

*Naumann - Maschinen Paletten Firm v. Bruma LLC, seeking recognition and enforcement of foreign arbitration order on interim measures, Court of Appeal of the Oblast of Volyn, No. 159/4966/15-y, 12 April 2016*

A contribution by the ITA Board of Reporters

Yaroslav Petrov; Anna Tkachova

## **Headnote**

Court of Appeal of Volynsk region did not uphold Naumann - Maschinen Paletten Firm's appeal of the ruling of Kovelskyi city court of the Volynsk region that refused to recognize and enforce interim measures issued by the arbitrator.

## **Summary**

### **Facts of the case**

On 13 July 2015 Arbitration Court of the Heilbronn - Franken Chamber of Commerce and Industry (Industrie - und Handelskammer Heilbronn - Franken) and the German Institution of Arbitration (Deutsche Institution für Schiedsgerichtsbarkeit e.V. - DIS) issued an interim award and granted interim measures at the request of a Naumann - Maschinen Paletten Firm.

Naumann - Maschinen Paletten Firm filed a claim to the Kovelskyi city court of the Volynsk region seeking to enforce the above referred award.

By the ruling of the Kovelskyi city court of the Volynsk region dated 19 February 2016 the motion on enforcement of interim measures was defeated.

Naumann - Maschinen Paletten Firm appealed to the Court of Appeal of Volynsk region seeking to cancel the ruling of the court of the first instance. Court of Appeal of Volynsk region denied the request.

On 13 May 2016 Maschinen Paletten Firm filed cassation appeal with High Specialized Court of Ukraine for Civil and Criminal Cases. The hearing has not been scheduled yet.

### ***First instance court judgment***

By the ruling of the Kovelskyi city court of the Volynsk region dated 19 February 2016 the motion on enforcement of interim measures was defeated on the grounds of absence of arbitration agreement between the parties (the original arbitration clause was amended. Arbitration proceedings were initiated based on the original arbitration clause)

The court emphasized that interim measures can be granted by the national court only due to the fact that national court decide this case on merits and the Claimant failed to provide indisputable arbitration agreement. Moreover, the Defendant was not duly informed regarding hearing at Arbitration Court of the Heilbronn - Franken Chamber of Commerce and Industry and the German Institution of Arbitration.

### ***Appeal instance court judgment***

Court of Appeal of Volynsk region agreed with the first instance court in full and set aside the appeal of the Claimant.

### ***Cassation instance court judgment***

High Specialized Court of Ukraine for Civil and Criminal Cases registered the cassation appeal.

Original source: © 2021 Kluwer Law International, a Wolters Kluwer Company. All rights reserved. <http://www.kluwerarbitration.com>

The summary of the case file and full text of summarized court decision are available on:  
<https://www.kluwerarbitration.com/document/kli-ka-16-23-006?jurisdiction=Ukraine&type=Court%20Decisions>