

Summary of the Court of Appeal's conclusions

The Court of Appeal has concluded that Mr. CU's pleading for invalidity under item 2 of the first paragraph of Section 33 of the Swedish Arbitration Act shall be rejected and that his challenge under Section 34 of the Swedish Arbitration Act shall be dismissed.

Further, the Court of Appeal has concluded that article 1(7)(a)(i) and article 26 of the ECT must be understood such that the states' agreement to participate in arbitrations does not cover citizens of the state involved in the dispute when the person has taken up permanent residence in another contracting state. Against this background, the Court of Appeal has concluded that Mr. CU, in his capacity as a Turkish citizen, was not entitled to commence the arbitration against Turkey under article 26 of the ECT and that the arbitral tribunal's conclusion that it did not have jurisdiction to resolve such a dispute was correct. Finally, the Court of Appeal has concluded that there is no reason to adjust the arbitral award because of the procedural errors Mr. CU has invoked. Therefore, Mr. CU's motion for adjustment under Section 36 of the Swedish Arbitration Act is rejected.

Litigation costs

The Court of Appeal's conclusions in the action at issue mean that Mr. CU, as the losing party, shall compensate Turkey for its litigation costs (see Section 1 of Chapter 18 of the Code of Judicial Procedure).

Turkey has claimed compensation for its litigation costs in the amounts of USD 371,633 and CHF 137,130, of which USD 371,481 and CHF 136,818.44 comprises costs for legal counsel and the remaining amounts relate to expenses. Taking the nature and what has transpired in the case before the Court of Appeal into account, the claimed compensation must be deemed reasonable.

APPEALS

The second paragraph of Section 43 of the Swedish Arbitration Act provides that the judgment of the Court of Appeal may be appealed only if the Court finds that it is of importance for the development of case-law that an appeal is reviewed by the Supreme Court. The Court of Appeal finds no reason to grant leave to appeal.

The judgment of the Court of Appeal may not be appealed.

[SIGNATURES]

The decision has been made by: Judges of Appeal UB, KN and LF (reporting).