

QUESTIONNAIRE

Note: Answers are provided in relation to the competence of arbitration courts of the Russian Federation, which, by virtue of Article 27 of the Arbitration Procedure Code of the Russian Federation (hereinafter - the APC RF) examine cases of economic disputes and other cases related to entrepreneurial and other economic activities, involving organizations which are legal entities, individuals engaged in entrepreneurial activity without forming a legal entity with the status of an individual entrepreneur, acquired in accordance with the law, and in the cases provided by the APC RF and other federal laws with the participation of the Russian Federation, federal subjects of the Russian Federation, municipal entities, government bodies, local authorities, other bodies, officials, entities without legal identity and citizens who do not have the status of an individual entrepreneur.

To the question 1 Answer

is "Yes".

The Russian Federation is not a party to the universal international treaties governing the recognition and enforcement of foreign judgments, meanwhile, it involves in regional international agreements concluded between Member States of the Commonwealth of Independent States.

In particular, the issues of recognition and enforcement of foreign judgments settled in the Agreement on the procedure for resolution of disputes connected with the implementation of economic activity (Kiev, 1992), the Convention on legal assistance and legal relations in civil, family and criminal matters (Minsk, 1993).

Russia is also involved in a number of bilateral international treaties on legal assistance in civil, family and labor cases, some of which contain provisions on the recognition and enforcement of foreign judgments. An example could be: the Treaty between the Russian Federation and the Republic of India on legal assistance and legal relations in civil and commercial matters in 2000, the Treaty between the Russian Federation and the Socialist Republic of Vietnam on legal assistance and legal relations in civil and criminal cases in 1998, the Treaty between the Russian Federation and the Argentine Republic on cooperation and legal assistance in civil, commercial, labor and administrative cases in 2000, the Treaty between the Russian Federation and the Republic of Poland on legal assistance and legal relations in civil and criminal cases in

1996, the Treaty between the Russian Federation and Mongolia on legal assistance and legal relations in civil and criminal cases in 1999, the Treaty between the Russian Federation and the People's Republic of China on legal assistance in civil and criminal cases in 1992, and so on. Similar agreements were concluded between the Russian Federation and Turkey, Iran, Egypt, Latvia, Lithuania, Estonia, Hungary, Czech Republic, Bulgaria, Romania, Spain, Italy, Cyprus, Greece, Cuba, Syria

To the question 2.

Answer is "Yes".

The chapter 31 of the Arbitration Procedure Code of the Russian Federation (articles 241-246) it is the legal and regulatory framework for the recognition and enforcement of foreign judgments and it contains a general provision that the general condition for the recognition and enforcement of a foreign judgment is the presence of international treaty, which would contain such rules.

Meanwhile, in the decree of the Presidium of the SAC RF of 08.10.2013 No. 6004/13 on the case number A40-56571/12-141-521 there was established legal position that the presence of international instruments recognizing the basic conditions of cooperation in legal and judicial sphere, as well as guaranteeing the right to enforcement of judgments within a reasonable time (for example, these include the Agreement on Partnership and Cooperation establishing a partnership between the Russian Federation, on the one hand, and the European Communities and their Member States, on the other hand, in 1994, the Convention for the Protection of Human Rights and Fundamental Freedoms in 1950, etc.), between the Russian Federation and a foreign state is an appropriate legal framework for the recognition and enforcement of a decision of a foreign state in the territory of the Russian Federation.

In addition, there is an extensive judicial practice on the application of the reasons for refusing recognition and enforcement of foreign judgments.

To the question 3.

In accordance with Part 1 of Article 242 of the APC RF the application for recognition and enforcement of a foreign judgment, acting on his disputes and other

matters arising in the implementation of entrepreneurial and other economic activities, shall be subject to consideration in arbitration court of the Russian Federation at the location place of or place of residence of the debtor or at the location of the debtor's property, if the location place or place of residence of the debtor is not known.

In accordance with Paragraph 3 of Article 245 of the APC RF the determination of the arbitral court may be appealed to the cassation instance arbitration court, bypassing arbitration court of appeal, for the case of the recognition and enforcement of a foreign judgment or foreign arbitral award.

To the question 4.

Answer is "Yes".

The general conditions (premises) for the recognition and enforcement of a foreign judgment are as follows:

- ☐ foreign judgment shall be final, entered into force;
- ☐ foreign judgment must not violate the exclusive jurisdiction of the court in the Russian Federation; foreign judgment should not contravene to the principle of lis alibi
- ☐ pendens (it should not be made: a) in a dispute between the same parties on the same subject and on the same grounds on which the court decision in the Russian Federation has entered into a force; b) in a dispute between the same parties on the same subject and on the same grounds, the proceedings of which are opened prior to the initiation of proceedings in a foreign court, or court of the Russian Federation initiated proceedings of application in a dispute between the same parties, on the same subject and on the same grounds); a foreign judgment can not be carried into execution after the expiry of period of limitation, if this deadline is not restored by the arbitral court; an enforcement of a foreign judgment is not contrary to the public policy of the Russian Federation.

Herein by virtue of section 3 of Article 242 of the APC RF, the applicant shall attach the properly notarized document certifying that the debtor was in due time and form informed of the proceedings in the foreign court, to the application for recognition and enforcement of a foreign judgment in addition to a copy of the foreign judgment and proof of its entry into force.

In international treaties there impose other additional conditions for the recognition and enforcement of foreign judgments. For example, the decisions must be made in compliance with all the rules for their recognition as having legal force in the territory of the Contracting Party where they were made; solutions and accompanying documents are translated into the official language of the Contracting Party in which they sought recognition and enforcement; decisions are rendered by a competent court (check of indirect jurisdiction); the party against which the decision has to be executed was duly subpoenaed and had the opportunity to exercise its right to protection and so on.

The monetary and non-monetary solutions are both subjected to recognition and enforcement.

To claim the application for recognition and enforcement of a foreign judgment it is necessary that the debtor was or resident in the territory of the Russian Federation or that his property was here.

To the question 5.

Answer is "Yes".

The conditions referred to answer to the question 4 are simultaneously grounds for refusing their recognition and enforcement.

The part 1 of Article 244 of the APC RF provides that the arbitral court refuses recognition and enforcement of a foreign judgment in whole or in part, if:

- 1) the decision has not entered into force by the law of the State in which it had been made;
- 2) the party against whom the decision was made has not been timely and properly notified about the time and place of the hearing or otherwise unable to present its case in court;
- 3) in accordance with international treaties of the Russian Federation or a federal law the consideration of the case is within the exclusive jurisdiction of a court in the Russian Federation;

4) there is the court decision in the Russian Federation, adopted on the dispute between the same parties on the same subject and on the same grounds;

5) under judicial consideration in the Russian Federation there is the case in a dispute between the same parties on the same subject and on the same grounds, the procedure of which there was opened prior to the initiation of proceedings in a foreign court, or court of the Russian Federation took its first the statement on the dispute between the same parties on the same subject and on the same grounds in the procedure;

6) the statute of limitations to bring a foreign judgment to enforce is over and this deadline has not been re-established by the arbitral court;

7) the execution of a foreign judgment would be contrary to the public policy of the Russian Federation.

In this case, Article 244 of the APC RF is not detailed which of the litigants must prove the relevant circumstances. Meanwhile, as a general rule the applicant requesting for recognition and enforcement of a foreign judgment is required to submit evidence that a foreign judgment has entered into force and that the decision executed in compliance with the rules of the State, which made the decision.

As a general rule other circumstances (the lack of proper notice of the defendant, a foreign judgment contradict to the principle of *lis alibi pendens* and violation of the exclusive jurisdiction of the courts of the Russian Federation, expiry of periods of limitations contrary to public policy, etc.) subject to proof by the applicant requesting against the recognition and enforcement of foreign judgment.

Provided that a number of circumstances (foreign judgment contradiction to the principle of *lis alibi pendens* and violation of the exclusive jurisdiction of the courts of the Russian Federation, the contradiction of the enforcement of the foreign judgment to the public policy of the Russian Federation, etc.) can be set by the arbitral court of the Russian Federation *ex officio*, without a statement of persons participating in this case.

To the question 6.

Answer is "Yes".

The procedure for recognition and enforcement of foreign judgments is a simplified procedure.

Procedure of applications consideration for the recognition and enforcement of a foreign judgment is regulated by Article 243 of the APC RF, which provides that an application for recognition and enforcement of a foreign judgment is hearing by a

single judge in a period not exceeding three months from the date of its receipt to the arbitral tribunal under the general rules of the arbitration proceedings.

In proceedings before the Arbitration court, the presence or absence of grounds for the recognition and enforcement of a foreign judgment establishes at the hearing as it is provided by Article 244 of the APC RF, by examination of evidence, substantiate of the stated requirements and objections, presented to the arbitral court. Provided that in the framework of arbitration proceedings the court may not review the decision of a foreign court on the merits.

Upon review of the application for recognition and enforcement of a foreign judgment the arbitral tribunal renders a determination for which it is simplified a procedure for appeal (no appellate review) to the arbitration court of cassation instance within one month from the date of the determination of first instance by the arbitral tribunal.

To the question 7.

Judgments giving in the case of failure to appear in court.

Such judgments by default shall be recognized and enforced if the foreign court that rendered the decision had been honoured international legal standards of due process (due process) in a proper notice of the defendant.

By the Decree of the SAC RF of 26.04.2011 No. 17463/10 the judgment by default of the Republic of Kazakhstan was enforced on the basis that a foreign court rendered a default judgment which is not contrary to the public policy of the Russian Federation as there was presented the evidence of proper notice of defendant about the time and place of the trial.

By the Presidium of the SAC RF (the definition of SAC RF from 24.04.2013 No. VAS-3366/13, the text is not currently published) there was denied recognition and enforcement of a default judgment of the Court of Justice of England and Wales on the grounds that the notice of the defendant was done in violation of the Convention on the

Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters 1965 (Hague Convention 1965), since the Russian Federation upon accession to the named Convention had made a statement that the documents intended for service on the territory of the Russian Federation, can be accepted only if they are written in Russian or accompanied by a translation into Russian and the request form and proof of service were attached. Service of documents by means provided in Article 10 of the Convention, is not allowed in the Russian Federation. These provisions have been violated under the notice of the defendant.

Provisional and protective measures

Foreign judicial acts on the application of interim measures are not recognized and enforced in the Russian Federation such as judicial acts are not final and may be imposed under the simplified (expedited) procedures, including ex parte, without notice to the defendant.

Non-monetary judgments

Such decisions are subjected to recognition and enforcement, along with the decisions providing for recovery of a sum of money from the defendant.

In particular, by the Decree of the Presidium of the SAC RF from 08.10.2013 No. 6004/13, the Decree of the High Court of Justice of Northern Ireland on the recognition of cession contracts and additional agreements as void was recognized and executed.

Court decisions on recovery of punitive sanctions

The general approach to the recognition and enforcement of such decisions was formulated in paragraph 6 of the Information Letter of the Presidium of the SAC RF from 26.02.2013 No. 156 "Review of practice dealing with arbitration court cases on the application of the warranty about public policy as grounds for refusing the recognition and enforcement of foreign judgments and arbitral awards", and there is indicated that the arbitral tribunal recognizes the enforcement a foreign judgment which is not contrary to the public policy of the Russian Federation if the evidence presented by the debtor does not indicate that previously agreed damages or punitive damages levied on the basis of a civil contract are of penal character.

In that paragraph it is stated the legal position, according to which the Russian civil law has a number of institutions (such as penal sum, responsibility for violation of the exclusive rights, etc.) which suggest a departure from the strict compensatory measures of civil liability. At the same time it was noted that in order to implement

the principle of proportionality the Court should evaluate how significant is punitive liability of the debtor in assessing the impact of enforcement of foreign decisions in terms of compliance with the public policy of the Russian Federation.

As a result, the general approach has been formulated according to which the recognition and enforcement of foreign decisions requiring the recovery of pre-established damages in the agreements concluded between the parties is contrary to the public policy of the Russian Federation, in particular, under the following conditions: if the amount of the loss is so abnormally high which greatly exceeds of their size, which the parties could reasonably have foreseen at the conclusion of the contract; if under reviewing the size of such damages there were the obvious signs of abuse of freedom of contract (in the form of exploitation of weak bargaining power of the debtor, a violation of the public interest and the interests of third parties, etc.).

To the question 8.

Answer is "Yes".

The determination of the arbitration court to accept or refuse the recognition and enforcement of a foreign judgment is subjected to appeal to the arbitration court of cassation and supervisory instances.

The mismatch of court's findings containing in the determination, facts of the case, established by the arbitral tribunal of first instance and the available evidence of the case, the violation or incorrect application of substantive law or procedural law rules are the grounds for modification or cancellation of the court decision of first instance in the arbitration court of appeal (Article 288 APC RF).

Provided that the absolute reasons for vacating of court ruling are:

- 1) the hearing by unlawfully composed arbitration court;
- 2) the hearing of the case in the absence of any persons involved in the case and did not properly notified of the time and place of the hearing;
- 3) violation of the rules of the language in the proceedings;
- 4) taking a court decisions, regulations on the rights and responsibilities of persons not involved in the case;

- 5) failure of judgments, rulings by a judge or one of judge or either signing judgments, rulings, not by judges, which are specified in the award, judgment;
- 6) the absence of the trial transcript or signing it by the persons not referred to in Article 155 APC RF;
- 7) violation of the rules on secrecy of judicial deliberations during the decision taking.

The grounds for a retrial in the order of supervision were set out in Article 304 APC RF and to among these are:

- 1) violation of uniformity in the interpretation and application of rules of law by arbitration courts;
- 2) violation of the rights and freedoms of man and citizen according to the generally recognized principles and norms of international law, international treaties of the Russian Federation;
- 3) violation of the rights and legitimate interests of unspecified scope of persons or other public interests.

It should be noted that the reasons for the revision of the arbitration court decision of first instance for the recognition of foreign judgments are common and do not contain any special reasons, applied only to this category of cases.

To the question 9.

In 2012, the arbitration courts of first instance considered 179 cases on the recognition and enforcement of foreign judgments and foreign arbitral awards (separate statistics with only enforcement of foreign arbitration courts by the arbitration courts of the Russian Federation is not conducted). In 2013, the figure was 158 cases.

To the question 10.

Statistics on the number of satisfactions of petition on the recognition and enforcement of foreign judgments by arbitration courts of the Russian Federation is not conducted.

SECTION II - JURISDICTIONAL CRITERIA

1. Is your state a party to any bilateral and / or multilateral agreements and / or conventions governing issues of jurisdiction of international judicial processes?

YES

NO

If YES, please provide a detailed commentary.

The Russian Federation is not involved in any universal international treaty relating to the jurisdiction of international judicial processes. But the Russian Federation participates in a number of regional agreements on this issue, namely, the Agreement of the Member Nations of the Commonwealth of Independent States (CIS) on the Settlement of disputes relating to the implementation of economic activity" in 1992 (the so-called Kiev Agreement), as well as in the Minsk Convention of the CIS Member Nations "On legal assistance and legal relations in civil, family and criminal cases" in 1993 (the so-called Minsk Convention). Kiev Agreement regulates the issues of international jurisdiction for the business disputes. Minsk Convention is a document of a more general nature and concerns of the international jurisdiction of general civil disputes.

The Russian Federation also is a party to a large number of bilateral treaties on legal assistance, in which, among other matters, the international jurisdiction is regulated. Such agreements were concluded with the Republic of Latvia (1993), as well as with the most other states of the former Soviet Union, the Republic of India (2000), the Republic of Vietnam (1998), the Kingdom of Spain (1996) and other states. However, not all bilateral treaties on legal assistance and legal relations, where the Russian Federation is a party, contain rules on international jurisdiction.

2. Does your State have national legislation, regulating the issues of jurisdiction of

international judicial processes? (for example, legislation or case law)

YES

NO

If YES, please provide a detailed commentary.

Yes, in the Russian Federation the Arbitration Procedure Code of the Russian Federation in 2002 (hereinafter - the APC RF)¹ contains the rules regulating the issues of international jurisdiction in cases involving foreign parties. Article 247 of this Code deals with general issues of competence of Russian arbitration courts in cases involving foreign parties. In Article 248 of the APC RF it is set exclusive international jurisdiction of the Russian arbitration courts. Article 249 of the APC RF contains rules on prorogation agreements.

3. Whether the regulations of international jurisdiction have been reconsidered in recent time in your country? (for example, legislative bodies, institutions with legislative initiative, other competent authorities)

YES

NO

Comments.

As it already mentioned, the rules on international jurisdiction are contained in the APC RF (2002). The changes to this document in regulation of the international jurisdiction have been made by the Federal Law of 11.07.2011 No. 200-FZ, and were intended to specify the definition of jurisdiction in disputes arising from the relations connected with the state registration of names and other facilities and services within the international association of information

¹ In general the Code regulates the procedure of resolving disputes arising from entrepreneurial and other economic activity

and telecommunication networks "Internet" in the territory of the Russian Federation. The amendment was rather editorial. Other legislative changes of legal regulation haven't been made.

Meanwhile, the Supreme Arbitration Court of the Russian Federation due to the competence granted to him by Article 127 of the Constitution of the Russian Federation, summarized the practice of dispute resolution in cases involving foreign parties, including the issues of definition of international jurisdiction, the results of which it issued in Disclosure Letter from 09.07. 2013 No. 158 "Review of jurisprudence on certain issues related to the consideration cases by courts of arbitration involving foreign parties." The Document provides guidance to the lower courts on the application of the rules regulating the procedure for resolving disputes with foreign persons, including articles 247-249 of the APC RF. Thus, despite the absence of legislative adjustments, the update of jurisprudence provides by the highest court in the spirit of global trends of differentiation of competence of the courts.

4. Which of the following cases the courts in your State have the jurisdiction?

When the defendant accepts the jurisdiction voluntarily

Comments

Yes, the Russian arbitration court has jurisdiction in this situation. This follows from the interpretation of Article 249 of the APC RF establishing the competence of a Russian court in the presence of prorogation agreement concluded between the parties.

In this regard this side is considered as voluntarily accepted the jurisdiction of the Russian court, if it does not raise an objection before the first statement on the substance of the dispute. This position is confirmed in paragraph 7 of the Information Letter from 09.07.2013 No. 158 "Review of jurisprudence on certain issues related to the consideration by courts of arbitration cases involving foreign parties", where it was recorded by the following rule: the absence of objection on

the competence of the arbitral tribunal by person involved in the case, confirm this side on the dispute by that court before the first statement on the substance of the dispute.

- When the defendant resides or stays in your state

Comments

Yes, the Russian arbitration court has jurisdiction. It's right provided in paragraph 1 of Part 1 of Article 247 of the APC RF.

- Where the defendant permanently carries on business in your state

If the defendant carries out its business activities on an ongoing basis through its branch or representative office in the Russian Federation (as a rule), the Russian court has jurisdiction to consider the dispute involving this defendant by virtue of direct legislating in paragraph 2 of Part 1 of Article 247 of the APC RF.

But even in the absence of formal registration in the Russian branch or representative office of a foreign entity the permanent place of business through which wholly or partly carries on commercial activities of a foreign entity on the territory of the Russian Federation, it may be recognized by its branch or representative office. Consequently, the Russian court will be competent to settle the dispute in respect of such foreign person on the basis of the same paragraph 2 of Part 1 of Article 247 of the APC RF. This approach was committed in paragraph 8 of the Information Letter from 09.07.2013 No. 158 "Review of jurisprudence on certain issues related to the consideration of arbitration cases involving foreign parties by courts." At determining the jurisdiction of the Russian court on the basis of this provision it must be complied with the condition that the claims arise from the activities of formal or informal branch or representative office of the foreign person (paragraph 9 of the newsletter mentioned above).

- When the contract is executed or there is a breach of contract in your state.

Comments

The Russian arbitration court has jurisdiction if the dispute arose out of a contract under which the execution has to take place or has taken place on the territory of the Russian Federation. It's right provided in paragraph 3 of Part 1 of Article 247 of the APC RF. If there was a violation of this agreement on the territory of Russia, a Russian court would be competent to hear this dispute in the first instance, by virtue of legislating that the jurisdiction of the Russian court is determined by the place of performance of the contract.

If for any reason there the breach of contract occurred in Russia, while the place of his execution was the territory of another state, the Russian court will also be competent to review such dispute by virtue of the same paragraph 3 of Part 1 of Article 247 of the APC RF, according to which the jurisdiction of dispute of the Russian court is related not only to the place of performance of the contract, agreed in it , but also to the actual place of performance of the contract. For example, if the delivery of the goods should have been made by a foreign supplier in accordance with the Russian counterpart to a third party on the territory of Ukraine, while the foreign supplier had delivered the goods to the territory of Russia at his Russian counterpart, the breach of contract occurs in Russia, while the place of its execution is in the territory of a third State. But in this case the Russian court is also competent to adjudicate.

- When the contract has been signed and is executed by the parties in your State

Comments

The place of execution of an agreement is not the only factor that may determine the jurisdiction of the Arbitration Court of the Russian. At the same time in

conjunction with the other circumstances of the place the execution of an agreement may form a close liaison of relationship at law with the rule of law of the Russian Federation, and in this case, the Russian court will be competent to settle the dispute by virtue of paragraph 10 of Part 1 of Article 247 of the APC RF.

If the contract is executed in the Russian Federation, the Russian arbitration court has jurisdiction. It's right provided in paragraph 3 of Part 1 of Article 247 of the APC RF.

- When the parties of dispute identified the courts of your country as the bodies to resolve their disputes.

Comments

Yes, the Russian arbitration court has jurisdiction, provided that such an agreement is not violate the exclusive competence of the foreign court. In this case the Russian court will have the exclusive competence to consider the dispute. These rules are established by Article 249 of the APC RF.

- When a person is harmed in result of a violation that occurred in your state

Comments

Paragraph 4 of Part 1 of Article 247 establishes the rule that the Russian court is competent to hear the dispute, if the claim arose from the action of damage to property or other circumstance that took place on the territory of the Russian Federation, or upon the occurrence of damage in the territory of the Russian Federation. Thus, the article focuses on the harm of property of a person, but not to the person or the place of occurrence of harm notwithstanding the place of occurrence.

If a person has inflicted harm as a result of violations that took place in the Russian Federation, with the damage occurred on the territory of the Russian Federation, the Russian court is competent to hear the dispute because of its direct legislative establishment of paragraph 4 of Part 1 of Article 247 of the APC RF. If there was only a violation in Russia, as a result of which a person (not his property) have been damaged, while damage caused by those violations came from the person on the territory of another country, then this situation is formally no longer subject under the said paragraph 4 of Part 1 of Article 247 APC RF because in the latter one we are talking about damage to property or the occurrence of damage in Russia. But seems that judges can not support such a formal approach and take into account the overall meaning and purpose of paragraph 4 of Part 1 of Article 247 of the APC RF. In this debate in determining jurisdiction as the only criterion there is the place of damage to any person it is a rarity, as there is usually at least one another factor determining the international jurisdiction in favor of the Russian court (the location of the defendant, the location of the branch of the defendant and etc.).

- When the damage was caused to property that occurred in your state as a result of violations

Comments

Yes, the Russian arbitration court has jurisdiction. It's right provided for in paragraph 4 of Part 1 of Article 247 of the APC RF.

- Where the defendant does not live in your state, but it has real estate

Comments

Yes, the Russian arbitration court has jurisdiction.

In paragraph 1 of Part 1 of Article 247 of the APC RF the alternative general rule is set for determining the competence of the Russian court: the defendant stays or resides in the territory of the Russian Federation or the property of the defendant is in the territory of the Russian Federation. Therefore if the defendant does not live in Russia, but there is the property in Russia (for example, its real estate) the Russian arbitration court has jurisdiction to consider the dispute in respect of such defendant.

In addition, by virtue of paragraph 2 of Part 1 of Article 248 of the APC RF the Russian court has exclusively jurisdiction in disputes with immovable property if such property is located on the territory of the Russian Federation or their rights to it.

5. Is a nature of the above-mentioned reasons like the court is not authorized to hear the case in their absence?

YES

NO

Comments

In the Russian legislation, namely in paragraph 10 of Part 1 of Article 247 of the APC RF, there is a rule that the Russian court is competent to adjudicate in close connection with the territory dispute of Russian Federation and in other cases not previously named in the article. Thus, the international jurisdiction of Russian arbitration courts is not limited to an exhaustive list of certain cases and may be set for a dispute not covered by the statutory list, but having a close relationship with the legal order of the Russian Federation.

6. Which of the following situations the court will not exercise jurisdiction in your state, otherwise having jurisdiction as it provided in Part II of the issue 4:

- In the case of identical proceedings (proceedings involving the same parties and on the same grounds for the claim) that took place in the courts of another State

Please select the appropriate law source and provide legal comments

By virtue of Part 1 of Article 252 of the APC RF if the production of a foreign court case is pending on the identity claim, provided that the consideration of this case is not within the exclusive competence of the arbitral tribunal in the Russian Federation, the Russian court leaves the claim without consideration.

In this regard in accordance with Part 2 of Article 252 of the APC RF abroad if judgment is made and entered into force abroad, the proceedings on the identity claim is subject to termination, in exception of two cases: 1) the case is within the exclusive competence of the Russian court, 2) judgment rendered abroad shall not be recognized and enforced in Russia.

- In the case of related proceedings (i.e. proceedings with related parties and related causes of action)

Please select the appropriate law source and provide legal comments

There are not such grounds for abandonment of the claim without consideration for parallel processes in the Russian legislation.

- In the case of a determination of jurisdiction on inappropriate place by the court

Please select the appropriate law source and provide legal comments

The imposition of a foreign court the ruling on improper jurisdiction of dispute to the Russian court can not limit the jurisdiction of the Russian court by virtue of

such a basic principle of international law as the sovereign equality of states. In such situation, a Russian court will determine its jurisdiction to resolve the dispute with a foreign element, based on the requirements of the Russian legislation, without taking into account the judicial acts of foreign courts to accept or decline it as an appropriate forum. This approach was enshrined in paragraph 32 of the Information Letter from 09.07.2013 No. 158 "Review of jurisprudence on certain issues related to the consideration of arbitration cases by courts involving foreign parties."

- In the case when the mode of action is carried out in the interests of justice

As a general rule, a Russian court in the presence of statutory bases of its jurisdiction has no legal powers to restrict its jurisdiction to resolve the dispute only on the basis of actions in the interests of justice. Meanwhile, the Russian courts are guided by the principle of the close relationship underlying all the criteria for determining the international jurisdiction. Accordingly that, under certain circumstances, if there is a close connection of relationship with order the limits of the Russian court's jurisdiction may be extended, including the interests of justice. And also there are cases where the courts have limited its jurisdiction, taking into account the fact that a legal relationship is not closely related to the rule of law in Russia. Thus, the Russian courts did not recognize themselves competent to deal with disputes only on the basis of finding a branch of a foreign defendant in Russia if such dispute has not emerged from the activities of the branch. In this case, the paragraph 2 of Part 1 of Article 247 of the APC RF determining the international jurisdiction based on the location of the branch or representative office of a foreign entity, does not contain such a restrictive clarification. Meanwhile, it was produced by jurisprudence and subsequently committed in paragraph 8 of the Information Letter of 09.07.2013 No. 158 "Review of jurisprudence on certain issues related to the consideration of arbitration cases by courts involving foreign parties".

- Another

Please provide comments

The Russian arbitral court does not accept jurisdiction over the dispute, if it establishes by a party claim that the relationship between the parties entered into a valid and legally enforceable agreement on settlement of a dispute only by a court of a foreign state. This provision is based on the interpretation of Article 249 of the APC RF and committed in paragraph 6 of the Information Letter of 09.07.2013 No. 158 "Review of jurisprudence on certain issues related to the consideration of arbitration cases by courts involving foreign parties."