

Aerolíneas Argentinas Dragged into New ‘Vulture’ Dispute



Buenos Aires, September 15 (RHC)-- The state-owned Aerolíneas Argentinas could be at the center of a new conflict with a “vulture” fund, state authorities said on Monday, as the country accused the airline’s former owners, Spain’s Marsans Group, of selling a lawsuit against Argentina to an investment company known for financing corporate litigation, the Buenos Aires Herald reported Tuesday.

The case stems from President Cristina Fernández de Kirchner’s nationalization of the country’s flagship airline Aerolíneas Argentinas in 2008, after Marsans was accused of “emptying” the company and leaving an unsustainable trail of debt which led to its bankruptcy. Marsans then filed a lawsuit against Argentina at the World Bank’s International Center for Settlement of Investment Disputes (ICSID), demanding compensation for the nationalization.

Economic Crimes Bureau Procelac head Carlos Gonella said at a press conference Monday that Marsans had transferred its rights to sue to Burford Capital, a U.S.-based firm which finances commercial litigation, in exchange for part of the settlements.

Gonella and Solicitor General Angelina Abbona announced that, in response, they had brought a criminal complaint against Marsans, Burford and local law firm Fargosi y Asociados for committing fraud against the state as well as private bondholders who were owed cash by the Spanish group.

Gonella said the move was done fraudulently and that it lost effect when Marsans went bankrupt in 2010. He said the move could open Argentina both to a \$1.6 billion demand for compensation but also to claims of legitimate rights holders.

“Public institutions have been falsified in the case before the ICSID to harm the Argentine state,” he said. “If that tribunal rules against our country, Argentina risks not only being forced to pay \$1.6 billion to the “vulture” fund involved in the case, but also to the legitimate Spanish creditors.”

Burford said in a statement that “Argentina’s allegations are baseless and part of its campaign to avoid being called to account for its expropriation of valuable assets is contrary to international law.” The fund said that its involvement had “the express approval of the appropriate Spanish court.”

According to Gonella and Abbona, it was discovered a contract between Marsans and Burford in which the law firm paid Marsans in exchange for getting the rights to a potential future compensation.

“They finance the procedure at CIADI and, according to the agreement, an account number is then established for Marsans to deposit any claims it wins into Burford’s bank account,” Abbona said. “Their strategy hurts those who were owed money by Marsans, while Argentina would be obliged to pay Burford for the nationalization but also the debt-holders if they come to our doors to ask for the cash.”

Burford’s business model is known for providing cash and legal assistance to companies who have started lawsuits that they see as potentially winnable and profitable, in exchange for securing the rights over potential compensation they might receive.

Although Aerolíneas’ case is not in the New York courts as the YPF suit is, Argentina has suffered legal defeats at ICSID’s tribunals in recent history.

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