

Commercial Court of Saint Petersburg grants suite of injunctions against Hong Kong arbitration and proceedings but refuses penalties for non-compliance

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

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In *Case No A56-13299/2024*, the Commercial Court of Saint Petersburg granted injunctive relief restraining the continuation of HKIAC arbitration and Hong Kong court proceedings. However, as all the relevant claims were non-monetary in nature, the St Petersburg court refused to impose financial penalties for potential non-compliance with the injunctions.

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The Commercial Court of Saint Petersburg (CCSP) has granted a series of injunctions restraining Hong Kong arbitration and court proceedings but has refused to impose financial penalties for non-compliance.

In 2021, Russian company RusChemAlliance (RCA) entered into two EPC contracts with Linde GmbH and Renaissance Heavy Industries LLC, secured by guarantees from Linde PLC (Linde GmbH's parent company). The contracts provided for Hong Kong-seated HKIAC arbitration.

However, when disputes arose in 2022, RCA filed claims against Linde GmbH and Linde PLC (together, Linde) in the Russian courts (Russian Contractual Proceedings). RCA then secured interim measures against Linde's assets in Russia (see *Legal update, Russian court upholds interim measures against assets of defendants' subsidiaries (Commercial Court of the North-Western District)*).

In response, Linde commenced HKIAC arbitration, seeking declaratory relief. Linde also applied to the Hong Kong Court of First Instance (HK CFI), seeking injunctions restraining the continuation of the Russian Contractual Proceedings and the enforcement of any future court judgment (HK Anti-Enforcement Injunction), as well as prohibiting the commencement of new Russian court proceedings. The HK CFI granted those injunctions (see *Legal update, Hong Kong court rejects attempt to overturn anti-suit injunction in Russia sanctions case (Hong Kong Court of First Instance)*).

In February 2024, RCA requested the CCSP to grant injunctions restraining the HK CFI and HKIAC proceedings, and preventing the enforcement of any future HKIAC arbitration awards. Non-compliance was to be met with financial penalties equal to the claims in the Russian Contractual Proceedings.

The CCSP granted injunctions restraining both the HKIAC arbitration and the HK CFI proceedings, as well as a further injunction relating to the HK Anti-Enforcement Injunction. However, it refused to injunct enforcement of any future HKIAC award, as this relief does not exist under Russian law.

The CCSP also refused to impose penalties for non-compliance with the injunctions. In respect of one claim in the Russian Contractual Proceedings, the CCSP had already found in favour of RCA. Accordingly, a penalty in the same amount would have resulted in double recovery by RCA. Further, Linde's claims in the foreign proceedings were non-monetary, which provided another reason for not imposing penalties.

The CCSP's approach to the imposition of financial penalties appears to diverge from article 248.2 of the Russian Arbitrazh Procedure Code, which does not explicitly link the imposition of financial penalties to the nature of the claims in foreign proceedings, creating the potential for appeals.

Case: [Case No #56-13299/2024 \(15 April 2024\)](#).

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