

The Constitutional Court of the Russian Federation

Decision N 1310-O-O, 19 October 2010¹

Parties: Petitioner: Limited Liability Company Voskhod (Russian Federation)

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Articles: V (b)

Subject matter: - the language of the proceedings
- the language of documentary evidence
- Russian Law “On International Commercial Arbitration”
- New York Convention 1958

Excerpt

[1] regarding the refusal to accept a complaint from Limited Liability Company Voskhod on the violation of the constitutional laws and freedoms in Articles 19 and 22 the Law of the Russian Federation *on International Commercial Arbitration* in Saint Petersburg on 19 October 2010, the Constitutional Court of the Russian Federation, consisting of Chairman V.D. Zorkin and Justices K. V. Aranovsky, A.I. Boitsov, N.S. Bondar', G.A. Gadzhiev, Y.M. Danilov, L.M. Zharkova, G.A. Zhilin, S.M. Kazanstev, M.I. Kleandrov, S.D. Knyazev, A.N. Kotokov, L.O. Krasavchikova, S.P. Mavrin, N.V. Melnikov, Y.D. Rudkin, N.V. Seleznev, O.S. Khokhpyakova, and V.G. Yaroslavtsev, having considered the possibility of accepting OOO Voskhod's complaint in a session of the Constitutional Court of the Russian Federation, ruled:

[2] OOO Voskhod's complaint challenged the constitutionality of Articles 19 and 22 of Law of the Russian Federation No. 5338-I *on International Commercial Arbitration* dated 7 July 1993, as allowing, in the opinion of the claimant, the select application of Russian law by arbitration tribunals, assuming that the parties chose to apply Russian laws for the arbitration procedure and the Russian language to be used during arbitration proceedings

[3] As follows from the submitted materials, the International Commercial Arbitration Court at the Chamber of Commerce and Industry of the Russian Federation issued an award in a case involving the claimant, based on, including but not limited to, evidence submitted by the other party in a foreign language, and the court did not find grounds to reverse the issued ruling. The claimant contends that the disputed provisions breach his/her rights under Articles 50 (part 1), 68 (part 1), and 123 (part 3) of the Constitution of the Russian Federation. 2. The Constitutional Court of the Russian Federation, having examined the materials submitted by the claimant, finds no grounds to review this complaint. In accordance with the disputed statutory provisions of the Law of the Russian Federation *on International Commercial Arbitration*, if the provisions in the Law are observed, the parties may, at their own discretion, agree upon the procedure to conduct the proceedings of the arbitration tribunal (clause 1, article 19); in the absence of such an agreement, the arbitration tribunal may, if the provisions in the Law are observed, conduct the arbitration proceedings in the manner it deems appropriate. Authorities granted to the arbitration tribunal include the authorities to determine the admissibility, relevance, materiality, and significance of any evidence (clause 2, article 19). The parties may, at their own discretion, agree upon the language or languages to be used in the arbitration proceedings; in the absence of such an agreement, the arbitration tribunal shall determine the language or languages used in the proceedings. This type of agreement or determination, if not otherwise specified, shall apply to a party's written statements, any hearing, and any arbitration decision or other communication of the arbitration tribunal (clause 1, article 22).

¹ The General Editor wishes to thank Mr. Roman Zykov, Hannes Snellman Attorneys, Moscow/Helsinki, for his invaluable assistance in providing and translating this decision.

[4] As it can be seen from the above-stated norms, they do not regulate the procedure for the parties to submit written evidence, including the question of which language the written evidence submitted by the parties should be written in, a procedure which the claimant settled by the Arbitration Rules of the International Commercial Arbitration Court. (§ 9 and § 34). Clause 2, article 22 of the Law of the Russian Federation *on International Commercial Arbitration* envisages only the right of the arbitration tribunal to require that evidence documents be accompanied by a translation into the language or languages agreed upon by the parties or determined by the arbitration panel.

[5] Therefore, there are no grounds to conclude that the statutory regulations disputed by the claimant violate his/her constitutional rights stated in the complaint. It is not under the competence of the Constitutional Court of the Russian Federation stated in article 125 of the Constitution of the Russian Federation and article 3 of the Federal Constitutional Law on the Constitutional Court of the Russian Federation to make a decision on the question of whether it is necessary based on the facts of the case, to translate the written evidence submitted by one of the parties into Russian.

[6] Based on the aforementioned and governed by clause 2 of the first part of Article 43, the first part of article 79, and Articles 96 and 97 of Federal Constitutional Law *on the Constitutional Court of the Russian Federation*, the Constitutional Court of the Russian Federation:

[7] D E T E R M I N E D:

[8] 1. To refuse to accept the complaints from Limited Liability Company Voskhod because they do not meet the requirements of the Federal Constitutional Law *on the Constitutional Court of the Russian Federation*, according to which a complaint in the Constitutional Court of the Russian Federation would be accepted.

[9] 2. The determination of the Constitutional Court of the Russian Federation on this complaint is final and may not be appealed.