

# Russian court refuses to recognise and enforce SCC arbitral award resulting from well-known PESA v UralTransMash case, citing violation of public policy (Commercial Court of Sverdlovsk Region)

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*PESA v UralTransMash*, one of the most well-known Russian cases related to the grant of anti-arbitration injunctions, has been followed up in Case No A60-24839/2024. Here, the Commercial Court of the Sverdlovsk Region (CCSR) refused to recognise and enforce an SCC arbitral award, citing some unusual grounds for applying the public policy basis for refusal of the application.

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The Commercial Court of the Sverdlovsk Region (CCSR) has refused to enforce an SCC award, citing reasons connected to the sanctioned status of the award debtor.

The underlying dispute concerned a supply contract between JSC PESA Bydgoszcz (PESA) and JSC UralTransMash (UralTransMash) containing an SCC arbitration clause. PESA alleged that UralTransMash failed to pay for the supplied goods and filed an arbitration claim.

In response, UralTransMash applied to the Russian courts for an anti-suit injunction (ASI) to restrain the SCC proceedings. In that application, the Russian Supreme Court (SC) for the first time voiced the position that the sanctioned status of a disputing party creates a presumption that such party is obstructed from obtaining access to justice in arbitration. Also, that this is a basis for asserting the exclusive jurisdiction of the Russian court over the dispute and granting an ASI.

Despite the ASI, the SCC tribunal continued the arbitration and rendered an award in PESA's favour. The latter applied to the CCSR for recognition and enforcement of the award in Russia, which the CCSR refused on grounds of public policy.

Pivotal arguments adduced by the CCSR included that:

- Breach of the exclusive jurisdiction of Russian courts under article 248.1 of the Civil Procedure Code is a ground for non-enforcement.
- Two of the arbitrators were nationals of foreign states (Sweden and Poland), one of whom UralTransMash had unsuccessfully challenged during the arbitration. Accordingly, there were doubts as to their impartiality.
- Recognition and enforcement of an award against a Russian strategic company in the context of "legal aggression by unfriendly countries" contradicted private and public interests.

The position adopted by the CCSR creates a significant hurdle to award debt recovery from Russian sanctioned or strategic companies. Furthermore, Russian case law has for the first time demonstrated the clear consequence of ignoring a Russian court ASI, namely, the subsequent refusal to recognise and enforce the relevant arbitral award.

Case: [Case No A60-24839/2024 \(16 August 2024\)](#).

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