



Firm News

Victory for the Republic of Tunisia

A team from Quinn Emanuel Paris (and co-counsel from the previous law firm of lead partner [Isabelle Michou](#)) defeated claims amounting to over USD 12 billion for its client, the Republic of Tunisia, thereby allowing Tunisia to commence 2024 free of a dispute that has hung over it and its people for two decades.

The dispute arose out of the Claimant (ABCI Investments)'s transfer in 1982 of 2.5 million Tunisian dinars (about 4 million USD at the time) to the Central Bank of Tunisia, to acquire 50% of the capital of the Banque Franco-Tunisienne (BFT), Tunisia's smallest bank. Amid allegations of misappropriation of corporate assets and other mismanagement, and ensuing criminal proceedings initiated against one of ABCI's sole director, the other shareholders of the bank (with the State's help) sought to facilitate ABCI's exit from BFT. In that context, ABCI entered into a series of settlement agreements with (inter alia) the State. ABCI thereafter claimed that it had only entered into those settlement agreements under duress.

ABCI commenced ICSID arbitration in 2003, having failed to prosecute successful claims in other fora. When the arbitration eventually began in 2007, ABCI ran just about every argument imaginable. In 2011, the then Tribunal held that it did not have jurisdiction on any of the grounds asserted by ABCI, with the exception – for the majority – of Tunisia's historic foreign investment law. Following unsuccessful attempts to settle the dispute (without the involvement of external counsel), the arbitration resumed in 2016. In 2017, in a decision on liability, the Tribunal – by the same majority – found that an expropriation, denial of justice and violation of the FET standard had occurred at the time of the settlement agreements, apparently on the sole basis of a political declaration made by the Tunisian Court of Cassation in the context of the transitional (and exceptional) process following Tunisia's "Jasmine Revolution" and the ousting of former President Zine El Abidine Ben Ali. Emboldened by the majority's decision on liability, ABCI duly inflated its damages claim from the USD 900 million advanced in the Request for Arbitration, to USD 12 billion.

A newly-constituted Tribunal had conduct of the phase dealing with causation and quantum, following the resignation of each of the members of the original tribunal. After extensive briefing on causation and quantum and a hearing, on December 22, 2023, the Tribunal issued an award dismissing ABCI's claims for over USD 12 billion. Instead, the Tribunal ordered compensation in the purely nominal amount of approximately 1 million Tunisian dinars – the equivalent of approximately USD 350,000 (or 0.003% of the amounts claimed) interest included. The Tribunal also refused to order Tunisia to pay ABCI's legal fees.

While Tunisia has consistently argued that the majority's decision to uphold jurisdiction was untenable in the first place, this victory provides a salutary reminder of the importance of establishing a cogent, consistent and principled legal case in the face of an opposing party's ever-shifting arguments, whose only real objective is to achieve a windfall outcome. It also shows that – as legal principle requires – a party cannot expect to recover monetary compensation, where an alleged violation does not cause financial loss. Even if liability is established, everything may still be to play for.

The case is: *ABCI Investments Limited v. Republic of Tunisia*, ICSID Case No. ARB/04/12