

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

In the arbitration proceeding between

**FEDERAL ELEKTRİK YATIRIM VE TİCARET A.Ş., MUSTAFA NURDOĞAN, İRFAN NURDOĞAN  
AND ASİM KAYAN**

Claimants

and

**REPUBLIC OF UZBEKISTAN**

Respondent

**ICSID Case No. ARB/13/9**

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**ORDER OF THE SECRETARY-GENERAL TAKING NOTE OF THE  
DISCONTINUANCE OF THE PROCEEDING**

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*Date of dispatch to the Parties:*

18 May 2020

## REPRESENTATION OF THE PARTIES

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## I. INTRODUCTION

### A. The Parties

1. The Claimants are Federal Elektrik Yatirim ve Ticaret A.Ş. (a company incorporated under the laws of the Republic of Turkey), Mustafa Nurdoğan, İrfan Nurdoğan, and Asim Kayan (all natural persons and nationals of the Republic of Turkey) (collectively, the “**Claimants**”).
2. The Respondent is the Republic of Uzbekistan (the “**Respondent**”).
3. The Claimants and the Respondent are collectively referred to as the “**Parties**” and are each referred to as a “**Party.**”

### B. Procedural History

4. On 8 May 2013, the Claimants filed a Request for Arbitration under the ICSID Convention for claims under the Agreement Between the Republic of Turkey and the Republic of Uzbekistan Concerning the Reciprocal Promotion and Protection of Investments (the “**Turkey-Uzbekistan BIT**” or the “**BIT**”), and the Energy Charter Treaty (collectively, the “**Claims**”).
5. On 24 May 2013, the Secretary-General of the International Centre for Settlement of Investment Disputes (“ICSID” or the “Centre”) registered the Request for Arbitration pursuant to Article 36(3) of the ICSID Convention. The proceedings were designated as *Federal Elektrik Yatirim ve Ticaret A.Ş., Mustafa Nurdoğan, İrfan Nurdoğan and Asim Kayan v. Republic of Uzbekistan*, ICSID Case No. ARB/13/9 (the “**Proceedings**”).
6. The Parties had agreed, in accordance with Article 37(2)(a) of the ICSID Convention, that the Tribunal would consist of three arbitrators, one to be appointed by each Party and the third, presiding arbitrator to be appointed by agreement of the Parties. On 16 January 2014, the Secretary-General of ICSID notified the Parties that the Arbitral Tribunal was deemed to be constituted. It originally comprised (i) Professor Jan Paulsson, a national of Bahrain, France, and Sweden (appointed by Claimants); (ii) Mr. V.V. Veeder, a national of the United Kingdom (appointed by Respondent); and (iii) Dr. Laurent Lévy, a national of Brazil and Switzerland (appointed by agreement of the Parties). Ms. Lindsay Gastrell, ICSID Legal Counsel, was designated as Secretary of the Tribunal. Ms. Anna Holloway, ICSID Legal Counsel, subsequently replaced Ms. Gastrell as Secretary of the Tribunal.
7. On 18 March 2014, the Arbitral Tribunal held the First Session with the Parties by teleconference. On 20 March 2014, the Arbitral Tribunal issued Procedural Order No. 1, establishing a procedural timetable for the further conduct of the Proceedings. The Parties later agreed to certain amendments of Procedural Order No. 1, including to the procedural timetable.
8. On 4 August 2014, Claimants submitted their Memorial on Liability, accompanied by exhibits, legal authorities, witness statements, and an expert report.

9. On 10 November 2014, Respondent submitted its Memorial on Jurisdiction and Request for Bifurcation, accompanied by exhibits, legal authorities, and witness statements.
10. On 4 December 2014, Claimants submitted their Observations on the Respondent's Request for Bifurcation, accompanied by exhibits and legal authorities.
11. On 24 December 2014, the Arbitral Tribunal issued Procedural Order No. 2, joining Respondent's preliminary objections to the merits.
12. On 27 April 2015, Respondent submitted its Counter-Memorial on Liability, accompanied by exhibits, legal authorities, witness statements, and expert reports.
13. On 26 June 2015, the Parties each submitted their Requests for Production of Documents.
14. On 13 July 2015, the Arbitral Tribunal issued Procedural Order No. 3, setting forth its decisions on the Parties' Requests for Production of Documents.
15. On 11 December 2015, Claimants submitted their Reply on Liability and Counter-Memorial on Jurisdiction, accompanied by exhibits, legal authorities, witness statements, and expert reports.
16. On 16 February 2016, following the resignation of Professor Paulsson, the other members of the Arbitral Tribunal consented to the resignation, and accordingly the Proceedings were suspended pursuant to ICSID Arbitration Rule 10(2).
17. On 2 March 2016, Claimants appointed Professor Emmanuel Gaillard, a national of France, as arbitrator to fill the vacancy left by Professor Paulsson's resignation. On 3 March 2016, the Tribunal Secretary informed the Parties that the Arbitral Tribunal was reconstituted and the Proceedings were resumed pursuant to ICSID Arbitration Rule 12.
18. On 15 March 2016, the Arbitral Tribunal proposed the appointment of Mr. David Khachvani as an assistant to the Arbitral Tribunal. Claimants responded on 22 March 2016 and Respondent responded on 21 March 2016, confirming their consent to the appointment of Mr. Khachvani.
19. On 6 May 2016, Respondent submitted its Rejoinder on Liability and Reply on Jurisdiction, accompanied by exhibits, legal authorities, witness statements, and expert reports.
20. On 11 July 2016, Claimants submitted their Rejoinder on Jurisdiction, accompanied by exhibits, legal authorities, witness statements, and expert reports.
21. From 13 to 24 March 2017, a hearing on jurisdiction and liability was held in Washington, D.C.
22. On 26 June 2017, the Parties each filed simultaneous Post-Hearing Briefs, accompanied by exhibits and legal authorities.

23. On 4 August 2017, the Parties each filed simultaneous Reply Post-Hearing Briefs, accompanied by legal authorities. On 9 August 2017, Claimants submitted a letter setting forth their fees, expenses, and costs, which had been omitted from their Reply Post-Hearing Brief.
24. On 29 October 2018, the Arbitral Tribunal issued its Decision on Jurisdiction and Liability, dismissing the Claims of Federal Elektrik Yatirim ve Ticaret A.Ş., Mustafa Nurdoğan, and İrfan Nurdoğan, and upholding one of the Claims relating to Asim Kayan.
25. On 17 January 2020, the Parties jointly informed the Arbitral Tribunal that they had settled their dispute and that they had executed a Settlement Agreement. At the Parties' request, the Proceedings were suspended until 30 April 2020.
26. On 9 March 2020, following the passing away of arbitrator Mr. V.V. Veeder, the Secretary-General notified the Parties of the vacancy on the Tribunal.
27. On 12 May 2020, the Parties jointly informed the Centre that they had agreed to modify the application of Arbitration Rule 43(1) in order to have the Secretary General issue an order of discontinuance, and requested that such an order be made. The Parties requested that the procedural history, set forth in Section I, be included in the order of discontinuance, as well as text recording the fact of the Parties' Settlement Agreement, set forth in Section I.C.

### **C. The Parties' Settlement**

28. The Parties' agreed text recording the fact of the Parties' Settlement Agreement and steps taken to terminate the Proceedings is as follows:

#### *“SETTLEMENT*

*1. On 6 August 2019, Claimants on behalf of the Parties notified the Arbitral Tribunal that the Parties had reached an agreement in principle to settle the Claims.*

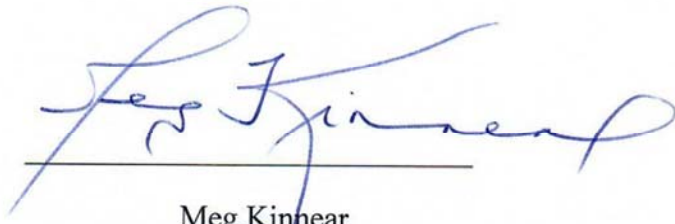
*2. On 28 October 2019, 30 October 2019, and 31 October 2019, the Parties executed an agreement to resolve their dispute and discontinue the Proceedings (the “**Settlement Agreement**” or the “**Agreement**”).*

*3. On 17 January 2020, the Parties jointly informed the Arbitral Tribunal that they had settled their dispute and that they had executed the Settlement Agreement. The Parties requested that the Arbitral Tribunal suspend the Proceedings until 30 April 2020 pursuant to their Agreement.*

*4. On 12 May 2020, the Parties jointly agreed that, in light of the unfortunate death of Mr. V.V. Veeder, arbitrator in these Proceedings, and the fact that the Tribunal had not since been reconstituted, they would modify the application of Arbitration Rule 43(1) and jointly request the Secretary General of the Centre to issue an order recording the discontinuance and termination of the Proceedings. On that same date, that request was jointly made.”*

## II. ORDER

29. THEREFORE, in light of the Parties' agreement referred to in para. 27 above, and in accordance with ICSID Arbitration Rule 43(1) as modified by that agreement, the Secretary-General of the Centre hereby takes note of the discontinuance of these Proceedings in accordance with the Parties' request.

A handwritten signature in blue ink, appearing to read "Meg Kinhear", is written over a horizontal line. The signature is fluid and cursive.

Meg Kinhear  
Secretary-General