

Tatneft v Ukraine: Supreme Court of the Russian Federation dismisses Ukraine's appeal and upholds enforcement of award

by Maxim Kulkov (Managing Partner), Dmitriy Gloov (Associate), *KK&P*

Legal update: case report | **Published on 30-Oct-2019** | Russian Federation

In *Case No. A63-15521/2018*, the Supreme Court of the Russian Federation refused to consider Ukraine's appeal to the judicial acts of courts of the North-Caucasus region granting enforcement of an investment treaty award in the well-known *Tatneft v Ukraine* dispute.

The Supreme Court of the Russian Federation (Supreme Court) has refused to consider Ukraine's appeal of the Stavropol Commercial Court and the Commercial Court of the North-Caucasus Circuit (cassation court) granting enforcement of the UNCITRAL arbitral award issued in favour of Tatneft.

Tatneft initiated Russian enforcement proceedings in 2017 and the case was first considered by the Moscow courts, which ruled that Ukraine's property was immune from enforcement (see *Legal update, Tatneft saga continues: Ukraine's diplomatic premises immune from enforcement (Moscow Cassation Court)*).

The Moscow courts subsequently transferred the case to Stavropol, due to the lack of Ukrainian assets available for enforcement in Moscow. In contrast to the Moscow courts, the Stavropol Commercial Court granted enforcement on 11 March 2019 (see *Legal update, Tatneft v Ukraine: court enforces \$144 million award despite Moscow court's findings on immunity of Ukraine's property (Stavropol Court)*). Consequently, Ukraine appealed to the Economic Collegium of the Supreme Court.

On 21 October 2019, Natalia Pavlova J refused to transfer the appeal to the Economic Chamber of the Supreme Court for consideration. Pavlova J noted that the award does not violate Russian public order and that the case files do not contain any evidence proving other grounds to deny recognition.

Nevertheless, the recognition of the award does not predetermine the availability of enforcement against Ukrainian state-owned assets, due to its state immunity from enforcement. As stated in the judgment of the Commercial Court of the North-Caucasus Circuit, it is not for the courts, but for the bailiff to decide the availability of enforcement of Ukrainian assets (see *Legal update, Tatneft v Ukraine: Ukraine's cassation appeal dismissed and enforcement of award upheld (Commercial Court of the North-Caucasus Circuit, Russian Federation)*).

This judgment of the Supreme Court is final and it has ended the enforcement proceedings of the investment treaty award in the Russian Federation.

Case: *A63-15521/2018 (Supreme Court) (21 October 2019)* (Natalia Pavlova J).

END OF DOCUMENT