

Naftogaz obtains U.K. order recognizing USD5 billion Crimea award against russia

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Naftogaz, together with five companies of the Naftogaz Group, has secured an order from the High Court of Justice of England & Wales recognizing its USD 5 billion final award on damages (including interest) against russia, as well as the underlying partial award on jurisdiction and liability, on 5 December 2023.

The final award was issued by a prominent arbitration tribunal at the Permanent Court of Arbitration (PCA) in The Hague on 12 April 2023 for substantial losses caused by russia's unlawful seizure of Naftogaz's oil and gas assets in Crimea in 2014.

The enforcement proceedings in England & Wales are part of Naftogaz's worldwide strategy to recover USD 5 billion owed by russia under the award, the largest yet issued in the various arbitrations brought by Ukrainian investors who had assets confiscated by russia in Crimea.

The Naftogaz Group is one step closer to recovering its losses caused by russia. We are pleased to announce that we have obtained an order recognizing the recent USD5 billion Crimea arbitration award in England & Wales. Since russia refuses to pay the amounts owed under the award, we continue to leverage all available mechanisms to recover these funds in target jurisdictions hosting russian assets," said Naftogaz Group CEO Oleksiy Chernyshov.

Naftogaz is also seeking recognition and enforcement of the award in the United States, as well as other target jurisdictions. russia is due to appear before the U.S. District Court for the District of Columbia on 23 February 2024, following successful service of process on russia via diplomatic channels.

Interest for non-payment of funds in accordance with the award continues to accrue until full payment.

Naftogaz is represented pro bono in England & Wales by Naomi Briercliffe and Katie Pritchard of Squire Patton Boggs, Stephen Midwinter KC, Edward Ho and Emilie Gonin of Brick Court, and David Baker of Essex Court Chambers, with the support of Covington & Burling, who act as lead counsel in coordinating Naftogaz's global enforcement efforts.

Background:

On 12 April 2023, the Arbitral Tribunal of the Permanent Court of Arbitration at the Hague ordered russia to pay USD 5 billion in compensation for losses caused by the seizure of Naftogaz Group's assets in the Autonomous Republic of Crimea in 2014. The award

came following hearings to determine the amount of compensation. These hearings ended in March 2022 amid russia's full-scale invasion of Ukraine.

In October 2016, Naftogaz and six other companies of Naftogaz Group initiated arbitration proceedings (PCA case No. 2017-16) against russia based on an agreement between the Cabinet of Ministers of Ukraine and the Government of the russian federation on the Encouragement and Mutual Protection of Investments (Ukrainian-russian BIT).

Naftogaz called on the Arbitral Tribunal to order russia to pay compensation for breach of the BIT, including for the illegal expropriation of strategically important Naftogaz energy investments, which were among the main russian targets in Crimea in 2014.

Oral hearings on jurisdiction and liability were held at the Peace Palace in The Hague in May 2018. In February 2019, the Tribunal ruled in favour of Naftogaz. The Tribunal reaffirmed its jurisdiction to consider the case and established that russia had illegally expropriated investments of Naftogaz in breach of its obligations under the BIT. Accordingly, the second phase of the arbitration proceedings was to determine the volume of compensation for losses caused to Naftogaz Group. In July 2022, The Hague Court of Appeal reaffirmed the jurisdiction of the Arbitral Tribunal over the case.

More information about the case is available on the website of the Permanent Court of Arbitration.

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