Record Nr. UNINA9910825645003321 Autore Hosang Alain **Titolo** Obstructionist behavior in international commercial arbitration: legal analysis and measures available to the arbitral tribunal / / Alain Hosang Pubbl/distr/stampa Hague, Netherlands: .: Eleven International Publishing. . 2014 ©2014 **ISBN** 94-6094-895-2 Descrizione fisica 1 online resource (319 p.) Collana International commerce and arbitration; ; Volume 16 Disciplina 347.09 Soggetti Arbitration and award Arbitration (Administrative law) Lingua di pubblicazione Inglese **Formato** Materiale a stampa Livello bibliografico Monografia Includes index. Note generali COVER; TABLE OF CONTENTS; ACKNOWLEDGEMENTS; INDEX OF Nota di contenuto ABBREVIATIONS: INDEX OF CITED AUTHORITIES: INDEX OF CASES AND ARBITRAL AWARDS: INDEX OF STATUTES AND LEGAL MATERIALS: CHAPTER 1: INTRODUCTION; 1.1 SUBJECT MATTER; 1.2 TERMINOLOGY: WHY 'OBSTRUCTIONIST' BEHAVIOR?: 1.3 JURISDICTIONS AND ARBITRATION RULES COVERED; 1.4 STRUCTURE OF THE WORK; CHAPTER 2: OBSTRUCTIONIST BEHAVIOR; 2.1 OBSTRUCTIONIST BEHAVIOR AS A RESULT OF DISPARITY OF INTEREST BETWEEN THE PARTIES; 2.2 THE OBSTRUCTIONIST BEHAVIOR TEST: DEFINITION OF **OBSTRUCTIONIST BEHAVIOR; 2.3 RESULTS** CHAPTER 3: THE LEGAL BASIS OF THE OBSTRUCTIONIST BEHAVIOR TEST3.1 MUTUAL OBLIGATIONS OF THE PARTIES; 3.2 VALID REASONS FOR THE BEHAVIOR OF A PARTY-OVERVIEW; 3.3 RESULTS; CHAPTER 4: APPLICATION OF THE OBSTRUCTIONIST BEHAVIOR TEST: POSSIBLE FORMS OF OBSTRUCTIONIST BEHAVIOR; 4.1 ACTIVE AND PASSIVE OBSTRUCTIONIST BEHAVIOR; 4.2 THE DIFFERENT STAGES OF THE PROCEEDINGS RELEVANT FOR OBSTRUCTIONIST BEHAVIOR; 4.3 OBSTRUCTIONIST BEHAVIOR INDEPENDENT OF THE STAGES OF THE PROCEEDINGS; 4.4 PASSIVE AND ACTIVE OBSTRUCTIONIST AT THE RELEVANT STAGES OF THE PROCEEDINGS; 4.5 EFFECTS OF

**OBSTRUCTIONIST BEHAVIOR** 

4.6 GENERAL RESULTSCHAPTER 5: MEASURES AVAILABLE TO THE

ARBITRAL TRIBUNAL; 5.1 INTRODUCTION; 5.2 POSSIBLE FORMS OF ACTION OF THE ARBITRAL TRIBUNAL THROUGHOUT THE PROCEEDINGS; 5.3 SELF-EXECUTING MEASURES; 5.4 NON-SELF-EXECUTING MEASURES; 5.5 RESULTS; CHAPTER 6: APPLICATION OF THE AVAILABLE MEASURES TO THE GENERAL EFFECTS OF OBSTRUCTIONIST BEHAVIOR; 6.1 MERE DELAY OF THE PROCEEDINGS; 6.2 COSTS CAUSED DURING THE ARBITRATION; 6.3 INABILITY TO RENDER AN AWARD; 6.4 ENFORCEMENT OF THE AWARD IS ENDANGERED; 6.5 NEGATIVE IMPACT ON THE EVIDENTIARY SITUATION OF THE OPPOSING PARTY 6.6 NEGATIVE IMPACT ON THE FINANCIAL SITUATION OF THE OPPOSING PARTY6.7 BREACH OF CONFIDENTIALITY; CHAPTER 7: CONCLUDING REMARKS

## Sommario/riassunto

Arbitration is a time- and cost-efficient way to resolve a dispute. However, these advantages seem to vanish when one party is willfully obstructive and refuses to abide by the arbitral outcome. This book analyzes the means of the arbitral tribunal to neutralize obstructive behavior of a party that goes beyond admissible tactical behavior. The book first deals with the circumstances in which tolerable tactical behavior turns into behavior that deserves to be sanctioned, and it introduces 'obstructionist behavior' as a new generic term. Subsequently, it deals with the options available to the a