

Legal Update

Does Transnational Issue Estoppel Apply to Issues of State Immunity and the Jurisdiction of the Court?

The Russian Federation v Veteran Petroleum Ltd and others [2026] SGCA(I) 5

29 September 2026

The Singapore Court of Appeal answered these questions in the affirmative when it held that the Russian Federation could not rely on state immunity to resist enforcement of the Yukos awards in Singapore where the issues said to negate its consent to arbitration had already been finally determined against it by the Dutch appellate courts, the courts of the arbitral seat.

The court held that transnational issue estoppel prevented Russia from relitigating those same issues in Singapore, and it dismissed Russia's appeal.

The judgment also records that Russia had already failed to establish state immunity in enforcement proceedings in England (see *Hulley Enterprises v The Russian Federation* [2025] KB 1). Although the claimants did not rely on the English decision as creating a further estoppel, they did rely on its reasoning as support for giving preclusive effect to the Dutch judgments.



Brief facts and procedural context

The respondents were three claimants that were, directly or indirectly, majority shareholders in OAO Yukos Oil Company. They obtained three final awards dated 18 July 2014 in consolidated arbitrations under Art 26 of the Energy Charter Treaty ("ECT"), alleging that Russia had failed to protect, and had expropriated, their investment in Yukos Oil in breach of the ECT. The awards were approximately US\$50 billion, US\$1.8 billion and US\$8.2 billion respectively, together with compound interest and costs.

Russia unsuccessfully sought to have the awards set aside in the Netherlands, the seat of the arbitration. In Singapore, Russia limited its response to seeking a declaration that it was immune under s 3(1) of the State Immunity Act 1979 ("SIA")¹, a consequential order setting aside leave to serve notice of the proceedings on it, and directions to challenge enforcement on the merits if its arguments immunity and jurisdiction failed.

The immunity dispute turned on s 11(1) of the SIA², under which a State is not immune where it has agreed in writing to submit a dispute to arbitration. Russia argued that s 11 was not satisfied for four reasons:

- it had not agreed to arbitrate under the ECT because provisional application was ineffective under Russian law;
- the claimants were not qualifying investors and had made no qualifying investment;
- the claims concerned taxation measures excluded by Art 21(1) of the ECT; and
- the tribunal had not complied with the referral mechanism in Art 21(5)(b)(i).



The court's decision: no immunity because the Dutch rulings bound Russia on the relevant issues

¹ 3.—(1) A State is immune from the jurisdiction of the courts of Singapore except as provided in the following provisions of this Part.

(2) A court is to give effect to the immunity conferred by this section even though the State does not file and serve a notice of intention to contest or not contest in the proceedings in question.

² 11.— (1) Where a State has agreed in writing to submit a dispute which has arisen, or may arise, to arbitration, the State is not immune as respects proceedings in the courts in Singapore which relate to the arbitration.

(2) This section has effect subject to any contrary provision in the arbitration agreement and does not apply to any arbitration agreement between States.

The Court of Appeal upheld the SICC's conclusion that Russia was precluded from arguing that it had not agreed in writing to submit the relevant disputes to arbitration. The Dutch appellate decisions were final and conclusive decisions and were determinative of whether Russia had so agreed and therefore gave rise to transnational issue estoppel under Singapore law. The court therefore held that the s 11 arbitration exception was satisfied and that Russia had no adjudicative immunity under s 3(1) of the SIA in respect of the Singapore enforcement proceedings.



Why de novo review did not help Russia

Russia's central argument was that state immunity had to be determined afresh by each enforcement court, without being constrained by issue estoppel arising from foreign judgments.

The Court of Appeal rejected that position. It accepted that each jurisdiction must apply its own law of state immunity but drew a distinction between: (i) identifying and applying Singapore's own immunity rules; and (ii) determining the effect in Singapore of prior foreign judgments on factual and legal issues already decided between the parties.

Here, the dispute was not about any relevant difference between Dutch and Singapore immunity law. Rather, Russia was seeking to relitigate the same factual issues, including issues of Russian law, that had already been resolved in the Netherlands.

The court held that applying transnational issue estoppel in that context did not amount to illegitimately "outsourcing" Singapore's immunity decision to the Dutch courts; it was part of Singapore law's own method for deciding whether immunity had been displaced.



State immunity does not, by itself, displace transnational issue estoppel

The court also rejected Russia's argument that jurisdiction cannot be conferred by estoppel. It distinguished cases about estoppel by party conduct from the present case, which concerned the effect of considered judicial determinations on jurisdictional issues. The court considered that once those issues had been fully litigated and finally decided by the seat court, there was no principled reason to allow a State to relitigate them in every subsequent enforcement forum.

More broadly, the court held that neither the text nor the policy of ss 3 and 11 of the SIA, read against customary international law, required state immunity questions to fall generally outside the doctrine of transnational issue estoppel. The doctrine already contains safeguards where a foreign judgment is unworthy of recognition, but Russia had not shown that those safeguards were engaged merely because it disagreed with the Dutch decisions.



Particular weight attached to decisions of the arbitral seat

A significant feature of the judgment is the emphasis placed on the status of the Dutch courts as courts of the arbitral seat. The Court of Appeal said that decisions of the seat court have "a particularly strong claim to respect", especially given the role assigned to the seat court under Art 5.1(e) of the New York Convention in determining whether an award has been set aside or suspended.



Russia's late reliance on the Russian Constitutional Court ruling failed

Russia also sought to rely on a 24 December 2020 ruling of the Russian Constitutional Court as showing that Russian law did not permit provisional application of the ECT dispute-resolution

provisions absent ratification legislation. The Court of Appeal refused to permit reliance on that ruling, that was raised for the first time at the appeal stage and held that, in any event, it did not justify disapplying transnational issue estoppel.

On this issue, the court was influenced by both the lateness of the point and the circumstances in which the ruling was produced, including the absence of inter partes participation and the lack of transparency described in the evidence before the court.



Practical implications

For award creditors, the case demonstrates the importance of a neutral state as the seat of the arbitration as favourable seat-court rulings can overcome sovereign immunity objections in countries such as Singapore.

For States, it signals that losing on jurisdictional issues before the courts of the arbitral seat may significantly narrow the scope for re-running the same objections in later enforcement proceedings, including where immunity is invoked.

It should be noted that this ruling does not determine whether or not the award is enforceable against the Russian Federation in Singapore. The Court of Appeal gave the Russian Federation 14 days to set out the directions it requires to file a challenge on the merits to the grant of any enforcement order.

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