

Секция «Актуальные вопросы права Англии и США (на английском языке)»

## **Anti-suit injunctions: comparative perspective**

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Nowadays, the development of commercial activities among different entities all over the world is progressing rapidly. The high level of transnational merchants' relationships is complicated by sanctions issued by the United States of America, the United Kingdom, and the European Union. Particularly, the most interesting cases of applying anti-suit injunctions are connected with designated Russian entities. Therefore, it is essential to understand the unique national characteristics of the procedures for applying anti-suit injunctions in various countries.

In the context of international trade affected by sanctions, we should focus on jurisdictions like the USA, Great Britain, and the Russian Federation for our analysis. For example, the European Union sanctions imposed under the Fourteenth and Fifteenth Packages somewhat "hit" the norms of Article 248.2 of the APC of the Russian Federation (the Russian version of anti-suit injunctions). On June 24, 2024, the European Union introduced measures against Russian claimants who sued in Russia against EU defendants based on the so-called "Lugovoi law" [1]. EU individuals are prohibited from directly or indirectly participating in any transactions with the claimants. EU individuals are entitled to bring a claim for damages against Russian parties violating the EU sanctions regime before a competent court in an EU country. The transaction ban applies to all claimants, including those who filed claims under the "Lugovoi Law" from 2020 to 2024. Moreover, as part of the 15th package of sanctions, the EU Council has prohibited recognition or enforcement of such Russian court decisions (including Russian anti-suit injunctions) in the EU.

A comparative examination of this procedural institution is crucial, and it can be divided into several significant parts that clarify the regulatory differences in various jurisdictions.

### **Special procedure or type of interim measures**

The United Kingdom

This country is the birthplace of anti-suit injunctions [2]. The initial aim of this "instrument" was to prevent parallel procedures in common law courts and equity courts [3]. English anti-suit injunctions are part of interim remedies, and the procedure for granting interim measures is applied accordingly. The US procedure for applying an interim injunction is also subject to the rules governing the granting of interim measures.

The Russian Federation

The Russian anti-suit injunction is much younger than its English counterpart. It is important to emphasize that the anti-suit injunction in Russia is not an interim injunction; it is an autonomous procedural instrument that has its own procedural form.

### **Identical proceedings**

The USA

It can be challenging to ascertain whether the issues in two proceedings are identical, particularly when the suits are brought in different countries. In such cases, U.S. courts adopt a functional analysis to determine whether and to what extent the proceedings are the same [4].

The Russian Federation

Russian courts also adopt a functional approach to understanding identical proceedings. For instance, the Arbitrazh Court of the Northwest District ruled in a significant case involving an anti-suit injunction. In case No. A56-13299/2024, the court decided that the claim for damages in the Russian court made by RusChemAlliance and Linde GMBH's claim for release from contractual liability were functionally identical. This means that the Russian court found grounds to impose an anti-suit injunction and imposed a fine for violating the injunction [5].

In conclusion, it is important to emphasize that a comparative review of anti-suit injunctions is crucial for the effective contractual and litigation work of lawyers.

### **Источники и литература**

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- 2) K. Korea “The Anti-suit Injunction Conundrum: How We Got Here and How to Avoid It” // [web-source] <https://ipwatchdog.com/2022/02/15/anti-suit-injunction-conundrum-got-avoid/id=145813/#> (date of access: 08.03.2025)
- 3) Adrian Zuckerman, Zuckerman on Civil Procedure- Principles of Practice, 3rd Ed (2013) Thomson Reuters (Legal) Limited, Page 394
- 4) S. I. Strong, Anti-Suit Injunctions in Judicial and Arbitral Procedures in the United States, 66 American Journal of Comparative Law (2018). P. 160
- 5) Постановление Арбитражного суда Северо-Западного округа от 25.07.2024 по делу № А56-13299/2024