



LANDMARK STATE IMMUNITY CASE

JULY 2017

Following the [landmark case](#) in Jersey's Court of Appeal in August 2016, which upheld the decision of the Royal Court from earlier that year, state owned Turkish oil & natural gas company, Botaş, has been given leave to appeal to the Privy Council.

Dispute resolution partner at Collas Crill, Dr Elena Moran, has successfully represented Tepe, a construction company based in Turkey, in the Royal Court and the Court of Appeal. The case concerns the enforcement by Tepe of several ICC Arbitration Awards by the arrest of Botaş' shares in two Jersey registered subsidiaries.

Why is this important?

The central legal issue in the case is whether the Republic of Turkey has sufficient interest in or control over the shares in the two Jersey subsidiaries to make them the property of the Republic and therefore protected by state immunity.

Whilst the Jersey Court of Appeal recognised that the doctrine of state immunity is an important one, it disagreed that the protection it affords should be extended to the shares of an indirectly owned subsidiary. Had the Republic been successful in its claims many state owned enterprises would be able to claim state immunity over their shares in foreign owned subsidiaries.

This case has wide ranging implications and raises important questions regarding the protection for creditors of state owned enterprises.

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