öhrström. The document has been revised and updated during 2026 by Sara Johnsson, Edward Jansson Stiernblad, Mathilde Hofbauer, Rasmus Josefsson, Jake Lowther, Carl Persson, Maria Sundqvist, Emil Andersson and Evelina Wahlström.

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# 1. Why Swedish substantive law?

## 1.1 Neutral and predictable law

1.1.1. Swedish law provides for a neutral and predictable foundation for international trade. Therefore, Swedish law is frequently chosen as the governing law of international commercial contracts.

1.1.2. The Swedish legislative process has a firmly rooted comparative approach to law making. As a result, Swedish commercial law and its principles are predictable and familiar also to non-Swedish lawyers.

1.1.3. As mentioned in the introduction above, Swedish law is often categorised as "a middle ground" between common law and civil law because it holds features both from civil and common law traditions. Swedish private law is found in both statutes and case law. Therefore, both civil law and common law practitioners can easily recognise the system and coordinate a dispute under Swedish law.

1.1.4. As regards international sale of goods, Sweden has ratified the CISG (United Nations Convention on Contracts for the International Sale of Goods), and the Swedish Sale of Goods Act accords with the CISG's principles.

1.1.5. Sweden is a member of the European Union and its laws form part of the Swedish legal system.

## 1.2 Respecting freedom of contract

1.2.1 Swedish contract law is founded on the principle of freedom of contract.

1.2.2 Contracts are enforced according to their terms and the principle of pacta sunt servanda is fundamental. Commercial contracts may only be modified or invalidated in exceptional situations.

1.2.3 The law puts very few restrictions on party autonomy.

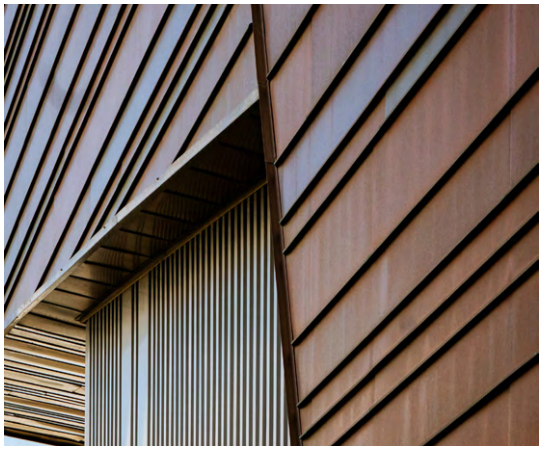
1.2.4 The Swedish Contracts Act, nevertheless, sets forth certain rules under which an otherwise binding agreement or other legal act can be modified or declared void in circumstances where an agreement has been entered into under duress, fraud, deception, or usury.

1.2.5 Furthermore, section 36 of the Swedish Contracts Act, contains a general provision which provides for modification or setting aside of one or more individual terms in a contract if such term(s) are unconscionable considering the content of the contract, circumstances related to the formation of the contract, subsequent events, or other circumstances. If the whole contract is considered unconscionable, it may be set aside in full. As section 36 of the Contracts Act may in theory be given a broad application, it is not uncommon for it to be argued

by parties wishing to modify or set aside parts of an otherwise binding contract. However, it primarily aims at consumer protection and other relations in which one party is inherently weaker than the other. In practice, the scope for applying section 36 of the Contracts Act is therefore limited; in most commercial cases, it has been rejected in favour of pacta sunt servanda.

## 1.3 Simple and straightforward contract mechanism

1.3.1 Swedish law on formation and interpretation of contracts is in line with the UNIDROIT Principles of International Contracts and the Draft Common Frame of Reference (DCFR). The content of Swedish contract law for business-to-business relations corresponds to 98 per cent with the UNIDROIT Principles of International Commercial Contracts (UPICC). As many international commercial lawyers are familiar with the UPICC, they will be able to use UPICC as a tool to understand Swedish contract law and as a basis for arguing about how to solve contract law questions.



1.3.2 There are no formal requirements with respect to the conclusion of commercial contracts under Swedish law (with very few exceptions, e.g., for real estate contracts). If it is possible to establish that the true intention of two or more parties at a particular time was to enter into an agreement on specific terms and conditions, then the agreement has been formed. In other words, when there is a 'meeting of minds' with respect to rights and obligations, there is an agreement.

1.3.3 The starting point for contract interpretation under Swedish law is that a contract shall be interpreted according to the common intention of the parties. Normally, the wording of the contract will be conclusive evidence of such common intention. However, when the wording of the contract as such proves insufficient to determine the content of an agreement, it must be supplemented by an overall assessment of e.g. (i) the nature, structure and overall purpose of the contract in question; (ii) the parties' negotiations for the conclusion of the contract; (iii) the parties' actual conduct subsequent to the conclusion of the contract; (iv) practices which the parties may have established between themselves in prior contractual dealings; (v) trade usages; and (vi) reasonableness.

1.3.4 Under Swedish law, contracts cannot impose obligations on others than the parties, but they can create rights for third parties if the parties to the contract so intended.

1.3.5 The practice adopted is therefore highly pragmatic and easy to understand for in house lawyers evaluating or coordinating a dispute without prior experience in arbitration.

## 1.4 Commercial realism over legal formalism

1.4.1 An explicit aim of the Swedish legislator when adopting commercial legislation is to facilitate the conduct of business. In connection with the preparation of new commercial legislation, the legislator regularly consults representatives of various commercial interests. Furthermore, the legislator consistently avoids burdening parties with formalistic legal requirements.

1.4.2 A typical example of the Swedish non-formalistic approach is that a party cannot rely on another party's mistake, where the party should reasonably have noticed the mistake.

1.4.3 No requirement for consideration. One of the cornerstones in Swedish commercial law is that a party shall be entitled to rely on an offer. The law places very few restrictions on the binding nature of offers and, consequently, there is no requirement for consideration.

## 1.5 Effective remedies

1.5.1 Parties may freely agree on the remedies for breach of contract.

1.5.2 In the event remedies for contract breach have not been specified in the contract, Swedish law provides a number of default remedies, including the right to specific performance, the right to price reduction, the right to withhold performance, the right to claim damages and the right to terminate the contract for cause.

1.5.3 Swedish commercial law provides for full compensation for damage suffered due to breach of contract, including compensation for lost profits. This means that the compensation should be paid so as to put the non-breaching party in the same economic position as it would have been had the breach not occurred, i.e., as if the contract had instead been duly performed. The burden of proving the breach, the damages, and the causal relationship between the two falls on the party claiming the damages.

1.5.4 Swedish law generally does not allow punitive damages or exemplary damages.

1.5.5 Contractual penalties as well as liquidated damages are recognised and enforceable under Swedish law.

1.5.6 Limitations of liability are recognised under Swedish law. They will, typically, be set aside only in the exceptional event of intentional or grossly negligent breach of contract. In the context of commercial contracts, the threshold for a certain behavior to be considered gross or intentional is high.

1.5.7 Swedish law provides statutory interest for payment default and for restitution of payments unless the parties have agreed otherwise.

## 1.6 Swedish substantive law available in foreign languages

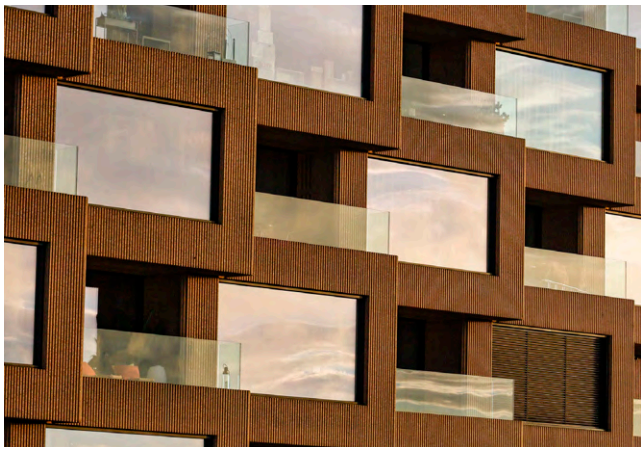
1.6.1 All key Swedish commercial legislation has been translated and is available in English.

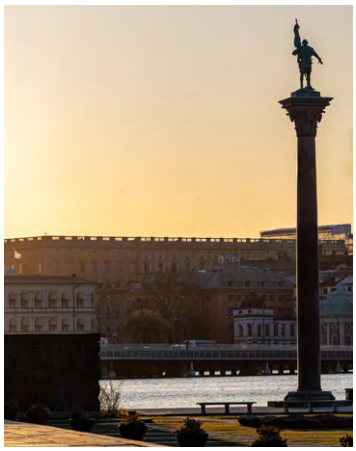
# 2. Why arbitration in Sweden?

## 2.1 Transparent and trustworthy arbitration venue

2.1.1 Sweden is recognised globally as a transparent and open society. Year after year Transparency International ranks Sweden as one of the least corrupt countries in the world. Stockholm is also recognised as one of only a few jurisdictions in which it is safe to seat high-stake arbitrations.

2.1.2 With arbitration practitioners and users becoming increasingly aware of the dangers of corruption, finding neutral and unbiased seats for arbitration proceedings is becoming exceedingly important. It is therefore no wonder that Stockholm, with its inter¬nationally recognised low rate of corruption, international mind-set, arbitration friendly courts, moderate costs and longstanding tradition is today one of the leading venues for international arbitration under a variety of rules, including the SCC Arbitration Rules ("the SCC Rules"), the UNCITRAL Arbitration Rules and the ICC Rules.





2.1.3 Stockholm is also an international hub for many investment arbitrations under bilateral investment treaties and multilateral treaties.

## 2.2 Longstanding tradition

2.2.1 Sweden has a longstanding tradition to support and respect arbitration. Arbitration awards have been enforced by Swedish public authorities at least since the 17th century and reference to arbitration as a recognised method of resolving disputes are found already in medieval legislation.

2.2.2 Sweden ratified the New York Convention in 1972, the Washington Convention on the Settlement of Investment Disputes in 1966 and the Geneva Protocol on Arbitration Clauses already in 1929.

## 2.3 Arbitration-friendly legal environment

2.3.1 The principle of party autonomy is firmly anchored in Sweden. Arbitration agreements are recognised as binding and the parties' choice of substantive law and language to use in the proceedings is respected.

2.3.2 The Swedish concept of arbitrability is broad and the freedom to refer commercial disputes to arbitration is in essence unrestricted.

2.3.3 Parties are free to appoint arbitrators of their own choice, as long as the arbitrator is independent and impartial.

2.3.4 Many of the world's most prominent arbitrators act in Sweden on a regular basis. Sweden is also home to an internationally renowned and active arbitration institute, the SCC Arbitration Institute ("the SCC"). Consequently, Swedish arbitration practice continuously evolves in line with international best practice and is at the forefront thereof.

2.3.5 The Swedish tradition on taking of evidence and production of documents is similar to the IBA Rules on the Taking of Evidence 2020 ("the IBA Rules"). For example, long before the adoption of the IBA Rules, the Swedish tradition in arbitrations and litigations alike has been to adhere to an adversarial principle, where:

- it is up to the parties to present the evidence and arguments on which they rely (cf. Article 3.1 of the IBA Rules);
- the parties are primarily responsible for the presentation of witness and expert evidence, and for cross-examining the other side's witnesses and experts (cf. Article 8.3 of the IBA Rules);
- requests for the production of documents shall be sustained to the extent they concern a specific document or category of documents, which has been explained to be relevant to the case and material to its outcome (cf. Article 3.3 of the IBA Rules); and
- the tribunal is free to assess the evidence presented to it (cf. Article 9.1 of the IBA Rules).

2.3.6 The Swedish Arbitration Act is a user-friendly and supportive system for arbitration of the highest international standard. The principles of the UNCITRAL Model Law have been incorporated in the Swedish Arbitration Act.

2.3.7 State courts are arbitration-friendly and abstain from asserting jurisdiction when the contract in dispute provides for arbitration.

2.3.8 Upon request, state courts assist in the taking of evidence and granting of interim measures in arbitration proceedings.

2.3.9 Challenge actions against awards in arbitrations seated in Stockholm are brought to a specific division within the Svea Court of Appeal which is specialised in arbitration.

2.3.10 The updated Swedish Arbitration Act is available in English, Russian and Ukrainian on the SCC's website.

2.3.11 There are several and comprehensive commentaries on Swedish arbitration law and practice available in English, including Commercial Arbitration in Sweden by Finn Madsen (2016); Mannheimer Swartling's Concise Guide to Arbitration in Sweden by Oldenstam/Löf/Foerster/Razani/Ringquist/Skogman (2019), Arbitration in Sweden (2011) by Andersson/Isaksson/Johansson/Nilsson; International Commercial Arbitration in Sweden (2021) by Kaj Hobér; International Arbitration in Sweden: A Practitioner's Guide (2021), with Magnusson-Ragnwaldh-Wallin as editors, and Arbitration Law of Sweden (2003) by Lars Heuman and, on the SCC Rules, there is A Guide to the SCC Arbitration Rules (2019) by Ragnwaldh/Andersson/Salinas Quero.

## 2.4 Active and competent arbitration community

2.4.1 The Swedish arbitration community has an elevated level of knowledge, integrity, and diversity. Due to its long international experience, there is a thorough understanding of the expectations of foreign parties and counsel.

2.4.2 The Swedish arbitration community often organise conferences, seminars, and roundtable discussions on various international arbitration topics. This active community ensures that the Swedish arbitration environment conforms to international standards, as well as adapts to, and develops best practices.

2.4.3 Swedish arbitration practitioners are fluent in English, and many are experienced in cross-border arbitration both in Sweden and globally. A number of the Stockholm-based law firms have top-ranked dispute resolution practices and individuals.

2.4.4 There is a multitude of arbitration organisations in Sweden supporting the arbitration community, such as the SCC, the Swedish Arbitration Association (SAA), Young Arbitrators Sweden (YAS), Swedish Women in Arbitration Network (SWAN), the Stockholm Centre for Commercial Law and Stockholm University.

## 2.5 Advanced training of arbitrators and counsel

2.5.1 The Swedish arbitration community works actively to train and promote up-and-coming arbitrators and counsels.

2.5.2 Education initiatives include the Training Programme for Arbitrators hosted by the SCC and the SAA, the Master Programme in International Commercial Arbitration Law at Stockholm University, and the Basic Arbitration Training Programme for junior associates by YAS.

2.5.3 The SCC looks to appoint qualified young arbitration practitioners as arbitrators when appropriate.

## 2.6 Convenient and well-functioning venue

2.6.1 Stockholm is easily accessible, vibrant, beautiful and an economic hub in northern Europe.

2.6.2 Stockholm has a multitude of hearing venues experienced in accommodating international arbitrations and offers a wide variety of hotels and restaurants.

2.6.3 The cost of hosting an arbitration in Stockholm is lower than in most other arbitration capitals, despite its high-quality venues and accommodation.

# 3. Why the SCC?

The SCC contributes to international trade and economic development globally by providing efficient mechanisms for dispute resolution. By being efficient and knowledgeable, and at the forefront of legal development, the SCC is one of the preferred arbitral institutions worldwide.

The SCC is continuously at the forefront of best practices in international arbitration taking into account its users' needs and develops its rules and practices accordingly. In 2023, the SCC published an updated set of Arbitration Rules and Rules for Expedited Arbitrations ("the SCC Expedited Rules"), reflecting the changes in the arbitration world since the SCC last revised its rules in 2017.

## 3.1 Global standing

3.1.1 The SCC is one of the world's leading arbitration institutes. Around two hundred disputes are filed with the SCC each year, of which approximately 50 per cent are international arbitrations. The SCC also acts as appointing authority in ad hoc arbitrations, UNCITRAL arbitrations and investment arbitrations.

3.1.2 Some of the largest disputes in the world are administered by the SCC. According to the International Arbitration Survey, the SCC was the seventh most frequently used arbitration institute globally in 2021.

3.1.3 Second only to ICSID, the SCC is the most frequently used arbitration institute for investment arbitration in the world.

3.1.4 Truly international – the SCC Board is the institute's decision-making body, and many of its directors are internationally distinguished arbitration practitioners.

## 3.2 Efficiency in time and costs

3.2.1 Arbitration under the SCC Rules is arguably the most expeditious of the leading institutional arbitration rules. Under the SCC Rules, the average time from initiation of the proceedings to the final award in international SCC arbitrations is twelve months. In 2023, an award was rendered in over sixty percent of the SCC's cases within six to twelve months. Respectively, under the SCC Expedited Rules, an award was rendered in a hundred percent of the SCC's cases within three to six months.

3.2.2 Experienced and knowledgeable arbitrators make scrutiny of awards redundant and saves 2-3 months. The secretariat usually deals with a communication from any of the parties the day the SCC receives it.

3.2.3 Expedited arbitration is a unique fast-track alternative particularly suited for smaller disputes (see below under Innovative approaches in developing best practices).

3.2.4 The SCC has the most efficient and accessible secretariat. You can always get a straight answer and a swift response from one of the knowledgeable counsels at the secretariat.

3.2.5 Each case has a counsel and an assistant assigned to it, who see the case through from the request for arbitration until the award is rendered and the proceedings closed.

3.2.6 The electronic case management system furthermore ensures an effective and safe management of each case.

3.2.7 In all SCC cases party autonomy is highly valued. The SCC procedures are therefore unobtrusive, allowing the SCC to maintain its flexible, accessible, and cost-effective nature.

## 3.3 Institutional excellence

3.3.1 Characteristic of the work of the SCC is to be close to the dispute and in constant dialogue with the parties.

3.3.2 The SCC is known for swift service and a no-nonsense approach.

3.3.3 The SCC guarantees equal and neutral treatment by always ensuring the integrity of the SCC rules and procedures.

3.3.4 The SCC's international recognition functions as a quality stamp for the arbitral awards and facilitates enforcement of awards in foreign jurisdictions.

## 3.4 Party autonomy and flexibility

3.4.1 Parties have a choice between the SCC Rules with one or three arbitrators, the SCC Expedited Rules with one arbitrator, and the SCC Mediation Rules – whichever mechanism they think is best suited for resolving their disputes.

3.4.2 Parties appoint one co-arbitrator each and they may also jointly appoint the chairperson if they so choose. When the case shall be decided by a sole arbitrator, the parties are always afforded the possibility to appoint that person jointly.

3.4.3 When the SCC appoints arbitrators, the institute will take the parties' wishes into account. When balancing the interests of the parties, the SCC always strives to appoint a person with a profile acceptable to both parties.

## 3.5 Innovative approaches in developing best practices

3.5.1 The SCC offers the possibility of appointing an emergency arbitrator where a party seeks interim measures before the constitution of an arbitral tribunal and time is of the essence.

3.5.2 A party may also request interim measures from the local Swedish courts without it being considered incompatible with the arbitration agreement or with the SCC Rules. Minor and straightforward matters relating to interim measures are usually decided by the court of first instance within a few weeks, and if there is evidence of a tangible risk of sabotage or collusion by the respondent, a decision can be obtained without prior notice to the respondent.

3.5.3 The SCC offers expedited rules for small and medium-sized disputes. The expedited rules provide for an award within 3 months and only allows a limited number of submissions per party. In practice, an arbitral tribunal usually make an award within 4-5 months. The model clause combining the expedited rules with the arbitration rules ensures maximum flexibility and a truly tailor-made arbitration.

3.5.4 An award on advance on costs can be requested by a party which has provided the other parties part of the advance on costs. Said party can request such an award as soon as the case has been referred to the arbitral tribunal and is enforceable in most jurisdictions.

3.5.5 The costs of the proceedings are determined by the amount in dispute which provides for foreseeability and a fair remuneration of the arbitrators. Parties only pay what they ask for and can calculate the arbitration costs before even filing a request for arbitration. There is no need to count hours and no need to negotiate rates with arbitrators.

3.5.6 In addition to that, the SCC provides Swedish case law on arbitral issues in English translation via the Swedish Arbitration Portal, accessible on the SCC web. SCC also provides news on arbitration matters related to Sweden and/or SCC on the web and the monthly newsletter.

3.5.7 In addition to ordinary and expedited arbitral proceedings, the SCC also provides emergency arbitration, often a prelude to an upcoming arbitral proceeding. The emergency arbitrator renders a binding interim decision preventing a party from doing something that will cause another party irreparable damage, for example preventing that the party sells a disputed asset. An

emergency arbitrator could also order a party to continue doing something, like supplying key components, until the dispute is resolved. Emergency arbitration is designed for extremely urgent situations, where the parties simply cannot wait for regular arbitration. The interim measures can then be revoked or upheld by the ordinary arbitral tribunal and ceases to be binding should the parties not initiate arbitral proceedings within a certain timeframe.

3.5.8 A new feature with the SCC is the SCC Express Dispute Assessment, or the SCC Express for short. As the name suggests, the SCC offers an express assessment of a dispute, in which a neutral assessor, appointed by the SCC, assesses the dispute within three weeks of referral of the dispute to the neutral assessor. The assessment is not binding, provided the parties has not agreed to make it contractually binding.

3.5.9 The SCC Express is suitable for parties that have a disagreement but do not want to escalate the dispute into an arbitral proceeding and thereby risk their business relationship.

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