

# INSIDE ARBITRATION: SPOTLIGHT ON IVAN TESELKIN

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Legal Briefings

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## **YOU JOINED HERBERT SMITH FREEHILL'S MOSCOW OFFICE IN 2012. WHAT DREW YOU TO THE FIRM AT THAT TIME, AND WHAT DRAWS YOU TO IT NOW?**

I started my career in 2009, as a trainee at Clifford Chance in Moscow. I did two seats in the corporate department, and was fully expecting to qualify as a corporate lawyer. Then I joined the dispute resolution group for my last seat - and the rest is history. At that time, there were a lot of disputes arising out of foreign investment into Russia in the 2000s. Our clients were foreign banks and investors, and many of the disputes went to international arbitration. We worked closely with other offices in the network, particularly London, and I really enjoyed the international nature of the work.

A few years later, a friend mentioned that Herbert Smith Freehills was looking for a disputes associate in Moscow. What led me to apply was the quality of the firm's disputes brand, both internationally and in the Russian market. I did a number of interviews for the role, including one with a disputes partner who was rumoured to be leaving the firm. At the end of the interview, he asked if I had any questions and I asked him if the rumours were true! To his credit, he gave me the honest answer, which was "yes". Luckily, I was applying to the firm because of its reputation across the board, not just to work with this one partner. When the offer came in, I was delighted to accept, and I have been with the firm since then.

What draws me to the firm nearly 10 years later? If you permit me a football analogy, I would say that it is the same thing that makes me a lifelong supporter of Spartak Moscow. In Russian football, there are other good teams, but I do not really care about any of them; just my team. It becomes like your family and I feel exactly the same about the firm. The people I work with are just like family to me; they have a place in my heart. I speak to peers at other firms, which are great firms, but I still think this firm is the best place for me.

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***"I love the fact that our international focus is so strong and that inter-office collaboration is one of the firm's top priorities. I honestly think this differentiates us from other firms."***

## **YOU SPENT SOME TIME SECONDED TO OUR LONDON OFFICE. TELL US ABOUT YOUR TIME IN LONDON; WHAT WERE THE BIGGEST TAKEAWAYS FROM YOUR POINT OF VIEW, BOTH PROFESSIONALLY AND PERSONALLY?**

My secondment was a remarkable time for me. I was in a new team, working on new projects, and it gave me a new, fresh view on how to run complex, difficult matters.

I was originally meant to stay in London for six months, but early on I got involved in a big arbitration relating to Kazakhstan, which ended up keeping me in London for around a year and a half. Within a week of arriving, I found myself at an LPG plant in the middle of the Kazakh desert, absolutely in the middle of nowhere. I was reviewing documents with a team of people from all over the firm. It was a fully international team of great people.

We are indeed a very international firm, with particularly strong links to England through legacy Herbert Smith. The London office is the core of the firm and I really valued the first-hand experience of how this very large operation is managed and functions. I was fascinated to see everything from how partners structure their matters to how the lawyers did their work day to day. Spending time at the heart of the firm was very important to me. The more people I work with, the more I feel enriched in terms of professional abilities and cultural experience. It was unforgettable and very exciting.

On a personal level, I cannot forget the lovely Indian and Chinese food I discovered in London! My favourites were Chutney Mary for Indian and Royal China for Chinese – as recommended by my office mate. I still have not found anything comparable in Moscow.

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***"The more people I work with, the more I feel enriched in terms of professional abilities and cultural experience."***

I also loved to visit the museums in London, especially the British Museum. I got it down to a science of visiting the same museum many times, for an hour or two only, which stopped me getting too exhausted!

In our down time, my wife and I got to visit the Lake District, as well as Edinburgh in February, which was dark and misty with lots of great atmosphere. These were great experiences that I would love to repeat one day.

## **YOU PRACTICE BOTH LITIGATION IN THE RUSSIAN COURTS AND INTERNATIONAL ARBITRATION. WHAT TRENDS ARE YOU SEEING IN RUSSIAN DISPUTE RESOLUTION?**

My partners and I were observing recently that Covid has not changed the litigation landscape in Russia as much as elsewhere. We think this is because the Russian courts were largely digitised before the pandemic, so there has not been the need to adapt so much as in other court systems. For example, we already had a good system for filing court documents online and a system for holding hearings remotely. It is not always perfect: a few weeks ago one of our associates was trying to dial into our hearing and ended up connecting to a completely different one! But generally, it works well and Russian parties were used to it well before the pandemic.

Another notable trend is the increase in bankruptcy cases. Specifically, Russian litigants are relying more and more on the concept of "subsidiary liability", which allows a creditor to claim against individuals who are considered to control the insolvent company. These claims can be for large amounts – up to the total amount owed by the company. In one case, a couple who controlled a family-owned company had transferred assets to their children before the company went bankrupt. The children were later held liable for the company's debts, even though one was still a minor at the time. This is a significant pattern which has been widely discussed in Russian disputes circles. In my view, this has changed the way Russian companies are managed and this trend is likely to continue.

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***"We are seeing a real tendency for Russian parties to select seats in Asia."***

On the arbitration side, we are seeing a real tendency for Russian parties to select seats in Asia. This is partly because Asia is perceived as neutral compared to Europe and the US which have imposed sanctions on Russian parties. The other driver is recent changes that enable Russian courts to take jurisdiction over any dispute that involves a Russian party that is subject to sanctions, even if the relevant contract provides for disputes to be resolved in another forum. In a recent example, a Russian media company owned by a sanctioned individual recently sued Google in Russia. The claimant convinced the Russian courts to accept jurisdiction by submitting proof that it had been unable to instruct US lawyers because of the owner's sanctioned status, even though the dispute would usually have been resolved by a US court. In general, there is less risk of this happening where the agreed forum is arbitration in Asia.

**HKIAC, VIAC, ICC AND SIAC ARE NOW ACCREDITED AS PERMANENT ARBITRAL INSTITUTIONS (PAIS) UNDER RUSSIA'S ARBITRATION LAW. THIS STATUS ENABLES FOREIGN ARBITRAL INSTITUTIONS TO ADMINISTER CERTAIN RUSSIA-RELATED CORPORATE DISPUTES, AS WELL AS INTERNATIONAL DISPUTES SEATED IN RUSSIA. ARE YOUR CLIENTS TAKING ADVANTAGE OF THIS BY PUTTING THESE INSTITUTIONS INTO THEIR ARBITRATION CLAUSES?**

Yes, absolutely. Many of my clients are providing for arbitration under the rules of a foreign PAI; this has been happening since HKIAC and VIAC first obtained the status a few years ago.

Clients have also been including "waterfall clauses", which provide for arbitration administered by a Russian arbitration institution, unless a specified foreign institution (eg LCIA) gains PAI status and becomes eligible to hear the dispute instead. These clauses have become quite common in our practice recently, though I expect they will be used less often now that many of the main international institutions have PAI status. The exception is the LCIA, which is still very popular with Russian parties. I am hopeful that LCIA will apply for PAI status in the near future and join the group of foreign PAIs – the Russian market would welcome that.

**HOW DO YOU SPEND YOUR DOWNTIME?**

I do not have as much downtime as I would like, but when I do have time off I spend it with my wife, my family and my friends. This past weekend we went to Karaoke and I also take singing classes.

I also try to exercise regularly. With such an all-consuming job, I think it is critical for me to keep doing sport to maintain my health and wellbeing.

I am finalising editing this text in my country house over the weekend and looking forward to having a barbeque for a dinner. Reading a book near a fire in the nature – probably the best way to recharge before a new week!

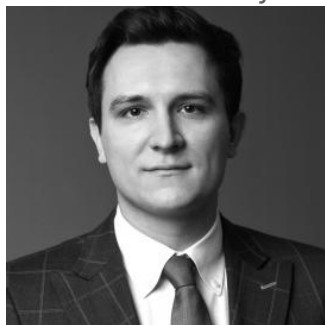
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Listen and watch the interview [here](#).

[Read and download the full publication](#)

## KEY CONTACTS

If you have any questions, or would like to know how this might affect your business, phone, or email these key contacts.



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