

In new ruling, majority arbitrators allow mass arbitration against Cyprus to proceed to the merits

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An ICSID tribunal in [Theodoros Adamakopoulos et al. v. Cyprus](#) has upheld jurisdiction over claims brought by some 1,000 depositors and bondholders in Cyprus Popular Bank and the Bank of Cyprus, in relation to measures taken by Cyprus in the wake of its 2013 financial crisis.

The claimants initiated ICSID arbitration proceedings in 2015, arguing that Cyprus violated the Cyprus-Greece BIT and the Cyprus-BLEU BIT when it adopted certain measures against the Cyprus Popular Bank (also known as Laiki Bank) and the Bank of Cyprus. ([As we've reported](#), in May 2012, Cyprus' Ministry of Finance issued a decree allowing the government to increase its stake in Laiki Bank to 84%).

In the (still unpublished) February 7, 2020 decision on jurisdiction, a tribunal of [Donald McRae](#) (chair, appointed by ICSID), [Alejandro Escobar](#) (nominated by claimants on November 9, 2018, after the passing away of their initial nominee, [Francisco Orrego-Vicuna](#)) and [Marcelo Kohen](#) (respondent's nominee) upheld jurisdiction over the dispute despite the mass-nature of the claims.

[UPDATE, February 10, 2020: *IAREporter* has now obtained a copy of the February 7, 2020 jurisdictional decision ([click here to download](#)). The decision reveals that only a majority of Donald McRae and Alejandro Escobar upheld jurisdiction over the claimants' claims, with Marcelo Kohen penning a (still unpublished) Statement of Dissent. We will offer an in-depth analysis of the decision on jurisdiction in the upcoming days.]

[According to a press release by the claimants' counsel](#), the tribunal considered that the claims were sufficiently homogenous to warrant a mass claim, considering that the claims were all brought under identical treaty provisions and arose out of similar government measures. *IAREporter* has learned that the tribunal also rejected Cyprus' intra-EU jurisdictional objection.

Thus, the tribunal will now proceed to examine the merits of the dispute.

The claimants are represented by Fietta in London, Grant & Eisenhofer in New York, Kessler Topaz Meltzer & Check in Radnor, Kyros Law in Athens, and Chrysthia Papacleovoulou in Nicosia. Cyprus relies on counsel from Curtis, Mallet-Prevost, Colt & Mosle in New York and Paris.

While the Adamopoulos case remains pending, three previous tribunals have ruled in favor of Cyprus in disputes brought by investors in its banking sector: see our reports on the SCC case [Tomasz Czescik and Robert Aleksandrowicz v. Cyprus](#), the ICC arbitration [Ayoub-Farid Saab and Fadi Saab v. Cyprus](#), and the ICSID case [Marfin et al. v. Cyprus](#).