

Russian Supreme Court dismisses sanctioned company's application for anti-suit injunction against SCC proceedings

by *Practical Law Arbitration*, with *KK&P*

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In *Case No A60-36897/2020*, the Russian Supreme Court upheld lower court judgments that refused a sanctioned claimant's application for an anti-suit injunction under new anti-sanction laws.

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The Russian Supreme Court has upheld lower court judgments that refused a sanctioned claimant's application for an anti-suit injunction under new anti-sanction laws.

Russian JSC "Uraltransmash" applied for an anti-suit injunction against PESA, a Polish company, which had commenced an arbitration under the Stockholm Chamber of Commerce (SCC) Arbitration Rules. Uraltransmash filed the application under articles 248.1 and 248.2 of the Commercial Procedure Code, which were recently introduced into Russian law (see [Legal update, Russian President signs law on exclusive jurisdiction of Russian commercial courts in disputes involving sanctioned Russian entities](#)). The new provisions allow Russian individuals and legal entities subject to foreign sanctions to apply for an anti-suit injunction if there is a case initiated against them in a foreign court or before a foreign arbitral tribunal.

Uraltransmash claimed that the Russian commercial courts had exclusive jurisdiction over the dispute because Uraltransmash is subject to US and EU sanctions. Therefore, it could not pay the SCC's fees and engage local lawyers, and was deprived of the right to judicial protection.

The courts, including the Supreme Court, refused to grant an anti-suit injunction, finding no denial of justice because Uraltransmash actively participated in the SCC proceedings for two years, appointed an arbitrator, submitted documents and hired local lawyers. They held that the sanctions imposed on Uraltransmash did not preclude it from performing its obligations to PESA.

Previously, Uraltransmash filed another claim seeking to declare unenforceable an arbitration agreement with PESA on the same grounds (*Case No A60-62910/2018*), which was also denied (see [Legal update, Russian courts demonstrate prudent approach to application of recent anti-sanctions legislation \(Commercial Court of Sverdlovskiy Region\)](#)).

Notably, the application of anti-sanctions laws varies depending on the circumstances. For instance, in another recent case (*Case No A56-57238/2020*), the Commercial Court of the city of Saint-Petersburg and Leningrad region resolved the dispute on the merits because it found that the SCC arbitration clause was unenforceable due to the US and Ukraine sanctions imposed on the claimant, which made it impossible for the claimant to pay arbitration fees.

Case: Case No A60-36897/2020 (Russian Supreme Court) (28 May 2021).

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