
MEDIA CONTACTS
Kimberly Macleod
(917) 587-0069
kim@kmacconnect.com

News Release

Chris Winans
(908) 309-3959
chris@kmacconnect.com

FOR IMMEDIATE RELEASE

**U.S. FEDERAL COURT COMPELS KAZAKHSTAN TO DISCLOSE ASSETS UNDER
THE THREAT OF SANCTIONS
Ruling Issued in Aid of Enforcement of a US\$543 Million U.S. Court Judgment
in Favor of Moldovan Investors**

New York, NY – A federal court in Washington, D.C., handed down its order in *Anatolie Stati et al v Republic of Kazakhstan* compelling the Republic of Kazakhstan to provide wide-ranging discovery of its assets on a worldwide basis.

The court’s ruling follows Kazakhstan’s continued refusal to pay a US\$543 million U.S. court judgment confirming an international arbitral award rendered in December 2013 on U.S. soil. The award is intended to compensate the Stati parties for Kazakhstan’s seizure of their investments in that country, which a Sweden based arbitral tribunal found violated international law.

Because Kazakhstan has refused to voluntarily pay the judgment, the Stati parties have sought information about Kazakh state assets that can be attached to satisfy the judgment. Kazakhstan has resisted these efforts and to date has refused to produce any documents or information about its assets. The federal court strongly criticized Kazakhstan’s conduct, finding that it had violated two separate court orders in this regard, and ordered it to produce broad categories of information and documents to the Stati parties to assist their execution efforts. In doing so, the court warned that “the Republic of Kazakhstan and its counsel needs to get that into their heads because the level of intransigence that we’ve seen to date is not acceptable and it officially ends today.”

Noting that Kazakhstan “had yet to produce a single piece of paper,” in breach of multiple previous U.S. court orders, the district court gave Kazakhstan a final chance to comply with the Stati parties’ discovery requests, failing which “both respondent [Kazakhstan] and its counsel will be subject to contempt.” In this context, the court found that Kazakhstan “has failed to grapple with the basic and undisputed starting points” underpinning the legal framework of these proceedings, by reiterating that “post-judgment discovery is not limited to questions about attachable assets,” as a result of which “information about assets and transactions in other countries could bear on the existence of assets in the United States.”

The court concluded by noting that “Kazakhstan repeatedly insists that this is a foreign arbitral award and its assets are in foreign countries. The way to avoid further proceedings in the United States, then, would be to satisfy the arbitral award with those assets and jointly inform the Court that that has been accomplished.”

Anatolie Stati, CEO and sole shareholder of Ascom Group S.A., one of the judgment creditors, said: “We respectfully welcome this ruling of the U.S. court and fully take on board the comments made by the learned Judge. In the meantime, foreign investors in Kazakhstan should take note of the country’s repeated failure to honor the investment protections that it claims it provides to foreign investment, which becomes particularly notable against the background of several dozens of millions of dollars of Kazakh taxpayers’ money that is being spent by Kazakh authorities every year on legal actions aimed at avoiding compliance with its international treaty obligations – obligations which have long been converted into a final and binding U.S. court judgment”.

In addition to the U.S. enforcement action, the Stati parties have successfully secured and maintain the benefit of various attachments of Kazakh state property in the Netherlands, Sweden, Luxembourg and Belgium, with the combined total value of all attachments worldwide exceeding US\$6.25 billion.

The U.S. court ruling is the latest development in the Stati parties’ long-running battle to enforce the award for Kazakhstan’s violations of the investor protection provisions of the Energy Charter Treaty. In December 2013, a Sweden based arbitration tribunal found that Kazakhstan had violated international law by failing to treat the Stati parties’ investments in Kazakhstan fairly and equitably, and awarded the Stati parties more than US\$500 million in damages, legal costs, and interest. The award has since been fully upheld by two tiers of the Swedish judiciary, including the Swedish Supreme Court.

The claims originally arose out of Kazakhstan’s seizure of the Stati parties’ petroleum operations in 2010. The Stati parties acquired two companies in 1999 that held idle licenses in the Borankol and Tolkyk fields in Kazakhstan. They invested more than US\$1 billion over the ensuing decade to turn the companies into successful exploration and production businesses. By late 2008, the businesses had become profitable and had yielded considerable revenues for the Kazakh state. Just as the Stati parties expected to start receiving dividends, more than half a dozen government agencies carried out multiple burdensome inspections and audits of the companies’ businesses that resulted in false accusations of illegal conduct directed at the Stati parties and their Kazakh companies, including criminal prosecutions of their general managers on false pretenses. Kazakhstan’s actions challenged the Stati parties’ title to their investments, subjected them to hundreds of millions of dollars in unwarranted tax assessments and criminal penalties, and ultimately led to the seizure and nationalization of their investments by Kazakh authorities in July 2010.
