
Hughes Hubbard & Reed

Firm Helps Advance Crimea Arbitrations Against Russia

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February 15, 2019 — The new year brought several developments in the firm's efforts to recover compensation for Ukrainian investors whose businesses and property in Crimea were taken by the Russian Federation after its annexation of Crimea in 2014.

Hughes Hubbard represents the investors in five arbitration proceedings against Russia under the Ukraine-Russia bilateral investment treaty (BIT), all administered by the Permanent Court of Arbitration (PCA) at The Hague without Russia's participation.

Russia mounted a double-barreled attack in the Dutch courts on the first award on the merits secured in any of the Crimea arbitrations, together with the earlier decision affirming jurisdiction in the same arbitration. In December and January, Russia asked The Hague Court of Appeal to set aside the \$159 million award that HHR obtained in May 2018 for Everest Estate LLC and other Ukrainian real estate investors (the Everest investors) in an arbitration seated in the Netherlands. Russia also asked that court to suspend enforcement of the award while the set-aside application is pending. HHR is working with the NautaDutilh firm in Amsterdam to defend the award and to oppose both applications.

Meanwhile, in Ukraine, the Everest investors brought an action in the Kiev Court of Appeal seeking recognition of the PCA award and asking that court to attach the shares in three Ukrainian banks held by Russia through three state-owned Russian banks. The court granted recognition and enforcement, and attached the shares in a proceeding in which Russia also refused to participate. The banks whose shares were attached appealed, and on Jan. 25, 2019, the Supreme Court of Ukraine affirmed both decisions, a victory covered in Global Arbitration Review.

Shortly afterwards, the tribunal hearing the other two Dutch-based arbitrations issued awards. These involved claims on behalf of the owners of Belbek Airport, a private airport in Sevastopol, and PrivatBank, the largest bank in Ukraine. The tribunal hearing both claims issued interim awards in March 2017, finding that it had jurisdiction to hear the claims. On Feb. 4, 2019, the tribunal issued partial awards on liability in both cases, finding Russia liable

for its unlawful expropriation of the airport and of PrivatBank's banking business in Crimea. Both arbitrations will now go forward to a quantum phase to determine the amount of compensation to which the claimants are entitled.

In two other PCA arbitrations in which HHR represents the owners of a chain of petrol stations in Crimea, both seated in Switzerland, the Swiss Supreme Court issued a written judgment on Nov. 15, 2018, rejecting Russia's attempt to set aside the June 2017 awards on jurisdiction in those cases. Swiss law (unlike Dutch law) permits challenges to an award dealing with jurisdiction before the final award, and HHR worked with the Lalive firm in Switzerland to defend these jurisdiction awards. HHR is now awaiting awards on liability and quantum in the petrol station cases.

John Townsend and Jim Boykin lead the HHR Crimea team, which includes Vitaly Morozov, Leon Ioannou, Eleanor Erney, Marina Drapey, Alex Bedrosyan, Stijn Winters, and paralegals Svitlana Stegnyy and Lauryn Hardy.

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John M. Townsend



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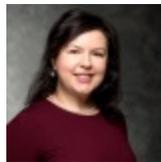
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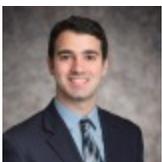
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