

Exporting Russian bankruptcy



ALRUD

The imposition of foreign sanctions against Russia also impacts the prospects of Russian judgments being recognized and enforced in "unfriendly" jurisdictions. Some even believe that these sanctions completely prevent such recognition in bankruptcy cases, as it might indirectly result in the fulfilment of obligations to Russian sanctioned companies.

However, the judicial practice of which we are aware shows that foreign courts seated in "unfriendly" jurisdictions allow the recognition of Russian judgments rendered in bankruptcy cases, albeit with certain restrictions. This situation poses additional risks for foreign shareholders in enterprises that have been declared bankrupt in Russia, while also offering new opportunities for Russian creditors.

Below, we provide examples of cases heard before certain foreign courts after February 2022, where Russian judgments in bankruptcy matters were recognized, along with our recommendations.



UK and the BVI

The leading foreign jurisdiction in the recognition of Russian bankruptcy judgments is the United Kingdom. In particular, since February 2022, English courts have considered three cases that we know of on the application of Russian bankruptcy receivers:



Case of Mr. Valery Drelle

The High Court of Justice upheld the decision to declare Mr. Drelle bankrupt based on the judgment of the Arbitrazh (Commercial) Court of the Yaroslavl Region on the recovery of losses in the company's bankruptcy proceedings¹.

Case of Mr. Georgy Bedzhamov

The Court confirmed the possibility of recognizing the judgment of the Moscow Arbitrazh (Commercial) Court in the debtor's bankruptcy proceedings².

Case of Mr. Hadji Murat Derev

The Court also indicated the possibility of recognizing the judgment of the Arbitrazh (Commercial) Court of the Karachay-Cherkess Republic on the bankruptcy of the debtor³.

A similar practice is developing in the British Virgin Islands. For example, in [the case of Nokian Shina LLC v The Smyshlyaevs](#)⁴, the Supreme Court of the British Virgin Islands indicated that the judgment on subsidiary liability can in principle be recognized and enforced in this jurisdiction⁵.

United States

In the recent [case of Mr. Sabadash](#)⁶, US Bankruptcy Court rendered an important judgment that might become a precedent for other US states.

The central issue in this case was that one of the debtor's creditors, a Russian bank, is controlled by a person under US sanctions.

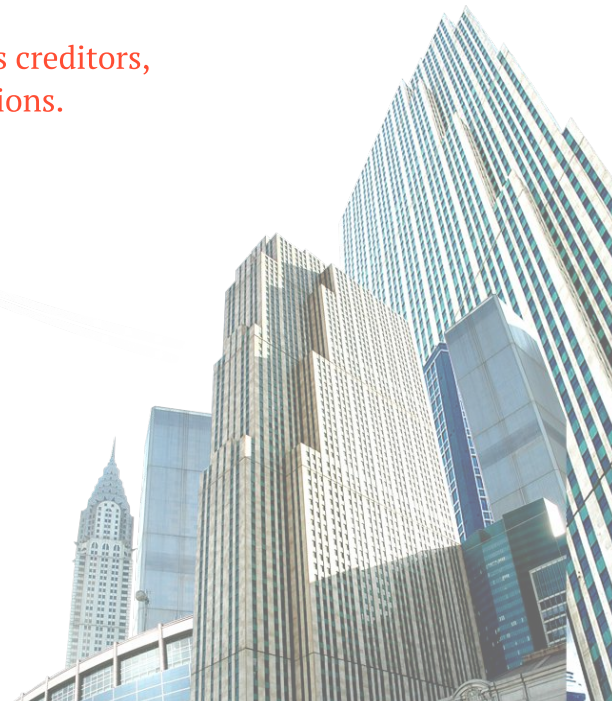
¹ Service Terminal LLC v Drelle [2023] EWHC 506 (Ch).

² Kireeva v Bedzhamov [2022] EWHC 2676 (Ch) (27 October 2022).

³ Allen v Derev & Anor [2023] EWHC 387 (Ch).

⁴ Nokian Shina LLC v Smyshlyaev [2022] BVIHCM 2020/0113 (30 September 2022).

⁵ Nevertheless, the court refused to recognize and enforce the judgment of the Russian court on grounds not related to sanctions.



Despite this, the Californian court recognized the Russian bankruptcy procedure and the powers of the financial receiver, stating that this would contribute to the preservation and restoration of assets in the interests of a large number of creditors not only in the Russian procedure, but also, possibly, in the UK and the United States.

However, the court significantly limited the financial receiver's mandate, prohibiting disposal of the debtor's movable property and taking any actions that aim to transfer control of the American company directly owned by the debtor. At the same time, the court indicated that it would be advisable for the receiver to seek clarifications from OFAC as to how it could exercise its authority in the US without violating sanctions restrictions.

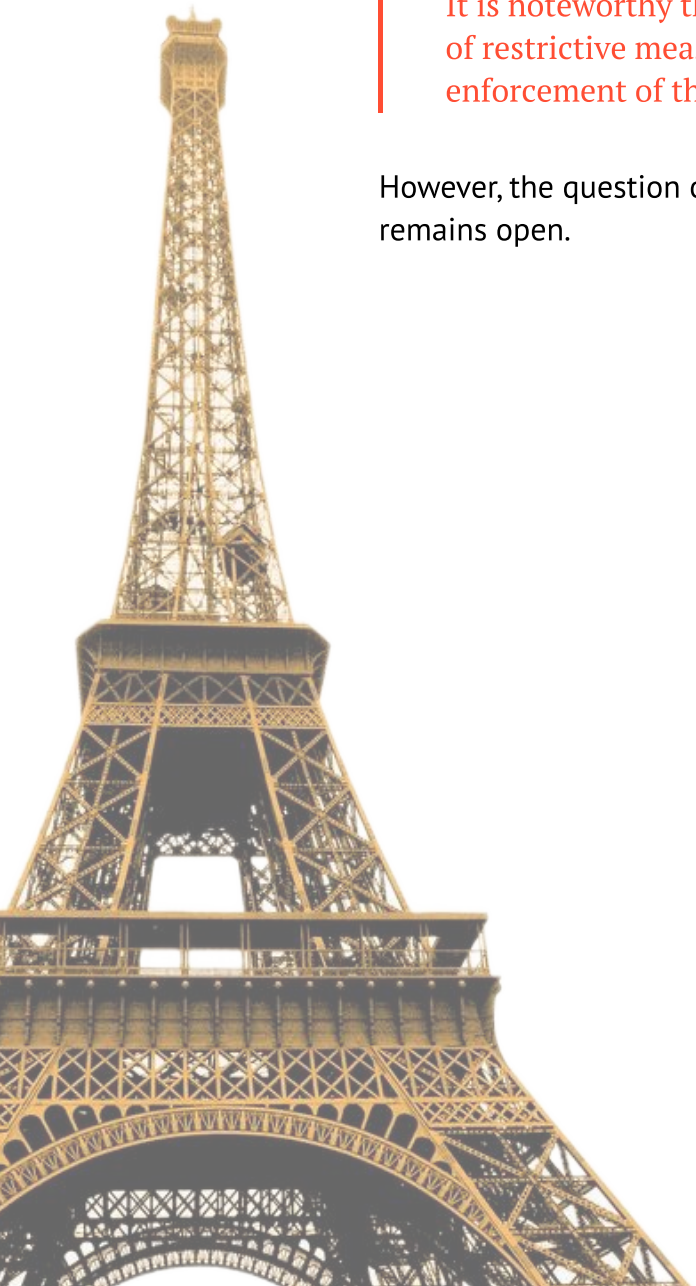
France

French courts recognized the judgment of the Moscow Arbitrazh (Commercial) Court on bringing AST Trans Market to subsidiary liability in bankruptcy proceedings⁷.



It is noteworthy that the French court also confirmed that the imposition of restrictive measures against the creditor does not prevent the enforcement of the Russian judgment in France

However, the question of the possible further foreclosure on foreign assets remains open.



⁶ In Re Sabadash. United States Bankruptcy Court, Central District of California. 14 May 2024.

⁷ Judgment of the Court judicial of NICE dated 21 June 2023 registered in the general directory under number 21/03505.

Conclusions and recommendations

- 1 We see prospects for the recognition and enforcement of Russian judgments in bankruptcy cases in the territory of "unfriendly" jurisdictions.
- 2 There are foreign courts that find no obstacles to the recognition of Russian bankruptcy judgments, even if the debtor's creditors are sanctioned companies.
- 3 However, the recognition of a judgment in and of itself [ALRUD1] does not mean the possibility of actual foreclosure on the debtor's property for sanctioned persons.
- 4 We recommend that persons and companies who have assets abroad and may become judgment debtors under Russian bankruptcy judgments actively participate in bankruptcy proceedings with respect to companies controlled in Russia to minimize the risk of such Russian judgments enforcement abroad.

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