

**United Nations Commission on  
International Trade Law**CASE LAW ON UNCITRAL TEXTS  
(CLOUT)**Convention on the Limitation Period in the International Sale of Goods,  
unamended text (Limitation Convention, unamended text)****Case 2182: Limitation Convention (unamended text) 3; 8**

Ukraine: Dnipropetrovsk Commercial Court

Case No. 904/5097/15

*Limited Liability Company Selrus v. Open Joint-Stock Company Interpaip**Novomoskovsky Trubny Zavod*

25 January 2016

Original in Ukrainian

Available at: <https://reyestr.court.gov.ua/Review/55340475>Abstract prepared by Yuliya Chernykh, National Correspondent<sup>1</sup>

LLC Selrus, a company having its place of business in the Russian Federation (the seller), and JSC Interpaip Novomoskovsky Trubny Zavod, a company having its place of business in Ukraine (the buyer) entered into a contract for the supply of goods on 11 September 2012. As a result of the buyer's partial payment of the goods delivered, the seller commenced proceedings before the Dnipropetrovsk Commercial Court. In addition to the principal amount of debt owed by the buyer, the seller's claim included a contractual penalty calculated under Ukrainian legislation for which the question of the application of the Limitation Convention arose.

The buyer alleged that in accordance with Ukrainian domestic law the limitation period for recovery of the penalty had expired. The seller, in contrast, argued that, due to the international nature of the contract, the limitation period should be calculated according to the Limitation Convention, whose article 8 establishes a four-year limitation period. It also noted that the Convention shall apply since the parties had not expressly excluded its application pursuant to article 3.

The court found that Ukraine was party to the unamended version of the Convention, which pursuant to its article 3(1) applies only if, at the time of the conclusion of the contract, all parties have their places of business in Contracting States. Since the Russian Federation had signed the Convention on 14 June 1974, but had not ratified it, the court held that the Convention was not applicable in the case at hand. The court also noted that, insofar as the Convention did not provide otherwise, it applied irrespective of the law that might be applicable by virtue of the rules of private international law.

<sup>1</sup> Ms. Yuliya Chernykh was a National Correspondent at the time the abstract was prepared.



In considering the issue of penalty, the court applied a shorter limitation period in accordance with domestic law provisions and subsequently partially dismissed the claim for a penalty.

The decision was upheld on appeal<sup>2</sup> and affirmed by the Supreme Court.<sup>3</sup>

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**Note for the reader**

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<sup>2</sup> Dniprovsky Commercial Court of Appeal, decision of 19 July 2016.

<sup>3</sup> Supreme Commercial Court of Ukraine (cassation instance), decision of 30 November 2016.