




COMMENT

English courts stand their ground against Russian injunctions

A High Court ruling shows that cases can and will be litigated and arbitrated, even if they involve the Kremlin's strategic interests, Simon Bushell writes

Simon Bushell

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Russians have embraced the English High Court as a place to resolve their commercial disputes for at least the past 25 years, with oligarchs and state-owned companies regularly litigating in England.

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Russia's invasion of Ukraine in 2022 changed the dynamic, and figures show that the number of Russians litigating in the London commercial court has tumbled. But a recent ruling is likely to stem that haemorrhaging.

After the invasion, Moscow discouraged state-owned and Kremlin-affiliated entities from litigating in England. Officials have adopted that position despite an established process in London for the granting of licences for lawyers to represent Russian clients who have been sanctioned.

Now the English courts are grappling with Russian laws that deem disputes involving sanctioned parties to be the subject of the exclusive jurisdiction of that country's courts. These laws also permit sanctioned parties to seek protection from the courts in the form of an "anti-suit injunction" that prohibits the commencement or continuation of proceedings outside Russia.

Russian judges granting those injunctions have been clear in their belief that sanctioned parties would not get fair or impartial treatment from courts in "unfriendly" countries such as England. In response, those adversely affected by these rulings have been seeking their own relief in London — the "anti anti-suit injunction" — and in some instances the English courts have been inclined to grant them.

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A decision to grant an anti anti-suit injunction in the case of Ziyavudin Magomedov that is going through the High Court sends a clear message that — whatever Russian legislators may have hoped — cases can and will still be litigated and arbitrated in England, even if they involve Russian strategic interests.

The English courts have been concerned to uphold the efficacy

agreements. Moreover, in a High Court ruling last month in *Magomedov & Others v Transneft & Others*, Mr Justice Bright ordered relief in respect of injunction proceedings pursued in the Russian courts, pending determination of Transneft's challenge to the English court's jurisdiction over the substantive dispute.



Ziyavudin Magomedov, a businessman bringing a civil claim in England, had faced a \$7.5 billion penalty for continuing the claim

SIMON DAWSON/BLOOMBERG/GETTY IMAGES

Magomedov is a businessman bringing a large civil claim in England against defendants including Transneft, Russia's state pipeline company. Transneft's injunction sought to impose a \$7.5 billion penalty on him for continuing the claim.

The London court's anti-injunction effectively ensures that the English legal process is not undermined in determining its own jurisdiction by the actions of a foreign court, especially when that court's penalty would reap an unjustified "windfall".

The English court's ruling is not "tit for tat". It will always be concerned to strike a delicate balance between the need to protect its own process, achieving access to justice, and respecting the actions of foreign courts in the interests of comity.

Simon Bushell is the senior partner of Seladore Legal, which represents Ziyavudin Magomedov in England

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