

**SUPREME COURT
OF THE RUSSIAN FEDERATION**

No. 308-ES19-17745

RULING

Moscow

October 21, 2019

Upon review of the cassation appeal brought by Ukraine represented by the Ministry of Justice of Ukraine (the “applicant”) against the ruling of the Stavropol Territory Arbitrazh Court dated March 11, 2019 in case No. A63-15521/2018 and the ruling of the Arbitrazh Court for the North Caucasus District dated June 21, 2019 in the same case initiated on the basis of an application filed by Public Joint-Stock Company Tatneft n/a V.D. Shashin (the “company”) seeking recognition and enforcement of an arbitral award issued by an international *ad hoc* commercial arbitration tribunal in Paris, France, on July 29, 2014,

with State-Owned Healthcare Institution Semashko Health Resort as a non-party intervener,

N.V. Pavlova, Judge of the Supreme Court of the Russian Federation,

ESTABLISHED that:

the company applied to the Moscow Arbitrazh Court seeking recognition and enforcement of an arbitral award issued by an international *ad hoc* commercial arbitration tribunal in Paris, France, on July 29, 2014 (the “award”).

The ruling of the Moscow Arbitrazh Court dated July 4, 2017 dismissed the case.

The ruling of the Arbitrazh Court for the Moscow District dated August 29, 2017 set aside the ruling of the Moscow Arbitrazh Court dismissing the case dated July 4, 2017 and the case was remanded to the Moscow Arbitrazh Court for a new trial.

The ruling of the Moscow Arbitrazh Court dated June 22, 2018 referred the case to the Stavropol Territory Arbitrazh Court on the basis of Art. 39(2)(3) of the Arbitrazh Procedure Code of the Russian Federation.

The ruling of the Arbitrazh Court for the Moscow District dated August 2, 2018 upheld the ruling dated June 22, 2018 and dismissed the cassation appeal.

The ruling of the Stavropol Territory Arbitrazh Court dated March 11, 2019 as upheld by the ruling of the Arbitrazh Court for the North Caucasus District dated June 21, 2019 granted the company’s application and the courts recognized the award and ordered its enforcement.

In its appeal, the applicant invokes violation of substantive and procedural law by the courts and indicates that the courts applied rules of law that are not applicable to the case at hand.

Pursuant to the provisions of Art. 291.6(7) and Art. 291.11(1) of the Arbitrazh Procedure Code of the Russian Federation (the “Code”), a cassation appeal shall be referred for hearing by the Judicial Panel of the Supreme Court of the Russian Federation, if the arguments raised therein confirm material violation of substantive and/or procedural law, which had an impact on the outcome of the case and which, if not cured, make impossible reinstatement and protection of the breached rights, freedoms and legitimate interests in the field of business and other economic activity as well as defense of public interests protected by law.

No grounds for reversal of the court rulings issued in this case in the course of the hearing by the Judicial Panel of the Supreme Court of the Russian Federation for Economic Disputes have been found.

In granting the company’s application, the courts relied on Art. 38, 241-244, 256.2 of the Code, the Agreement between the Government of the Russian Federation and the Cabinet of Ministers of Ukraine on the Encouragement and Mutual Protection of Investments (made in Moscow on November 27, 1998), the United Nations Convention on the Recognition and Enforcement of Foreign Arbitral Awards (made in New York in 1958), the European Convention on International Commercial Arbitration (made in Geneva on April 21, 1961) and established the existence of grounds for recognition and enforcement of the award issued in the dispute regarding the investments made by the company in UTN, a Ukrainian company. Moreover, the courts pointed out that there is no evidence in the case proving that there are any grounds for denying recognition and enforcement of the award stipulated by Art. 244 of the Code, including those involving violation of the public policy of the Russian Federation.

In these circumstances, the applicant’s arguments do not constitute grounds for referring the application for cassation review by the Judicial Panel of the Supreme Court of the Russian Federation.

In reliance on Art. 291.6 and 291.8 of the Arbitrazh Procedure Code of the Russian Federation, the Judge

RULED that:

referral of the cassation appeal for hearing by the Judicial Panel of the Supreme Court of the Russian Federation for Economic Disputes be denied.

Judge of the Supreme Court
of the Russian Federation

N.V. Pavlova