



RUSSIAN DESK

Consideration by Russian courts of disputes with the participation of persons subject to the sanctions of foreign states

On 19 June 2020 amendments to the Commercial Procedure Code, which entered into force,¹ establish the exclusive competence of Russian commercial courts to consider disputes with the participation of persons subject to the sanctions of foreign states, and also disputes based on the indicated sanctions.

The competence of a foreign court or international arbitration to consider a dispute will apply if it is established by the international treaty of Russia or by the agreement of the parties. The indicated agreement of the parties may be declared unenforceable if any obstacles are established on access to justice related to foreign sanctions.

Persons in respect of which the sanctions of foreign states restrictions have been introduced are understood to mean not only Russian individuals and legal entities, but also foreign companies under the sanctions regime owing to mutual relations with Russian individuals and companies previously subject to restrictions (so-called secondary sanctions).

If the exclusive competence of Russian courts regarding disputes related to sanctions stipulated by the amendments is violated, such persons may apply to a commercial court of the constituent entity of the Russian Federation for a ban to initiate or continue proceedings in a foreign court, international commercial arbitration in the following instances:

- Proceedings were commenced in respect of the indicated persons in a foreign court, international commercial arbitration outside Russia; or
- The indicated persons have evidence that such proceedings will be commenced.

If a ban on the commencement or continuation of proceedings in a foreign jurisdiction adopted by a commercial court is violated, the amendments stipulate the ability to recover a monetary amount from a plaintiff that disregarded the ban which does not exceed the amount of the claims filed in the foreign court (arbitration), and the amount of the court costs that were incurred.

Consequently, these amendments may complicate significantly the resolution of disputes with the participation of persons subject to sanctions, in particular, this person may be banned from considering a case in a foreign court.

We recommend that you take account of the indicated amendments during the approval of the terms and conditions of the contracts and assessment of the risks of potential court proceedings.



Falk Tischendorf

Attorney-at-law | Partner
Head of Moscow office
BEITEN BURKHARDT Moscow
E-mail: Falk.Tischendorf@bblaw.com



Alexander Bezborodov

Attorney-at-law | LL.M. | Partner
BEITEN BURKHARDT Moscow
E-mail: Alexander.Bezborodov@bblaw.com

¹ Federal Law No. 171-FZ dated 8 June 2020 "On the Introduction of Amendments to the Commercial Procedure Code for the Purpose of Protecting the Rights of Individuals and Legal Entities in Connection with the for the Purpose of Protecting the Rights of Individuals and Legal Entities in Connection with the Restrictions Introduced by a Foreign State, State Association and/or Union and/or the State (Inter-State) Institution of a Foreign State or State Association and/or Union".

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EDITOR IN CHARGE

Alexander Bezborodov

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YOUR CONTACTS

MOSCOW

Turchaninov Per. 6/2 | 119034 Moscow
Falk Tischendorf
Tel.: +7 495 2329635 | Fax: +7 495 2329633
Falk.Tischendorf@bblaw.com

ST. PETERSBURG

Marata Str. 47-49 | Lit. A | Office 402 | 191002 St. Petersburg
Natalia Wilke
Tel.: +7 812 4496000 | Fax: +7 812 4496001
Natalia.Wilke@bblaw.com