

Russian President signs law on exclusive jurisdiction of Russian commercial courts in disputes involving sanctioned Russian entities

by *Maxim Kulkov* (managing partner), *Olga Kokoz* (senior associate), *Anna Chepurnaya* (paralegal), KK&P

Legal update: archive | [Published on 12-Jun-2020](#) | Russian Federation

On 8 June 2020, the Russian President signed a federal law that vests Russian commercial courts with exclusive jurisdiction over disputes involving sanctioned Russian entities. The law also allows commercial courts to issue anti-suit injunctions in relation to proceedings against sanctioned entities abroad.

The President of the Russian Federation has signed a new federal law *"On Amendments to Commercial Procedure Code of the Russian Federation in Order to Protect the Rights of Individuals and Legal Entities in Connection with Restrictive Measures Imposed by a Foreign State, State Association and (or) Union and (or) State (Interstate) Institution of a Foreign State or State Association and (or) Union"* (Law).

The Law vests Russian courts with exclusive jurisdiction over disputes involving sanctioned Russian entities, even where a dispute resolution agreement provides otherwise, if that agreement becomes incapable of being performed due to those sanctions. It is expected that the new law might be used, for instance, if an agreed arbitration institution cannot administer a case due to sanctions. However, given the provisions set out below, the term "incapable of being performed" may be interpreted widely, for example, when proceedings against a sanctioned entity are commenced, as demonstrated in recent case law (see *Legal update, Sanctioned Russian entity may unilaterally amend dispute resolution clause (Ninth Appellate Commercial Court, Moscow)*).

The Law provides that, if the sanctioned entity does not object to the jurisdiction of a foreign forum during the proceedings, the provisions on the exclusive jurisdiction of the Russian courts do not prevent the enforcement of the judgment or the award in Russia.

Additionally, it provides for the exclusive jurisdiction of the Russian courts in relation to disputes involving sanctioned entities if there is no dispute resolution agreement between the parties and no international treaty regulating the issue of competence.

A mechanism for anti-suit injunctions in relation to proceedings against sanctioned entities abroad is also provided, including a penalty for foreign claimants that do not comply with any such injunction.

The Law entered into force on 8 June 2020. However, it does not contain any provisions regarding its temporal application, creating the risk that, as well as applying to new disputes, it may also apply to pending claims.

The Law has been widely criticised for affecting the investment climate, as investors may face difficulties enforcing foreign judgments and awards against sanctioned entities in Russia. However, for those who do not need to enforce awards in Russia and do not have assets in Russia, the Law will most likely remain irrelevant as Russian court judgments passed down under this Law are unlikely to be enforceable anywhere else.

END OF DOCUMENT

Related Content

Topics

[Applications to Court](#)

[Jurisdictional Issues - Arbitration](#)

Legal update: case report

[Sanctioned Russian entity may unilaterally amend dispute resolution clause \(Ninth Appellate Commercial Court, Moscow\)](#) • [Published on 18-Feb-2020](#)