

# Arbitrator's removal from institution's recommended list leads to setting aside of award (Commercial Court of Moscow)

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In *Case No. A40-153265/19*, the Commercial Court of Moscow set aside a Maritime Arbitration Commission award where one of the members of the tribunal was removed from the institution's list of recommended arbitrators during the proceedings.

The Commercial Court of Moscow has set aside a Maritime Arbitration Commission award where one of the members of the tribunal was removed from the institution's list of recommended arbitrators during the proceedings.

Atlantic Hermes Shipping Limited (Atlantic), a maritime shipping company, was awarded EUR1 million in an arbitration against Russian insurance company, Soglasie. The proceedings were held under the Rules of the Maritime Arbitration Commission at the Chamber of Commerce and Industry of the Russian Federation (MAC).

Atlantic applied to the Commercial Court of Moscow to enforce the award and Soglasie filed a counterclaim to set aside the award on two grounds, including a violation of public order.

Soglasie argued that, during the proceedings, the arbitrator nominated by Atlantic had been removed from the MAC list of recommended arbitrators because of a conflict with the institution. It contended that, without notification to the parties, that removal deprived it from being able to challenge that arbitrator. Soglasie also argued that the award should be set aside because Atlantic's legal representative is on MAC's list of recommended arbitrators.

The Commercial Court of Moscow agreed with Soglasie and set the award aside. It did so even though the MAC Rules allow parties to nominate an arbitrator who is not on the recommended list. The court also upheld Soglasie's complaint that Atlantic's legal representative was on the list of recommended arbitrators.

Notably, although neither Russian law nor the MAC Rules precludes a party's legal counsel from being a listed arbitrator, this is not the first time that a Russian court has found that arbitration proceedings may lack impartiality and independence where one of the parties' legal representatives is named in the relevant institution's list of arbitrators (see [Legal update, Russian Supreme Court confirms lack of impartiality and independence where counsel on institutional list of arbitrators](#)).

Atlantic has appealed and therefore the cassation court may take a different approach. That hearing is expected to take place in November-December 2019.

Case: [Case No. A40-153265/19 \(19 September 2019\)](#).

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