

Stockholm Court Upholds \$84 Million Asset Freeze On Kazakhstan's State Assets In Sweden

Frozen Assets Secure a US\$535 Million Award Against Republic of Kazakhstan

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Ascom Group S.A. →

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NEW YORK, July 8, 2019 /PRNewswire/ -- On July 5, 2019, Nacka District Court in Stockholm issued a judgment upholding earlier decisions by the Swedish Enforcement Agency allowing various attachments in favor of Anatolie Stati, Gabriel Stati, Ascom Group S.A., and Terra Raf Trans Trading Ltd (together, "the Stati parties") with respect to the Republic of Kazakhstan's state assets in Sweden.

The assets in question represent proceeds of shareholdings and related economic rights in multiple Swedish listed companies owned by the Republic of Kazakhstan as part of the savings portfolio of the state National Fund. The proceeds are currently held in the Swedish bailiff's escrow account in an amount of SEK 790,284,526 (approximately US\$84 million).

In its Judgment dismissing separate appeals brought by Kazakhstan and the National Bank of Kazakhstan ("NBK"), Nacka Court first held that it had jurisdiction to decide on the validity of the attachments by virtue of the fact that the requisite securities were deemed to be located in Sweden. The court further held that the assets in question unquestionably belonged to the Republic of Kazakhstan rather than NBK who had previously intervened in the proceedings as a third party.

The court went on to conclude that "*none of the circumstances referenced by the appellants entail that the property is immune against measures of constraint*", thus upholding the Stati parties' position that neither Kazakhstan nor NBK were entitled to rely on the state immunity defense in these proceedings. Finally, Nacka District Court awarded the Stati parties their claimed legal costs in an amount of approximately US\$865,000.

Anatolie Stati, CEO and shareholder of Ascom Group, one of the respondents to the action, said "We welcome the latest judgment of Nacka District Court, which confirms the pro arbitration policy adopted by Swedish courts " Stati added "The decision entitles us to proceed with the foreclosure process with respect to the proceeds of the attached shares, which we expect to be completed by early 2020 "

The Swedish court's 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 tribunal constituted under the auspices of the Stockholm Chamber of Commerce found that Kazakhstan violated its international obligation to treat the Stati parties' investments 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.

In aid of its efforts to obtain recovery under the award, the Stati parties have to date secured multiple attachments of Kazakhstan's state property worth approximately US\$6 billion before various courts in the Netherlands, Belgium, Sweden and Luxembourg.

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 Tolkyn 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.

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