IN THE COURT OF FIRST INSTANCE

OF THE ASTANA INTERNATIONAL FINANCIAL CENTRE

8 October 2026

CASE No: AIFC-C/CFI/2025/0025

ROADS DEPARTMENT OF THE MINISTRY OF INFRASTRUCTURE OF GEORGIA, REPRESENTED BY THE MINISTRY OF JUSTICE OF GEORGIA

Claimant

v

TODINI COSTRUZIONI GENERALI S.P.A.

Defendant

CORRECTED JUDGMENT ON STAY APPLICATION

Corrected and reissued on 19 October 2026

Justice of the Court:

Justice Tom Montagu-Smith KC

ORDER

UPON the Claimant's application for recognition and enforcement in the AIFC of an arbitration award.

AND UPON the Court's Order dated 30 October 2025, made without notice, granting the Claimant's application ("the Enforcement Order").

AND UPON the Claimant's application dated 5 June 2026 for execution of the terms of the Enforcement Order.

AND UPON the Claimant obtaining attachments over certain receivables owed to the Defendant by third parties ("the Attachments").

AND UPON the Defendant's application dated 18 June 2026 to set aside the Enforcement Order ("the Set Aside Application").

AND UPON the Defendant's request dated 8 July 2026 that execution of the Enforcement Order be stayed.

AND UPON considering the parties' written submissions on the same.

IT IS ORDERED THAT:

1. The parties shall within 7 days seek to agree a form of Order the effect of which will be, until final resolution of the Set Aside Application, to maintain the Attachment Orders, but not to permit further execution of the Enforcement Order.

2. In the event that the parties are unable to reach agreement in accordance with paragraph 1 above, the parties are to write to the Court within 14 days, setting out their competing proposals, supported by brief reasons.

REASONS

1. This case concerns an application to recognise and enforce in the AIFC an arbitration award issued under ICC Rules in Paris.

2. The award was issued on 20 June 2022. It was not however until 20 June 2025 that the Claimant applied to this Court for recognition and enforcement in the AIFC. In the usual way, that application was made without notice to the Defendant. I granted the application on 30 October 2025, subject to the Defendant having the usual right to apply to set it aside. In making that order, I considered that it was reasonably arguable that the Court had jurisdiction to recognise and enforce the award. However, I made no final determination of that issue as, at that stage, the case was proceeding without notice to the Defendant.

3. The Claimant subsequently approached the Court for orders in respect of service. On 9 February 2026, I permitted the Claimant to serve the enforcement order without serving a translation of the claim form. I declined to relieve the Claimant of the obligation to serve certain of the documents

relied on. In the course of that ruling, I pointed out that the service rules require only that the documents be delivered in a manner which brings them to the attention of the Defendant.

4. The Claimant's position is that it then proceeded to serve the enforcement order and associated documents on 2 April 2026. It did so by sending 3 emails with attachments to the Defendant's CEO, to the company's official PEC email address listed on the Italian Business Register, and to the email address of one of the Defendant's external lawyers. Thereafter, the Claimant applied for an execution order from the AIFC Court, which was subsequently granted.

5. The Defendant disputes that it was adequately served. Its position is that, while it was aware of the arbitration award, it did not become aware of the AIFC Court enforcement order until 5 June 2026, after execution proceedings were commenced. It says the email to the Defendant's PEC email address was rejected by the system and it has not been established that the other two emails were delivered or brought the proceedings to the Defendant's attention.

6. On 18 June 2026, the Defendant applied to set aside the enforcement order. The Defendant raises a number of points. However, its central argument is that the Court lacked jurisdiction to recognise and enforce the award under the Constitutional Statute of the AIFC. The Defendant relied in particular on the decision of Justice Sir Rupert Jackson in the case of *Posco Co. Ltd. v Republican State Enterprise on the Right of Economic Management "National Centre for Complex Processing of Mineral Raw Materials of the Republic of Kazakhstan"* (27 May 2026) ("*Posco*"). In *Posco*, Sir Rupert found that the AIFC Court does not have jurisdiction to recognise and enforce an arbitration award where the seat of the arbitration is outside the AIFC, unless some other ground of jurisdiction is established. As a result, there is no free-standing jurisdiction to recognise and enforce non-AIFC arbitration awards.

7. Since the decision in *Posco*, there has been a further decision of this Court on substantially similar lines in the case of *Naftogaz v Gazprom* (7 July 2026).

8. I understand that permission to appeal has been granted in both cases and a combined appeal was heard on 30 September 2026. Judgment is awaited.

9. On 8 July 2026, the Defendant emailed the Court requesting a stay of execution of the enforcement order. The Defendant complained that execution proceedings had "effectively paralyzed the company's day-to-day commercial operations". No evidence was provided to support this assertion. Details provided were scarce.

10. The Claimant opposes the request on a variety of grounds. The parties have subsequently exchanged extensive written submissions, many of them unsolicited. The evidence and information has developed over the course of those exchanges. I have read carefully everything that has been provided. I do not in these reasons address every single point raised. It seems to me sufficient to address the central points.

11. The parties disagreed as to whether there should be a hearing of the application. The Claimant considers that the application can safely be decided on the papers and that the Court should take

that course. The Defendant, by contrast, requests a hearing. In practice, the Court will not be able to accommodate a hearing for at least another month. In those circumstances, it seems to me better to get on and decide the application on paper.

12. Fundamentally, the Claimant says that:

    a. No application notice has been issued and served;

    b. The application is inadequately evidenced;

    c. The application should in any event be dismissed on the merits;

    d. The Defendant has not been truthful about when it became aware of the AIFC Court proceedings;

    e. The set aside application is without merit because:

        i. The application was made out of time;
        ii. Jurisdiction was established by agreement;
        iii. The cases relied on may be distinguished;
        iv. The Defendant is deemed to have submitted to the Court's jurisdiction;

13. As to the first point, the Claimant has of course now had notice of the Defendant's application. I have also given the Claimant subsequent opportunities to amplify its submissions. I am therefore confident that it has had an adequate opportunity to address the application. In those circumstances, any technical complaints about the form of the application and its service should not, in my view, prevent the Court from considering the application.

14. The second and third points go to the merits of the stay application and I deal with them below.

15. The fourth point goes to the question of whether the Defendant was properly served. This is important because the Defendant's time to apply to set it aside ran from the date of service. If a timely application was made, the enforcement order was not to be enforced until that set aside application was dealt with. In those circumstances, if the set aside application was made in time, there would be no need for a separate stay as the right to commence execution had not yet arisen.

16. In its application to set aside the ex parte order, the Defendant made this assertion about service:

> "The Defendant was not notified of the Proceedings before the AIFC Court. It only became aware of the Commencement of Enforcement Proceedings in respect of that Court decision on 5 June 2026."

17. The Claimant says this is false or, at least, misleading. The Claimant has produced a letter dated 3 February 2026 from the Defendant's CEO, Mr Rian Marco Martini. In that letter, the Defendant conferred authority onto an advisor to, amongst other things, "Negotiate the terms of a procedural

suspension of the AIFC Enforcement Order (Case No. 25) and related enforcement actions in Italy, Kazakhstan and Georgia to facilitate the amicable conclusion of the matter."

18. The Defendant says that, at most, this letter suggests that the Defendant was aware of the underlying dispute and the arbitration award. It does not, says the Defendant, demonstrate that the Defendant was provided with the AIFC Judgment itself.

19. I find that assertion difficult to understand. The letter of the Defendant's CEO refers in terms to the order recognising and enforcing the award. I have been provided with no evidence of any sort from anyone with knowledge of the facts who is able to explain how and when that came about. Given the date of the letter, it appears to have occurred before 3 February 2026. That calls for some explanation from the Defendant, given its statement in its earlier submissions. No explanation has been provided.

20. The Defendant goes on to say that service on the official Italian PEC email address failed because the email was sent from a gmail account.

21. The Claimant appears to accept that the attempt to serve the Defendant's PEC email address generated a bounce-back which stated that the message had been rejected by the system. However, it says that is likely to be the result of a deliberate decision by the Defendant in configuring its systems. Further, the Claimant maintains that service was nevertheless effected by email delivery to the Defendant's CEO and one of its lawyers.

22. The Defendant says that the attempt to serve on the Defendant's CEO is not shown to have succeeded and may have failed. The attempt to serve on one of the Defendant's lawyers is equally said not to have established delivery to him or onward delivery to the Defendant.

23. In each case, the documents appear to have been sent to a valid address. I would expect the Defendant to be able to investigate whether the attempts to serve were in fact successful in bringing the documents to the Defendant's attention. Despite this, I am provided with no evidence whatsoever from the Defendant. I am not even told what their position is on those fundamental facts.

24. It is therefore unclear what attempts have been made by the Defendant to determine whether the attempts to serve were successful.

25. The Claimant has demonstrated that the emails were sent. They were apparently sent to valid addresses of the Defendant's CEO and external lawyer. In those circumstances, the most likely outcome would be that the emails arrived. I have not been told that they did not. It would be bizarre if the Defendant had not investigated the matter or if, having investigated, delivery was found to have failed. In the circumstances, I conclude that it is more likely than not that the documents were served.

26. What is clear is that the Defendant came to know of the AIFC judgment at some unknown time before 3 February 2026. That may be the result of publication of the order on the AIFC Court website. If so, the Defendant would have been fully aware of the terms of the order.

27. For the purposes of this judgment, I do not need to decide when service was effected. It suffices that the underlying application to set aside the enforcement order was made more than 14 days after it was served.

28. In the circumstances, the automatic stay of execution expired. The burden is then on the Defendant to justify a stay.

29. Save for that timing point, the fourth point, it seems to me, goes to the merits of the Defendant's application to set aside the enforcement order. There will be a number of disputed issues, including the impact of delay on the set aside application. However, the Defendant's position is that, even if it has delayed, the enforcement order still cannot stand as there is no basis for jurisdiction by submission and, ultimately, the Court's power and jurisdiction stands or falls with the outcome of the Posco / Naftogaz appeal. In my view, that position is at least arguable. At this stage, what matters is that the Defendant's set aside application appears to me to be reasonably arguable, particularly in light of the decisions in Posco and Naftogaz and the imminent appeal. It is not appropriate at this stage to go any further than that.

30. An arguable set aside application is however necessary, but not sufficient, to justify a stay. As the Defendant says, the question of whether there should be a stay of execution is essentially a balancing exercise akin to the "balance of convenience" which has also been described as the "balance of prejudice". The Court's role is to try to ascertain which is the least bad option: will more prejudice be likely to arise if execution is stayed and enforcement is subsequently confirmed, or if execution proceeds and enforcement is set aside?

31. One of the difficulties faced by the Defendant is that it provides me with no evidence to support its application. I have been provided with some assertions about the consequences of execution on a construction project. I am however unable simply to accept them at face value. Where facts are disputed, as they are here, the Court must weigh the evidence – the documents and the signed, written evidence of individuals who are familiar with the facts. I am also bound to say that, given the Defendant's assertions as to service, it is difficult for me simply to accept subsequent assertions.

32. In unsolicited supplemental submissions, the Defendant made the following arguments.

33. First, the set aside application is seriously arguable. As set out above, that is necessary but not sufficient to justify a stay.

34. Second, the Defendant asserted that it was prejudiced by the enforcement measures. Enforcement measures were, it said, directed to receivables, assets and equipment used in project operations. The Defendant said its operations depended on "project-specific receivables as working capital". This, it was said, was required for the payment of personnel, sub-contractors and suppliers. Its equipment was, it said, distributed across a variety of projects. As a result, its operations were being interrupted.

35. The Claimant disputed these assertions. Nothing, it says, has yet been recovered. Certain bank accounts have been attached, but they are empty. Two receivables have been identified in escrow accounts. They have been the subject of bailiff action, but the debtors have not complied. No vehicles have been seized.

36. As to prejudice, the Claimant points out that the project is nearing completion and the Defendant has provided no information whatsoever about its ability to meet its operational cashflow needs without falling back on the receivables. The Claimant notes that other creditors are circling.

37. Ultimately, the Claimant says, if execution is stayed, the attachments will be released and the funds will be removed.

38. The Claimant makes the further point that the issue in this case is not whether the Defendant owes the sums awarded to the Claimant, but whether that debt can be enforced in this Court. If it is right that this Court has no jurisdiction, then it will not lend its weight to execution. However, the fact that there is a debt is relevant to the assessment of the balance of prejudice pending determination of that jurisdiction dispute.

39. Third, the Defendant says there is a risk of double recovery. In this regard, the Defendant asserted that settlement discussions were advanced and any settlement could duplicate execution. The Claimant disputes that there is a settlement nearing completion. Nor have I been informed of any settlement actually occurring since the Defendant's submissions. In any event, should the case be settled, no doubt execution would be brought to an end. I do not consider this a relevant factor.

40. Fourth, the Defendant appealed to "the balance of justice" in general terms. The better course, it said, was to preserve the existing position.

41. Finally, the Defendant relied on its position that it had not been served. I have considered that point above and I reject it.

42. On balance, my view is that further execution measures should pause as they are. It is unclear to me precisely how that can be achieved and I return to that below. However, the reasons for my views are as follows:

    a. Execution is normally stayed pending an application to set aside an enforcement order of this sort. Had the set aside application been made in time, it seems to me it would have made little practical difference to the progress of this case, as it would very likely always have had to wait for the outcome of the Posco / Naftogaz appeal;

    b. I am not persuaded that the attachments put in place so far have caused or will cause harm to the Defendant. The Defendant has wholly failed to evidence its position. Even the Defendant does not appear now to advance its original position that execution had "effectively paralyzed the company's day-to-day commercial operations". That appears therefore to have been overstatement.

c. If however payment is ultimately made, but the AIFC Court order is set aside, the position may need to be unwound. It seems unlikely to me that the Court would endorse execution of an order which was made wholly without jurisdiction.

d. I do not consider that the Claimant positively needs to be paid now, rather than after the set aside is determined. Its real concern is that releasing the attachments will result in the money moving. So long as the money stays where it is, the position is preserved.

e. The position should be resolved relatively swiftly. The Posco / Naftogaz appeal has been heard and the judgment is likely to have a significant impact on this case. The award has been in place for some time. While prompt enforcement of valid AIFC Court judgments is plainly desirable, there is, in these circumstances, no obvious immediate urgency.

43. In the circumstances, I am prepared to make an order which preserves the current position but prevents further execution measures being taken. As set out above, the Claimant's position is that a blanket stay of execution will go further than that and will result in the release of the attachments. As I have said, I do not consider that is justified. I therefore invite the parties to seek to agree within 7 days a form of relief which will achieve the result I have decided above. If that proves impossible, the parties should write to the Court with their competing proposals, supported by brief written submissions. The Claimant may need to consider what other steps it can take to ensure that execution is paused, for example by writing to the bailiff.

44. Whatever the appropriate measures, it seems to me that they should continue until the application to set aside the enforcement order is decided.

By the Court,

Justice Tom Montagu-Smith KC,
Justice, AIFC Court

Representation:

The Claimant was represented by Mr. Sergei Vataev, Partner, Legit Advocates Bureau, Almaty, Republic of Kazakhstan.

The Defendant was represented by Mr. Darkhan Yestiyar, external lawyer, Astana, Republic of Kazakhstan, and Ms. Liana Harieta Cercel, external lawyer, Bucharest, Romania.