



## **Crunch time - legal standards and practical issues on enforcement of the award**

*Arguments available to the respondent*

ASA Below 40 / ICDR Y&I Seminar  
Geneva, 31 May 2013

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Laura Halonen

# Cards are stacked against Respondent

Failure to appear amounted to

*“... inadmissible contempt of the fundamental principles of the international legal intercourse.”*

Supreme Court (Tribunal Supremo) of Spain, 11 Feb  
1981, (1982) VII YBCA 356, p. 358

# Do not apologise



## Dig deeper into content

*Causation* may cause problems, but also present opportunities

*“[A] party to an arbitration is unable to present his case if he is never informed of the case that he is called upon to meet. That was the position in this case. So far as Mr Guinness was concerned, there did not appear to be any valid case that he had to meet. ... That, as we now see, was not the case that he had to meet. He never had a fair chance to meet that case.”*

England, Court of Appeal, Civil Division,  
21 Feb 2006, (2006) XXXI YBCA 943, p. 949

# Give a reason for non-attendance

- Law v equity
- Did the dog eat your homework?
  - Individual
  - Company
  - State / state-owned entity

# Boobytrap: Waiver

- Could the objection have been made in the proceedings?
- BUT remember: Do not be apologetic
- NOT applicable to other grounds under the NY Convention – consider those carefully

## Get on the offensive

- File for annulment



# THE END

- thank you – merci – vielen dank – grazie
- Time for beverages and merriment

