

## Press Release

### Federal judge denies Russia immunity in record \$50 billion Yukos claim

WASHINGTON D.C. NOVEMBER 19, 2023 – After a nine-year battle, the United States District Court for the District of Columbia [ruled on Friday](#) that Russia cannot hide behind immunity from jurisdiction in the enforcement proceedings brought by former Yukos majority shareholders. This ruling brings the majority shareholders a significant step closer to having their record \$50 billion Arbitral Awards recognized and enforced in the United States.

This ruling comes shortly after a [ruling in England two weeks ago](#) in which the London High Court rejected Russia's claim for immunity from the jurisdiction of the courts in England and Wales in the parallel Yukos claim.

GML CEO Tim Osborne has welcomed the court ruling. *“As the judge pointed out, the Russian Federation keeps recycling the same arguments that have been soundly rejected before in desperate attempts to avoid accountability, and their efforts have achieved little success on the merits”,* Mr. Osborne has noted. *“After ten years of arbitration and nine years of increasingly desperate appeals, the moment when we will be able to hold Russia accountable is increasingly near”.*

#### **Russia's descent into darkness started with the expropriation of Yukos**

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, Yukos joined the *Financial Times* top ten global companies for shareholder confidence.

In 2003, President Vladimir Putin decided to make an example out of the oil company's reform-minded CEO, Mikhail Khodorkovsky, after he criticised corruption in Putin's government. Yukos was intentionally bankrupted by the Kremlin and Khodorkovsky was imprisoned in Siberia after a show trial. As Washington Post reporter Catherine Belton later wrote, 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”.*

#### **\$50 billion Awards for illegal expropriation**

In 2005 the former Yukos majority shareholders started arbitral proceedings in The Netherlands under the Energy Charter Treaty (ECT) for the illegal and politically motivated expropriation of their investment. In 2014, an independent Arbitral Tribunal in The Hague unanimously [awarded them more than \\$50 billion in compensation](#) for the illegal and politically motivated expropriation by the Russian Federation of their investment in the company.

Since the Russian Federation refused to pay the Awards, the former majority shareholders started legal proceedings in several countries, including the United States before the US District Court for the District of Columbia (the **“DC Court”**), to have the Awards recognized and enforced.

These proceedings were temporarily put on hold (“stayed”) pending Russia’s appeals in the Dutch court system. The [ruling by the Dutch Supreme Court](#) in favor of the former majority shareholders in 2021 automatically lifted the stay and Russia’s motion to extend the stay was denied by the DC Court one year later.

#### **DC Court denies Russia’s claim to sovereign immunity protection**

The Russian Federation argued before the DC Court that it was protected by sovereign immunity from jurisdiction on the basis of the American Foreign Sovereign Immunities Act (FSIA) because the Russian Federation had allegedly never agreed to arbitrate in the first place. The court rejected this claim, stating:

*“... the Russian Federation did clearly agree... to submit to the Tribunal authority to resolve jurisdiction and arbitrability challenges, including, as pertinent here, the issue of the existence of an agreement to arbitrate. To find otherwise would mean that the Russian Federation, despite its clear and express agreement to arbitrate, reserved the right to relitigate every issue presented to the Tribunal anew in courts in this and other countries, even after consuming the time and resources of the Shareholders and the Arbitral Tribunal for ten years, undercutting the ‘basic objective’ of arbitration ‘to ensure that commercial arbitration agreements, like other contracts, are enforced according to their terms, and according to the intentions of the parties’”.*

Consequently, the court concluded that *“the FSIA arbitration exception applies, and the Russian Federation’s general sovereign immunity provides no protection in this action to enforce the Final Awards issued by the Arbitral Tribunal”.*

Now that the DC Court has established that Russia cannot hide behind sovereign immunity, the court will turn to the question whether the Awards may be recognized and enforced under the terms of the New York Convention. The New York Convention is an international treaty, to which the United States is a party, that provides for recognition of arbitral awards issued in other signatory countries and enforcement thereof in the courts of the United States in the same manner as domestic claims. The court has asked both parties to submit a schedule proposal for resolution of the final remaining issues by December 5<sup>th</sup>, 2023.

You can find the US DC Court for the District of Columbia ruling by [clicking here](#).

## About GML

GML, through its wholly-owned subsidiaries, Yukos Universal Limited and Hulley Enterprises Limited, together with Veteran Petroleum Limited were the majority shareholders of the former Yukos Oil Company. In 2014, an independent Arbitral Tribunal in The Hague [awarded them more than \\$50 billion](#) in compensation for the illegal expropriation of their investments by the Russian Federation.

In its Final Award, the independent Arbitral Tribunal concluded 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.”*

The Russian Federation appealed the decision in the Dutch court system. In 2016, the District Court of The Hague set aside the Arbitral Awards on grounds of jurisdiction. In February 2020, the [Court of Appeal of The Hague quashed the decision](#) of the District Court, denied all other claims raised by the Russian Federation against the Awards and reinstated the Arbitral Awards.

The [Dutch Supreme Court affirmed the substance of that ruling](#) in November of 2021 and referred one minor issue, which had earlier been rejected by the Hague Court of Appeal on procedural grounds, for full consideration by the Court of Appeal in Amsterdam. In a separate ruling, The [Hague Court of Appeal confirmed](#) that the shareholders can continue to enforce the awards while the appeal on this remaining issue is pending.

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## For more information/not for publication

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