

### ***Parkerings v Lithuania (Norway-Lithuania BIT)***

AREAS OF POLICY AFFECTED: privatization (parking services), public order (enforcement of parking fees), cultural heritage (architecture preservation), local government (urban planning).

CASE SUMMARY: The claim arose from a decision of the municipality of Vilnius to contract out parking enforcement powers. This decision was taken as part of a policy to control traffic and protect the city's historic old town. The claimant, as part of a private consortium, was awarded the contract to build two multi-story car parks and to enforce the city's parking laws. Enforcement powers included the collection of fees and the use of vehicle clamping. The municipality agreed to insure against political risk as part of the contract.

Various disputes arose between the parties. Especially contentious was the transfer to a private actor of the right to collect parking fees. This measure was approved by the Vilnius city council, but was deemed unlawful by the Latvian Ministry of Justice. Public opposition and concern about the impact on heritage buildings in Vilnius's old town also led the municipality to terminate one of the car parks. Eventually, the municipality terminated the contract.

The claimant alleged various violations of the Norway-Lithuania BIT, including expropriation without compensation and failure to ensure the investor's "legitimate expectations" to a stable business environment. The tribunal rejected the claim.

COMMENT: Notably, the tribunal rejected the investor's broad approach to the concept of legitimate expectations – although this approach had been accepted by other tribunals – by emphasizing that governments retain the right to pass legislation and that investors must anticipate changes to the regulatory environment for business, especially in countries in transition. On the other hand, the tribunal took an expansive approach to its own authority by assuming jurisdiction over the BIT claim even though the contract between the parties designated Lithuanian courts as the forum for resolution of disputes under the contract.

Source: [www.iiapp.org](http://www.iiapp.org) (May 2011), based on information in publicly-available awards and materials in known investment arbitrations (for texts of awards, see [www.italaw.com](http://www.italaw.com)). This report was produced by a research team coordinated by professor Gus Van Harten ([gvanharten@osgoode.yorku.ca](mailto:gvanharten@osgoode.yorku.ca)) of Osgoode Hall Law School of York University in Toronto, Canada. Please see the disclaimer and statement on terms of use available at [www.iiapp.org](http://www.iiapp.org). © Gus Van Harten 2011. *You may forward or re-publish the information in this report with attribution to [www.iiapp.org](http://www.iiapp.org).*