

GUERRILLA TACTICS IN ARBITRATION AND DEFENDING AGAINST THEM

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You know the rules.
I want to see a clean fight

Content

- Delay Game**
- Torpedo Claims**
- Bankruptcy**
- Attack at Arbitrators**
- Notification Game**
- Documentary Evidence Game**
- Case Study**

Delay Game

- Non-payment of arbitration costs**
- Non-appointment of arbitrator**
- Appointment of a busy arbitrator**
- Special procedures (public tenders) apply to the state and state-owned companies**

Torpedo claims

- ❑ Challenge of underlying contract in court
- ❑ Challenge of arbitration clause in court independently of main contract
- ❑ Supreme Court: such disputes should be referred to arbitration

Bankruptcy vs Arbitration

- ❑ Bankruptcy may frustrate ongoing arbitration and thereafter enforcement of an award against an insolvent party**
- ❑ Courts tend to excuse the parties from complying with arbitration clause due to expensiveness of arbitration and on other related grounds**

Attack at arbitrators

- ❑ **Alleging the lack of independence of arbitrator**
 - ❑ **Russian court rejects the argument regarding the alleged conflict of interest with reference to IBA Guidelines on Conflicts of Interest in International Arbitration**
Enel Russia v Banco Santander (2016)

Documentary Evidence Game

- ❑ **Non-disclosure of evidence despite so ordered**
- ❑ **Preservation notice**
- ❑ **Court's assistance in securing evidence under new arbitration law**

Notification Game

Failure of proper notification led to numerous refusals of enforcement

Party is fully responsible for not receiving correspondence at the registered address or address indicated in the contract / *Puutarhaliike Helle Oy v Vasily Ursulyak (2015)*

Treaties governing service of process do not apply to arbitration / *Novy Druk v Agromax Inform (2015)*

Case study: Dodging the rules of arbitration

No submission – no problem?

**Submission was registered by the institution in such a way as if it was filed
after the alleged issuance of the award**

Go public!

Судитесь с конкурентами? Властью?

Бывшими партнёрами?

Считаете, что судья не объективен?

Рискуете потерять миллионы?

РЕШЕНИЕ ЕСТЬ!

Присутствие в зале суда журналиста заставляет судью строже придерживаться процессуальных норм, а зачастую и удерживает его от вынесения неправосудного решения.

ВЫЗОВИТЕ В СУД НАШЕГО РЕПОРТЕРА!

Мы гарантируем:

- обязательное и официальное присутствие журналиста в зале суда с заведомым уведомлением судьи (а также при любом публичном — административном, налоговом, антимонопольном и др. — разбирательстве с вашим участием)
- абсолютную объективность освещения судебного процесса **на сайте**

**Engage a newspaper reporter to observe
the hearing in court**

THANK YOU!

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