

You Better Watch Out: Extensions of Time for Challenging Arbitration Awards

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PRACTICES International, Litigation, International Arbitration

Introduction

In the recent case of *The Federal Republic of Nigeria v Process & Industrial Developments Limited* [2020] EWHC 2379 (Comm), the High Court granted an extension of time to bring challenges to an arbitral award made under Sections 67 and 68 of the Arbitration Act 1996.

The unusual aspect of this decision was that it had been several years since the arbitral award was made. The court found that the applicant had established a strong prima facie case of fraud affecting both the underlying contract and the arbitral proceedings, of which it had reasonably been unaware. This, along with other factors, merited the grant of an unprecedented extension.

Background

The defendant, P&ID, is a company incorporated in the British Virgin Islands (“BVI”) by two Irish citizens, Michael Quinn and Brendan Cahill. P&ID, like many other BVI companies, had no assets, only a handful of employees, and was without a website or other presence. Such trifling matters would not, however, stop P&ID from being awarded a multi-billion dollar contract by the government of Nigeria.

That contract, known as the GSPA, was entered into between Nigeria and P&ID on 11 January 2010. Under the GSPA, Nigeria was to supply wet gas to a facility to be constructed and operated by P&ID. That facility would process the gas to remove natural gas liquids, which P&ID would be entitled to use as it saw fit, and return lean gas to Nigeria at no cost. The contract was to run 20 years from Nigeria’s first regular supply of natural gas to the facility.

The GSPA was never implemented. P&ID commenced an arbitration seated in London, claiming that Nigeria had failed to supply the natural gas, thus repudiating the contract. P&ID sought over \$6 billion in lost profits over the 20-year lifespan of the contract.

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