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The International Arbitral Tribunal of the World Bank dismissed unprecedented mass claim of depositors and bondholders affected by Cyprus' bank resolution measures amounting to 600 million US dollars

Decision of the Arbitral Tribunal of the International Centre for Settlement of Investment Disputes in the arbitration Theodoros Adamakopoulos and others v. Republic of Cyprus

On 21 May 2024, the Republic received the Decision on Liability of the Arbitral Tribunal constituted under the Arbitration Rules of the International Centre for Settlement of Investment Disputes (ICSID) of the World Bank, in the arbitration titled *Theodoros Adamakopoulos and others v. Republic of Cyprus* (ICSID Case No. ARB/15/49).

The Tribunal has unanimously dismissed all of the claims of the claimants, who were depositors and bondholders of Bank of Cyprus and Cyprus Popular Bank (Laiki) at the time the resolution measures were applied to the banks in 2013, with the exception of a unique claim of a single claimant. The Tribunal has ordered the claimants to pay the Republic approximately USD 6 million in costs. It is noted that the total claim against the Republic of Cyprus amounted to approximately 570 million US dollars (including interest), plus costs to the amount of approximately 30 million US dollars.

The claimants consist of 968 natural persons and six companies, who are Greek nationals with the exception of one company that is incorporated in Luxembourg. The claimants initiated the arbitration under the Republic's bilateral investment treaties with Greece and Luxembourg. They claimed that the Republic should be held responsible for the losses they incurred in connection with the resolution measures because the Republic allegedly caused the banks' financial problems, failed to adopt available alternative measures that would have avoided or largely limited their losses, and applied the resolution measures in an expropriatory and discriminatory manner.

The Republic rejected those allegations as baseless in the arbitration and welcomes the Tribunal's decision finding that the resolution measures did not breach its obligations under the investment treaties and were not arbitrary, disproportionate, expropriatory or discriminatory.

In particular, the Tribunal concluded that the measures of March 2013 were a legitimate exercise of the regulatory power of the State acting in the public interest. It confirmed the position of the Republic in the proceedings, including the explanations given by the Attorney-General of the Republic, Mr. George L. Savvides, at the hearing on the merits held between 25 January 2023 – 7 February 2023, that if the resolution measures were not adopted, there would have been a disorderly collapse of the banks and of the economy as a whole. The Tribunal further confirmed that the decision to invoke the resolution measures was a decision reached in light of an appreciation that there were no other options available and upheld the responsible action taken by the officials of the Central Bank of Cyprus in preparing for all contingencies, as well as that the Central Bank had satisfied itself that the shareholders, bondholders and depositors would not have been better off if the banks had been allowed to collapse and gone into liquidation.

The Republic of Cyprus is conducting a detailed review of the Decision. Furthermore, the Republic will examine the particular case of the sole claimant, who was treated as an exceptional case by the Tribunal and with regard to whom it found a violation, not as to the lawfulness of the resolution measures adopted by the Republic, which were found lawful in their entirety, but because it concluded that the State did not treat him in a similar manner as other exceptional cases at a later stage.

The Republic of Cyprus was represented before the ICSID Tribunal by the international law firm Curtis, Mallet-Prevost, Colt & Mosle LLP and the Attorney-General of the Republic, together with a team of lawyers of the Law Office of the Republic, and officers of the Central Bank of Cyprus and the Ministry of Finance.

The Attorney-General of the Republic wishes to extend sincere thanks to all those who worked on the case and contributed to this successful result, and in particular the following:

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