



A three years long multi-million investment arbitration dispute terminated in favor Of the republic of Kazakhstan

Published on: 12 November 2018 - 09:50

On 8 November 2018, the Arbitration Tribunal of the International Chamber of Commerce (“Tribunal”) issued a decision rejecting all the claims of the Turkish company Mağdenli Yer Hizmetleri ve Taşıma Anonim Şirketi (“Claimant”) to the Republic of Kazakhstan.

In March 2015, the Claimant, who together with JSC “SPK Atyrau” is the founder of JSC “ATMA - Atyrau Airport and Transportation”, initiated arbitration proceedings against the Republic of Kazakhstan.

On June 4, 2018, the main hearings took place at the International Chamber of Commerce in Paris. The Claimant accused the Republic of Kazakhstan of having expropriated services for the supply of fuel, cargo and helicopter services by establishing the JSC Atyrau International Airport. It further purported that the Republic of Kazakhstan is under an obligation to compensate for the Claimant's alleged additional investments in ATMA - Atyrau Airport and Transportation.

The total amount of claims was estimated to be around USD 16 million plus interest and costs.

Having examined the arguments of the parties, the Tribunal dismissed the Claimant's claims in their entirety. The Tribunal concluded that the Government of Kazakhstan did not take any action to expropriate services for the supply of fuel, cargo and helicopter services. The Tribunal further decided that the Government of Kazakhstan at no time prevented the Claimant from collecting its additional investments.

The Arbitral Tribunal also emphasized that the Kazakh judicial system did not violate the rights of foreign investors and that it complied with the principles of legality and justice.

The Tribunal also ruled that the Republic of Kazakhstan was not under any obligation whatsoever to compensate the Claimant for its alleged additional investment, and concluded that Kazakhstan's international obligations to protect foreign investment were fully implemented and respected.

The Tribunal ruled that the Claimant must bear all expenses of the Arbitral Tribunal and the administrative expenses in an amount of around USD 500,000.

The Minister of Justice Marat Beketayev comments: "This decision fully vindicates the Republic of Kazakhstan. We remain fully committed to welcome and protect foreign investors on the territory of the Republic of Kazakhstan."

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