

Neutral Citation Number: [2024] EWHC 2460 (Comm)

Case No: CL-2023-000787

**IN THE HIGH COURT OF JUSTICE**  
**KING'S BENCH DIVISION**  
**COMMERCIAL COURT**

Royal Courts of Justice, Rolls Building  
Fetter Lane, London, EC4A 1NL

Date: 19 September 2024

Before :

Mr Justice Butcher

Between :

**Renaissance Securities (Cyprus) Limited**

**Claimant**

- and -

**(1) ILLC Chlodwig Enterprises**

**(2) ILLC Adorabella**

**(3) Gekolina Investments Ltd**

**(4) Dubhe Holdings Limited**

**(5) Owl Nebula Enterprises Limited**

**(6) Perpecia Limited**

**Defendants**

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**Andrew Dinsmore** (instructed by **Candey Limited**) for **the Claimant**

**The Defendants** did not appear and were not represented

Hearing date: **19<sup>th</sup> September 2024**  
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**JUDGMENT**

**Mr Justice Butcher**  
(12:23 pm)

**Thursday, 19 September 2024**

Judgment by **MR JUSTICE BUTCHER**

1. An application is made by the Claimant for further clarification by way of amendment to the order of Mr Justice Henshaw of 23 April 2024.
2. I do not need or intend to give a detailed judgment as to the background to this matter. A considerable amount of it is set out in the judgment of Mrs Justice Dias of 3 November 2023, in that of Mr Justice Henshaw of 30 April 2024 and in the judgment of Mr Justice Foxton of 25 July 2024.
3. For the purposes of this application I have read, in addition to those judgments and in addition to the application notice of 12 September 2024, the seventh, eighth and ninth witness statements of James Collins, the first witness statement of Mr Yuri Botiuk, and three letters from Orion Partners, dated 22 July 2024, 31 July 2024 and 11 September 2024.
4. The first issue which arises is as to urgency. I accept that the matter is urgent given that there is a further hearing in the Adorabella and Chlodwig proceedings in Russia fixed for 23 September. It appears to me necessary and entirely appropriate that this application should be dealt with before that hearing comes on.
5. There is also the question of the status of this hearing, by which I mean whether it is one which is properly on notice or not. In the case of the Third to Sixth Defendants, there seems no question that the application was served three clear days in advance. In the case of Adorabella and Chlodwig, the First and Second Defendants, there seems not to have been three clear days' notice and an objection appears to be being taken by Trubor, Russian lawyers who have been acting on behalf of the Defendants and specifically in this context on behalf of Chlodwig and Adorabella.
6. As I indicated in the course of argument, I am not prepared to curtail notice, but I am prepared to proceed to consider the application vis-à-vis those two companies today on what is, in effect, an

ex parte basis, so that the Claimant has an obligation to make full and frank disclosure, and there should be a liberty to those Defendants to apply on short notice, the length of which I will discuss with Mr Dinsmore, to set aside or vary the order made against them.

7. The nature of the amendments which are sought seem to me intended to serve essentially three purposes. First, to add in relation to at least some of the Defendants a provision, which is found in paragraph 2.1(d) of the draft order, namely that there is an obligation:  
  
"Actively [to] object to any appeal brought by any third parties against the Russian Court's judgment to terminate each respective Russian Proceeding against the Claimant ..."
8. Secondly, to expand on and clarify the negative (prohibitory) aspects of the amendments of Mr Justice Foxton, and to extend them to Adorabella and Chlodwig.
9. Thirdly, to bring all the amendments into one place so that there is a unitary order.
10. I am satisfied that such amendments should be made, although their precise terms will need to be the subject of further consideration.
11. The reasons why the Claimant has made this further application lie in two developments which have occurred in Russian Proceedings since Mr Justice Foxton's orders. The first is that Perpecia, the Sixth Defendant, has not in fact procured the termination of its proceedings. The circumstances of this are summarised in paragraph 7.1 of Mr Dinsmore's skeleton argument for today. To avoid doubt or argument, I consider that it is appropriate to specify precisely what the Defendants have to do in the Gekolina, Dubhe and Perpecia proceedings, along the lines of what is contained in paragraph 1A of the proposed amendments, which largely track Mr Justice Foxton's amendments; and what they may not do, along the lines of the prohibitions contained in paragraph 2A of the amendments.
12. The other development has been in relation to the Adorabella and Chlodwig proceedings and is summarised in paragraph 7.2 of Mr Dinsmore's skeleton argument. As there appears, what happened in the Adorabella and Chlodwig proceedings is that the court initially accepted the

application made by Adorabella and Chlodwig to withdraw the proceedings. A co-defendant, Euroclear, initially appealed that decision, but then voluntarily withdrew the appeal on 16 August 2024.

13. Trubor, for Adorabella, has objected to Euroclear seeking to withdraw its appeal against the partial termination of those proceedings. On 19 August 2024, Mr Trukhanov of Trubor submitted on behalf of Adorabella that the determination of Euroclear's appeal was ultimately in the Russian Court's discretion, that the request to discontinue proceedings was presented to the Court of First Instance solely due to the order of Mr Justice Henshaw, that Trubor's clients had faced barriers accessing justice in England as sanctions had prevented them from hiring legal counsel and participating fully in the proceedings, that Euroclear's decision to withdraw its complaint was also influenced by the order of Mr Justice Henshaw, and that there was established case law in Russian courts indicating that a withdrawal of claims should not be granted if it stems from an injunction by the English Court.
14. Trubor then stated that it was unsure if it was able to make submissions owing to the order of Mr Justice Henshaw and sought an adjournment from the Russian Court to allow it to apply to this court. As a result of that, at a hearing on 26 August 2024, the Russian Court adjourned the Adorabella and Chlodwig proceedings until 23 September 2024. Trubor delayed taking any steps to apply to this court; but it has very recently issued an Application Notice (stamped on 17 September 2024) seeking clarification that it is permitted to take certain steps in the Russian Courts, and in particular may object to Euroclear's motion to withdraw its appeals against the partial termination of the Adorabella and Chlodwig Proceedings.
15. That application appears from the material available today to be procedurally flawed, in particular because (i) Trubor has inappropriately purported to sign the Application Notice as a "litigation friend" without having been appointed as such and in circumstances in which Adorabella and Chlodwig do not fall within the categories of person for whom a litigation friend

may act pursuant to CPR Part 21; (ii) there is a failure to give an address for service within the jurisdiction as required by CPR Part 6.23; and (iii) the application has not been served at all and certainly not with an appropriate period of notice.

16. I do not consider that I can make any order on or in relation to that Application today. It does however confirm that it is the position of Chlodwig and Adorabella that they may oppose Euroclear's withdrawal of its appeals.
17. It appears to me to be clearly contrary to the intention of the existing order of Mr Justice Henshaw that Adorabella and Chlodwig should seek, in effect, to have their proceedings reinstated by trying to ensure that Euroclear's appeal should proceed or succeed. It would be contrary to the intention of the order of Mr Justice Henshaw for Adorabella and/or Chlodwig to take steps or make submissions which are intended or have the effect of allowing the Adorabella and Chlodwig Proceedings to continue in existence. As Mr Justice Foxton said in paragraph 12 of his judgment of 25 July 2024, the Order of Mr Justice Henshaw requires termination of the various Russian proceedings which are brought in breach of the arbitration agreements contained in the Investment Services Agreements.
18. To prevent that, it appears to me appropriate that negative (prohibitory) orders, expanding on those made in relation to Dubhe, Gekolina and Perpecia by Mr Justice Foxton, should be made in relation to Chlodwig and Adorabella. Further, it appeared to me that it should be provided in terms in the order that there should be an active objection by Adorabella and Chlodwig to any appeal brought by a party such as Euroclear against the Russian Court's judgment to terminate the Adorabella and Chlodwig proceedings. In other words, there should be, in relation to these two Defendants as well as against the other Defendants, a provision along the lines of that in sub-paragraph (d) of paragraph 2.1 of the proposed order.
19. It also appears to me to be appropriate, lest any similar issue should arise in the other proceedings, that such a provision should apply in respect of all the other Defendants.

20. For those reasons I am prepared to make orders essentially in the terms which are sought, but I will consider the terms of the order proposed in more detail with Mr Dinsmore now.