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INDEPENDENT NEWS FROM RUSSIA

Court Orders Russia to Pay Yukos Shareholders $50 Billion

By Alexander Panin

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Judges of the International Court of Justice.

After almost a decade of consideration, The Hague's arbitration court announced Monday that Russia must pay out $50 billion in damages to the shareholders of the defunct oil giant Yukos.

The court said in its ruling that Russia had violated international laws under the Energy Charter Treaty, leading to Yukos going bankrupt.

Russia must meet its obligations before Jan. 15, 2015 or face interest rate penalties on unpaid debt.

"Yukos was the object of a series of politically motivated attacks by the Russian authorities that eventually led to its destruction," the court ruling said. "The primary objective of the Russian Federation was not to collect taxes but rather to bankrupt Yukos and appropriate its valuable assets."

Following the seizure of Yukos' assets after its management had been convicted of fraud in 2005, the company's shareholders turned to The Hague arbitration court, with claims that rose over time from an initial $28 billion to $114 billion.

Having learned in advance about the ruling via the media, Foreign Minister Sergei Lavrov said that Moscow would appeal if it was confirmed that the Yukos shareholders had triumphed.

After the decision was made public, the Finance Ministry said in a statement it would challenge the decision in the Netherlands' courts, labeling the ruling "politically biased."

Although the ruling was only made public on Monday, the decision was actually made on July 18, the day after Malaysia Airlines Flight MH17 was downed in eastern Ukraine, an incident that Western leaders have blamed on pro-Russian separatists using weaponry supplied by Russia.

Emmanuel Gaillard, the claimants' representative in court, said the announcement of the ruling was held back 10 days on Russia's request, Interfax reported.

Yukos founder Mikhail Khodorkovsky, who was released last December after spending 10 years in prison said he was pleased with the ruling but added that he would not benefit from the decision.

"I was not among the sides in this process and will not claim any personal financial gain from it," he said on his official website.

As the results of the ruling were made public, Yukos shareholders also expressed their overall satisfaction with the outcome.

"I am very pleased the international tribunal in The Hague decided that Russia violated international laws and illegally expropriated Yukos," Leonid Nevzlin, the biggest benefactor of the company's assets said in an e-mailed statement, Reuters reported.

Lawyers said Russia has no chance of even appealing the ruling and has limited grounds for having it reviewed.

"A distinctive feature of an arbitration court ruling is that it does not presuppose that there will be an appeal. The decision is final and the sides now have to abide by it," said Elvira Abdullina, deputy head of an international branch of AMR Consulting, a Moscow-based law consultancy.

A review is possible, she said, but would be limited to procedural appeals, such as claims that one of the sides had not been given a full opportunity to present its case.

"But it is very unlikely that the highly experienced arbitration and professional staff of The Hague's court could have made such violations," Abdullina said.

Other grounds for a review would be to challenge the court's application of the international Energy Charter Treaty's rules, which Russia is said to have breached, said Sergei Treschev, a partner with law firm Squire Patton Boggs.

“Russia has not ratified the Energy Charter that serves as the main grounds for the ruling and it could appeal that for this reason the whole hearing was unjustified,” he said, adding that it was unclear whether such a review would go in Russia's favor.

Another way out would be to settle outside of court, something Treschev also thinks would have slim chances of success given the politically charged nature of the case.

Russia will likely refuse to pay the damages, which are unprecedented in arbitration practice, Adbullina and Treschev said, meaning that state assets abroad would have to be seized for the Yukos shareholders to receive anything — a painstaking process.

At the same time the shareholders are determined to go on battling Russia to settle their claims.

Tim Osborne, head of GML group, which represents the interests of Yukos shareholders, on Monday said that a lawsuit against BP, which has a 20 percent stake in Rosneft, was “not unlikely” if Russia does not pay out the $50 billion, ITAR-Tass reported.

State-owned Rosneft became Russia's No. 1 oil company after it acquired Yukos' assets following its breakup.

Rosneft said Monday in a statement that it does not bear any responsibility in the court dispute between Yukos shareholders and Russia, before going on to say that its receipt of Yukos' assets was fully justified and in strict accordance with the laws applicable at the time.

During the arbitration proceedings in The Hague, Russia's representatives in court had argued that privately oil company Surgutneftegaz, known for its ties with the Kremlin, was the one to benefit from the sale of Yukos' assets, not Rosneft. The assets still ended up with Rosneft, however, having been resold by Surgutneftegaz at a discount price. Surgutneftegaz did not comment on the matter on Monday.

See also:

Yukos Shareholders' $100 Billion Case Against Russia Nears Finish Line

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