



PCA PRESS RELEASE

ARBITRATION BETWEEN AEROPORT BELBEK LLC AND MR. IGOR VALERIEVICH KOLOMOISKY AS CLAIMANTS AND THE RUSSIAN FEDERATION

THE HAGUE, 6 JANUARY 2016

UNCITRAL Arbitration Commenced under the Ukraine-Russia Bilateral Investment Treaty; Russian Federation Raises Objection and Fails to Submit a Statement of Defense; Tribunal Decides to Proceed and Bifurcate

On 9 January 2015, arbitral proceedings were commenced by Aeroport Belbek LLC and Mr. Igor Valerievich Kolomoisky against the Russian Federation pursuant to the Agreement between the Government of the Russian Federation and the Cabinet of Ministers of Ukraine on the Encouragement and Mutual Protection of Investments, dated 27 November 1998 ("Ukraine-Russia BIT"), under the UNCITRAL Arbitration Rules 1976 ("UNCITRAL Rules").

In the Notice of Arbitration, the Claimants claim that the Russian Federation breached its obligations under the Ukraine-Russia BIT by taking measures, as of February 2014 that deprived the Claimants of their property, contractual and other rights to operate a passenger terminal for commercial flights at the Belbek International Airport in Crimea.

The Tribunal was constituted on 15 April 2015. It is comprised of Professor Pierre Marie-Dupuy (Presiding Arbitrator), Sir Daniel Bethlehem, KCMG, QC (appointed by the Claimants), and Dr. Václav Mikulka (appointed by the former appointing authority, Judge Bruno Simma, on behalf of the Respondent).

Following consultation with the Parties, on 20 May 2015, the Tribunal issued a first Procedural Order in which the Permanent Court of Arbitration ("PCA") was appointed as registry. On the same date, the Tribunal issued Rules of Procedure in which, *inter alia*, the procedural timetable was fixed.

The Russian Federation has not appointed any representatives. By letters dated 16 June 2015 and 1 July 2015 (received by the PCA on 2 July 2015), the Russian Federation indicated, *inter alia*, that the "[Ukraine-Russia BIT] cannot serve as a basis for composing an arbitral tribunal to settle [the Claimants' claims]" and that it "does not recognize the jurisdiction of an international arbitral tribunal at the [PCA] in settlement of the [Claimants' claims]." It also stated that nothing in its correspondence "should be considered as consent of the Russian Federation to constitution of an arbitral tribunal, participation in arbitral proceedings, or as procedural actions taken in the framework of the proceedings."

On 6 July 2015, the Tribunal informed the Parties that it considered the content of the Respondent's correspondence to constitute an objection to the jurisdiction of the Tribunal and the admissibility of the Claimants' claims under Article 21 of the UNCITRAL Rules.

On 30 June 2015, the Claimants filed their Statement of Claim. The Respondent failed to submit a Statement of Defense by 30 September 2015, the deadline fixed in the Rules of Procedure. On 30 October 2015, the Tribunal ordered, pursuant to Article 28(1) of the UNCITRAL Rules, that these proceedings would continue notwithstanding the Respondent's failure to communicate a Statement of Defense.

Having afforded the Parties an opportunity to be heard, on November 30, 2015, the Tribunal decided to proceed on the basis of a bifurcated proceeding that would address issues of jurisdiction and admissibility in a preliminary procedure.

A modified procedural timetable has been notified to the Parties. As foreseen in the timetable, the Tribunal posed questions to the Parties on 18 December 2015. Answers to the Tribunal's questions are due by 29 February 2016. Hearing dates for the preliminary procedure have yet to be fixed.

Under the instructions of the Tribunal, the PCA will issue press releases from time to time containing information on the procedural steps taken by the Tribunal. Basic information about the proceedings is available on the PCA Case Repository <http://www.pcacases.com>.

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