

Russian court upholds interim measures against assets of defendants' subsidiaries (Commercial Court of the North-Western District)

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

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In *Case No A56-129797/2022*, a Russian cassation court maintained interim measures imposed on the Russian assets of a corporate group, including the defendants' subsidiaries, to ensure the effective enforcement in Russia of any future judgment.

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The Commercial Court of the North-Western District (Cassation Court) has retained interim measures imposed on assets of a corporate group (including the subsidiaries of the defendants in the proceeding), to ensure any future judgment could be enforced.

On 23 December 2022, Russian company RusHimAlians LLC (RHA) applied to the Commercial Court of Saint Petersburg (Commercial Court) to attach the assets of two German defendants (Linde). RHA originally sought the interim measures in support of an intended, future arbitration under the HKIAC rules. However, it subsequently filed a claim against Linde in the Commercial Court, relying on article 248.1 of the Russian Civil Procedure Code (CPC) and the EU sectoral sanctions, which allegedly meant RHA would not receive a fair hearing in the Hong Kong arbitration. The Commercial Court found it had jurisdiction over Linde and commenced the case.

Among other things, the Commercial Court imposed the interim measures on the Russian assets of not only Linde, but its corporate group, prohibiting them from disposing of property and providing for the seizure of Russian shares held by members of the Linde group.

The companies whose assets were subject to the interim measures joined the Commercial Court proceeding as third parties. They filed an unsuccessful application to have the interim measures order revoked. Although the interim measures were imposed on assets not directly owned by Linde, the Thirteenth Commercial Court of Appeal and, subsequently, the Cassation Court upheld the interim measures.

The Cassation Court held that the interim measures were necessary because Linde were in the process of withdrawing their assets from Russia. Therefore, the interim measures imposed on members of the Linde group were the only effective way to ensure that any future judgment that may be given against Linde could be enforced.

Linde has until 7 November 2023 to appeal the Cassation Court's ruling to the Russian Supreme Court.

The judgment is another example of the risks to foreign companies in Russia, where sanctions may be used to invoke the jurisdiction of the Russian courts, despite an arbitration agreement.

Case: [Case No A56-129797/2022](#).

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