

## Azerbaijan sued over sewage



Baku, Azerbaijan (Credit: flickr/David Davidson)

Tom Jones  
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A Turkish businessman has filed an ICSID claim against Azerbaijan alleging that his investment in a sewage collection project was expropriated by the state.

Cem Selçuk Ersoy's claim under the Turkish-Azerbaijan bilateral investment treaty was registered by ICSID yesterday. The claim is understood to be for US\$60 million.

Ersoy is represented by a team from New York disputes boutique Mololamken led by counsel **Rémy Gerbay**, who moved to the firm in October, alongside co-counsel Pera Partners in Istanbul. He has also appointed two barristers, **Christopher Harris** and **Cameron Miles** of 3 Verulam Buildings in London.

Azerbaijan has yet to formally instruct external counsel. In past cases at ICSID the state has either been represented by a team led by **Stephen Jagusch QC** of Quinn Emanuel Urquhart & Sullivan or **Robert Volterra** of Volterra Fietta – in both cases while at their previous firms, Allen & Overy and Latham & Watkins, respectively.

Ersoy, an engineer by background who has spent the majority of his professional life in Azerbaijan, owns a locally incorporated company which was awarded contracts by the state to excavate two sewage collector tunnels in a facility near its capital, Baku.

The contracts were part of a drive by the government to improve its infrastructure to improve water quality in Azerbaijan. A combination of limited water flow and pollution means that the oil-rich country is estimated to be able to provide safe drinking water to only 50% of its residents.

It is understood that Ersoy claims that the actions of one of Azerbaijan's water authorities, and later its tax authorities, were unfair and amounted to expropriation of his investment.

It is not the first ICSID claim Azerbaijan has faced from a Turkish claimant. The state settled a dispute with Turkish electricity company Barmek in 2009, with Volterra, acting as the state's counsel at the time, insisting the settlement was a complete "vindication" of its position.

In the same year Azerbaijan settled an ICSID dispute with Dutch metals company Fondel, this time represented by Jagusch's Allen & Overy team. Once again, the state claimed the agreement wholly vindicated its position that "these claims should never have been brought".

The one claim against Azerbaijan that has led to an award was filed by the Dutch former parent company of the state's largest oil producer, Azpetrol, under the Energy Charter Treaty.

In 2009 a tribunal made up of **Florentino Feliciano**, **Charles N Brower** and **Christopher Greenwood QC** ruled that the parties had concluded a "drop-hands" settlement. In a remarkable twist in events, Jagusch and **Juliet Blanch**, then of McDermott Will & Emery, later had to take to the witness stand to give evidence regarding the settlement talks, which had been prompted by an oil executive admitting to bribery.

*Cem Selçuk Ersoy v Republic of Azerbaijan* (ICSID Case No. ARB/18/6)

#### Counsel to Ersoy

- Mololamken

Counsel **Remy Gerbay** in New York with partner **Robert Kry** in Washington, DC and associate **Dan Michaeli** in Chicago

- Pera Partners

Partner **Ozan Ondes** and **Cihan Eren** in Istanbul

- **Christopher Harris** and **Cameron Miles** of 3 Verulum Buildings in London

#### Counsel to Azerbaijan

- Government lawyers in Baku