

BONDHOLDERS WILL CONTINUE TO PURSUE ARGENTINA'S BANCO DE LA NACIÓN

by Emiliano Mellino

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The lawyers for a group of holders of defaulted Argentine debt have said that they will continue to pursue Banco de la Nación (BNA), just days after a US district court dismissed a case against Argentina and the bank.



Judge Griesa ruled that the bank is not an alter ego of the Argentine state

“While we continue to believe that there is more than enough evidence in the record to establish our claim that BNA is in fact Argentina’s alter ego, we understand the court’s ruling in this matter,” said the plaintiff’s counsel Carlos Gonzalez, from Diaz Reus & Targ LLP.

The plaintiffs, who were also advised by independent practitioner Guillermo Gleizer, had brought the case in May asking the judge to declare BNA an alter ego of the republic making it jointly liable to “satisfy existing judgements in favor of plaintiffs and against the republic” in relation to defaulted Argentine debt.

Argentina was advised by regular counsel Cleary Gottlieb Steen & Hamilton LLP and BNA was advised by Dorsey & Whitney LLP.

On 28 March US District Judge Thomas Griesa denied the request and dismissed the suit despite the fact that bank is fully owned by the Argentine state.

“It is a large commercial bank operating a normal commercial banking business with a multitude of depositors, borrowers, and other customers and clients,” wrote Judge Griesa in his judgement. “There is no indication that the Republic is directing the details of this business, even if the court draws all justifiable inferences in favor of plaintiffs.”

He added that he does not have jurisdiction over the group's claims.

"As an instrumentality of a foreign state, BNA is presumptively immune from the jurisdiction of the United States courts," he wrote.

Gonzalez believes that other avenues are open to his clients.

"The law provides the plaintiffs here with additional options which we are currently evaluating," he said. "Notably, although the court concluded that the record did not establish that BNA was Argentina's alter ego, it also condemned Argentina's continuing refusal to pay its bond debts and judgment debts... we will continue to pursue Argentina and BNA."

In a similar ruling from 2009, Judge Griesa stated that the assets of Argentine national airline Aerolineas Argentina could not be seized for the settlement of a lawsuit.

But in April of last year US\$105 million in Argentine Central Bank assets held in the Federal Reserve Bank of New York were seized on behalf of two of Argentina's biggest holdout creditors, NML Capital and EM Ltd.

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