

Țuca Zbârcea & Asociații law firm wins an arbitral dispute worth EUR 5.5 million



An irrevocable ruling handed down by the supreme court in a EUR 5.5 million arbitration ends a nine-year-long dispute whereas Țuca Zbârcea & Asociații represented a private company.

The dispute arose from a contract concluded in 2007. Under such contract, a private company had undertaken obligations to design, deliver, install and train the beneficiary's staff in connection with the performance of an electronic archiving system.

Given that its contractual partner (a public authority) refused to pay the second instalment of the agreed price, the company initiated in 2012 an arbitral dispute before the International Commercial Arbitration Court of the Chamber of Commerce and Industry of Romania.

Initially, by an arbitral award handed down in 2015, the arbitral tribunal admitted the claims consisting in the price balance, and it forced the public authority to pay approximately EUR 5.5 million. Next, in 2016, the Bucharest Court of Appeal admitted the action for annulment filed by the public authority and annulled the arbitral award, retaining that the dispute could not be subject to arbitration. Finally, the company lodged a final appeal against such ruling before the High Court of Cassation and Justice and this month, the supreme court handed down its irrevocable ruling whereby it allowed the company's final appeal and thus it maintained the initial arbitral award.

This closes a real saga arising from this contract. At the end of 2019, the supreme court previously handed down a final ruling in yet another dispute between the same parties, whereas the company had requested the refund of the amount of the letter of bank guarantee abusively enforced by the beneficiary. At that time, the High Court of Cassation and Justice rejected the authority's final appeal and thus it maintained the arbitral award under which the authority had been obliged to pay an amount of approximately EUR 1.4 million.

The case involved a variety of legal reviews, debates on issues such as international contract law and the effects of Romania's commitments towards the European Commission, the limits of arbitrability from the perspective of general and special procedural rules, the delimitations between various types of contracts entered into with the public authorities on the basis of general or special rules, the application of the principles of contractual liability in a complex relationship, both from the perspective of the obligations assumed by the parties and from the perspective of the way in which such relationship evolved.

The ruling of the supreme court contributes to the consolidation of arbitration as a viable alternative for the relief of the courts and to the observance of the principle of the binding force of the contracts between private companies and public authorities.

In this dispute, the applicant was represented by a legal team coordinated by **Cornel Popa** and **Ioana Gelepu**, *Partners* in the *Litigation and Arbitration* practice group of **Țuca Zbârcea & Asociații**, as well as **Cornelia Tabîrța**, *Managing Associate* within the same department.

Țuca Zbârcea & Asociații has a leading practice in *Dispute Resolution*, the firm's pre-eminence in this area being already acknowledged by renowned international publications, such as *Chambers & Partners*, *Legal 500* and the *Global Arbitration Review*.

More so, the firm is a recipient of the 2020 “*Law Firm of the Year in Romania for Dispute Resolution*” Award by Benchmark Litigation Europe (a publication of Euromoney Legal Media Group), one the most coveted and prestigious international accolades for law firms specialising in litigation and arbitration.