

UNITED STATES DISTRICT COURT  
DISTRICT OF COLUMBIA

JOINT STOCK COMPANY STATE  
SAVINGS BANK OF UKRAINE  
(ALSO KNOWN AS JSC OSCHADBANK),

Petitioner,

v.

THE RUSSIAN FEDERATION,

Respondent.

Case No. 1:23-cv-00764

**DECLARATION OF ISABELLE MICHOU**

Pursuant to 28 U.S.C. § 1764, I, Isabelle Michou, declare as follows:

1. I am a qualified lawyer admitted in France and a Partner at Quinn Emanuel Urquhart & Sullivan, LLP in the firm's Paris office. I have been representing Joint Stock Company State Savings Bank of Ukraine ("**Oschadbank**") in the challenge to the November 26, 2018 Arbitration Award (the "**Award**") initiated by the Russia Federation ("**RF**") before the Paris Courts. I have first hand knowledge of the matters described herein.

**(a) The First Set-Aside Proceeding**

2. On February 19, 2019, RF initiated proceedings to annul the Award before the Paris Court of Appeal. RF made various arguments, including that (1) the arbitration tribunal (the "**Tribunal**") lacked jurisdiction over the dispute because Oschadbank's subsidiary in Crimea existed prior to January 1, 1992; (2) the Tribunal lacked jurisdiction over the dispute because the Treaty is not territorially applicable to Crimea; (3) the Tribunal lacked jurisdiction over the dispute

because the relevant investment was made in Crimea at a time when that territory was part of Ukraine; (4) the Award was void under international procedural law because of Oschadbank's alleged fraudulent concealment of evidence; (5) the Tribunal rendered the Award without having spent sufficient time analyzing the documents on record. In this context, the RF sought a stay of the enforcement of the award before French Courts on March 25, 2019. This request was dismissed on October 22, 2019.

3. On March 30, 2021, the Paris Court of Appeal set aside the Award on the basis that the temporal condition laid down in Article 12 of the Bilateral Investment Treaty containing the offer of arbitration has not been satisfied. The Paris Court of Appeal did not reach the remaining grounds raised by RF.

4. Oschadbank then appealed the Court of Appeal decision before the *Cour de Cassation*, which is the highest appellate court in France. On December 7, 2022, the *Cour de Cassation* issued its decision quashing the Court of Appeal decision, finding that Article 12 was substantive in nature, and thus its temporal restrictions did not affect the Tribunal's jurisdiction. It remanded the case to the Paris Court of Appeal for consideration by a panel of judges different from those who had set aside the Award. Although RF had fully participated in and had actual notice of the findings in the first set-aside proceedings, it insisted that the *Cour de Cassation's* judgment be formally served on it through diplomatic channels. This service took over a year. On January 10, 2024, the judgment was served on RF. Overall, the proceeding before the *Cour de Cassation* lasted approximately a year and half, plus an additional year to complete service of the judgment on RF through diplomatic means.

**(b) The Second Set-Aside Proceedings**

5. On March 8, 2024, two days before expiration of the deadline, RF recommenced

the proceedings before the Paris Court of Appeal (the “**Remanded Case**”). RF’s first submission in this Remanded Case is due on July 8, 2024. Oschadbank will have until November 8, 2024 to file its reply submissions. The Paris Court of Appeal has set the hearing date on March 25, 2025. Once the Paris Court of Appeal rules, the losing party may appeal to the *Cour de Cassation* again, , which appeal is available as of right. The briefing, hearing on the second set-aside proceeding and final resolution from the Paris Court of Appeal are estimated to take 16 months. Any appeal to the Cassation Court is estimated to take 18 months.

**(c) The Revision Application**

6. In August 2019, in the arbitration, RF made a “Revision Application” to the Tribunal to seek to revoke the Award, alleging that Oschadbank had concealed from the Tribunal certain evidence with respect to when the investments were made. On December 11, 2023, the Tribunal dismissed the Revision Application based on the *Cour de Cassation* decision, finding that any alleged concealment could not have implicated its jurisdiction.

7. On March 8, 2024, RF initiated a separate set-aside proceeding before the Paris Court of Appeal against the Tribunal’s award dismissing RF’s Revision Application. RF’s detailed submission on this challenge is due on August 8, 2024. The Paris Court of Appeal has not yet issued a briefing calendar or set a date for the final hearing in this proceeding.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct

Executed on July 2, 2024, in Paris, France.



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Isabelle Michou