

Russian Supreme Court overturns lower courts' refusal to enforce arbitral award in Rosseti case

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

Legal update: case report | Published on 10-Apr-2025 | Russian Federation

In *Case No A67-3423/2024*, the Russian Supreme Court ruled that the lower courts had improperly refused to enforce an RSPP-administered arbitral award in favour of PJSC Federal Grid Company-Rosseti (Rosseti) against LLC Siblesstroy. The Supreme Court held that the lower courts had overstepped their authority by reassessing the merits of the award, violating the limited scope of review permitted under Russian law.

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The Russian Supreme Court has overturned a refusal by lower courts to enforce an arbitral award, holding that those courts had overstepped their authority by reassessing the merits of the award.

The underlying dispute arose from a construction contract made between PJSC Federal Grid Company-Rosseti (Rosseti) (as employer) and LLC Siblesstroy (as contractor) relating to engineering works. Siblesstroy failed to meet the contractual deadlines, prompting Rosseti to initiate arbitration under the rules of the Arbitration Center at the Russian Union of Industrialists and Entrepreneurs (RSPP). The tribunal awarded Rosseti RUB171,149 in penalties for delay.

When Siblesstroy refused to comply with the award voluntarily, Rosseti sought enforcement in the Russian state courts. The lower courts (the Commercial Court of Tomsk Region and the Commercial Court of West Siberian District) denied enforcement, finding that the award was contrary to Russian public policy because the penalty imposed was "disproportionate to the consequences of the contract breach" and could be reduced under article 333 of the Russian Civil Code.

Granting an appeal by Rosseti, the Supreme Court emphasised three main points in its judgment:

- Under articles 238 and 239 of the Russian Commercial Procedure Code, state courts cannot re-examine the merits of an arbitral award. Their role is limited to verifying whether enforcement would violate public policy, defined as fundamental legal principles (for example, the proportionality of liability).
- If such a violation is found, the state court must provide a thorough rationale for its decision. Failure to provide such a justification constitutes a violation of the right of a claimant to a fair trial. Here, the lower courts had failed to explain how the 0.1% daily penalty imposed by the tribunal constituted a violation of public policy, or to consider the tribunal's findings regarding the reasonableness of the penalty.
- In this case, the commercial context of the dispute was determinative. The contract was the result of transparent competitive bidding, the penalty served a motivating function and market practice confirmed that such penalty rates are standard in construction projects.

The decision reflects an arbitration-friendly approach which, unfortunately, is not a prevailing trend.

Case: *PJSC Federal Grid Company–Rosseti v LLC Siblesstroy, No #67-3423/2024 (Russian Supreme Court) (28 March 2025)*.

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