

Commercial Court of Moscow grants interim anti-arbitration injunctions against German investor, arbitrators, counsel and PCA in ECT arbitration

by *Practical Law Arbitration*, with *Kulkov, Kolotilov & Partners*

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In *Case No A40-92702/2025*, the Commercial Court of Moscow issued a series of unprecedented interim anti-arbitration injunctions, restraining a German investor, its counsel, the administering institution (the PCA) and the arbitrators from continuing an Energy Charter Treaty arbitration against the Russian Federation. The court held that the injunctions were justified by alleged bias and lack of impartiality on the part of the arbitrators.

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The Commercial Court of Moscow has issued a series of unprecedented interim anti-arbitration injunctions, restraining a German investor, Wintershall Dea GmbH (Wintershall), its counsel, the Permanent Court of Arbitration (PCA), as the administering institution, and the arbitrators (CP, HG and OA) from continuing an Energy Charter Treaty (ECT) arbitration against the Russian Federation.

The application for injunctive relief was made by the Russian Prosecutor General (Prosecutor) against Wintershall, its counsel and the tribunal, seeking to restrain them from continuing with the arbitration proceeding.

The court granted the application, but also enjoined the PCA from continuing in its role administering the arbitration.

The court justified its decision on the grounds of alleged bias and lack of impartiality on the part of the arbitrators, citing their failure to disclose conflicts of interest under the UNCITRAL Arbitration Rules and the IBA Guidelines on Conflicts of Interest. In relation to:

- CP, a Swiss national, the court cited his disqualification from an ICC tribunal in the *Crescent Petroleum v National Iranian Oil Company* arbitration for anti-Muslim bias, noting this created doubts given Russia's significant Muslim population.
- OA, a UK national, the court cited her undisclosed obligations under Britain's Foreign Influence Registration Scheme, requiring mandatory reporting of all communications with Russia, which compromises the confidentiality, independence and impartiality of the arbitration.
- HG, a French national, while not citing any specific basis for doubting his impartiality or independence, the court upheld the Prosecutor's assertion that all three arbitrators were citizens of "unfriendly" states and subject to anti-Russian propaganda.

The court's decision to enjoin the PCA was premised on the fact that it is based in the Netherlands, which is also "unfriendly" towards the Russian Federation.

Where anti-arbitration injunctions are issued, these are typically directed to the parties to a dispute. While there has been an increase in the Russian courts granting anti-arbitration injunctions since sanctions were implemented against the Russian

Federation, this case marks the first time a Russian court has restrained either foreign arbitrators, a party's counsel or an arbitral institution from proceeding with an arbitration. As such, it represents a new risk to parties engaged in arbitrations against Russian counterparties, and may also affect arbitrator candidates when they are considering whether to accept an appointment in a case with a Russian nexus.

The ruling may be appealed.

Case: [Case No #40-92702/2025 \(29 April 2025\)](#).

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