

Saint-Petersburg Commercial Court denies recognition of LCIA arbitral award due to tribunal's refusal to correct arithmetical mistake

by *Practical Law Arbitration*, with *KK&P*

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In *Case: No. A56-20377/2020*, the Commercial Court of Saint-Petersburg and Leningrad Region denied recognition of an LCIA award because of the tribunal's refusal to correct an admitted error of computation.

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The Commercial Court of Saint-Petersburg and Leningrad Region has denied recognition of an LCIA award because of the tribunal's refusal to correct an admitted error of computation.

The claimant, Cypriot company Caledor Consulting Ltd, sought to enforce an LCIA award against a group of defendants (Doglemor). The dispute concerned Doglemor's breach of a call option deed, which the tribunal held had been validly terminated by the claimant. It also confirmed the claimant's entitlement to damages arising out of the breach. To calculate the damages, the tribunal had to determine the difference between the actual value of the option shares and the call option price (US\$60 million). However, the tribunal made a computational error by adding instead of subtracting the sum of "tax risks" when calculating the value of the option shares.

Doglemor requested that the tribunal correct the evident mistake under the article 27(1) of the LCIA Rules. The tribunal admitted its error and expressed its "sincere apologies", without, however, correcting the award itself.

The Russian court treated the tribunal's computational error as an "evident judicial mistake" and the tribunal's refusal to correct the error was qualified not only as a mistake in the application of law or the evaluation of facts, but as contravening fundamental legal principles of the Russian Federation and legal guarantees of judicial protection.

Interestingly, the Doglemor defendants also exercised their right, under the section 68 of the Arbitration Act 1996, to raise the issue before English Commercial Court, which held that the relevant parts of the award should be remitted to the tribunal for reconsideration (see *Legal update, Court allows challenge to award on basis of tribunal-admitted irregularity under section 68(2)(i) Arbitration Act 1996 (English Commercial Court)*).

This decision demonstrates that Russian courts treat obvious mistakes in calculation as substantial ones that can result in the denial of an award's enforcement. The claimant is expected to seek enforcement again after the award is corrected by the tribunal.

Case: *No. A56-20377/2020 (25 November 2020)*.

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