000. Federal *Arbitrazh* Court, Central District, 7 September 2009, No. F10-915/09(2), Case No. A54-3028/2008-S10
Supreme *Arbitrazh* Court, 12 November 2009, No. VAS-13211/09
Presidium of the Supreme Arbitrazh Court, 2 February 2010[1]

Parties:	Petitioner: Lugana Handelsgesellschaft mbH (Germany) Respondent: OAO Ryazan Metal-Ceramic Instrument Factory (Russian Federation)
Published in:	English translation available online at <www.idispute.ru>
Articles:	III; V(1)(*a*); V(1)(*c*)
Subject matters:	– participation in arbitration substitutes for valid conclusion of arbitration agreement SB to check – arbitration agreement "in writing" – intention to arbitrate may (not) be evidenced by party's behavior – period of limitation to request enforcement of foreign award – availability of post-award interest
Commentary Cases:	[6] + [11]-[18] + [26]-[32] + [35] = ¶ 504 + ¶ 513; [19]-[21] = ¶ 306; [23]-[24] = ¶ 307

Summary

On 14 December 2000, Lugana Handelsgesellschaft mbH (Lugana) and OAO Ryazan Metal-Ceramic Instrument Factory (Ryazan Ceramic) concluded Contract No. 061200 (the

1. Prepared by Roman Zykov, Hannes Snellman Attorneys, Moscow/Helsinki.

Contract). On 10 January 2001, Lugana and Ryazan Ceramic also concluded an Exclusive Distributor Agreement (the Agreement) for the supply of magnetically operated sealed switches. Both the Contract and the Agreement contained a provision for arbitration of disputes at the Arbitration Institute of the Stockholm Chamber of Commerce (SCC).

A dispute arose between the parties. On 27 July 2004, Lugana sent a letter to Ryazan Ceramic outlining its claim and suggesting that arbitration be held at the German Institution of Arbitration (*Deutsche Institution für Schiedsgerichtsbarkeit* – DIS) rather than SCC. By letter of 30 July 2004, Ryazan Ceramic's representative allegedly agreed with this proposal and appointed an arbitrator; it then participated in the ensuing DIS arbitration.

On 11 August 2005, a DIS arbitral tribunal rendered an award in favor of Lugana, directing Ryazan Ceramic to pay Lugana US$ 463,317.63 and interest thereon, to provide information to Lugana on certain contracts it had concluded after entering into the Agreement and to supply 500,000 switches to Lugana at the price of US$ 0.072 per switch. The DIS arbitrators subsequently issued two further awards: one on 14 October 2005, directing Ryazan Ceramic to compensate Lugana for the arbitration fees it had advanced and for counsel fees, and one on 27 December 2005 on other costs of the arbitration and counsel fees.

Lugana sought enforcement of the three DIS awards in the Russian Federation. On 2 February 2009, the *Arbitrazh* (Commercial) Court for the Ryazan District granted enforcement. This decision was reversed on 9 April 2009 by the Federal *Arbitrazh* Court for the Central District. On 24 June 2009, on remand, the *Arbitrazh* Court of the Ryazan District denied enforcement. Lugana appealed.

By the first decision reported below, rendered on 7 September 2009, the Federal *Arbitrazh* Court for the Central District affirmed the lower court's decision denying enforcement of the three DIS awards. It reasoned that the lower court correctly held that the DIS awards were not in accordance with the agreement of the parties, as provided for in Art. V(1)(*c*) of the 1958 New York Convention and in the law of the Russian Federation, because the parties did not amend the SCC arbitration clause in their contracts in a valid manner – that is,

in writing. Lugana argued that the parties did reach a valid agreement to amend the SCC arbitration clause because Ryazan Ceramic did not raise the objection of the lack of jurisdiction of the DIS arbitrators during the arbitration. The court agreed with the lower court that the failure to raise such objection was not per se evidence of a valid arbitration agreement. Hence, the three DIS awards were rendered by an arbitral institution that was not in accordance with the parties' agreement, and enforcement should be denied.

The appellate court disagreed with the lower court's conclusion that the time limit to seek recognition and enforcement – three years – had expired, noting that Lugana filed its application on 7 August 2008, that is, before expiry of the three-year limit. However, this was irrelevant in light of the appellate court's conclusion that the decision of the Ryazan court should be confirmed. This is the first decision reported below.

By the second decision reported below, rendered on 12 November 2009, the Supreme *Arbitrazh* Court of the Russian Federation reached the opposite conclusion that the parties validly concluded an agreement for DIS arbitration within the meaning of Art. V(1)(*a*) of the New York Convention. The Court noted that it appeared from the file of the case that Ryazan Ceramic agreed with the proposed amendment to the arbitration clause (from SCC to DIS) and appointed an arbitrator in its reply of 30 July 2004 to Lugana's letter of 27 July 2004. It added that it appeared from the award that Ryazan Ceramic fully participated in the DIS arbitration, thereby agreeing thereto by its conclusive behavior.

The Court therefore referred the case to its Presidium for a decision on the disagreement between its own decision and the decision of the Ryazan *Arbitrazh* court.

By the third decision reported below, rendered on 2 February 2010, the Presidium of the Supreme *Arbitrazh* Court settled the difference in favor of the Supreme *Arbitrazh* Court and annulled the decision of the *Arbitrazh* Court for the Ryazan District, directing that court to issue an order for the enforcement of the three DIS awards. This is the third decision reported below.

Excerpt

Federal *Arbitrazh* Court, Central District, 7 September 2009

[1] "In accordance with Art. 49 of the *Arbitrazh* Court Procedure Code of the Russian Federation (the *Arbitrazh* Code), Lugana specified the asserted claims and sought:

(1) recognition and enforcement of the arbitral award of the German Institution of Arbitration dated 11 August 2005 ..., according to which: (i) US$ 463,317.63 was recovered from Ryazan Ceramic in favor of Lugana together with interest at 8 percentage points above the base interest rate starting on 23 January 2003; (ii) Ryazan Ceramic was directed to provide information on all agreements it signed after the Exclusive Distributor Agreement was concluded on 10 January 2001, in particular those with Ducentum Verwaltungs GmbH and Loury Investment SA and (iii) Ryazan Ceramic was directed to supply 500,000 magnetically operated sealed switches of the desired assortment at the price of US$ 0.072 per switch to Lugana;
(2) recognition and enforcement of the arbitral award on advance on costs of the German Institution of Arbitration dated 14 October 2005 ..., according to which costs (the advance payments made by Lugana in the amount of EUR 81,652.05) were recovered from Ryazan Ceramic in favor of Lugana together with interest at 5 percentage points above the basis interest rate starting on 15 September 2005;
(3) recognition and enforcement of the arbitral award on costs of the German Institution of Arbitration dated 27 December 2005 ..., according to which expenses in the amount of EUR 57,408.71 were recovered from Ryazan Ceramic in favor of Lugana together with interest at 5 percentage points above the base interest rate starting on 6 December 2005.

[2] "The ruling of the *Arbitrazh* Court for the Ryazan District dated 2 February 2009 recognized and enforced

(1) the arbitral award of the German Institution of Arbitration ... rendered on 11 August 2005, according to which [Ryazan Ceramic] was directed to pay [Lugana] US$ 463,317.63, to supply 500,000 magnetically operated sealed switches of the desired assortment at the price of US$ 0.072 per switch to [Lugana] and to provide information on all agreements it signed after the Exclusive Distributor Agreement was concluded on 10 January 2001, in particular those with Ducentum Verwaltungs GmbH and Loury Investment SA;
(2) the ruling of the German Institution of Arbitration ... rendered on 14 October 2005, according to which Ryazan Ceramic was directed to pay costs to Lugana on the basis of the advance payments made by claimant in the amount of EUR 81,652.05 and
(3) the ruling of the German Institution of Arbitration ... rendered on 27 December 2005, according to which Ryazan Ceramic was directed to pay future costs to Lugana as indemnification by Ryazan Ceramic in favor of Lugana in the amount of EUR 57,408.71. The remaining part of the asserted claims was denied.
[3] "The decision of the Federal *Arbitrazh* Court dated 9 April 2009 reversed the above-mentioned decision of the *Arbitrazh* Court for the Ryazan District in the part that was appealed; this part of the case was sent back to the *Arbitrazh* Court for the Ryazan District. In the course of this new examination, Lugana clarified the asserted claims and sought:

(1) recognition and enforcement of the award of the German Institution of Arbitration dated 11 August 2005 ..., according to which Ryazan Ceramic was directed (i) to pay Lugana US$ 463,317.63 together with interest in the amount of 8 percentage points above the existing basis interest rate starting on 23 January 2003 and (ii) to provide Lugana with information on all agreements it signed after the Exclusive Distributor Agreement was concluded on 10 January 2001, in particular those with Ducentum Verwaltungs GmbH and Loury Investment SA;
(2) recognition and enforcement of the award of the German Institution of Arbitration dated 14 October 2005 ..., according to which Ryazan Ceramic was directed to pay costs to Lugana on

the basis of the advance payments made by Lugana in the amount of EUR 81,652.05 together with interest at 5 percentage points above the interbank interest rate starting on 15 September 2005;
(3) recognition and enforcement of the award of the German Institution of Arbitration dated 27 December 2005 ..., according to which Ryazan Ceramic was directed to pay future costs to Lugana in the amount of EUR 57,408.71 together with interest at 5 percentage points above the average interest rate starting on 6 December 2005;
(4) reimbursement of the state court fees in the amount of RUB 6,000 by Ryazan Ceramic to Lugana.

[4] "The decision of the *Arbitrazh* Court for the Ryazan District dated 24 June 2009 (Judge I.P. Groshev) denied the claims asserted by Lugana. Alleging non-conformity of the conclusions of the *Arbitrazh* court to the circumstances of the case and violation of the norms of procedural law, Lugana appealed to the Federal *Arbitrazh* Court for the Central District, requesting that the ruling of the *Arbitrazh* Court for the Ryazan District dated 24 June 2009 be reversed and that the asserted claims be sustained.
[5] "In this judicial proceedings, counsel for Lugana supported the arguments of the appeal. Counsel for Ryazan Ceramic did not concede the arguments of the appeal and deemed the contested judicial act legal and substantiated.
[6] "Having reviewed the case materials, heard the explanations of the parties' counsel and discussed the grounds for appeal and the answer to the appeal, the *Arbitrazh* court of appeal does not find any ground to sustain the appeal.
[7] "It follows from the case materials that, pursuant to the award of the German Institution of Arbitration rendered on 11 August 2005 ..., Ryazan Ceramic was directed to pay Lugana US$ 463,317.63 together with interest in the amount of 8 percentage points above the basis interest rate starting on 23 January 2003. In addition, this ruling directed [Ryazan Ceramic] to supply 500,000 magnetically operated sealed switches of the desired assortment at the price of US$ 0.072 per switch to [Lugana] and to provide information on all agreements it signed after the agreement dated 10 January 2001

was concluded, especially those with Ducentum Verwaltungs GmbH and Loury Investment SA.

[8] "Likewise, the award of the German Institution of Arbitration rendered on 14 October 2005 ... directed Ryazan Ceramic to pay costs to Lugana on the basis of the advance payments made by [Lugana] in the amount of EUR 81,652.05 together with interest at 5 percentage points above the basis interest rate starting on 15 September 2005.

[9] "Similarly, the award of the German Institution of Arbitration rendered on 27 December 2005 ... directed Ryazan Ceramic to cover the remaining amount of costs to Lugana [incurred by Lugana] in the amount of EUR 57,408.71 together with interest at 5 percentage points above the basis interest rate starting on 6 December 2005.

[10] "Non-compliance with the above rulings led to Lugana's application to the *Arbitrazh* Court for the Ryazan District to recognize and enforce the foreign arbitral awards indicated above.

[11] "In rendering its contested decision, the *Arbitrazh* court justifiably started from the following premises. Pursuant to Art. V(1)(*c*) of the [1958 New York Convention], recognition and enforcement of the award may be refused, at the request of the party against whom it is invoked, only if that party furnishes to the competent authority where the recognition and enforcement is sought, proof that the award deals with a difference not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced. Similar provisions are stipulated in Art. 36.1(1) of the Law of the Russian Federation No. 5338-1 on International Commercial Arbitration dated 7 July 1993 (in the version of Federal Law No. 250-FZ dated 3 December 2008)[2] and Art. 239.2.3 together with Art. 244.2 of the *Arbitrazh* Code.

2.Art. 36(1)(1) of the Law of the Russian Federation on International Commercial Arbitration reads:

[12] "Art. 7 of the Law of the Russian Federation No. 5338-1 on International Commercial Arbitration dated 7 July 1993 provides that an arbitration agreement is an agreement of the parties to refer all or specific disputes which have arisen or may arise between them in connection with a certain legal relation, whether contractual or not, to arbitration. An arbitration agreement may be concluded in the form of an arbitration clause in an agreement or in the form of a separate agreement. An arbitration agreement is concluded in writing. An agreement is deemed concluded in writing if it is contained in a document signed by the parties or has been concluded via an exchange of letters or communications by teletype, telegraph or any other means of electronic communication that guarantees a written record of such agreement or by exchanging a statement of claim and a statement of defense in which one of the parties asserts the existence of an agreement and the other party does not object thereto. A reference in an agreement to a document containing an arbitration clause is an arbitration agreement, provided that the agreement has been concluded in writing and

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"1. Recognition or enforcement of an arbitral award, irrespective of the country in which it was made, may be refused only:
(1) at the request of the party against whom it is invoked, if that party furnishes to the competent court where recognition or enforcement is sought proof that:
- a party to the arbitration agreement referred to in article 7 was under some incapacity; or the said agreement is not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made; or
- the party against whom the award was made was not given proper notice of the appointment of an arbitrator or of the arbitral proceedings or was otherwise unable to present his case; or
- the award was made regarding a dispute not contemplated by or not falling within the terms of the submission to arbitration, or it contains decisions on matters beyond the scope of the submission to arbitration, provided that, if the decisions on matters submitted to arbitration can be separated from those not so submitted, that part of the award which contains decisions on matters submitted to arbitration may be recognized and enforced; or
- the composition of the arbitral tribunal or the arbitral procedure was not in accordance with the agreement of the parties or, failing such agreement, was not in accordance with the law of the country where the arbitration took place; or
- the award has not yet become binding on the parties or has been set aside or suspended by a court of the country in which, or under the law of which, that award was made;"

said reference is such that it makes the clause being referred to a part of the agreement.

[13] "As established by the *Arbitrazh* court, Contract No. 061200 dated 14 December 2000 (Clause 9.1), which was concluded by and between Ryazan Ceramic and Lugana, stipulated that all disputes and differences which may arise from said contract or in connection therewith will be resolved in a friendly manner. If the parties were unable to come to an agreement, the case was to be referred for resolution to the Arbitration Institute of [the Chamber of Commerce in] Stockholm (Sweden). Clause 7.2 of the Exclusive Distributor Agreement dated 10 January 2001 concluded by and between Ryazan Ceramic and Lugana stipulated that disputes which have arisen in connection with said agreement and which the parties are not able to solve through negotiations are to be resolved in the Arbitration Institute of [the Chamber of Commerce in] Stockholm (Sweden).

[14] "A letter dated 27 July 2004, which was sent to Ryazan Ceramic and submitted in the file of the case, contains a request to accept a proposal that all disputes be finally resolved in accordance with the Rules of the Arbitration Court of the German Institution of Arbitration in Berlin. It appears from the response dated 30 July 2004 that the counsel of Ryazan Ceramic, Dr Herbert Buchbinder, indicated that it was necessary to formulate the clause in such a manner that mutual claims could be offset and that claims could be submitted to the arbitral tribunal.

[15] "Having properly evaluated the entire evidence mentioned above in accordance with Art. 71 of the *Arbitrazh* Code, the *Arbitrazh* court arrived at the substantiated conclusion that it does not follow from the correspondence provided in the case materials that the parties agreed to amend the arbitration clause which they had agreed upon, according to which disputes arisen between the parties were to be resolved before the Arbitration Institute [of the Chamber of Commerce] of Stockholm (Sweden). Therefore, the arbitral institution and arbitral proceedings were not in accordance with the parties' agreement when the German Institution of Arbitration rendered the rulings dated 11 August 2005 ..., 14 October 2005 ... and 27 December 2005 ... [collectively, the three DIS awards].

[16] "Lugana's argument – that the parties reached an agreement on the jurisdiction of the German Institution of Arbitration in Berlin over the dispute [based on the fact that Ryazan Ceramic did not state in the course of the proceedings that the [DIS tribunal] lacked jurisdiction] – was reviewed and evaluated by the *Arbitrazh* court and was reasonably denied because, by itself, the lack of such statement does not evidence that an arbitration agreement was reached by the parties in the required form.

[17] "Lugana's argument that Ryazan Ceramic's approval of the amendment to the arbitration clause was confirmed in Ryazan Ceramic's statement in defense signed by its attorney, Dr Buchbinder, in reply to Lugana's statement of claim [in the arbitration], may not be taken into account since, as the *Arbitrazh* court accurately indicated, no documents were provided in the case materials that confirmed the existence of the representative's authority to perform such actions. Also, the statement in defense in reply to the statement of claim, as well as the minutes of the hearing of the German Institution of Arbitration, do not contain an agreement to amend the arbitration clause.

[18] "In light of the above, the *Arbitrazh* court's conclusion as to the existence of the grounds in Art. V(1)(*c*) [New York Convention] for refusing recognition and enforcement of a foreign arbitral award is correct.

[19] "This *Arbitrazh* appeal court does not agree with the conclusion of the *Arbitrazh* court that Lugana let the time limit to present [the three DIS awards] for enforcement expire. Pursuant to Art. 244.1.6 of the *Arbitrazh* Code, an *Arbitrazh* court shall refuse to recognize and enforce an award of a foreign tribunal, either fully or in part, if the statute of limitations for presenting an award of a foreign tribunal for enforcement has expired and this term is not restored by the *Arbitrazh* court.

[20] "According to Art. 246.2 of the *Arbitrazh* Code, an award of a foreign tribunal may be presented for enforcement within a time limit not exceeding three years from the day on which it entered into legal force. Pursuant to Art. 203 of the Civil Code of the Russian Federation, the statute of limitations is interrupted by the duly made submission of a statement of claim. After the interruption, the statute of limitations starts running again and

the time that has elapsed before the interruption is not counted towards the new time limit.
[21] "Since Lugana filed its application for enforcement of the three DIS awards on 7 August 2008, that is, before expiry of the statute of limitations established in Art. 246 of the *Arbitrazh* Code, the statute of limitations for said claim was interrupted. Therefore, the *Arbitrazh* court's conclusion that the claimant defaulted the term for presenting the contested awards of the German Institution of Arbitration is not based on the case materials and legal requirements. [However,] since said violation did not lead [the lower court] to render an incorrect decision, it may not serve as the grounds for reversing the judicial act at issue.
[22] "In light of the stated circumstances, this *Arbitrazh* appeal court considers that there are no grounds for reversing the contested judicial act. Pursuant to Arts. 287, 289.1.1 and 290 of the *Arbitrazh* Code, the court resolves to uphold the ruling of the *Arbitrazh* Court for the Ryazan District dated 24 June 2009 in Case No. A54-3028/2008-C10 and [holds] that the appeal is not to be granted."

Supreme Arbitrazh Court of the Russian Federation, 12 November 2009

[23] "In a petition to clarify the subject matter of the asserted claims, Lugana requests to additionally recover interest accrued on the amount of the awarded interest, arbitration fees and counsel fees from Ryazan Ceramic.
[24] "The ruling of the *Arbitrazh* Court for the Ryazan District dated 2 February 2009 recognized and enforced the ruling of the foreign arbitral tribunal with regard to the recovery of the amounts of the award, arbitration fees and counsel fees; it directed Ryazan Ceramic to provide Lugana with information on all agreements it signed after the Exclusive Distributor Agreement was concluded on 10 January 2001 and to supply 500,000 magnetically operated sealed switches of the requested assortment to Lugana at the price of US$ 0.072 per switch. The remaining part of the asserted claims was denied because interest on the awarded interest and legal costs contradicts the

public policy of the Russian Federation and is not provided for in the norms of civil legislation.

[25] "The ruling of the Federal *Arbitrazh* Court for the Central District dated 9 April 2009 reversed the ruling of the court of first instance in respect of granting Lugana's application to recognize and enforce the foreign arbitral awards; this part of the case was remanded for a new examination to the *Arbitrazh* Court for the Ryazan District. In the ruling of the *Arbitrazh* Court for the Ryazan District dated 24 June 2009 Lugana's claims were not granted. In its ruling dated 7 September 2009, the Federal *Arbitrazh* Court for the Central District upheld the ruling of the court of first instance dated 24 June 2009.

[26] "The courts established that there was no agreement between Lugana and Ryazan Ceramic to amend the arbitration clause or refer the dispute to the German Institution of Arbitration, and that Ryazan Ceramic's participation in the arbitration proceedings and the lack of objections against the German Institution of Arbitration's review of the dispute in the city of Berlin was no proof that the parties had reached an arbitration agreement in the required form.

[27] "In the application submitted to the Supreme *Arbitrazh* Court of the Russian Federation to reconsider the [lower courts' decisions] in a supervisory appeal, Lugana asks that the ruling of the court of first instance dated 24 June 2009 and the ruling of the court of appeal dated 7 September 2009 be reversed, arguing that there has been a violation of the uniform interpretation and application of the rule of law by the *Arbitrazh* courts; [it also asks] that a new judicial act recognizing and enforcing the foreign arbitral awards be rendered.

[28] "Having reviewed the case, this Court concludes that there are grounds to refer this case to the Presidium of the Supreme *Arbitrazh* Court of the Russian Federation on the following grounds.

[29] "In accordance with Art. V(1)(*a*) of the [New York Convention], recognition and enforcement of an arbitral award may be refused at the request of the party against whom it is invoked if that party furnishes to the court where recognition and enforcement is sought proof that the parties to the arbitration clause or agreement were, under the law applicable

to them, under some incapacity, or that said agreements are not valid under the law to which the parties have subjected it or, failing any indication thereon, under the law of the country where the award was made.

[30] "It appears from the contents of the case file that the Exclusive Distributor Agreement dated 10 January 2001 was concluded between Lugana and Ryazan Ceramic. Pursuant to Clause 7.2 of this Agreement, the parties were obliged to refer all disputes which may arise in connection with the Agreement to the Stockholm Arbitration Court. On 27 July 2004, Lugana sent Ryazan Ceramic a letter containing information on the draft of the arbitration claim and a proposal to amend the arbitration clause in all agreements concluded between them, including the Exclusive Distributor Agreement, so that all disputes between the parties would be subject to review in accordance with the Rules of the Arbitration Court of the German Institution of Arbitration (DIS) in Berlin. In a letter of reply dated 30 July 2004, Ryazan Ceramic agreed with the proposed amendment to the arbitration clause and appointed its arbitrator.

[31] "Further, it appears from the text of the arbitral award of the German Institution of Arbitration dated 11 August 2005 ... that Ryazan Ceramic's representative participated in the arbitration proceeding, presented Ryazan Ceramic's statement in defense and discussed the merits of the dispute. Neither Ryazan Ceramic nor its representative raised any objection concerning the lack of the arbitral tribunal's jurisdiction over the dispute.

[32] "As a consequence, when refusing to recognize and enforce the foreign arbitral awards because of the lack of a duly formed arbitration agreement, the courts of first instance and appeal failed to take into account that by their actions the parties amended their agreement so as to refer disputes to the Arbitration Court of the German Institution of Arbitration (DIS).

[33] "Under such circumstances, this Court acknowledges the existence of the grounds provided for in Art. 304.1 of the *Arbitrazh* Code for transferring the case for review to the Presidium of the Supreme *Arbitrazh* Court of the Russian

Federation to determine the uniform interpretation and application of legal norms.
[34] "In light of the above and in accordance with Arts. 299, 300 and 304 of the *Arbitrazh* Code, this Court rules:

(1) to transfer Case No. A54-3028/2008-C10 of the *Arbitrazh* Court for the Ryazan District to the Presidium of the Supreme *Arbitrazh* Court of the Russian Federation for reconsidering in a supervisory appeal the ruling of the *Arbitrazh* Court for the Ryazan District dated 24 June 2009 and the ruling of the Federal *Arbitrazh* Court for the Central District dated 7 September 2009 in the said case.
(2) to send a copy of this ruling, the application to reconsider the judicial act in a supervisory appeal and the documents attached thereto to the entities participating in the case.
(3) to propose that the entities participating in the case provide statements of defense to the Presidium of the Supreme *Arbitrazh* Court of the Russian Federation by 14 December 2009 in response to the application of Lugana to reconsider in a supervisory appeal the ruling of the *Arbitrazh* Court for the Ryazan District dated 24 June 2009 in Case No. A54-3028/2008-C10 and the ruling of the Federal *Arbitrazh* Court for the Central District dated 7 September 2009 in the same case."

Presidium of the Supreme Arbitrazh Court, 2 February 2010

[35] "The Presidium has reviewed the rulings of the lower courts and decides (1) to annul the rulings of the lower *Arbitrazh* courts; (2) to grant Lugana's application for the enforcement of the DIS arbitral awards and (3) to order the *Arbitrazh* Court for the Ryazan District to issue an order for the enforcement of [the three DIS awards]."