

Dutch Supreme Court refuses to suspend enforcement of Yukos awards on vodka brands

by *Practical Law Arbitration*, with *OSK Advocaten*

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In *Russian Federation v Hulley and others* (ECLI:NL:HR:2024:464), the Dutch Supreme Court refused to suspend enforcement of the Yukos awards on IP rights on vodka brands.

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The Dutch Supreme Court has refused to suspend enforcement of the Yukos awards on IP rights on two vodka brands because of the status of related set aside proceedings, confirming the judgment made by the Court of Appeal in The Hague (The Hague COA) (see [Legal update, Court of Appeal in The Hague reinstates attachments by former Yukos shareholders on vodka brands](#)).

The Supreme Court first clarified that a judgment at first instance that has been set aside on appeal is considered to have lost its effect until the judgment on appeal has been set aside. However, if the Supreme Court has set aside a judgment on appeal and referred the matter to another Court of Appeal for a further ruling, parts of the judgment on appeal that have not, or not successfully, been contested in cassation will become final. An exception to this position is where the uncontested part of the judgment is based on, or inseparably linked to, parts of the judgment that have been successfully contested in cassation.

In the proceedings for set aside of the awards, the District Court ruled in 2016 that the awards should be set aside for lack of a valid arbitration agreement. The District Court judgment was set aside in 2020 by The Hague COA, which ruled that there was a valid arbitration agreement. The Supreme Court confirmed this part of The Hague COA judgment. It then merely set aside the judgment and referred the matter to the Court of Appeal in Amsterdam to deal with the separate issue as to whether Russia should be allowed to present arguments on procedural fraud committed by the shareholders in the arbitration (see [Legal update, Dutch Supreme Court reopens debate on setting aside of Yukos awards \(Full update\)](#)).

The Supreme Court ruled that, in view of the procedural history of the case, the ground on which the District Court set aside the awards no longer applied. In ruling so, it disagreed with Russia's argument that the fact that the Supreme Court had set aside the judgment by The Hague COA meant that the setting aside of the awards by the District Court was reinstated.

Case: *Russian Federation v Hulley and others* (ECLI:NL:HR:2024:464) (Dutch Supreme Court) (22 March 2024).

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