

**Konompex Ltd. v. Rosava,
Kyiv Interregional Commercial Court of Appeal, 4/044-10, 14 June
2010**

Yaroslav Petrov, Asters

Headnote

In Konompex v. Rosava, the Kyiv Interregional Commercial Court of Appeal upheld the decision of the Commercial Court of Kyiv of 22 April 2010 where the court declared an arbitration agreement invalid due to a mistake in the name of the arbitration institution (14 June 2010)

Digest

In a nutshell, on 1 March 2007 Konimpex Ltd (the “Claimant”) and “Rosava” (the “Respondent”) entered into an agreement for the sale and purchase of natural rubber. The agreement included an arbitration clause stipulating that “*disputes arising out of execution, performance, amendment and termination of this agreement shall be referred to the International Commercial Court of the Ukrainian Chamber of Commerce and Industry. Ukrainian law should be applied to substantive and procedural issues*”.

A dispute arose due to the Respondent's failure to pay under the agreement. The Claimant, disregarding the arbitration clause, brought a claim to the Commercial Court of the Kyiv alleging the invalidity of the arbitration agreement due to the fact that it referred to a non-existing arbitration institution.

The court accepted its jurisdiction and ruled in favor of the Claimant. The court noted that the International Commercial Arbitration Act of Ukraine states that under the auspices of the Ukrainian Chamber of Commerce and Industry two arbitration institutions exist, namely the International Commercial Arbitration Court and the Maritime Arbitration Commission. The arbitration agreement referred to an “International Commercial Court”. The court found that there is no such institution in the structure of the Ukrainian Chamber of Commerce and Industry. Consequently, the court declared the arbitration agreement invalid and ruled that it has jurisdiction to hear the claim on the merits. *Parties: Konompex v. Rosava, case no: 4/044-10, Kyiv Interregional Commercial Court of Appeal, Ukraine.*

Original source:
Kluwer Arbitration
© 2014 Kluwer Law International BV (All rights reserved).
<http://www.kluwerarbitration.com>

The summary of the case file and full text of summarized court decision are available on:
<http://www.kluwerarbitration.com/CommonUI/document.aspx?id=KLI-KA-1102023>

Author
<ul style="list-style-type: none">• Yaroslav Petrov
Jurisdiction
<ul style="list-style-type: none">• Ukraine
Court
<ul style="list-style-type: none">• Kyiv Interregional Commercial Court of Appeal
Arbitrators/Judges
<ul style="list-style-type: none">• G.A. Zhuk, chairman• O.M. Sibigu, judge
Case date
<ul style="list-style-type: none">• 14 June 2010
Case number
<ul style="list-style-type: none">• 4/044-10
Parties
<ul style="list-style-type: none">• Claimant, Konompex Ltd. (Poland)• Defendant, Rosava (Ukraine)
Key words
<ul style="list-style-type: none">• invalidity• pathological• arbitration agreement• wrong name
Applicable legislation
<ul style="list-style-type: none">• UNCITRAL Model Law• Ukrainian
Source
<ul style="list-style-type: none">• Yaroslav Petrov, Konompex Ltd. v. Rosava, Kyiv Interregional Commercial Court of Appeal, 4/044-10, 14 June 2010, A contribution by the ITA Board of Reporters, Kluwer Law Internationa