

# Thirteenth Commercial Court of Appeal confirms Russian courts' long-standing position that the imposition of sanctions is sufficient, by itself, for the Russian courts to assume exclusive jurisdiction

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

Legal update: case report | Published on 04-Sep-2023 | Russian Federation

---

In *Case No A56-82244/2022*, the Thirteenth Commercial Court of Appeal cancelled a recent decision of the Saint Petersburg Commercial Court in which that court had ruled that the mere existence of sanctions was not an unconditional ground for applying article 248.1 of the Russian Commercial Procedural Code providing for the exclusive competence of Russian courts.

---

*Maxim Kulkov and Anastasia Khalyavina, Kulkov, Kolotilov & Partners*

The Thirteenth Commercial Court of Appeal (Appeal Court) has overturned a recent notable ruling of the Saint Petersburg Commercial Court (Commercial Court) in which the Commercial Court concluded that the existence of sanctions does not itself provide an unconditional ground for applying article 248.1 of the Russian Commercial Procedural Code (CPC) on the exclusive competence of Russian courts.

In the underlying dispute, JSC Baltiysky Zavod (Zavod), a sanctioned Russian legal entity, filed a claim with the Commercial Court to recover funds from a Finnish company, Wartsila Oyj Abp (Wartsila), under several guarantees, each containing an FAI (Arbitration Institute of the Finnish Chamber of Commerce) arbitration clause. The claim was submitted in reliance on article 248.1 of the CPC and the sanctions imposed against Zavod. In this respect, since 2021, Russian courts have accepted an interpretation of article 248.1 to the effect that the mere existence of sanctions warrants a conclusion that there is an obstacle to access to justice and, in consequence, that the Russian courts must assume exclusive jurisdiction (see *CJSC Uraltransmash v PESA Bydgoszcz, Case No #60-36897/2020*). As a result, the courts do not examine the actual impact of sanctions on access to justice.

In this case, an exception to this approach occurred in the Commercial Court's Ruling of 7 June 2023, in which the Commercial Court terminated the proceedings on the basis of the valid and enforceable FAI arbitration clauses. The Commercial Court based its reasoning on three points:

- EU sanctions did not prohibit sanctioned persons from seeking arbitration.
- Wartsila had filed a statement from the FAI regarding a guarantee of independence and impartiality towards all disputing parties.
- An arbitration clause was not a violation of the right of access to justice, but rather an exercise of the parties' autonomy and their constitutional right to judicial protection.

The Commercial Court's ruling was cancelled by the Appeal Court with reference to the previously prevailing position on the interpretation of article 248.1 of the CPC, thus denying Wartsila any chance to combat a presumption that a sanctioned entity will face unfair trial outside of Russia. Wartsila has until 21 October 2023 to submit a cassation appeal.

Case: [Case No A56-82244/2022 \(21 August 2023\)](#).

---

**END OF DOCUMENT**