Observatoire ARGA

FRAMEWORK FOR SELECTING EFFECTIVE JURISDICTIONS FOR INTERNATIONAL INVESTMENT AND ARBITRATION DISPUTES IN 2025

A Practical Guide for Disputes Involving CIS States, State and Quasi-State Entities, as well as Disputes Affected by Sanctions and Political–Legal Factors

Author:

Sergei Khrabrykh — President of ARGA, PhD

Organization: Observatoire ARGA – Sanctions and Compliance Division

Correspondence Address: 14 rue Jacques Laffitte, Bayonne, 64100

Contact: info@argaobservatory.org

Paris, 24 December 2025

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1. Why This Guide Is Needed and What “Effectiveness” Means in 2025

In 2025, the concept of an “effective jurisdiction” in investment arbitration and quasi-public disputes differs radically from the classical understanding developed in previous decades. Effectiveness is no longer defined by the reputation of a jurisdiction, the formal status of a “pro-arbitration court,” or abstract loyalty to international arbitration. What is decisive is the practical ability of the chosen legal architecture to withstand cumulative pressure—procedural, political-legal, sanctions-related, and enforcement-related.

Under current conditions, an “effective jurisdiction” represents an applied combination of at least four interrelated elements.

First, **jurisdictional resilience**. This concerns not only the formal jurisdiction of the tribunal, but also the real capacity of the arbitration to retain that jurisdiction throughout the proceedings and after the award is rendered. In 2025, jurisdictional attacks are systematically deployed, based on arguments of public policy, sanctions regimes, sovereign immunity, alleged abuse of process, parallel domestic proceedings, and anti-arbitration injunctions. An effective jurisdiction is one in which the likelihood that an award will survive such attacks is high not in theory, but in practice.

Second, **procedural manageability**. Speed and predictability of proceedings acquire independent value in conditions of sanctions, asset freezes, and limited time windows for enforcement. This includes the availability of interim measures, court assistance in evidence-gathering, protection against obstructive tactics, and the ability of courts or tribunals to respond promptly to procedural abuses. A jurisdiction that formally allows arbitration but does not ensure procedural manageability loses its practical value in 2025.

Third, **real enforceability**. An award that cannot be converted into monetary recovery or tangible economic results ceases to be a legal asset. In a fragmented international legal order, decisive factors include access to assets, the absence of insurmountable barriers arising from sovereign immunity, and the willingness of national courts to recognise and enforce arbitral awards without an excessive expansion of public policy exceptions. The effectiveness of a jurisdiction is measured not by the quality of the award’s reasoning, but by the ability to carry the case through to actual recovery.

Fourth, **counter-risks**. In 2025, dispute resolution strategy must take into account not only the arbitration itself, but also associated risks: state immunity, sanctions compliance, the risk of refusal of recognition on public policy grounds, the existence of parallel proceedings, prohibitions on foreign litigation, penalties for “non-compliance” with foreign courts or tribunals, as well as reputational and regulatory consequences for the parties and their representatives.

The principal strategic mistake that continues to undermine even legally strong cases is the choice of arbitration without a detailed and realistic enforcement plan. The second, no less critical mistake is attempting to design an enforcement strategy without a deep understanding of state immunity and sanctions restrictions. In the conditions of 2025, such errors are effectively equivalent to strategic self-destruction of the case before it even begins.

2. Neutrality and Universality for the CIS

This guide is methodological and neutral in nature. It is not designed to advance the interests of any single category of participants and does not proceed from a presumption of correctness on the part of either the investor or the state. The approach proposed in this document is based on an analysis of institutional risks and practical constraints characteristic of investment arbitration disputes involving states and quasi-state entities in the CIS region and beyond.

The guide is equally applicable:

— to an investor bringing claims against a state or a state authority;

— to a state constructing a defence against unfounded or excessive claims;

— to disputes involving state-owned corporations, state banks, and other entities with a mixed public–private nature;

— to cases involving sanctions, restrictions, asset blockages, and other measures of a public-law character, where a private-law dispute inevitably acquires a public-law dimension.

Particular attention is paid to situations in which a formally commercial or investment dispute becomes embedded in a broader context—political, sanctions-related, regulatory, or sovereign. It is precisely such cases that, in 2025, constitute the primary risk zone and require abandoning template arbitration solutions in favour of adaptive and multi-layered strategies.

3. Classification of the Dispute: This Is Where Jurisdiction Selection Begins

Before discussing the arbitral seat, court assistance mechanisms, or enforcement prospects, the dispute must be correctly classified. In 2025, an error at this stage is fatal: the type of dispute determines which tools will be used against you, where pressure will be concentrated, and which arguments will become system-forming for the opposing side.

Current practice shows that parties and national courts increasingly recharacterise the legal nature of disputes not in accordance with their economic substance, but based on strategic objectives—expanding immunity, invoking sanctions arguments, or removing the dispute from arbitral jurisdiction. Accordingly, dispute classification must be carried out in advance and with due regard to the risk of recharacterisation by the counterparty.

A. Classical Investment Dispute (Treaty-Based)

This category includes disputes directly grounded in international investment agreements, including bilateral investment treaties (BITs) and multilateral regimes. Typical grounds include expropriation and indirect expropriation, violations of the fair and equitable treatment (FET) standard, denial of justice, discrimination, and breaches of the obligation to provide full protection and security (FPS).

In 2025, the primary attack vectors in such disputes concern admissibility, abuse of rights, parallel domestic proceedings, and attempts to portray the dispute either as purely commercial or, conversely, as an act of sovereign regulation excluded from arbitral review.

B. Quasi-Investment Dispute (At the Intersection of Contract and Public Law)

This category covers disputes arising from concession agreements, infrastructure and energy projects, subsoil use, major licences, public–private partnership (PPP) projects, and conflicts related to regulatory actions by the state.

Although such disputes are formally based on contract, they inevitably involve elements of public law, including permitting regimes, tariff regulation, environmental requirements, and sanctions restrictions. In 2025, this is the area where disputes are most frequently recharacterised as "sovereign," followed by the expansion of arguments relating to immunity, public policy, and the exclusion of arbitral jurisdiction.

C. Commercial Dispute with a State Element (SOE / State Bank / Quasi-State Entity)

This category encompasses contractual disputes in which one of the parties is a state-owned enterprise, a state bank, or an entity subject to significant state control. The typical defence strategy consists of shifting an originally commercial conflict into a political–legal framework, invoking sanctions, "unfriendly jurisdiction" arguments, the protection of public interests, or threats to financial stability.

In such disputes, the choice of jurisdiction directly determines whether the court will treat the respondent as an ordinary commercial actor or grant it de facto public-law privileges.

D. Sanctions-Driven Dispute

This category includes disputes in which the sanctions regime is not merely background context but a core element of the dispute: impossibility of payment, asset freezes, prohibitions on performance, "no-claims" arguments in the EU and third countries, and issues relating to licensing and exemptions.

In 2025, such disputes are particularly sensitive to the choice of seat and enforcement forum, as national courts increasingly substitute an analysis of contractual obligations with sanctions-compliance analysis, while arbitral awards encounter multi-layered barriers at the recognition and enforcement stages.

4. The "Four-Map" Model: The Only Workable Approach

Practice over recent years demonstrates that a resilient strategy in investment arbitration and quasi-public disputes can be built only on the basis of a comprehensive model conventionally referred to as the "four-map" model. The absence of any one of these maps renders the strategy vulnerable and often results in the loss of enforceability even in a formally successful case.

Map 1. Treaty Map (or Arbitration Agreement Map)

At this level, the existence and quality of the legal basis for arbitration are assessed: the applicable BIT or multilateral treaty, the arbitration clause in the contract, the choice between ICSID and UNCITRAL, notification requirements and compliance with the cooling-off period, the presence

of fork-in-the-road clauses, waivers, and obligations to exhaust local remedies. Errors at this stage frequently lead to loss of jurisdiction or refusal of recognition of the award.

Map 2. Seat Map

The choice of the arbitral seat determines the procedural ecosystem of the dispute: which courts will support the arbitration, what standards apply to setting aside awards, and how realistic it is to obtain interim measures, anti-suit, or anti-anti-suit injunctions. In 2025, the seat is not a matter of tradition, but a matter of procedural survival.

Map 3. Asset Map

Even a perfectly conducted arbitration is meaningless without a clear understanding of where the respondent's real assets are located and what their legal nature is. The analysis includes banking flows, equity interests in SPVs, receivables, trading operations, insurance proceeds, freight and shipping arrangements, export chains, guarantee payments, and other sources of liquidity. The asset map must be updated dynamically as the dispute evolves.

Map 4. Enforcement Map

The final map determines where assets can actually be seized, frozen, or subjected to enforcement. The analysis addresses barriers related to sovereign immunity, sanctions, public policy, requirements for proving the arbitration agreement, and the admissibility of the arbitral award. In 2025, it is the enforcement map that most often determines the outcome of the entire dispute, regardless of the award's legal merits.

5. Choice of Regime: ICSID vs Non-ICSID (UNCITRAL / Institutional Arbitration)

The choice between ICSID and non-ICSID arbitration in 2025 is no longer a matter of "prestige" or theoretical protection. It is a matter of risk architecture. Both regimes function, but they fail in different ways—and this must be taken into account in advance.

5.1. ICSID (Where Available)

Advantages

ICSID remains a unique regime due to its autonomous system of recognition and enforcement. An ICSID award does not go through the standard recognition procedure under the 1958 New York Convention and is not subject to annulment by national courts at the seat. This significantly reduces the scope for attacks on the award through set-aside proceedings and excludes any "review on the merits" disguised as public policy or procedural violations.

An additional advantage is institutional predictability: procedures, due process standards, and control frameworks are more stable than in most non-ICSID scenarios, particularly in politically sensitive cases.

Disadvantages

The key limitation of ICSID in 2025 is the illusion of automatic enforceability. Sovereign immunity from execution does not disappear. Even a perfectly reasoned ICSID award ultimately confronts the same practical question: which assets of the respondent are not protected by immunity, and in which jurisdictions they can realistically be reached.

ICSID does not resolve the absence of assets, their "repackaging," transfer to protected entities, or relocation to jurisdictions with strict immunity regimes. In addition, in a number of countries courts are increasingly debating the interaction between ICSID obligations and national sanctions regimes.

Practical Conclusion for 2025

ICSID is not a "guarantee of money." It is a guarantee of a more robust procedural foundation and greater resistance of the award to formal attacks. Everything that follows the issuance of the award is determined by the quality of the asset map and the choice of enforcement forum. Without this, even ICSID remains an expensive but abstract asset.

5.2. Non-ICSID (UNCITRAL / Institutional Arbitration under the 1958 New York Convention)

Advantages

The non-ICSID regime offers significantly greater flexibility. There is a wider choice of seats, more room for procedural manoeuvre, and greater variability in the selection of institutions, rules, and tactics. In a number of cases, non-ICSID arbitration makes it possible to tailor the process optimally to the asset map and future enforcement jurisdictions.

Moreover, in certain sanctions-sensitive cases, non-ICSID arbitration allows parties to avoid constraints that increasingly attach to the investor–State format.

Disadvantages

The main risk is dependence on the courts at the seat. The award is vulnerable to set-aside proceedings, and it is precisely there that the "court of last strike" is located. In 2025, expansive arguments are increasingly invoked: public policy, sanctions, alleged lack of arbitrability, and alleged abuse of process.

Non-ICSID arbitration also creates more procedural points of attack: jurisdiction, the composition of the tribunal, procedural decisions, notifications, and due process can all be leveraged for pressure.

Practical Conclusion

Non-ICSID arbitration works only with a strong seat and a pre-structured enforcement map. Without these, flexibility turns into vulnerability.

6. Seat Selection in 2025: Expanded Criteria That Actually Work

In 2025, the seat cannot be chosen "out of habit" or based on rankings. It must be tested as a technical node of the overall strategy. Below are the criteria that must be applied as a practical checklist, not as abstract principles.

6.1. Judicial Support for Arbitration in the Context of Parallel Attacks

Practice in 2024–2025 has demonstrated that in a number of cases—especially those involving sanctions or a state element—a **global judicial strategy** is required, rather than simply a "good seat."

Courts at the seat and courts in third countries must be prepared to support the arbitration when the national courts of one of the parties attempt to seize control of the dispute through anti-arbitration claims, parallel proceedings, or prohibitory measures.

The line of cases in *UniCredit v RusChemAlliance* is illustrative: English courts treated anti-suit injunctions as a tool to protect arbitration, even though the seat was in Paris. The key takeaway is that what matters is not only the position of the courts at the seat, but also their willingness to be part of a transnational system of judicial protection of arbitration.

6.2. Standard of Review in Set-Aside Proceedings

For non-ICSID arbitration, the court at the seat is a critical pressure point.

In a weak seat, a victory may be annulled on expansive grounds, ranging from alleged violations of public policy to a de facto re-evaluation of evidence.

In a strong seat, courts adhere to narrow standards of review:

— procedural violations;

— excess of the tribunal's mandate;

— genuine due process failures;

— public policy in a narrow, non-politicised sense.

In 2025, the distinction between these approaches has become practical rather than theoretical.

6.3. Sanctions Neutrality and Predictability of Public Policy

Within the EU, a complex and unstable risk zone has emerged in connection with the application of Article 11 of Regulation 833/2014 ("no-claims"). Active debates and court proceedings are underway regarding:

— whether the "no-claims" provision applies to arbitral claims;

— how it affects advance payments, guarantees, assignments of claims, and related parties;

— whether a sanctions regime can become an element of public policy justifying refusal of recognition or enforcement.

In addition, in 2025 there have been indications of adjustments to EU sanctions mechanisms affecting recognition and enforcement in the context of investor–State and quasi-state disputes.

Practical Conclusion

An EU seat remains possible and often rational. However, for "sanctions-sensitive" cases, it is necessary in advance to model scenarios in which sanctions arguments are used not on the merits, but as a procedural barrier at the recognition and enforcement stage within the EU.

6.4. Speed and Practicality of Court Assistance

A strong seat in 2025 is not defined by abstract "pro-arbitration" rhetoric, but by concrete features of the judicial system:

— the ability of courts to grant interim measures quickly;

— genuine assistance in obtaining and preserving evidence;

— avoidance of paralysing arbitration through formalistic and protracted procedures.

In conditions of sanctions, asset freezes, and narrow enforcement windows, judicial speed has become a factor of material outcome, not merely convenience.

7. Enforcement Jurisdictions: In 2025, They Matter More Than the Seat

The key practical principle of 2025 remains unchanged: **the winner is not the party who obtained an award, but the party who obtained the money**. In an environment of sanctions, strengthened immunity, and fragmented legal orders, the enforcement stage has become decisive for the entire dispute resolution strategy.

The seat is important, but it serves the process. Enforcement is the end result for which the entire structure is built.

7.1. Asset-First Approach

A modern enforcement strategy is built not around an abstract list of "friendly jurisdictions," but around concrete **points of impact**. The analysis begins not with the question "where to recognise," but with "where real leverage is possible."

Relevant jurisdictions are those in which there are:

— liquid funds or stable cash flows;

— counterparties of the respondent obliged to make regular payments;

— assets that by their nature are amenable to attachment or interim measures;

— banks, depositaries, clearing, and payment institutions through which settlements are processed.

The asset-first approach requires dynamic monitoring: assets may migrate, be repackaged into SPVs, or moved to jurisdictions offering enhanced immunity protection. In 2025, a static asset map becomes outdated faster than the arbitration itself unfolds.

7.2. State Immunity: Jurisdiction vs Execution

A critical mistake is to equate recognition of an award with its actual enforcement. In many jurisdictions, immunity at the execution stage is significantly stricter than at the recognition stage.

By 2025, situations in which a court is prepared to recognise an arbitral award but refuses any enforcement measures have become the rule rather than the exception.

Effective enforcement strategies against states and SOEs are typically built on:

— identifying commercial assets not protected by immunity;

— proving their use for commercial purposes (*jure gestionis*);

— precisely linking those assets to the jurisdiction of the court deciding the enforcement issue.

This stage most often determines whether an award remains a legal document or is transformed into an economic result.

7.3. United States: A Powerful Forum, but Rising Requirements

U.S. courts remain one of the most powerful tools for enforcing arbitral awards against states and state-owned entities. However, in 2024–2025, practice—particularly at the level of the D.C. Circuit—has become noticeably stricter.

In cases concerning the enforcement of arbitral awards, including those within the *Yukos* framework, courts have explicitly stated that they are **not automatically bound** by the arbitral tribunal's findings regarding the existence of an arbitration agreement for purposes of applying exceptions to sovereign immunity under the FSIA.

The question of jurisdiction under the FSIA must be analysed independently by the court, even where the tribunal has already affirmed its jurisdiction.

Practical Conclusion

If the enforcement strategy includes the United States, it is necessary in advance to prepare:

— evidence of the arbitration agreement in a form and analytical framework acceptable to a federal court;

— a clear justification for the applicability of a specific FSIA exception;

— a separate line of argument on the status of agencies and instrumentalities of the state if the respondent is an SOE or a related entity.

Without this preparation, the United States can shift from a force multiplier into an expensive dead end.

7.4. United Arab Emirates (Dubai / DIFC): A Strong Tool with Traps

The UAE is increasingly viewed as a potential enforcement hub, particularly for disputes involving assets linked to trade, finance, and logistics. However, the effectiveness of the UAE depends entirely on the architecture of the strategy.

Critical factors include:

— proper differentiation between onshore and offshore regimes;

— accounting for the potential impact of parallel set-aside proceedings at the seat;

— the existence of a genuine, not merely formal, connection between the dispute or the assets and the DIFC.

In practice, the UAE is not an "automatic enforcement paradise," but a jurisdiction where even a minor structural error can result in loss of momentum or a complete blockage of recovery.

7.5. European Union: Legally Strong, but Sanctions-Complex

EU jurisdictions continue to offer strong procedural tools and a developed practice of recognising arbitral awards. However, in 2025, for cases intersecting with sanctions regimes, advance planning of the sanctions framework becomes critical.

This includes:

— analysis of applicable sanctions regimes and their extraterritorial effects;

— obtaining licences or exemptions where required;

— assessing the risk that sanctions arguments may be transformed into elements of public policy at the recognition or enforcement stage.

Practice shows that without such planning, even a formally strong position in the EU may become procedurally blocked.

8. Parallel Proceedings and Prohibitions: A Universal CIS Counter-Risk

Disputes involving CIS countries are characterised by a systemic risk of the so-called "dual track." Arbitration is almost invariably accompanied by parallel proceedings in national courts or by other state measures aimed at exerting pressure, blocking, or discrediting the arbitration.

The objectives of such proceedings are typically standard:

— intimidation of the party and its representatives;

— creation of procedural obstacles to arbitration;

— formation of a formal basis for refusal to recognise or enforce an award abroad.

The most severe example remains the Russian model of override arbitration and choice-of-court, enshrined in Articles 248.1–248.2 of the Russian Commercial Procedure Code, including anti-arbitration and anti-suit injunctions and fines comparable to the amount in dispute. International law firms describe this practice as systemic and exceptionally aggressive.

However, from a methodological perspective, it is important to recognise that similar effects are achieved in other countries of the region—albeit through different instruments:

— criminal prosecution;

— regulatory pressure;

— nationalisation or revocation of licences;

— pressure on local assets and personnel.

Key Conclusion

A strategy without a plan for parallel proceedings in 2025 is not a strategy.

Arbitration, the seat, and enforcement must be designed from the outset with the likelihood of national interference in mind and with a pre-prepared set of countermeasures—procedural, jurisdictional, and tactical.

9. Stage-by-Stage Decision-Making: The Matrix That Saves Cases

The key mistake in investment arbitration is to treat stages sequentially rather than as a single system. In 2025, the strategy must be end-to-end: every action taken at an early stage must serve future enforceability. Below is a model that minimises “victories without money.”

Stage 0: Pre-Launch (Structuring and Preparation)

Objective

To create a coherent chain: treaty jurisdiction → evidentiary base → future enforceability.

Actions

— verification of the applicable treaty network (BITs, multilateral agreements), jurisdictional bases, and all formal notification requirements;

— analysis of constraints: fork-in-the-road, waiver, exhaustion of local remedies, cooling-off periods, and their potential use against you;

— systematic documentation of investments, legitimate expectations, the regulatory environment, and correspondence with state authorities;

— formation of an evidentiary framework establishing causation between state actions and damage (ex ante, not post factum);

— preliminary asset map of the respondent: assets, cash flows, counterparties, banks, jurisdictions, and potential pressure points.

At this stage, up to 60–70% of enforcement success is determined. Everything not done here will later have to be built "under fire."

Stage 1: Pre-Arbitration (Notice, Cooling-Off)

Objective

Not formal "courtesy," but preparation of the future tribunal to retain jurisdiction and to grant possible interim measures.

Actions

— precise and disciplined formulation of claims: without excess, but covering all potential legal characterisations;

— characterisation of the breach as a continuing breach, where possible, to expand temporal and jurisdictional scope;

— laying the groundwork for provisional measures (preservation of the status quo, protection of assets, prevention of further harm);

— creation of a written record that will later support due process protection of the award at the enforcement stage.

Errors at this stage often become arguments against jurisdiction or interim relief.

Stage 2: Arbitration (Jurisdiction, Evidence, Interim Measures)

Objective

To retain the tribunal's competence and protect future enforceability even before the award.

Actions

— construction of jurisdictional arguments as if they will later be reviewed by a national court (especially in the United States);

— parallel preparation of enforcement packages for key jurisdictions while the merits phase is ongoing;

— monitoring and documenting any parallel attacks (national proceedings, regulatory pressure, anti-arbitration measures);

— advance planning of anti-suit or anti-interference tools in friendly courts if attempts are made to seize control of the dispute.

Practice in 2024–2025 (including the *UniCredit* cases) has shown that judicial support for arbitration outside the seat can be critical.

Stage 3: Award

Objective

To "land" the award as quickly as possible in key enforcement jurisdictions.

Actions

— advance prioritisation of 2–4 enforcement jurisdictions based on the asset map;

— preparation of a complete documentation package in line with the standards of specific courts: certified copies, translations, proof of notice;

— separate preparation of evidence of the arbitration agreement in a form acceptable to the relevant jurisdiction (especially for FSIA analysis in the United States);

— synchronisation of filings to minimise the respondent's reaction time.

Speed here is not convenience—it is a determinant of outcome.

Stage 4: Execution

Objective

To convert recognition into actual recovery.

Actions

— selection of enforcement measures by asset type (cash, receivables, equity interests, cash flows);

— development of arguments on immunity from execution, separate from jurisdiction and recognition;

— activation of a sanctions compliance framework: licences, exemptions, coordination with banks;

— iterative action rather than a single strike: pressure applied through multiple points simultaneously.

10. Practical Criteria for Selecting "Effective Countries" for CIS-Related Disputes

Below is a working ranking checklist that practitioners should actually use when selecting a seat and enforcement jurisdictions. These are not abstract considerations, but parameters that can be verified and compared in practice.

Criteria A: Legal Infrastructure

1. Applicability of the New York Convention or an autonomous ICSID regime.
2. Predictable court practice in set-aside and recognition/enforcement proceedings.
3. Narrow, non-politicised interpretation of public policy.
4. Courts' real capacity to grant and manage interim and conservatory measures.

Criteria B: Immunity and State Assets

5. Practice of applying exceptions to immunity and the commercial activity test.

6. Availability of effective tools for attachment of assets and receivables.

7. Courts' approach to the concept of state instrumentalities and evidence of state control.

Criteria C: Sanctions and Compliance Barriers

8. Risk of enforcement being blocked due to sanctions or "no-claims" logic.

9. Transparency and predictability of licensing and exemption procedures; banking practice.

Criteria D: Countermeasures and Parallel Proceedings

10. Courts' resilience to anti-suit and anti-arbitration attacks.

11. Likelihood that courts will recognise or take into account "national prohibitions" imposed by the respondent's home state.

12. Speed of judicial response—measured in weeks, not abstract timelines.

Criteria E: Economics of Enforcement

13. Presence of the respondent's real assets and cash flows in the jurisdiction.

14. Ability to reach banks and counterparties (third-party debt, garnishment, and analogues).

15. Demonstrated practice of actual recoveries, not merely formal recognition.

11. Mini Cheat Sheet for the Team: "What to Choose at the Start"

This section is designed for use at the very beginning of a project, before notices are issued and before the arbitration regime is selected. Its purpose is to align the team quickly on key decisions and to avoid strategic mistakes that are no longer forgiven in 2025.

If the Dispute Has a High Public or Sanctions Component

This category includes disputes involving a state, an SOE, or a state corporation; disputes affected by sanctions, export controls, or asset freezes; and cases where the counterparty is likely to shift the conflict into the public-law domain.

Seat

— select a seat in a jurisdiction where courts demonstrate consistent and predictable protection of arbitration;

— the key criterion is courts' willingness to react quickly to interference: parallel lawsuits, anti-arbitration measures, attempts to hijack the dispute;

— priority should be given to jurisdictions where courts do not expand public policy through political or sanctions-based arguments.

Enforcement

— design the enforcement strategy outside jurisdictions where sanctions-based public policy can block payment without a licence or exemption;

— model the compliance framework in advance: licences, exemptions, interaction with banks and depositaries;

— proceed on the assumption that recognition of an award and actual recovery may occur in different countries.

United States

— consider the United States as a potential pressure amplifier, not an automatic choice;

— use it only where there is a strong evidentiary basis regarding the arbitration agreement, notices, and applicability of FSIA exceptions;

— prepare a separate line of argument on the status of state agencies and instrumentalities if the respondent is an SOE.

If the Dispute Is a "Classic Treaty" Case Without a Sanctions Core

This category includes disputes based on BITs or multilateral treaties where there is no active sanctions dimension and the dispute is not embedded in the current geopolitical configuration.

Regime and Seat

— optimise the strategy for procedural speed and the award's resilience to jurisdictional and procedural attacks;

— allow for a broader choice of seats and institutions based on process manageability;

— nevertheless, avoid jurisdictions with an expansive approach to set-aside review.

Enforcement

— expand the pool of potential enforcement jurisdictions based on the asset map;

— use parallel recognition in multiple jurisdictions to increase pressure;

— do not postpone enforcement analysis: it must proceed in parallel with the arbitration.

Immunity

— even in the absence of sanctions, start from the basic principle that a state always means immunity;

— plan arguments on commercial activity and asset status in advance;

— do not build strategy on assumptions of "reasonable behaviour" by the respondent state.

Key Reminder for the Team

In 2025, a successful case is not the result of a single good choice (seat, institution, or regime), but of a coherent architecture of decisions made at the outset and tested through the lens of future enforcement.

If the team cannot clearly answer the question "where and how will we get the money?" before launching the dispute, the strategy must be rebuilt.

12. Sources and Reference Points

— **UK Supreme Court**: case page for *UniCredit v RusChemAlliance* and related materials on judicial support for arbitration and jurisdictional battles.

— Analytical materials on mechanisms for overriding arbitration agreements and the use of anti-suit / anti-arbitration tactics (international surveys and reviews).

— **CJEU preliminary reference** concerning Regulation (EU) No 833/2014, Article 11 ("no-claims"), and questions regarding its implications for claims, restitution, and partial performance.

— Materials analysing Article 11 of Regulation (EU) No 833/2014 and its impact on arbitration and public policy.

— **U.S. Court of Appeals for the D.C. Circuit** (5 August 2025) decisions on enforcement of arbitral awards against the Russian Federation and standards for reviewing jurisdiction and FSIA applicability.

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