

FEDERAL LAW OF 08.06.2020 No. 171-Ф3 "ON INTRODUCING CHANGES TO THE ARBITRATION PROCEDURE CODE OF THE RUSSIAN FEDERATION (PROTECTED) FOR THE PROTECTION OF RIGHTS OF INDIVIDUAL AND LEGAL PERSONALITIES STATE (INTERSTATE) INSTITUTION OF FOREIGN STATE OR STATE ASSOCIATION AND (OR) UNION "

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RUSSIAN FEDERATION

THE FEDERAL LAW

On amendments to the Arbitration Procedure Code of the Russian Federation in order to protect the rights of individuals and legal entities in connection with restrictive measures introduced by a foreign state, state association and (or) union and (or) state (interstate) institution of a foreign state or state association, and (or) union

Adopted by the State Duma on May 27, 2020

Approved by the Federation Council on June 2, 2020

Enter in the Arbitration Procedure Code of the Russian Federation (Collected Legislation of the Russian Federation, 2002, No. 30, Article 3012; 2011, No. 29, Article 4291; 2016, No. 1, Article 13, 29; 2018, No. 49, Article 7523) the following changes:

1) part 6 of article 27 shall be supplemented with paragraph 7¹ of the following content:

"7¹) on disputes referred to in Article 248¹ of this Code";

2) paragraph 3 of paragraph 1 of Article 244 shall be supplemented with the words ", with the exception of cases specified in paragraph 5 of Article 248¹ of this Code";

3) in part 2 of article 247 the words "article 248" shall be replaced by the words "articles 248 and 248¹";

4) supplement with articles 248¹ and 248² of the following content:

"Article 248¹. The exclusive competence of arbitration courts in the Russian Federation in disputes involving persons in respect of whom restrictive measures have been introduced

1. Unless otherwise established by an international treaty of the Russian Federation or by agreement of the parties, according to which the consideration of disputes with their participation is assigned to the competence of foreign courts, international commercial arbitrations located outside the territory of the Russian Federation, the exclusive competence of arbitration courts in the Russian Federation includes cases :

1) in disputes with the participation of persons in respect of which restrictive measures are applied by a foreign state, state association and (or) union and (or) state (interstate) institution of a foreign state or state association and (or) union;

2) on disputes of one Russian or foreign person with another Russian or foreign person, if the basis for such disputes is restrictive measures introduced by a foreign state, state association and (or) union and (or) state (interstate) institution of a foreign state or state association and (or) union in relation to citizens of the Russian Federation and Russian legal entities.

2. For the purposes of this chapter, persons with respect to whom restrictive measures are applied by a foreign state, state association and (or) union and (or) state (interstate) institution of a foreign state or state association and (or) union:

1) citizens of the Russian Federation, Russian legal entities in respect of which restrictive measures are applied by a foreign state, state association and (or) union and (or) state (interstate) institution of a foreign state or state association and (or) union;

2) foreign legal entities in respect of which restrictive measures are applied by a foreign state, state association and (or) union and (or) state (interstate) institution of a foreign state or state association and (or) union, and the basis for applying such measures is restrictive measures introduced by a foreign state, state association and (or) union and (or) state (interstate) institution of a foreign state or state association and (or) union in relation to citizens of the Russian Federation and Russian legal entities.

3. Persons specified in paragraph 2 of this article are entitled to:

1) apply for a dispute to the arbitration court of a subject of the Russian Federation at the place of location or place of residence, provided that there is no dispute between the same persons in the proceedings of a foreign court or international commercial arbitration outside the territory of the Russian Federation on the same subject and for the same reasons;

2) apply in the manner provided for in Article 248² of this Code with a statement prohibiting initiating or continuing proceedings in a foreign court, international commercial arbitration, located outside the territory of the Russian Federation.

4. The provisions of this article shall also apply if the agreement of the parties, according to which the settlement of disputes with their participation is within the competence of a foreign court and international commercial arbitration located

outside the territory of the Russian Federation, is not feasible due to the application in relation to one of the persons participating in a dispute, measures of a restrictive nature by a foreign state, state association and (or) union and (or) state (interstate) institution of a foreign state or state association and (or) union, which create such an obstacle to access to justice for such a person.

5. The provisions of this article do not prevent the recognition and enforcement of a decision of a foreign court or a foreign arbitral award taken at the suit of the person referred to in paragraph 2 of this article, or if that person did not object to the consideration of the dispute by the foreign court, international commercial arbitration located outside the territory of the Russian Federation, including those who did not apply to prohibit initiating or continuing proceedings in a foreign court, international commercial arbitration, located outside the territory of the Russian Federation.

Section 248² . Prohibition of initiating or continuing litigation with disputes involving restrictive measures

1. A person in respect of whom proceedings have been initiated in a foreign court, international commercial arbitration, located outside the territory of the Russian Federation, for disputes referred to in Article 248¹ of this Code, or if there is evidence that such proceedings will be initiated, is entitled to apply to the arbitration court of the subject of the Russian Federation at its location or place of residence with a statement prohibiting initiating or continuing such proceedings in a foreign court, international commercial arbitration, located outside the territory of the Russian Federation, in the manner established by this article.

2. The application provided for in paragraph 1 of this article shall indicate:

- 1) the name of the arbitration court to which the application is submitted;
- 2) the name of the applicant, his address or place of residence, as well as the name of the person in respect of whom it is required to establish a ban, his address or place of residence;
- 3) information on claims that may be presented or have already been submitted in a foreign court, international commercial arbitration;
- 4) circumstances confirming the exclusive competence of the arbitration courts in the Russian Federation to resolve the dispute, including circumstances (if any) confirming that the agreement of the parties, according to which the consideration of the dispute with their participation is referred to the competence of a foreign court, international commercial arbitration located outside the territory of the Russian Federation cannot be executed by a party to the dispute;
- 5) the applicant's request to prohibit initiating or continuing proceedings in a foreign court, international commercial arbitration, located outside the territory of the Russian Federation;

6) a list of attached documents.

3. The application provided for in paragraph 1 of this article may also indicate phone numbers, fax numbers, email addresses of the applicant and persons who can initiate or initiated proceedings in a foreign court, international commercial arbitration, located outside the territory of the Russian Federation, their representatives.

4. The application provided for in paragraph 1 of this article shall be accompanied by:

1) copies of documents confirming the intention to initiate proceedings in a foreign court, international commercial arbitration located outside the territory of the Russian Federation, or the fact of the commencement of proceedings in a foreign court, international commercial arbitration, including claims, claims, claims and other documents;

2) copies of documents confirming the exclusive competence of the arbitration courts in the Russian Federation to resolve the dispute;

3) other documents referred to in Section 126 of this Code.

5. The application provided for in paragraph 1 of this article shall be considered by the judge individually according to the rules of the consideration of the case by the arbitration court of the first instance provided for by this Code, taking into account the features established by this article.

6. The arbitral tribunal shall notify the persons participating in the case of the time and place of the hearing in the manner established by this Code. The failure to appear of such persons duly notified of the time and place of the hearing shall not be an obstacle to the consideration of the application provided for in paragraph 1 of this article.

7. Based on the results of consideration of the application provided for by part 1 of this article, the arbitral tribunal shall render a determination in accordance with the rules established by chapter 20 of this Code for making decisions.

8. The decision to prohibit or to refuse to prohibit a party to initiate or continue proceedings in a foreign court, international commercial arbitration located outside the territory of the Russian Federation shall contain:

1) the name of the applicant and the person in respect of whom the ban is imposed;

2) information on claims that may be brought in a foreign court, international commercial arbitration, located outside the territory of the Russian Federation, or information on specific proceedings in a foreign court, international commercial arbitration, located outside the territory of the Russian Federation, with respect to which a prohibition is established ;

3) an indication of the satisfaction of a statement prohibiting a person from initiating or continuing proceedings in a foreign court, international commercial

arbitration located outside the territory of the Russian Federation, or refusal to satisfy such a statement.

9. The determination of the arbitral tribunal in the case of the prohibition to initiate or continue proceedings in a foreign court, international commercial arbitration, located outside the territory of the Russian Federation, in disputes referred to in Article 248¹ of this Code, may be appealed in cassation to the arbitration court of the district in within one month from the date of the determination.

10. The arbitral tribunal, on the basis of the principles of fairness, proportionality and the inadmissibility of profit from illegal or unfair behavior, at the request of the applicant, is entitled to award in his favor a sum of money to be recovered from a person against whom it was forbidden to initiate or continue proceedings in a foreign court, international commercial arbitration, located outside the territory of the Russian Federation, in case of failure to execute a judicial act. The amount of money to be recovered by the arbitration court shall not exceed the amount of claims filed in a foreign court, international commercial arbitration, located outside the territory of the Russian Federation, and incurred by the party to the dispute of legal costs. ";

5) in paragraph 1 of Article 252, the words "Article 248" shall be replaced by the words "Articles 248 and 248¹".

President of the Russian Federation V. Putin

Moscow Kremlin

June 8, 2020

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