

Electronic delivery of arbitral awards

Form over function in the Finnish Supreme Court*

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In its recent decision, known as KKO 2025:76, the Supreme Court of Finland has confronted a modern challenge in arbitration: does electronic delivery of an arbitral award trigger the statutory time limit for filing a setting-aside action, or must parties await the signed paper original? The case arose from an arbitration conducted under the Stockholm Chamber of Commerce (“SCC”) Rules, where the arbitral tribunal issued its award on 29 July 2022. On the same day, a PDF copy of the hand-signed award was uploaded to the electronic document management system known as the SCC Platform, whilst the signed hard copy originals were delivered to the parties by courier on 1 August 2022. The claimants filed their action to set aside the award on 1 November 2022, which fell within the Finnish statutory three-month time limit of receiving the paper copy, but exceeded three months from the electronic notification. Therefore, the Supreme Court had to determine whether the three-month time limit for commencement of set-aside proceedings under the Finnish Arbitration Act began from the date when the parties received the PDF copy or from the date of receipt of the signed hard copy original, concluding that the receipt of the signed hard copy original was the decisive date.

1. Introduction to the Supreme Court’s decision

The case concerned an arbitration between a foreign company A, jointly owned by companies B and C, and natural person X as the claimants and a Finnish public limited company D as the respondent. The seat of arbitration was Hel-

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sinki, and the final award was issued on 29 July 2022. In a action filed with the Helsinki District Court on 1 November 2022, the claimants sought to have the arbitration award set aside, and the respondent sought to have the action for set aside dismissed or rejected on the grounds that it had been filed too late.

The Supreme Court noted, in its decision, that the arbitration proceedings had been conducted under the Arbitration Rules of the Arbitration Institute of the Stockholm Chamber of Commerce (“SCC”).¹ Pursuant to a procedural order issued by the arbitral tribunal, the SCC Platform document management system had been used in the arbitration proceedings. The applicable guidelines stated that on the date of the award, the signed and scanned award in PDF format should be uploaded to the platform, and that the signed hard-copy original of the award be sent to the parties by courier or registered mail.² In accordance with these rules and guidelines, the chairman of the arbitral tribunal notified the parties on the date of the award, 29 July 2022, that the arbitral tribunal had uploaded a PDF copy of the award onto the SCC Platform. In addition, the arbitral tribunal sent paper copies of the arbitral award to the parties by courier on 1 August 2022.³ The chairman of the arbitral tribunal also requested the parties to confirm receipt of the arbitral award delivered by courier.⁴

The case centred on the question from what point in time the three-month period for bringing an action to set aside an arbitral award under section 41(3) of the Finnish Arbitration Act (967/1992) should be calculated. The Supreme Court had to decide whether the time limit should be calculated from the date on which the scanned version of the hand-signed arbitration award became available to the parties in the electronic document management system or from the date on which the parties received a physical copy of the arbitration award. The answer to this question determined whether the claimants’ action was admissible or time-barred under the Finnish law. The question carries broader significance for international arbitration practice, where electronic communication has become standard but national arbitration laws often fail to explicitly address whether digital delivery of awards triggers statutory time limits, or whether parties may await physical copies before the clock begins to run.

¹ KKO 2025:76, Supreme Court reasoning, section 8.

² KKO 2025:76, Supreme Court reasoning, section 8.

³ KKO 2025:76, Supreme Court reasoning, sections 1, 2 and 9.

⁴ KKO 2025:76, Supreme Court reasoning, section 9.

2. Legal assessment and the impact of the precedent on the current legal situation

According to Section 41.3 of the Finnish Arbitration Act, the party concerned must file an action for annulment “*within three months of the date on which he or she received a copy of the arbitration award*”. However, the Arbitration Act does not specify when a party is deemed to have received the arbitration award within the meaning of the provision.

Quite often, the practice has been to start counting the time limit from the date of delivery of the electronic copy, but no unambiguous interpretation of the matter can be derived from the letter of the law. There has therefore existed some uncertainty concerning whether the electronic version meets the requirements of Section 37 of the Arbitration Act regarding proper signing and verifiable delivery.

In accordance with Section 37 of the Arbitration Act, “*a copy of the arbitral award shall be duly signed and delivered to each party at the hearing⁵ or otherwise delivered to them in a verifiable manner*”. In its decision, the Supreme Court concluded that a scanned PDF or printed document based on a hand-signed paper copy of the arbitration award should be considered a mere copy of the original award.⁶ Therefore, the Supreme Court ruled that the fact that the parties have received a copy of the award through the electronic document management system does not mean that they have received a copy of the arbitration award as required by the Finnish Arbitration Act.⁷ According to the Supreme Court’s ruling, Section 37 of the Arbitration Act must therefore be interpreted to mean that a party can only be considered to have received a copy of the arbitration award, for the purposes of the section in question, once the original signed copy has been delivered. Thus, the three-month period should be calculated from the date on which the original (wet ink) version of the arbitration award was delivered to the parties. The Supreme Court therefore took a position that emphasised the importance of formal requirements in arbitration proceedings. It should, however, be noted that in its assessment, the Court of Appeal was, by contrast, prepared to consider the PDF version of the arbitration award as a copy of the arbitration award within the meaning of Section 37 of the Arbitration Act.⁸

Nevertheless, this interpretation by the Supreme Court clarifies the legal situation with regard to the calculation of the time limit, but on the other hand also impacts the widespread practice of calculating the three-month time limit on the basis of the date on which the electronic version of the arbitration award

⁵ The English translation uses the wording “session of the arbitrators”.

⁶ KKO 2025:76, Supreme Court reasoning, section 11.

⁷ KKO 2025:76, Supreme Court reasoning, section 11.

⁸ KKO 2025:76, proceedings in lower courts, Helsinki Court of Appeal judgment 18 June 2024 No. 947.

was made available to the parties. The Supreme Court’s interpretation is also problematic from the point of view of legal certainty, as it is uncertain and difficult to predict when a document will arrive by courier or post.

3. Finnish Arbitration Act – reforms underway

The Finnish Arbitration Act dates back to 1992, and its content has hardly been updated since then, with the changes made being mainly of a technical nature. This has led to interpretative uncertainty, among other things, regarding the use of electronic platforms, which are not sufficiently recognised by the current version of the Arbitration Act. In the autumn of 2023, a project to reform the Arbitration Act was launched in order to identify the need for changes to the Act. The aim is to modernise several aspects of the Arbitration Act in order to bring it into line with the best international practices.⁹ Among other things, statements issued during the project have emphasised the need to take digitalisation developments into account and, for example, to further enable electronic signing of arbitration awards.

The Arbitration Act is partly discretionary, which allows the parties to agree on procedures that deviate from the provisions of the Act. For example, most of the provisions of the Arbitration Act concerning the selection of arbitrators are only applicable unless the parties have agreed otherwise. To the extent that the parties have not agreed otherwise, the Act serves as a set of rules supplementing the arbitration procedure. It is very often customary for the parties to agree in the arbitration agreement that the arbitration proceedings shall be governed by the rules of a specific arbitration institution, which generally provide more detailed rules on the procedure than the law. In the event of any conflicts, the mandatory provisions of the applicable law will, however, take precedence over the rules of the arbitration institute chosen by the parties.

4. The SCC Rules and their relationship to the Arbitration Act

In the arbitration clause included in the shareholders’ agreement which was the contractual basis for the arbitration giving rise to the set aside proceedings, the parties had agreed that the place of arbitration would be Helsinki and that the arbitration proceedings would be governed by the Arbitration Rules of the Stockholm Chamber of Commerce (“SCC Rules”).

⁹ OM108:00/2023, Ministry of Justice legislative drafting.

In accordance with the procedural rules of the arbitration, the SCC Platform was used in the arbitration proceedings. According to the applicable orders and instructions, the arbitral award had to be signed and scanned as a PDF and uploaded to the SCC Platform on the day when the award was issued. In addition, the arbitral tribunal was required to send a signed hard-copy original of the award to the parties by courier or registered mail.¹⁰ The latest SCC Rules date from 2023 and, according to Article 42(4) thereof, “*The Arbitral Tribunal shall deliver a copy of the award to each of the parties and to the SCC without delay*”. The SCC Rules do not specifically require that the notification be in the form of a hard copy of the arbitration award, but instead indicates, e.g. in article 5, that “*any communication shall be delivered by courier or registered mail, e-mail or any other means that records the sending of the communication*”, and that “*a notice or communication sent in accordance with the second paragraph shall be deemed to have been received by the addressee on the date it would normally have been received given the means of communication used*”. Consequently, it cannot be inferred from the SCC Rules that the award cannot be considered to have been delivered when the parties have received it via an electronic document management system. If the Supreme Court had interpreted the matter solely on the basis of the SCC Rules, it could well have been concluded that the three-month period would have started to run on 29 July 2022, i.e. from the moment the electronic version of the arbitral award was made available to the parties. The Supreme Court, however, decided to prioritise formal compliance over practicality. It was undisputed that the electronic version was identical to the original version and that each party had access to the electronic version through the SCC Platform on the date of issuing the award. On the other hand, the formalistic approach provides clear guidance: the clock starts when the signed physical copy is delivered, not when electronic access is granted.

5. Legal situation still unclear regarding electronically signed arbitration awards

The decision left open the question of whether the Supreme Court would have reached a different conclusion in its interpretation if the arbitration award had been signed electronically. The Supreme Court expressly stated in its reasoning that cases where the arbitration award had been signed reliably by electronic means were excluded from the assessment.¹¹ It is therefore quite possible that if the arbitration award had been signed electronically in a reliable manner, the date of service could be considered to be the date on which the electronic ver-

¹⁰ KKO 2025:76, Supreme Court reasoning, section 8.

¹¹ KKO 2025:76, Supreme Court reasoning, section 12.

sion was served on the parties. This view would also be supported by the fact that a physical copy of the signed arbitration award would in any case be a copy, as there would be no handwritten signatures. However, the legal situation in this regard remains open to interpretation. The decision therefore leaves it up to the legislator to clarify the relevant provisions of the law in connection with the ongoing reform of the Finnish Arbitration Act, particularly with regard to the electronic signing of arbitration awards. Such clarification is needed in order to avoid unnecessary disputes and loss of rights as a result of incorrect calculation of time limits.