

BREAKING NEWS

Enforcement of foreign court judgments in Russia: a wind of change

June 06, 2017

Dear Ladies and Gentlemen,

We would like to inform you on recent precedents of Russian courts in cases concerning enforcement of foreign court judgments, which we believe represents a major step forward towards the goal of creating a favorable investment climate in Russia.

Generally, foreign court judgments can be recognized and enforced in Russia based on bilateral / multilateral international treaty. In case a judgment comes from the country, which does not have a relevant treaty, such court judgment shall be recognized and enforced in accordance with reciprocity principle (international comity), i.e. when it is proved that Russian court judgment had been reciprocally recognized and enforced in such country.

Unfortunately, Russia has only few international treaties (particularly with CIS countries as well as few Eastern Europe and Asian countries) providing for recognition and enforcement of judgments. At the same time, a reciprocity principle was rarely applied by Russian courts. In addition, Russia is yet not a party to 2005 Hague Convention on Choice of Court Agreements. This had a negative impact on Russia as a venue of dispute resolution.

During the past 10 years, Russian courts have started to apply the reciprocity principle for foreign judgments emanating from countries, which do not have a treaty specifically providing for enforcement of judgments.

In a recent case, Supreme Court of the Russian Federation upheld the judgments of lower courts, which granted enforcement of the Japan court act in the dispute *Marugo Fukuyama Suisan, Co, LTD, Japan vs LLC Tinar, Russia*¹. The dispute between *Marugo Fukuyama Suisan* and *LLC Tinar* arose out of the Memorandum on Driftline activities for 2010 fishing season. By the judgment of the branch of the Asahikawa district court in Wakkanai city, the court satisfied the claim of *Marugo Fukuyama Suisan* and requested the defendant to pay JPY 0.4 billion of principal debt as well as penalties incurred and court expenses. The defendant attempted to prevent recognition on the ground that Russia and Japan are not parties to any international treaty providing for mutual recognition of court judgments, however, the Russian court refused such argumentation and granted recognition for Japan court act. This position was supported by the Supreme Court of the Russian Federation.

Similarly, Russian courts found recognition of English², Dutch³ and German⁴ court judgments based on reciprocity principle. Notably, in some cases recognition was granted when the applicant did not provide

¹ Ruling of Supreme Court of the Russian Federation No. 303-ЭC16-15807 dd. 30.01.2017.

² Ruling of Supreme Court of the Russian Federation No. 305-ЭC15-18289 dd. 01.02.2016, Ruling of Supreme Arbitrazh Court of the Russian Federation No. BAC-6580/12 dd. 26.07.2012.

³ Ruling of Supreme Arbitrazh Court of the Russian Federation No. BAC-13688/09 dd. 07.12.2009, Ruling of Federal Arbitrazh Court of Povolzhskiy region on case No. A55-5718/2011 dd. 23.01.2012.

⁴ Ruling of Federal Arbitrazh Court of North-West region No. A56-22667/2007 dd.28.08.2008.

evidence of mutual recognition of Russian court judgments in his jurisdiction.

We believe that a new approach of Russian courts will have a positive impact on development of Russian courts practice, resulting in increasing the number of recognized and enforced foreign court judgments.

From a practical point of view, we recommend checking whether your country has a bilateral / multilateral international treaty with Russia on mutual enforcement of court judgments. If not, we recommend checking whether in your country there are examples of successful recognition of Russian court judgments in order to rely on reciprocity principle in Russian courts. Although you do not have such examples, this does not deprive the applicant of the chances to enforce a judgment.

Hope that the information provided herein would be useful for you.

If you would like to learn more about our **Dispute Resolution** practice, please, let us know about it in reply to this email. We will be glad to provide you with our materials.

If you have any questions, please, do not hesitate to contact Senior Partner, Head of Dispute Resolution practice **Vassily Rudomino** (VRudomino@alrud.com).

Kind regards,

ALRUD Law Firm

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