



The Charles de Gaulle Plaza in Bucharest is constructed entirely of steel and glass

Settlement reached in Romanian construction dispute

DAVID ELWARD

WEDNESDAY, 02 FEBRUARY 2011

A Romanian subsidiary of Canadian construction company Canam has settled its long running dispute with two local businesses over the building of an office block in Bucharest.

Canam Steel Romania won two arbitral awards worth US\$2.5 million after a local developer and contractor failed to pay for its role in the construction of Charles de Gaulle Plaza, Romania's first steel-structured building, which is now home to Vodafone, Austrian bank Raiffeisen and UniCredit Bank. The developer and contractor paid the second award, totalling some US\$250,000, in 2009. In January, Canam reached a settlement agreement with the contractor and developer worth US\$2 million regarding the first award.

Canam's counsel, **Peter Buzescu**, managing partner of Buzescu Ca in Bucharest, welcomes the end of "one of Romania's longest arbitrations in recent history", now that all payments have been received.

Canam was subcontracted to build the steel structure for the 16-floor office block in 2003. When the project overran in 2004, Buzescu says the developer and contractor blamed Canam and refused to pay the outstanding balance on the contract or to reimburse a performance bond. Canam claimed the fault for the delay lay with the developer and the contractor, and filed for arbitration at the Court of International Commercial Arbitration of the Chamber of Commerce and Industry, Bucharest.

Canam, which has operated in Romania since 1997, filed two separate claims in 2006 and 2008: the first was for 50 per cent of the performance bond, the outstanding balance under the contract and payment for supplementary works; the second sought the remaining 50 per cent of the performance bond.

According to Buzescu, the defendants filed counterclaims based on the delay in the works. "They were hoping that their obligations to pay Canam would be offset by the penalty payments they would receive for late completion of the project," he suggests. "But their strategy didn't pay off."

Chaired by former Romanian cabinet member Victor Babiuc, the first tribunal held that the delay was the fault of one of the defendants. It ordered the Romanian companies to pay Canam damages for late payment of the outstanding balance, in addition to the remaining balance, reimbursement of the performance bond, and some of the costs of the arbitration.

Buzescu says that the second tribunal chaired by Romanian arbitrator Ion Bacanu later found “no legal basis for refusing the payment of the second instalment of the performance bond”.

Counsel to the local companies declined to comment.

First arbitration

Tribunal

- Victor Babiuc (Chair) (Romania)
- Grigore Florescu (Romania)
- Stanciu Carpenaru (Romania)

Counsel to Claimants

- Buzescu

Partners **Peter Buzescu** and **Adrian Tomescu** in Bucharest

Counsel to Respondents

- Zamfirescu Racoti Predoui in Bucharest

Second arbitration

Tribunal

- Ion Bacanu (Chair) (Romania)
- Grigore Florescu (Romania)
- Roxana Munteanu (Romania)

Counsel to Claimants

- Buzescu Ca

Partners **Peter Buzescu** and **Adrian Tomescu** in Bucharest

Counsel to Respondents

- Zamfirescu Racoti Predoiu (Bucharest)
- Badea Clifford Chance
- Stoica & Associates