

GML Fact Sheet Amsterdam Court of Appeal

Summary

On Tuesday November 21st, 2023, the [Amsterdam Court of Appeal](#) will conduct an oral hearing in the Russian Federation's last remaining legal attempt to set aside the more than \$50 billion Arbitral Awards in the Yukos case. The hearing will start at 09.30 CET. Both parties will have 90 minutes to plead their case and then will be provided with additional time for rebuttal.

These proceedings are not delaying the ongoing efforts by the former majority shareholders to enforce their more than \$50 billion claim Russia for the illegal and politically motivated expropriation of their investments, as was confirmed by The Hague Court of Appeal last year.

Background

Around the turn of the century, Yukos Oil had grown into the largest and most successful oil company in Russia. The company invested heavily in new technology, adopted Western standards of governance, and reached a market value of more than \$33 billion.

In 2003, President Vladimir Putin decided to make an example out of the oil company's reform-minded CEO, Mikhail Khodorkovsky. Yukos was intentionally bankrupted and Khodorkovsky banned to Siberia after a show trial. As journalist Catherine Belton put it: the illegal expropriation of Yukos *"helped transform the entire [Russian] law-enforcement system – the police, prosecutors, and the courts – into a predatory machine that took over businesses and removed political rivals for Putin's ruling elite"*.

Arbitration

In 2014, the independent Arbitral Tribunal in The Hague awarded three former majority shareholders [in excess of \\$50 billion](#) for the illegal expropriation of their investments, concluding unanimously that:

- *"Russian courts bent to the will of Russian executive authorities to bankrupt Yukos, assign its assets to a State-controlled company, and incarcerated a man who gave signs of becoming a political competitor";*
- *"... [T]he State's campaign of intimidation and harassment not only disrupted the operations of Yukos but also contributed to its demise";*
- *"... [T]he primary objective of the Russian Federation was not to collect taxes but rather to bankrupt Yukos and appropriate its valuable assets."*

Appeal

The Hague Court of Appeal [rejected all of Russia's arguments](#) against the Awards in 2020. The Dutch Supreme Court [affirmed the substance of that ruling](#) in 2021 and declared its decision on all major issues final, with the exception of one issue: Russia's allegation that the shareholders committed fraud during the arbitration.

Even though the Russian Federation's attorneys described this remaining matter as *"[not a major issue in the appeal](#)"*, the Dutch Supreme Court ruled that this allegation had been wrongly dismissed by the Court of Appeal on a procedural ground and ordered it to be considered on its substance as well as on other procedural grounds by the Amsterdam Court of Appeal.

Enforcement

Since the Russian Federation has steadfastly refused to pay the Arbitral Awards or negotiate in good faith about a settlement, the former majority shareholders started enforcement proceedings under the rules of the New York Convention.

The New York Convention requires contracting states to recognize and enforce foreign arbitration awards in the same way they do domestic awards, by converting the foreign arbitration award into a judgment enforceable by a national court.

As [the Hague Court of Appeal confirmed](#) during a significant ruling in 2022, Russia's last ditch appeal on this one remaining minor issue "*... does not justify a suspension of the enforcement*". Consequently, enforcement proceedings continue in the following jurisdictions:

- **The Netherlands**

The former Yukos majority shareholders seized eighteen Benelux trademarks held by FKPS Sojuzplodoimport (FKPS) on behalf of the Russian Federation and put them up for auction. Russia failed to stop the bid in court, but since the final bid [didn't meet expectations](#), it was rejected by the former Yukos shareholders. The auction will be rescheduled for a later date after the conclusion of the latest stage of the legal proceedings before the Dutch Supreme Court, which is scheduled to deliver its judgment on 22 March 2024.

- **England and Wales**

On 1 November of 2023, [the High Court in London rejected](#) the Russian Federation's attempt to escape accountability by hiding behind state immunity from jurisdiction. The next hearing will take place in June 2024.

- **United States**

On 16 November of 2023, [the District Court of the District of Columbia rejected](#) the Russian Federation's attempt to escape accountability by hiding behind state immunity from jurisdiction. The court has asked both parties to submit a schedule proposal for resolution of the final remaining issues by December 5th, 2023.

Russia will be held accountable

The former majority shareholders will not rest until Russia has been held accountable for the illegal and politically motivated looting of their investment. The Russian Federation's refusal to comply with the more than \$50 billion Awards is not only an affront to the former shareholders, but to the international rule of law. That's why the former majority shareholders will continue their legal battle to hold Russia accountable by enforcing the Awards.

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