



School of International Arbitration

IACL
International Arbitration Case Law

School of International Arbitration, Queen Mary, University of London

International Arbitration Case Law

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Award Name and Date:

Yukos Universal Limited (Isle of Man) v. The Russian Federation, UNCITRAL, PCA Case No. AA 227– Order of Court of First Instance Antwerp – 24 June 2016

Case Report by:

Xiaojun Wang**, Maria I. Pradilla Picas***

Summary:

Following the annulment of the arbitral awards of Yukos v. Russia by the court of The Hague on 20 April 2016, on 27 June 2016, the Court of First Instance Antwerp (the “**Court**”) granted the application filed by Technical State University Of Kaliningrad to prohibit Hulley Enterprises Limited, Veteran Petroleum Limited, and Yukos Universal Limited from levying any type of attachment on two sailing ships on the basis of the above annulled awards. In doing so, the Court relied on Article 18 and Article 584, second section of the Belgian Judicial Code, which permits the introduction of a claim to prevent the violation of a seriously endangered right, so long as the elements of necessary urgency and absolute necessity are met.

Main issues: Enforcement of Annulment – Interim Measure under Belgian Judicial Code

Cabinet of the President: Mr. Luc Potargent (Department Chief, d.d. President), Mr. Marleen van Herwegen (Head-Secretary of Service)

Applicant’ Counsel: Mr. Guy van Dosselaere, Antwerp, Belgium; Mr. Frank Roosendaal, Antwerp, Belgium

Respondent’s Counsel: N/A (*ex parte* proceeding)

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** Xiaojun Wang holds a Master in International Business and Economic Law from Georgetown University Law Center and a LL.B. from Tsinghua University. The views set forth herein are the personal views of the author and do not necessarily reflect those of the law firm with which she is associated. Ms. Xiaojun Wang can be contacted at wang_xj11@163.com

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Digest:

1. Relevant Facts and Procedural Dates

After the court of The Hague annulled two arbitral awards in favor of Yukos Universal Limited (case *Yukos v. Russia*) on 20 April 2016—the Interim Award dated 30 November 2016 and the Final Award dated 18 July 2014— on 16 June 2016 Technical State University of Kaliningrad (hereinafter, “**Applicant**” or “**Russia**”) filed an *ex parte* application in the Court of First Instance Antwerp (the “**Court**”) to prohibit Hulley Enterprises Limited, Veteran Petroleum Limited, and Yukos Universal Limited (collectively, “**the Companies**”) from levying any type of attachment on two sailing ships on the basis of the above awards (p. 2). The Court granted the application (p. 3).

2. The Court’s Analysis and Decision

The Applicant introduced its claim based on Articles 18 and 584 of the Belgian Judicial Code (“**B.J.C.**”), which, as the Court explained, “permit[] the introduction of a claim to prevent the violation of a seriously endangered right” so long as there is “urgency and absolute necessity.” (p. 2). The Court found that the application satisfied the elements of the B.C.J., and held that, “[c]onsidering the annulment of the arbitral awards . . . by the court of The Hague in the Netherlands on 20 April 2016, no attachments may be levied on the basis of these awards (p. 2).

The Court, therefore, granted the Application and (1) prohibited the Companies “from levying any type of attachment and/or blocking measure” on the ships; (2) imposed on the Companies a 100.000 Euro fine if they failed to abide to the prohibitions in the Court’s Order; and (3) declared that the Court’s Order could be notified and executed in Belgian territory between 6 July 2016 an 11 July 2016 (p. 3).