

# Russian court considers investor's claim against Norway, bypassing the rules on Norway's immunity and applicable investment treaty (Commercial Court of the Kursk Region)

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

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In *Case No A35-6794/2023*, the Commercial Court of the Kursk Region determined that it had jurisdiction to consider a Russian investor's claim against Norway, although it ultimately dismissed it on the merits.

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The Commercial Court of the Kursk Region (Court) has determined that it had jurisdiction to consider a claim falling within the scope of an arbitration provision in the Norway-Russia BIT (BIT).

A Russian investor brought a claim against Norway under article 248.1 of the Russian Commercial Procedure Code (CPC) (Lugovoy's law), seeking to recover NOK155 million in lost investment value due to a ban on entry into Norway, and arguing that he could not seek resolution of the dispute under the BIT due to sanctions. At first instance, the Court terminated the proceedings, noting that Norway enjoyed judicial immunity, but a higher court overturned that ruling, pointing out the need to consult the Russian Ministry of Foreign Affairs (MFO) to obtain its opinion on limiting Norway's immunity based on the principle of reciprocity.

The MFO joined the proceedings and submitted an opinion stating that:

- Norway enjoys immunity and there are no grounds for limiting it based on the principle of reciprocity.
- The Court had no jurisdiction over the case, since the dispute fell within the scope of the provision for arbitration in the BIT, which confirms that article 248.1 of the CPC does not apply.

Despite this opinion, the Court reached the opposite conclusion on its jurisdiction and Norway's immunity based on the need to ensure the investor's constitutional right to judicial protection.

The Court then considered the case on the merits and dismissed the claim, stating that Norway was entitled to impose entry restrictions and that the causal link between the investor's losses and Norway's actions had not been proven.

This case is notable because the Court bypassed both the rules on judicial immunities and the BIT, as well as the MFA's conclusions, and considered a claim brought against a foreign state on the merits. Therefore, unless this judgment is overturned, there is a material risk that Russian courts may in future consider claims against foreign states on the merits despite their immunities and the existence of an applicable investment treaty.

Case: *Case No A35-6794/2023 (Commercial Court of the Kursk Region) (13 March 2026)* (in Russian language).

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