

PRESIDENTS PROGRAMME ПРЕЗИДЕНТСКАЯ ПРОГРАММА

Workshop agentschap NL , The Hague

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rechta[®]
a d v o c a t u u r

The “competent court clause” in joint-venture contracts

Setting up a joint venture = also: signing a contract

The competent court clause may consist dispute-resolution, by way of:

- mediation (by parties);
- arbitration (possible in third countries, as formerly often used: Stockholm);
- Russian court (The Russian arbitration courts are not the same as “arbitration as such”).
- Dutch court.

In case of “no clause” in the contract

- Based upon Dutch law, in general: place of permanent residence of defendant (physical person or legal entity), except: agency contracts, employment contracts: place of residence of the agent, employee.
- Based upon Russian law:
- Based upon treaty law: if applicable. For example Rome-I: applicable if one of the contracting parties is an EU country. Result: Dutch court may have to decide that Russian law is applicable.

Examples of jurisdiction clauses:

- *Parties agree to submit all disputes arising under or in connection with this agreement to the exclusive jurisdiction of the court of Amsterdam*
- *Party X and Party Y agree to submit all disputes arising under or in connection with this agreement to the jurisdiction of the court of Amsterdam, without prejudice to X's right to submit any such dispute to any other competent court.*
- *Parties agree that all disputes arising under or in connection with this agreement can be submitted to the jurisdiction of the court of Amsterdam, which shall have non-exclusive jurisdiction.*

Execution of a Russian court decision in the Netherlands:

- Example of a recent Dutch court decision based upon a Russian verdict.

Execution of a Dutch court decision in Russia


Own practise. Arbitrazh sud “Арбитражный суд” (Asmo, 10aas and Fasm0).

Based upon article 11 of the Russian civil litigation act:
‘Regulations with respect to the execution of foreign court decisions or abitrational decisions in the Russian federation are based on international treaties and the russian civil litigation acts’.


Based upon article 14 of the Arbitration litigation codex:
‘Regulations with respect to foreign law and the applicability of that law, is based upon the official explanation, the practise and doctrine of that foreing country’.

Good reasons for the Dutch court clause


- Language;
- Competent judges in case of international issues;
- Costs (legal assistance in Moscow may be very expensive, depending on your local contacts);
- For all Dutch attorneys-at-law: secrecy regulations are applicable “geheimhoudingsplicht en verschoningsrecht” which maybe usefull;
- Online information about the status of the file (essential because of deadlines).

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Good reasons for the Russian court clause

- Costefficiency in case you speak Russian fluently and decide to litigate by your own: no obligation of official legal representation*;
- Depending on the claim: if the object of claim is located in the Russian Federation;
- Procedure = digital= cost efficient (former sheet: official opening page of a Russian court: all information available), but (minus) also free accessible (without login) for third parties.

• Except: criminal law

Q & A

- ЕСТЬ ВОПРОСЫ?
- In case of questions, raised after this presentation: e-mail: info@rechta.com



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- The information provided in the sheets is just informative. It does not contain an advise or opinion. For more detailed information you are invited to send your question to: info@rechta.com

Impressions of Russian caricaturists (first sheet)

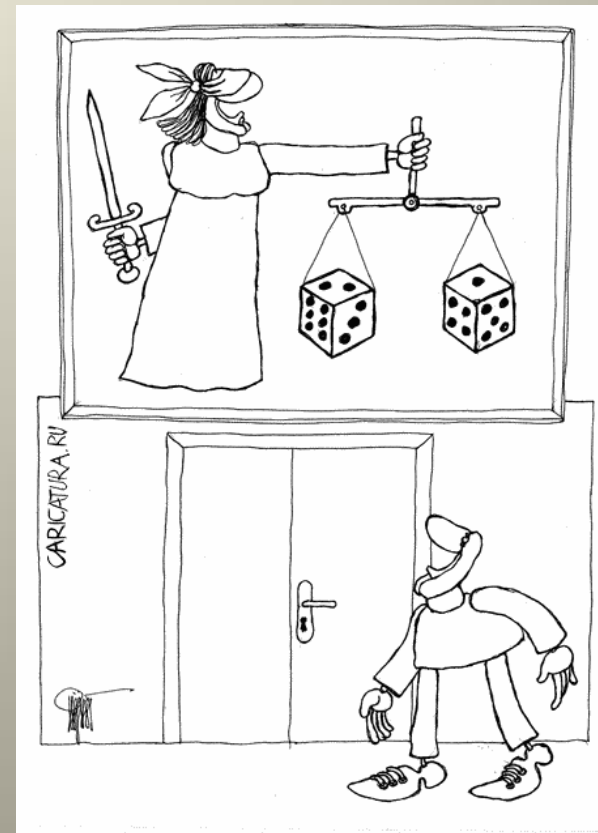
Russische humor. Vrij vertaald:

Toegang tot 'Rechtstaat'.

Vraag: 'Uw rechtstaat document graag?'

Toelichting: het woord 'prava' betekent in het Russisch zowel 'rechten' als 'bewijs' (bijvoorbeeld rijbewijs, bevat ook het woord prava).

Vrouwe justitia



Impressions of Russian caricaturists (first sheet)

“Russische grondwet”

“Nu in nieuw, handig formaat”



Op de boeken staat: “codex” en “wetboek”

