LLC Eurochem North-West-2 v Tecnimont S.P.A and another [2026] EWCA Civ 5

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The decision

1. The Court of Appeal dismissed the appellant's appeal and confirmed that the Court had jurisdiction under section 42 of the Arbitration Act 1996 (the '**1996 Act**') to make an order enforcing a tribunal's peremptory orders granting interim anti-suit relief, including relief requiring the withdrawal of foreign proceedings brought in breach of a London-seated arbitration agreement and relief directed at foreign "*anti-arbitration*" proceedings.

Analysis

2. **The Facts**. LLC Eurochem North-West-2 ('**NW2**'), a Russian company, engaged the respondents, Tecnimont S.P.A ('**Tecnimont'**) and MT Russia LLC ('**MTR**') as EPC contractors on three contracts dated 1 June 2020 for the construction of a urea and ammonia plant in Russia. All three contracts provided that any disputes between the parties would be referred to a London-seated ICC arbitration and that the governing law would be English law.

3. Tecnimont and MTR suspended the contracts on the grounds that EU sanctions prevented them from performing the contracts. NW2 denied the validity of the suspensions and consequently terminated the contracts.

4. Tecnimont and MTR commenced a London-seated ICC arbitration against NW2 and its parent company in August 2022. NW2 brought a counterclaim in the arbitration for damages for breach of contract and for repayment of advance payments.

5. In August 2025, NW2 and its parent company commenced proceedings in Russian courts, including (a) "*parallel*" claims seeking recovery of the sums counterclaimed in the arbitration and (b) applications seeking to restrain the contractors from pursuing the arbitration, supported by interim measures.

6. The arbitral tribunal made non-peremptory interim orders, followed by peremptory orders requiring NW2 to withdraw the Russian proceedings and to take steps to have the interim measures discharged. The respondents obtained the tribunal's permission to apply under section 42 of the 1996 Act, and Butcher J granted an injunction in materially the same terms as the peremptory orders, with a penal notice.

7. The appellant appealed on a sole issue of statutory construction: whether section 42 can be used to enforce peremptory tribunal orders granting interim anti-suit relief.

8. The case lies at the intersection of (i) English arbitration law and the court's supportive powers, (ii) injunctive relief restraining foreign proceedings brought in breach of arbitration agreements, and (iii) procedural enforcement mechanisms for tribunal orders. Limitation, substantive contractual interpretation, and enforcement of final awards were not in issue, save that the court located anti-suit relief within the statutory scheme governing the conduct of arbitral proceedings.

9. Popplewell LJ approached the appeal as a pure question of law, applying orthodox principles of statutory interpretation and reading the statutory words in context, with the words as the primary source of meaning. The court analysed the structure of sections 40–42: (i) a non-peremptory order or direction, (ii) a peremptory order "to the same effect" under section 41(5), and (iii) court enforcement under section 42.

10. **The Arguments**. The appellant's argument depended on two propositions: first, that the tribunal can make a peremptory order under section 41(5) only where the underlying non-peremptory order concerns something "*necessary for the proper and expeditious conduct of the arbitration*" (section 41(1)); and second, that anti-suit relief can never satisfy that description because it enforces the "*umbrella*" arbitration agreement's negative covenant, not obligations arising out of the "*reference agreement(s)*".

11. The respondents relied on section 41A, contending that the power of an emergency arbitrator to grant anti-suit relief could not be read as subject to the qualification of "*necessary for the proper and expeditious conduct of the arbitration*", and that there was no logical or good commercial reason for such power to be wider than those of the tribunal once constituted.

12. The Court's Decision. The Court (Popplewell, Philipps and May LJ) unanimously dismissed the appellant's appeal.

13. On the first proposition, the Court held that the text of section 41(5) was deliberately broad by the words "*any order or directions*": the power arose where a party "*fails to comply with any order or directions of the tribunal*". The Court treated section 41(1) as permissive and clarificatory, not as an implied limitation on the scope of section 41(5), particularly given the overarching scheme of party autonomy reflected elsewhere in the 1996 Act, including section 38.

14. If there was any genuine ambiguity, this was resolved by section 41A, which permitted any emergency arbitrator to grant such interim and conservatory measures and which did not expressly require these measures to be necessary for the proper and expeditious conduct of the arbitration. The Court held there was no logic or commercial sense in reading the court's power to enforce a duly constituted tribunal's peremptory orders as narrower than its power to enforce an emergency arbitrator's equivalent orders, particularly where institutional rules align the interim-measures powers (see [52]).

15. On the second proposition, the Court held that, as a matter of law, anti-suit relief was capable of being necessary for the proper and expeditious conduct of arbitral proceedings. It distinguished two forms: relief preventing parallel foreign proceedings and relief preventing foreign measures intended to restrain or impede the arbitration itself. The latter, "*anti-anti-arbitration*" relief, was treated as straightforwardly directed to enabling the arbitration to proceed. As to parallel proceedings, the Court held that they might interfere with expedition by diverting time and resources and might affect enforcement-related aspects of the arbitral process; those considerations fell within the concept of the conduct of arbitration proceedings. The Court also noted that Butcher J had made an unchallenged fact-finding that, on the facts, the anti-suit relief sought was necessary for the proper and expeditious conduct of the arbitration.

Impact of the decision

16. This decision strengthens the practical utility of section 42 of the 1996 Act as a mechanism for protecting London-seated arbitrations against hostile foreign proceedings. It confirms that, where a tribunal has power to grant interim anti-suit measures and converts them into peremptory orders after non-compliance, the court can "*lend its weapons*" to enforcement through a penal-notice injunction, without having to recast the application as a freestanding section 37 claim.

17. The case also underscores the importance of carefully chosen seats and rules. A London seat, coupled with institutional rules permitting interim measures and, after the 2025 reforms, emergency arbitrator mechanisms, increases the practical ability to obtain and enforce interim relief to stop parallel litigation designed to undermine the arbitral process. Conversely, parties should recognise that agreeing to confer broad procedural powers on a tribunal and to English supervisory law may expose them to court-backed sanctions if they choose to litigate elsewhere.

18. From a litigation strategy perspective, the judgment provides a structured approach: seek tribunal interim orders, escalate to peremptory orders if there is default, and then apply under section 42 with tribunal permission and proof that arbitral processes have been exhausted. A section 37 route may still be attractive where tribunal constitution is delayed or where relief is sought against non-parties, but section 42 now stands confirmed as a direct enforcement route for peremptory anti-suit orders where the preconditions are met.

05 March 2026

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