

## Brussels court maintains Albanian asset freeze

Susannah Moody  
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*The offices of Eurocontrol (Credit: Shutterstock/Kent Johansson)*

The Brussels Court of Appeal has upheld an attachment over Albanian air traffic control revenues obtained by Italian investors seeking to enforce an €110 million ICSID award.

On 15 May, the Belgian court dismissed an appeal by Eurocontrol, the Belgium-based aviation body that owes revenues to Albania, to overturn attachment orders obtained last year by Francesco Becchetti and several other Italian investors.

The appeal court rejected Eurocontrol's arguments that the attachments should be lifted as the frozen funds were not owed to Albania but to Albcontrol – a separate entity set up by Albania to receive the charges. Albania, Albcontrol and Belgium all intervened in the proceedings.

Becchetti and the other investors were represented by Quinz and Strelia in Brussels, who took over from Loyens & Loeff in February. Eurocontrol was represented by Xirius and Baker McKenzie, while Albcontrol instructed Everest Law.

Albania had previously instructed CMS before using NautaDutilh. Belgium was also represented by Xirius.

The investors are seeking to enforce an award [issued](#) in 2019 by an ICSID tribunal chaired by Australia's **Michael Pryles** with **Charles Poncet** and **Ian Glick KC**. The tribunal found that Albania had expropriated their investment in a television station in the country, in violation of its bilateral investment treaty with Italy. The award was [upheld](#) by an ad hoc committee in 2021.

Becchetti and the other investors [obtained](#) an ex parte attachment over funds Eurocontrol owed to Albania in 2021. That order froze an initial €170,000 in airway and terminal charges but paved the way for further funds to be seized in the future.

The Belgian Court of First Instance [upheld](#) that attachment in May last year, leading Eurocontrol to file its appeal with the support of Albania and Albcontrol.

Eurocontrol had argued that the attachment should be reversed, on the grounds that the fees it owed were due to Albcontrol and not Albania. It said that Albcontrol had a separate legal personality to the state and therefore the fees could not be seized in aid of Albania's debt.

In the latest judgment, the Belgian Court of Appeal disagreed – finding that it was clear from previous agreements between Eurocontrol and Albania that the state, and not Albcontrol, was the legal creditor of the outstanding fees.

The court also noted that Eurocontrol had previously filed garnishee declarations confirming that Albania was entitled to the fees. It said the organisation's change in position was "completely unbelievable".

The Belgian state had also intervened to release the attachments, arguing that the Albanian assets should be protected by sovereign immunity and warning there could be a "major and particularly serious diplomatic incident" between the two states if the attachments were enforced. Belgium also argued that it needed to maintain close diplomatic relations with Eurocontrol as a member and the host country of the organisation's headquarters.

On the potential immunity of the assets, the court found that Albania had provided an undertaking to pay the award if its application to annul the award proved unsuccessful. Since that application was dismissed and Albania has not yet paid its debt, the court found the fees fell under an exemption to the general rule that foreign assets cannot be seized on Belgian soil.

The court did however find that an attachment relating to the ICSID ad hoc committee's decision that Albania should pay US\$1.7 million towards the costs of its annulment application was not enforceable in Belgium, and reversed the first instance judgment on that point.

GAR understands that around €65 million of Albania's funds have been frozen by Becchetti and the other investors as they seek to enforce their award. In 2021, the District Court of The Hague [lifted](#) attachments over oil revenues, finding the investors had not proven that they were not for public use.

In March, an ICSID tribunal [refused](#) to revise the award after a Tirana court convicted Becchetti and two other investors of fraud, forgery, money laundering, tax evasion and smuggling. The investors deny wrongdoing and are appealing the judgment.

The panel's refusal to reopen the award [prompted](#) Albania's prime minister Edi Rama to announce the state was "analysing the possibility" of withdrawing from ICSID, as he chastised the decision as "scandalous".

Becchetti tells GAR: "After four years of culpable delay on the part of the Rama government in complying with the ICSID award, which has caused us further serious economic damages, Albania must definitively comply with this exemplary ruling of the Brussels Court of Appeal."

"A heartfelt thanks to the important work of my lawyers in Belgium, **Benoit Allemeersch, Jean-Pierre Fierens** and the entire legal team."

*Eurocontrol BCE v Francesco Becchetti, Liliana Condomitti, Mauro De Renzis, Costruzioni Srl, Hydrol Srl, with Albania, Albcontrol and the Belgian State as intervening parties*

*Brussels Court of Appeal*

#### Bench

- **Dominique Degreef** (president)
- **Samira Ben Amar**

#### Counsel to Eurocontrol

- Xirius

Partner **Patrik de Maeyer** in Brussels

- Baker & McKenzie

Partner **Gregory Lebrun** in Brussels

#### Counsel to Becchetti and others

- Quinz (from February 2023)

Partner **Benoit Allemeersch**, senior associate associate **Bénédicte Mélot** and associates **Brice Hennen** and **Hannelore Buelens** in Brussels

- Strelia (from February 2023)

Partners **Jean-Pierre Fierens** and **Joanna Kolber**

- Loyens & Loeff (until February 2023)

Partners **Hakim Boularbah** and **Olivier van der Haegen** and associate **Alice Boulvain** in Brussels

Counsel to Albania

- NautaDutilh

Partners **Stan Brijs** and **Sophie Jacmain**, senior associate **Gisèle Uwera** and associate **Nicolas Velde** in Brussels

Counsel to Albcontrol

- Everest Law

Partners **Stéphane Bertouille** and **Lucien Kalenga-Kalonji** in Brussels

Counsel to Belgium

- Xirius

**Emmanuel Jacobowitz** in Brussels

*In the Belgian Court of First Instance*

Counsel to the investors

- Loyens & Loeff

Partners **Hakim Boularbah** and **Olivier van der Haegen** and associate **Alice Boulvain** in Brussels

Counsel to Albania

- CMS

Partner **Jean-François Goffin** and senior associate **Jean-Luc Hagon** in Brussels

*Hydro Srl and others v Republic of Albania (ICSID Case No. ARB/15/28)*

*In the revision proceedings*

Panel

- **Grant Hanessian** (President)(US)
- **Robert Anderson KC** (British)
- **Charles Poncet** (Swiss)

Counsel to Hydro and others

- Debevoise & Plimpton

Partners **Catherine Amirfar** and associates **Romain Zamour**, **Moeun Cha**, **Janine Godbehere** and **Perpetua Chery** in New York, and partner **Samantha Rowe** in London.

Counsel to Albania

- Omnia Strategy

Partners **Cherie Blair KC**, **James Palmer** and **James Dingley**, associate **Emily Pica** and analyst **Ben Wheadon** in London.

- **Lucan Bastin KC** and **Chester Brown** of Essex Court Chambers
- **Cameron Miles** of 3 Verulam Buildings
- State Advocate's office, Republic of Albania

**Elira Kokona, Odise Mocka and Manuela Imeraj** in Tirana

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