> The information provided by TNG was however misleading since, (i) the oil flow rates were higher than accounted for, (ii) no efforts were made by TNG to provide the JV with the Oil Field Rights and (iii) it was indeed possible to provide the JV with the oil field rights."

The assessment of what constitutes legally relevant circumstances

First, the Court of Appeal will decide what constitutes legally relevant circumstances in the Summary. In the context, it should be noted that legally relevant circumstances are such circumstances as are directly relevant for the application of a legal provision. Abstract legally relevant circumstances form part of a legal provision, i.e. prerequisites. A prerequisite can, in its turn, be broken down into constituent parts. A concrete legally relevant circumstance is a factual situation of reality upon which a party bases its case and that is directly relevant for the legal consequence a party has connected to the referenced factual situation. Also concrete legally relevant circumstances can be broken down into constituent parts. Concrete legally relevant circumstances can be established through evidential circumstances and circumstantial facts related thereto. (See, for example, Fitger *et al*., Rättegångsbalken, the commentary to Chapter 17, Section 3, Zeteo, version October 2014).

In the arbitration, FNP maintained that TNG had intentionally provided FNP with misleading information, i.e. that TNG had breached the contract. The concrete legally relevant circumstances, which should be established, was what information that had been provided and in what respects that information did not correspond to the actual situation. FNP also maintained that the breach of contract had been committed intentionally or grossly negligently (paragraph 11.20 of the arbitration award). That, which is set forth in the Summary constitutes, in the Court of Appeal's opinion, the concrete legally relevant circumstances referenced by the parties in the arbitration with respect to the breaches of contract FNP alleged that TNG had committed and for which TNG should be held liable.

Thus, the Court of Appeal disagrees with FNP that the legally relevant circumstances referenced by FNP merely were that TNG had misled FNP to undertake certain actions at the Paris meeting by providing FNP with incorrect information. These are mainly abstract legally relevant circumstances that cannot, as such, lead to any success without it having been made clear what actual information was provided and the manner in which this

constituted a fraudulent misleading statement. It is clear from the above quoted paragraphs from the Summary that FNP maintained that TNG at the Paris meeting had provided information with respect to "the oil flow rates of the Oil Field" and that the information TNG according to FNP provided was misleading since the oil flow rates were higher than informed.

Therefore, the conclusion of the Court of Appeal with respect to misleading information concerning the oil in the oil field, is that the concrete legally relevant circumstances referenced by FNP according to the Summary were that TNG had at the Paris meeting provided information on oil flow rates, that the information did not correspond to the information TNG had provided prior to the Paris meeting and that the information was misleading because the oil flow rates were higher than informed.

The review of the arbitral tribunal

In the arbitration award, the arbitral tribunal begins its review of what FNP had maintained with respect to breaches of contract on p. 58, paragraph 11.7. At the top of p. 59 at (i), the arbitral tribunal states that FNP maintained that TNG had provided misleading information at the Paris meeting concerning the production and estimated oil reserves at the oil field ("as to production and the probable oil reserves in the KOF") and at (ii) that TNG had failed to provide correct information on production and reserves ("failure to provide correct information as to production and reserves"). The Court of Appeal notes that the account of the arbitral tribunal of the alleged breaches of contract deviate from the wording of the Summary. The Summary does not state that FNP maintains that TNG at the Paris meeting provided information on *oil reserves*; the Summary merely provides that FNP maintains that TNG provided information on *oil flow rates*.

Hereafter, the arbitral tribunal reviewed the Paris breach. In paragraph 11.14, the arbitral tribunal determines that what FNP maintained was that the information on the extraction of oil from the oil field provided at the Paris meeting was that the flow rates were close to zero ("the information about the extraction of oil at the KOF given at the Paris Meeting was that the flow rates were close to nil"). In paragraph 11.16, the arbitral tribunal notes that what was actually said at the Paris meeting was somewhat uncertain, but that TNG had agreed that the information related to the flows being lower than expected ("lower

than anticipated flow rates"). The arbitral tribunal further notes that information had been provided with respect to new geological surveys indicating lower than expected reserves ("the available reserves were lower than expected") and concerning the fact that the geological circumstances at the oil field were more complicated than previously anticipated. The Court of Appeal notes that the arbitral tribunal distinguishes between flow rates and reserves, but also continues to discuss oil reserves.

Hereafter, the arbitral tribunal provides its conclusions. In paragraph 11.20, the arbitral tribunal declares that it is tasked with determining which information that TNG actually provided with respect to oil flow rates and oil reserves ("the flow rates and reserves") and whether this information was correct in the sense that Mr. P and TNG actually believed that the information provided was correct. The arbitral tribunal thereafter reverts in paragraph 11.21 to what had been established with respect to the information provided at the Paris meeting concerning flow rates and reserves and concludes that this was not set forth in the minutes from the meeting, but that they do provide that Mr. P informed on new geological updates from test drilling and the "testing of wells". The arbitral tribunal concludes that the information must have been negative and refers to the witness Mr. G, who provided in his statement that the flow rates ("the flow", "the debits") were close to zero ("practically zero" or "close to zero"). The arbitral tribunal also refers to a letter written by Mr. G in 1996, which referenced Mr. P's information at the Paris meeting concerning flow rates close to zero ("the flow rates were nearly zero"). That the information concerning oil flow rates and, according to Mr. P's witness statement, concerning oil reserves ("as to reserves") was of that nature coincides, according to the arbitral tribunal, with the fact that the parties at the Paris meeting agreed to not continue the exploitation of the oil field. The arbitral tribunal also concludes that if it could have been anticipated that the flow rates were low but the oil reserves substantial ("recent flow rates were very low, almost nil, but that the reserves in the ground were nevertheless plentiful") it was nevertheless unlikely that the parties would have reached such a decision. Therefore, it was clear to the arbitral tribunal ("clear to the Tribunal") that the information provided by Mr. P must have covered flow rates as well as estimated reserves ("both flow rates and the estimated reserves") and that the information meant that there were no such quantities of oil ("no quantities of oil") that it made sense to carry on the exploitation. Thus, the arbitral tribunal again mentions flow rates and reserves as

separate things, and adds the word *reserves* despite FNP not having referenced any misleading with respect to the size of the reserves in the Summary.

In paragraph 11.22, the arbitral tribunal establishes that it was Mr. P's statements on flow rates and new geological data on reserves that were the key reason for the decision to not complete the project. Hereafter, the arbitral tribunal notes in paragraph 11.23 that information on reserves was objectively very substantially incorrect ("very substantially wrong"), since, in light of later events, it was clear that there were substantial reserves in the oil field ("the available reserves at the KOF were very substantial indeed"). According to the arbitral tribunal, the question was thus whether TNG and its representatives at the Paris meeting believed that the image they provided at the Paris meeting was correct or if they had intentionally provided incorrect information. Hereafter, the arbitral tribunal in paragraph 11.25 refers to, among other things, the information with respect to "reserves", which as per 1 January 1993 were estimated to 33.6 million tons. In paragraph 11.26, the arbitral tribunal refers to the number 33.6 million tons, which according to the arbitral tribunal was a substantial asset very far from "close to zero" as provided by Mr. P in Paris ("the revised reserves as at 1 January 1993 on TNG's books, 33.6 million tons, were still a considerable asset and very far from the 'close to zero' indication given by Mr. P at the Paris Meeting"). The arbitral tribunal also refers to the fact that the number 33.6 million tons was included in the concession registered on 1 April 1994. If TNG had discovered already in the spring of 1993 that there was very little oil, this was, according to the arbitral tribunal, hard to reconcile with the fact that the authorities one year later had not received any information from TNG that the number 33.6 million tons was entirely inaccurate and that the actual number concerning the reserves was "close to zero". Thus, throughout this section, the arbitral tribunal reviews the size of the reserves, despite that FNP according to the Summary had not referenced any misleading with respect to the size of the reserves.

The arbitral tribunal further notes in paragraph 11.27 that TNG had failed to establish the claim that there were new geological data in relation to what had been known in January of 1993, and that the arbitral tribunal thus had to base its further assessments on the assumption that there was no new data with respect to "flow rates and reserves".

The arbitral tribunal's conclusion is that (paragraph 11.28 of the arbitration award) it is convinced that the information on flow rates and estimated reserves provided by Mr. P orally at the Paris meeting was materially misleading and that he as well as TNG was aware thereof ("the Tribunal is persuaded that the flow rate information and reserve estimates orally given by Mr. P at the Paris meeting were substantially misleading and that Mr. P and TNG were aware of that.").

As set out above, the Summary does not provide that FNP maintained that TNG had provided any information on oil reserves and also not that TNG had provided any misleading information with respect to oil reserves. Despite this, the arbitral tribunal has concluded that the concrete information on "close to zero" covered flow rates as well as reserves. The arbitral tribunal reviewed TNG's knowledge of the inaccuracy of the information by comparing the estimated size of oil reserves in January of 1993, 33.6 million tons, to the statement "close to zero". The grounds of the arbitral tribunal provide that it distinguished between flow rates and reserves, e.g. in paragraphs 11.16, 11.20 and 11.21. It is also clear that the arbitral tribunal attributed substantial importance to information with respect to oil reserves, particularly in paragraph 11.23, in which the arbitral tribunal noted that the information about the reserves was "very substantially wrong". According to the Court of Appeal it is hereby clear that the arbitral tribunal has added and considered circumstances which FNP had not referenced, i.e. that information had been provided with respect to reserves and that this information was misleading. These circumstances, by themselves or together with actually referenced circumstances on flow rates, have the legal consequence that they could entail liability for breach of contract. The circumstances added by the arbitral tribunal thus constitute legally relevant circumstances. These legally relevant circumstances are not set out in the Summary. By adding these legally relevant circumstances to its review, the arbitral tribunal exceeded its mandate.

Summary

Thus, the arbitral tribunal has considered factual circumstances which FNP had not referenced as constituting breach of contract, i.e. that TNG had provided information with respect to oil reserves and that the information was misleading. The circumstances were of such nature that they could lead to liability for losses due to breach of contract.

Thus, they constituted legally relevant circumstances not referenced by FNP. The conclusion of the Court of Appeal is therefore that the arbitral tribunal exceeded its mandate.

Effect on the outcome of the arbitration

Introduction

The next question for the Court of Appeal to decide is if it is also required that the established excess of mandate affected the outcome of the arbitration.

The first paragraph of Section 34 of the Swedish Arbitration Act provides that an arbitration award shall be wholly or partially annulled if, among other things, the arbitral tribunal exceeded its mandate. As opposed to the provision of the Act that deals with procedural errors (item 6 of the first paragraph of Section 34), the provision on excesses of mandate (item 2 of the first paragraph of Section 34) does not provide a requirement that the error likely affected the outcome.

The issue has been discussed in jurisprudence, see, amongst others, Heuman, Skiljemannarätt, 1999, p. 609 f. In sum, Heuman states the following. That the arbitration award shall be wholly or partially annulled constitutes an implicit causality requirement in cases where the mandate has been exceeded. This means that the operative part of the award shall be annulled only to the extent it was given as a result of the excess of mandate. However, this only applies if the error is directly reflected in the operative part of the award. In some cases it is not possible to distinguish the operative part of the award, and identify the part that is the result of the mandate having been exceeded. Then, it is not possible for the court to, based on a requirement of causality, annul the arbitration award partially. In cases where it is theoretically possible to distinguish between issues where the arbitral tribunal lacked the mandate to decide and issues falling within the scope of the mandate, the issues could nevertheless be intertwined in such a manner so as to render it impossible or inappropriate in practice to allow the arbitration award to remain partially valid. Then, the court must annul the arbitration award in its entirety. (Cf. Lindskog, Skiljeförfarande, 2012, p. 876 f.).

Previous judgments by Courts of Appeal provide that annulment shall not occur if it is possible in advance to establish that the outcome would not have been different even if

the mandate had not been exceeded (see e.g. Svea Court of Appeal's judgment of 1 December 2009 in case T 4548-08). In that case, the Court of Appeal concluded that it was not possible to establish the outcome of the review with certainty. According to the Court of Appeal it could at least not be excluded that the error had affected the outcome. The arbitration award was annulled.

According to the Court of Appeal, the following can be concluded as to the legal situation. The wording of the Act provides that an arbitration award shall be annulled wholly or partially if, amongst other things, the arbitral tribunal exceeded its mandate. A partial annulment of an arbitration award requires that it is possible to distinguish what parts of the operative part of the award that is the result of the mandate having been exceeded. If the excess of mandate did not any way affect the operative part of the award, the arbitration award shall not be annulled.

The importance of the fact that the arbitral tribunal concluded that TNG had provided misleading information on flow rates and the transferability of the concession

FNP has maintained that any excess of mandate with respect to oil reserves did not have any effect on the outcome of the case, since the arbitral tribunal, irrespective of the assessment of the misleading with respect to oil reserves, concluded that TNG at the Paris meeting had provided misleading information on flow rates and on the transferability of the concession to exploit the oil field to Tyumtex.

As set out above, the arbitral tribunal has reviewed the issues of the information on flow rates and reserves in one context. This is clearly evident from paragraph 11.28 of the arbitration award, according to which the arbitral tribunal had been persuaded that the information on flow rates and estimated reserves given by Mr. P at the Paris meeting was substantially misleading ("the Tribunal is persuaded that the flow rate information and reserve estimates orally given by Mr. [P] at the Paris Meeting were substantially misleading"). In paragraph 11.48 of the arbitration award, the arbitral tribunal concludes that TNG intentionally misled FNP both as regards production and reserves ("the Tribunal concludes that TNG deliberately misled FNP both in respect of production and reserves at the KOF") and with respect to the transferability of the concession ("and in respect of the possibility to have the License for the KOF transferred to the JV").

The arbitral tribunal also assessed the effects of the Paris breach in one context, which is particularly clear from paragraph 11.52 of the arbitration award, in which the arbitral tribunal concludes that the effects of the misleading information was that FNP agreed to abandon the project against TNG repaying to FNP that, which FNP had invested ("The effect of the misleading information was that FNP agrees to abandon the KOF project subject to TNG repaying to FNP the money it had invested in the KOF").

Thus, according to the Court of Appeal it is not possible to establish from the arbitration award that the outcome would have been the same if the arbitral tribunal had reviewed whether TNG had misled FNP only with respect to flow rates and the transferability of the concession.

The importance of the liquidation breach under the arbitration award

Since FNP in these challenge proceedings has also maintained that it was the liquidation breach that granted FNP the entirety of the awarded amount, the Court of Appeal must decide whether the arbitration award has the meaning that the liquidation breach alone serves as grounds for the outcome. If so, the arbitration award shall not be annulled despite the established excess of mandate.

FNP has maintained that its case meant that the liquidation breach formed an autonomous part of its case. TNG has objected that the liquidation breach was dependent on the arbitral tribunal's decision on the Paris breach. The explanation for this is, according to TNG, that the liquidation breach could have entailed a loss for FNP only if the review was made based on the hypothetical assumption that the liquidated company at the time of the liquidation held a concession to exploit the oil field.

The Summary does not clearly provide whether FNP maintained that the liquidation breach alone had caused the entirety of the loss for which FNP claimed compensation in the arbitration. However, the Summary does provide that TNG raised several objections against FNP's assertions with respect to the liquidation breach and that one of these objections was aimed at the fact that Tyumtex at the time of liquidation had no assets or liabilities, and that the liquidation could not have caused any loss or damage (paragraph 10.41 of the arbitration award). Against this FNP objected that the liquidation finally deprived FNP of its rights as a shareholder, including the rights to receive 40 percent of

the net profits, as well as prevented TNG from rectifying its breaches of contract. FNP also maintained that the effects of the liquidation should be determined in the hypothetical scenario that the concession to the oil field had been transferred to Tyumtex and that TNG had not committed any of the other breaches of contract (paragraphs 10.43 and 10.44 of the arbitration award).

According to the Summary, FNP maintained that the breaches of contract FNP referenced in the arbitration had caused the loss for which FNP claimed compensation (paragraphs 10.62 and 10.78 of the arbitration award). The amount claimed was based on FNP's rights under the parties' agreement to 40 percent of the net profits (paragraphs 10.63 and 10.85 of the arbitration award).

The recounted sections do not, according to the Court of Appeal, clearly provide that FNP's case included the assertion that the entirety of FNP's loss had been caused by the liquidation breach.

However, the arbitral tribunal appears to have interpreted FNP's in such a manner that each alleged breach of contract had the effect that FNP lost its investment and suffered the entirety of the loss as a result thereof. Paragraph 11.7 of the arbitration award provides that the claim for compensation is based on a number of alleged breaches of contract and that, according to FNP, each of these breaches of contract led to FNP's loss of the entirety of its investment in the oil field, which in its turn led to substantial losses ("On FNP's case each of those breaches caused FNP to be deprived of its investment in the KOF. As a result FNP suffered substantial damage".). The question to be decided by the Court of Appeal is thus whether the arbitration award actually entailed that the liquidation breach alone was the grounds for the awarded compensation.

In support of its assertion that the liquidation breach alone was the grounds for FNP's case having been granted, FNP has maintained that the arbitral tribunal concluded that the claim for compensation based on the Paris breach was barred by statute of limitations. If this is correct, the awarded compensation would to no extent relate to the Paris breach, i.e. the portion of the arbitration award for which the Court of Appeal has concluded that the arbitral tribunal exceeded its mandate.

First, the Court of Appeal will review whether the arbitral tribunal in the arbitration award concluded that FNP's claim for compensation based on the Paris breach was barred by statute of limitations.

In his witness statement, Mr. L has stated that the claim for compensation based on the Paris breach was indeed as such barred by statute of limitations, but that the parties had devoted so much attention to the Paris breach that the arbitral tribunal nevertheless wished to provide its opinion on the issue. He has also stated that the arbitral tribunal's conclusion with respect to statute of limitations, just as the arbitral tribunal's conclusion that the liquidation breach alone caused the entirety of FNP's loss, is set forth in the arbitration award.

The arbitration award deals with the issue of statute of limitations on p. 79-81. In paragraph 11.83 the arbitral tribunal concludes that a claim for compensation based solely on the Paris breach would have been barred by statute of limitations, unless the period relevant for the statute of limitations had been interrupted. According to the arbitral tribunal, the last relevant breach of contract entailed that the period was extended until June of 2009 (paragraph 11.84). When read in conjunction with paragraph 11.83, the last relevant breach of contract was the liquidation breach. Thereafter, the arbitral tribunal reviewed whether interruption had occurred during the time prior to June of 2009 and concludes this to be the case (paragraphs 11.85 and 11.86). The arbitral tribunal's conclusion is set out in paragraph 11.87, in which the arbitral tribunal notes that FNP's claim for compensation for losses is not barred by statute of limitations and that TNG thus had failed in its attempts to object in reference to statute of limitations ("The time bar defences raised by TNG in respect of the Damage Claim therefore must fail.").

The conclusion of the Court of Appeal is that the arbitration award did not entail that FNP's claim for compensation based on the Paris breach was barred by statute of limitations. The review of whether the arbitration award entailed that the liquidation breach alone led to FNP's claim for compensation was granted must thus be decided based on the fact that the claim for compensation based on the Paris breach was not barred by statute of limitations.

Thus, the question to be decided by the Court of Appeal is whether the arbitration award nevertheless entailed that the liquidation breach alone was the basis for the arbitral tribunal's conclusion to grant FNP's case.

The arbitration award deals with the alleged breaches of contract separately. Following each section, the arbitral tribunal under separate headings decides on the effects of each of the breaches of contract. With respect to the Paris breach, the arbitral tribunal concluded in paragraph 11.55 that this had led to FNP being deprived of its investments and profits from the project. With respect to the *failure to rectify*, paragraph 11.67 provides that the loss due to the breach of contract was, in principle, the same as the loss due to the Paris breach. With respect to the exclusivity breach, the arbitral tribunal states in paragraph 11.70 that it caused substantial financial losses, but that the exact amount of the losses did not require specification. With respect to the liquidation breach, the effects are deal with in paragraph 11.73, which provides that FNP as a result of the breach was deprived of its rights as a shareholder and thus deprived of the right to dividends and profits from the oil field.

The above paragraphs do provide some support that the arbitral tribunal has concluded that each of the breaches of contract alone – with the possible exception of the exclusivity breach – caused the entirety of FNP's loss. This is, however, contradicted by other sections of the arbitration award. In paragraph 11.76, under heading "Summary", the arbitral tribunal states that TNG has breached the agreement in all the alleged manners, that the breaches were intentional and formed "part of a wider scheme deliberately designed to deprive FNP of its interests in the KOF project". The effects of the breaches were, according to the arbitral tribunal, in all cases substantial financial damage ("the effect of the breaches are in all cases substantial economic damage"). With respect to the Paris breach, the breach related to failure to rectify, and the liquidation breach, the loss corresponds to the entirety of FNP's interests in the project ("the damage caused corresponds to FNP's entire interest in the KOF project"). With respect to the exclusivity breach, the loss is stated to be lesser, but this has according to the arbitral tribunal no relevance, since TNG is fully liable based on the other breaches of contract ("since TNG is fully liable on account of the remaining breaches"). The arbitral tribunal ends by concluding that it in any event is the total effect of the breaches of contract that FNP has

lost the entirety of its interests ("At any rate the combined effect of the breaches is a total deprivation of FNP's interest".).

In paragraph 11.107 of the arbitration award, the arbitral tribunal reverts to its conclusion that TNG's numerous breaches of contract establish a pattern with the purpose of concealing the actual circumstances surrounding the exploitation of the oil field from FNP. The arbitral tribunal also refers to the fact that TNG's subsequent actions – contacts with a third party and liquidation of Tyumtex without informing FNP – served the purpose of finally depriving FNP of its legal interests. In paragraph 11.115 the arbitral tribunal summarizes its conclusion as follows.

> "Having found that TNG is guilty of multiple breaches of contract, having dismissed TNG's defences and finding that FNP is entitled to damages the Tribunal must next proceed to consider the economic effects of the breaches".

The portion of the arbitration award that deals with the calculation of the losses does not include any clarification on the arbitral tribunal's reasoning on the issue of the relationship between the compensation and each of the respective breaches of contract.

The conclusion of the Court of Appeal is therefore that the arbitration award does not entail that the liquidation breach alone was the grounds for the award.

The question whether TNG has lost the right to challenge based on excess of mandate

FNP has objected that TNG in any event has lost its right to reference any excess of mandate because TNG participated in the arbitration without objecting to FNP's case as it was presented in FNP's opening and closing statements. The conclusions of the Court of Appeal set out above entail that the fact that TNG had provided misleading information with respect to oil reserves had not been referenced by FNP. It has further not been established in the case that the arbitral tribunal clarified to the parties during the arbitration that it intended to review FNP's assertion with respect to misleading concerning flow rates in such a manner that it would also cover oil reserves. Thus, TNG cannot by participating in the arbitration be deemed to have accepted that the arbitral

tribunal would review whether TNG had provided misleading information with respect to oil reserves.

Conclusions of the Court of Appeal

The Court of Appeal has concluded that the arbitral tribunal was bound by the concrete legally relevant circumstances that were set out in the Summary concerning the breaches of contract alleged by FNP. According to the Summary, FNP did not reference anything with respect to oil reserves. Despite this the arbitral tribunal has concluded that TNG had provided misleading information with respect to oil reserves. This constituted an excess of mandate. It is not possible to ascertain whether the excess of mandate did not affect any portion of the operative part of the award. Therefore, the conclusion of the Court of Appeal is that the established excess of mandate shall entail the annulment of the arbitration award.

Because the Court of Appeal has concluded the arbitration award shall be annulled due to the arbitral tribunal having exceeded its mandate, there is no reason to review TNG's other challenge grounds.

Litigation costs

FNP is the losing party and shall consequently compensate TNG for its litigation costs.

TNG has claimed compensation for litigation costs in the amount of SEK 7,705,807, of which SEK 6,750,000 comprises costs for legal counsel and SEK 955,807 comprises expenses.

FNP has stated that TNG's litigation costs are unreasonably high. FNP has maintained that the case before Court of Appeal has lasted a limited time, involved exchange of submissions and appearances before the court of customary nature and have not been of such scope as to motivate the high claim for compensation. FNP has also questioned whether there were any reasons behind the decision of TNG's counsel to involve four different persons, two of whom were entirely new to the case, in the efforts to protect TNG's interests.

TNG has objected that, amongst other things, its investigation efforts involved a substantial arbitration award concerning a substantial number of issues, that it has been

necessary to review the entirety of the procedural materials, that it has been necessary to retain external experts and that FNP to some extent has adjusted its position in the challenge proceedings with respect to material issues. TNG has also maintained that the work has been divided between the counsel.

The Court of Appeal concludes as follows.

The number of days of the hearing and the exchange of submissions in the case are not as such of such scope so as to motivate the high compensation claimed by TNG. When determining the reasonableness of claimed compensation for litigation costs, also other circumstances may be considered. It is a reasonable starting point that the claimant in challenge proceedings could be required to undertake substantial investigation measures and that the costs consequently could substantially exceed those of the respondent. However, also when this is taken into consideration does the claimed amount not appear reasonable. It cannot, according to the Court of Appeal, be deemed reasonably required to protect the interests of TNG that it be represented by four counsel, of which three were *advokater*, at the oral preparatory hearing as well as at the main hearing. The Court of Appeal further questions whether the substantial submissions submitted in the case were required to present TNG's case. Particularly with respect to the grounds referenced by TNG concerning the arbitral tribunal as a whole having been biased, which were mainly aimed at the arbitral tribunal's review of the merits and thus not subject to challenge. Therefore, the Court of Appeal concludes that the reasonable costs for the protection of TNG's interests in the case are lower than the claimed amount. In the Court of Appeal's opinion, a reasonable amount for legal counsel is SEK 5,000,000, which is approximately three fourths of the claimed amount. Beyond this, TNG shall be awarded compensation for expenses in the claimed amount. The total amount of the compensation thus amounts to SEK 5,955,807.

Appeal

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 it is of importance for the guidance of case law that an appeal is reviewed by the Supreme Court.

The Court of Appeal concludes that there are no reasons to allow appeals of the decision.

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

[ILLEGIBLE SIGNATURES]

The decision has been made by: Senior Judge of Appeal CL and Judges of Appeal KB, reporting Judge of Appeal, and PS.