

Commercial Court of Saint Petersburg grants anti-arbitration injunction and imposes penalty for non-compliance

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

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In *Case No A56-16212/2024*, the Commercial Court of Saint Petersburg granted an injunction prohibiting the continuation of an ad hoc arbitration seated in Stockholm, and imposed a penalty in the event the injunction is not complied with.

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The Commercial Court of Saint Petersburg (Court) has granted an anti-arbitration injunction prohibiting the continuation of an ad hoc arbitration in Stockholm. The court further ruled that, if the injunction is violated, a financial penalty will be imposed.

In November 2022, two German companies (Uniper and METHA) initiated ad hoc arbitration proceedings in Stockholm, Sweden against Gazprom Export (Gazprom), seeking EUR14.3 billion in damages, arising under long-term gas supply contracts.

Gazprom responded with an application to the Court for an anti-arbitration injunction, to restrain the continuation of the arbitration. Gazprom argued it would not receive a fair hearing because:

- Gazprom is a sanctioned entity that is prohibited from receiving legal services in the EU.
- Gazprom's assets in Gazprom Germania GmbH had been seized by the German state, without compensation.

Uniper presented evidence that Gazprom has been represented by foreign lawyers in some proceedings outside Russia.

The Court upheld Gazprom's position and stated that, under articles 248.1 and 248.2 of the Russian Commercial Procedural Code (CPC), Gazprom was entitled to the injunction. The Court further ordered that, if the injunction is violated, Uniper and MEHTA will be liable for a EUR14.3 billion penalty (an amount equal to that claimed in the arbitration).

This case is one of only a few based on articles 248.1 and 248.2 of the CPC where foreign proceedings on the merits were commenced against a Russian party. Usually, the situation is reversed, that is where a Russian party, despite an arbitration agreement, commences proceedings in the Russian courts having suffered losses, flowing from the non-fulfilment of a contract by a foreign counterparty due to sanctions.

However, the Court has recently granted injunctions and imposed multi-million (Euro) penalties in similar factual circumstances in other cases (for example, *Case No #56-96787/2023* and *Case No #56-124094/2023*). In those cases, the foreign arbitral proceedings were commenced by Europol Gaz (Poland) and Naftogaz (Ukraine) against Gazprom.

This trend means that an attempt to arbitrate against Russian parties outside Russia may lead to a Russian court injunctioning the arbitration, with a penalty for non-compliance equal to the damages claimed in the foreign arbitration.

Case: [Case No #56-16212/2024 \(15 March 2024\)](#).

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