SUPREME COURT
A2 CIVIL DIVISION
HEARING DATE: 14-12-2015 (December 14, 2015)
DOCKET: 1

APPELLANT: LEIDOS INC (LEIDOS), formerly Science Application Corporation (SAIC), based in the US

APPELLEE: Greek State, legally represented by the Minister of Finance, who resides in Athens

REPORT
of the Rapporteur of the Supreme Court
IOSIF TSALAGANIDIS

On the application to appeal against the decision no. 3690/2014 of the Athens Court of Appeal, dated 30-12-2014

Decision no 3690/2014 of the Athens Court of Appeal is appealed by the application at issue,
which decision was issued upon hearing both parties in an ordinary procedure, and accepted the complaint dated 5/9/2013 (September 5, 2013) of the appellee which sought to annul both the final decision of the International Court of Arbitration of the International Chamber of Commerce, dated 2/7/2013 (July 2, 2013), as well as the interim decision dated 14/7/2011 (July 14, 2011) of the same International Court of Arbitration on the dispute that arose between the parties in regard to the procurement of systems for the security of the "Athens 2004" Olympic Games. The application for appeal, on the condition that the contested decision was not served, was filed duly and timely, therefore it is admissible and should be investigated as to its merits.

The grounds for the annulment of an arbitration decision are established restrictively pursuant to the provisions of article 897 of the Code of Civil Procedure, in the event of domestic arbitration, and article 34 par. 2 of law 2735/1999, in the event of international arbitration. In particular, article 34 par. 2, subpar. b, case bb of law 2735/1999, provides: "The deciding Court, upon motion for annulment, considers even ex officio whether it is contrary to international public policy, as per the meaning of article 33 of the Civil Code." Public order, within the meaning of the aforementioned article, consists of the fundamental principles prevailing in Greece, which concern the social, ethical, economic, political and other commonly accepted beliefs, which govern and regulate, in a permanent manner, human relationships within the Greek territory, in a way that either by the recognition of the validity of the arbitration decision, or by its enforcement in the Greek territory, there would be a risk of causing a situation that is not in keeping with said principles that underpin the prevailing way

of life (cf. S.C. 242/2002). Moreover, the grounds for the annulment of the arbitration decision, as well as the one of article 33 of the Civil Code, form part of the substantive law and for this reason their application is examined by appeal, on the grounds for appeal set forth in article 559 no. 1 and 19 of the Code of Civil Procedure, that is, for violation of a rule of substantive law and absence of legal basis. However, taking into account the other provisions of article 897 of the Code of Civil Procedure as well, none of which provides any grounds to annul the arbitration decision on the basis of the incorrect judgment on the merits, it is concluded that said violation must be immediately apparent from the rationale and the operative part of the contested arbitration decision, based on the facts, which, due to that they were well founded, were accepted by the arbitrator, in his judgment (and this acceptance is not subject to review), while the Court of Appeal, considering its contradiction to a rule of public order as the reason to annul the arbitration decision, by referring to the same provision, and in order to reach its conclusion, investigates and finds only on the basis of the same assumptions in conjunction with the rationale of the arbitration decision, and with the same assumptions, which the Supreme Court also admissibly examines, per article 561 par. 2 of the Code of Civil Procedure, the Supreme Court examines the merits of the respective ground for the appeal by article 559 no. 1 and 19 of the Code of Civil Procedure. The acceptance of the opposite point of view, and the acceptance, by the Court of Appeal, when adjudicating a complaint to annul the arbitration decision based on articles 897 no. 6 of the CCP or 34 par. 2 case bb of Law 2735/1999, of the real facts and allegations which were dismissed by the arbitration court on their merits, is the equivalent of a re-trial on the merits of the case, which leads to a de facto reversal of the finality of the settlement of the dispute by the arbitration court, thus upsetting the foundation on which the parties had relied when they agreed on the arbitration clause (S.C. 1578/2014).

In this case, the Court of Appeal, trying the complaint dated 5/9/2013 (September 5, 2013) of the appellee, the Greek State, which had sought to annul both the final decision of the International Court of Arbitration of the International Chamber of Commerce, dated 2/7/2013 (July 2, 2013), as well as the interim decision of the same International Court of Arbitration, dated 14/7/2011 (July 14, 2011), on the grounds of violation of public order, accepted, for the part concerning the present appellate proceedings, the following: “From the documents the parties invoke and produced, the following are proven: ... KYSEA, by its decision no 1/3-13-2003, decided to award the implementation of the C4I program to the joint venture SAIC Team for a consideration of 254,999,000 Euros and then the Minister of National Defense, by its decision … assigned the procurement of the C4I Olympic Security Systems to the Respondent (i.e. SAIC). On May 19, 2003, between the respondent, as supplier, and the claimant, as buyer, the Contract was executed … The aforementioned contract was modified seven times within the period 2003-2008 with relevant amending agreements. … On the same day when the contract for the C4I System was executed (5-19-2003), another contract dated 5-19-2003 was also executed between the respondent and SIEMENS S.A., by which the latter undertook, as a subcontractor, to perform the most important,

[Translator's note: Page 3 through Page 20 of this document (the pages are numbered as Pages 2a to 2r) are photocopies of pages from Athens Court of Appeals ruling no. 3690-2014, Section of Contract Law. These photocopied pages have certain lines and sections of the printed text of the photocopy crossed out by hand. The printed text crossed out by hand is represented below in strikeout font and it is highlighted.]

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[~~9th sheet of the Athens Court of Appeal ruling no 3690/2014, Section of Contract Law~~]

~~of the contract, the parties also decided the construction, installation and operation of the TETRA network, of which the claimant would have the exclusive use, and the respondent would provide services for a period of 10 years regarding the exclusive use, operation and maintenance of that "TETRA" network. On the same day when the contract for the C4I System was executed (5-19-2003), another contract dated 5-19-2003 was also executed between the respondent and SIEMENS S.A., by which the latter undertook, as a subcontractor, to perform the most important,~~ from an operational and financial point of view, part of the project, ~~including the TETRA,~~ for a consideration of 182,181,234 Euros which corresponded to approximately to 71% of the total budget of the project (254,999,000 Euros). The execution of the contract was not without problems. Specifically, the contract was mainly executed for public safety reasons in view of the 2004 Olympic Games, ~~irrespective of the anticipation for post-Olympic use of the C4I System and for the service of the post-Olympic needs for public security. Thus~~, and the timely performance of the contract within 12 months from its entry into force through the delivery of the project as an integrated unit, "turnkey",

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was a decisive criterion for the assignment of the project to the respondent under the special procedure of negotiations through a limited list of companies, instead of choosing from the biggest possible number of suppliers, however, the project was not completed on time. ~~, thus obliging the claimant (i.e. the Greek State) to accept, under time pressure, the provisional receipt of certain subsystems in order for these to be used at the Olympic Games and then accept the receipt of the subsystems, one by one, despite the initial obligation of the respondent to deliver the project as an integrated unit and finally on 10-29-2008 which was set as the final date which was more than four years after the Olympic Games. Within the above time period, the QQRPs for the various subsystems were issued in different times. For most of the subsystems, the QQRPs mentioned that the relevant subsystem met the terms of the contract and could be therefore received with minor omissions and deviations, except from subsystem 16 (Vehicle Location Subsystem) which was unanimously rejected through the final QQRP as well. In addition, the Control and Receipt Committee rejected by majority the subsystem 20 (Olympic Security Digital Trunked Radio System) which, following SAIC's challenge, the Dispute Resolution Committee decided that it should be received with deviations. Finally, by the~~ QQRP of the C4I System dated 11-14-2008, the Control and Receipt Committee unanimously decided that the C4I System meets the terms of

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[**10th sheet of the Athens Court of Appeal ruling no 3690/2014, Section of Contract Law**]

the contract and can be received with minor omissions and deviations and further determined the amount and the percentage of reduction of the contractual consideration for each subsystem and for the C4I System as a whole. Furthermore, by the Protocol dated 10-27-2009, the Control and Receipt Committee unanimously decided to reject the training for the subsystems 1-7 due to significant deviations from the contractual provisions. Then, the decisions no 9008/13/216/ρνδ/12-16-2009 and 9008/13/216/ρπ0/5-25-2010 of the Minister of Citizen Protection were issued, by which the training services for subsystems 1-7 were rejected (following an invitation for a new provision of these services) and the respondent was declared in default regarding this part of the contract. At the same time, By decision no 9008/13/216/ρπε/4-21-2010 of the Minister of Citizen Protection, it was decided not to approve the final receipt and acceptance of the C4I System because, apart from the omissions and deviations that are recorded in the QQRP of 11-14-2008, it was not evidenced that the supplier proved and that the Control and Receipt Committee confirmed that the System was in accordance with the contract as "integrated and interoperable" and that it was delivered "turnkey", i.e. fully operational and ready for operational use. Furthermore, the claimant, by its document no 7739 ζ/5-25-2010

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~~of the Deputy Minister of Citizen Protection,~~ partially terminated the contract, ~~except for the TETRA services and the maintenance and support services of the subsystems~~, and letters of guarantee totaling 18,877,375.29 Euros were forfeited. Finally, following a petition of the respondent, the dispute was resolved by the International Court of Arbitration of the International Chamber of Commerce by its final award dated 7-2-2013, the enforcement of which is sought to be annulled, which (i.e. the International Court of Arbitration of the International Chamber of Commerce) partially accepted the Request for Arbitration and obliged the claimant to pay to the respondent the total amount of 39,818,595 Euros (as residual consideration, compensation and VAT) with the legal interest (except for the amount of 1,066,378 Euros) from service of the arbitral award. The above described progress of the contract, which ended up to have a duration of five years with the various subsystems being delivered progressively, one by one, although its performance was initially agreed to be time specific, proves that the respondent was unable to meet the initial deadline for delivery of the project, as an integrated unit and furthermore results to the limitation of the participation of the potential contractors contrary to the international principles regarding transparency and the protection of competition that apply to public contracts to the benefit of the respondent and its subcontractor SIEMENS SA. Moreover, it is also proven

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[~~11th sheet of the Athens Court of Appeal ruling no 3690/2014, Section of Contract Law~~]

that the subcontracting company, SIEMENS SA actively participated not only in the execution of the contact but also in the negotiations for the assignment of the project to the clamant. SIEMENS SA is a subsidiary of the German company SIEMENS AG and both the Greek subsidiary and the German parent company have been active in the public contracts sector in Greece for a long period of time. Besides, the fact that SIEMENS SA was chosen as subcontractor to perform the most important part of the project the same day (5-19-2003) that the contract for the procurement of the C4I System was executed between the litigant parties, shows that the contractor and the subcontractor had already decided to cooperate and so the subcontractor had an interest in the assignment of the project in question to the respondent. Over the period 2002-2007, during which the negotiations, the assignment and the performance of the contract in question took place, officers from the parent company SIEMENS AG and from its Greek subsidiary SIEMENS SA were involved in actions of bribery of people that could influence the decision making in order to secure the assignment of public contracts to these companies by paying money to these persons which amounted to

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10% of the contractual object (8% to senior officers and 2% to politicians). The revelation of these illegal practices and methods adopted by SIEMENS officers for the assignment and execution of projects in Greece caused political disputes and led to the investigation by a special Committee of the Greek Parliament of any liabilities of politicians while a criminal prosecution has already been filed for the following felonies: a) active and passive bribery with the aggravating case of article 1, par. 1 of Law 1608/1950, b) money laundering from illegal actions, instigation and direct collaboration in this act, c) continuous fraud, fraud by profession and habitual with the aggravating case of article 1, par. 1, of Law 1608/1950 and d) criminal organization (aiming in perpetration of money laundering from illegal actions and criminal activity and continuous active and passive bribery). In addition, a criminal investigation is being conducted by a special investigator and among the cases under scrutiny is the contract in question for the procurement of the C4I System. The publication of the Decision of the Minister of Finance No. 07085ΕΞ2012 in the Government Gazette Issue No A 164/2012 followed, which contains the Settlement Agreement between the Greek State and SIEMENS, with which the disputes concerning cases related in any way to corruption activities (payments or promises of payment to third parties or other illegal activities)

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by SIEMENS were settled, including –indicatively- any cases which were investigated by the Authorities in Greece. In the preamble of this Agreement, the Management of SIEMENS expresses "its deepest regret towards the Greek People, the Parliament of Greece and the Government of the Hellenic Republic for its actions which had as a result a judicial and parliamentary investigation and consequently the initiation of criminal proceedings by the Greek Department of Justice". In addition, the ex-General Manager of SIEMENS SA, Michalis Christoforakos, was convicted by the Munich Court of Peace for two instances of bribery of public officials of another Member State of the European Union (of Greece) with 9 months imprisonment for each action and a one year imprisonment sentence in total. ~~In its Decision no. 03-402 Js 39436/09,~~ The abovementioned Court held that the convicted M. Christoforakos, in order to accelerate the acceptance of the individual parts of the C4I project and influence the public officials responsible for their receipt, whom he did not know by name, in separate conversations he had with the treasurers of the two major political parties (K. Geitonas of PASOK and I. Bartholomaios of New Democracy), at the latest by the end of 2003, agreed

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for money to be given by him to the political parties, of at least a two-digit number of millions of EURO, so that the necessary pressure would be exerted upon those public officials affiliated with the political parties, so that the public officials would –in controversial cases- exercise their sole discretion in a manner so as to decide –potentially in breach of their duties- to the advantage of SIEMENS. [The aforementioned Court held] That in February 2004, M. Christoforakos, when asked by the director of the commercial department of the Public Networks Division (ICN) of the parent company SIEMENS –Michael Kutschenreuter (also prosecuted in the same case)- in what way he could ensure the time-schedule of the project (C4I) and its receipt, he replied to him that the "existing plan of 2%" is enough for the quick settling of that issue –meaning the payment to the political parties- so that these parties can give an instruction to the existing Authorities to exercise their discretion during the receipt of the projects in favor of SIEMENS; that this was approved by the aforementioned Director of the parent company and that the money –in an unidentified period of time and in any case until 2005-2006- were delivered to the treasurers of the two major political parties. For the disbursement of the so-called "black money" from the fund of the parent company SIEMENS and its handling, two fictitious contracts were drawn up for the provision of consultancy services ("Business Consultant Agreements") between the abovementioned company and the companies

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[~~13th sheet of the Athens Court of Appeal ruling no 3690/2014, Section of Contract Law~~]

"Weavind" and "Krhoma Handelsegesellschaft" respectively. With the first of the abovementioned contracts which is dated 8-31-2002, the "Weavind" company would supposedly coordinate the cooperation between SIEMENS and the respondent for the "Olympic Games of Athens" project, for a fee of up to 2,000,000 Euros for its supposed services, and with the second contract which is dated 9-15-2002, the aforementioned second company would supposedly coordinate the cooperation between SIEMENS and the respondent for the "Olympic Games of Athens C4I" project, for a fee of between 1,800,000 and up to 2,000,000 Euros for its supposed services. At the time of execution of the contracts the contracting parties did not aim towards providing the abovementioned services, but at the ostensible legalization of the flows of the funds from SIEMENS' funds and their channeling to illegal bribing of politicians and public officials. The person who signed these contracts on behalf of SIEMENS, Reinhard Herbert Siekaczek, was convicted for breach of duty and was sentenced with a total imprisonment of 2 years and a fine, by virtue of the decision ~~no. 5KLs 563 Js 45994/97~~ of the Munich Court of First Instance. The same person, in his witness testimony, mentioned

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that his first involvement in the C4I project was in the year 2002, when M. Christoforakos asked him if he was interested in "securing" part of the business activities which concerned projects in the ICN Enterprise department, of which Reinhard Herbert Siekaczek was head of BA during that period, and that after he examined certain details of the project, he accepted M. Christoforakos' proposal. That the latter probably approached him for the first time in order to ask for commission payments in relation to the C4I project in 2004, since the delivery of the project "was well underway" and that he had told him that he would need 10,000,000 up to 15,000,000 Euros in order to pay commissions to four Ministries (Interior, National Defense, Culture and Communications) based on promises he had made at the time of execution of the contract. In addition, he mentions that the abovementioned fictitious contracts for the provision of consultancy services with the aforementioned companies were backdated, so that it would appear that these companies, indeed, they were offering the services that are mentioned in the contracts before the "conferment" (i.e. assignment) of the contract; that he, himself, decided to mention the C4I project in these contracts, so that he could monitor the commission payments that were taking place following M. Christoforakos' request and that by the latter's indication the total amount of about 1,500,000 Euros was transferred into an account held in the UBS Bank by the offshore

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company Fairways, owned by Al. Letsas — a person controlled by M. Christoforakos — in order to subsequently be channeled to various recipients. The same person (Siekaczek), during his preliminary inquiry on 11-17-2006, testified that M. Christoforakos –in relation to the disbursement of funds for "commissions" for the contract at issue -, claimed that he had to pay the Ministry of National Defense, the Ministry of Interior, the Ministry of Sports (Culture) and one more Ministry, for the assignment to be made to SIEMENS and to the Consortium, and that the amount that had to be paid to the Ministries for this case went up to about 10,000,000 Euros. Finally, the same person, when examined as a witness on 10-8-2008 (August 8, 2008), in the framework of judicial assistance, by the Investigator of the 4th Special Judge Interrogator of Athens Court of First Instance and the Public Prosecutor, testified that even in the past, for the contracts between SIEMENS and OTE (i.e. the Hellenic Telecommunications Organization) payments were made to high or middle ranking officials of up to 8% of its turnover (i.e. OTE's); that in relation to the cost of each project that SIEMENS undertook, the parent company calculated a contractual price for the branch, into which the relevant expenses for "commissions" were included, and that the money that were to be given for the payment of "commissions"

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in Greece were requested by either M. Christoforakos or the other official of SIEMENS S.A. Prodromos Mavridis, to whom he, himself (R.H. Siekaczek), during the period 2000-2004, provided cash three or four times, and that one time he handed to him the amount of about 2,000,000 Euros in a suitcase. The active participation of at least the high-ranking employees of SIEMENS S.A., M. Christoforakos and P. Mavridis, both during the stage of execution of the contract at issue (the C4I project) and during the negotiations prior to its execution, through the bribing of public officials capable to influence the decision making (assignment of the project and receipt of the individual parts), is confirmed particularly through the above Judgments of the German Courts and by the testimonies of the abovementioned important officials of the SIEMENS parent company. Based on the abovementioned evidence, it is also proven that the value of the project –as this was calculated based on the offer of the respondent- has been increased by the percentage (10%) that was required for the bribing of the politicians and public officials, in order for the latter to maintain a favorable stance towards SIEMENS S.A. and consequently towards the respondent, during the execution of the project's assignment contract and its amending agreements, and also during the stages of the delivery of the individual parts of the project. The said illegal price increase is passed on to the contracting Greek State

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(claimant) and is finally passed on to the Greek Citizens. It is further proven that the respondent –which was active for the first time in Greece through the execution of the said contract, irrespective of the indirect involvement of its officials in the abovementioned illegal methods and practices of the subcontractor SIEMENS S.A.- was aware of the –for years- dominant position of the latter in the public procurement sector in Greece and from the beginning aimed at collaborating with it, as it was in a position to influence (and actually did) Greek politicians and public officials for the assignment of the C4I project to the respondent, so that simultaneously with the execution of the assignment contract it would take over to carry out the major part of the project as a subcontractor. The proven conduct of acts of investment corruption, mainly through the bribery of public officials –both during the assignment and also during the performance and the delivery of the project- is contrary to the fundamental socioeconomic, state and moral perceptions in Greece but also contrary to the internationally prevailing principles of objective operation of the Administration and the lawful and ethical operation of public services, as well as those of transparency and fair competition

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in public procurements. Under the aforementioned circumstances, the consequences that will be produced by the enforcement in the national territory of the final Award of the International Court of Arbitration dated 7-2-2013 [July 2, 2013] and in particular, the payment of remuneration and compensation to the respondent for the abovementioned project, the assignment, approval and acceptance conditions of which still remain under criminal investigation, shall entail a disorder, thus rendering such enforcement of the above award in the national territory contrary to the international public policy as this has been defined above. The fact that the Arbitral Award will result in such consequences in the country arises directly from the entire content of the Arbitral Award, since, according to that content, the Arbitral Tribunal did, on the one hand, reject the Greek State's claim, which was based on the same proven facts which were raised by the then respondent and now claimant Greek State, for invalidity or nullity of the Contract, as well as of its Amendments, (a) according to Law. 2957/2001 (Official Government Gazette A 260/11-12-2001) for the ratification of the Civil Law Convention on Corruption of the Council of Europe, signed in Strasbourg on November 4, 1999, (b) according to Law 5227/1931 'on intermediaries', taking into consideration that they were executed or/and fulfilled by the respondent as a result of bribes and corruption in general or, otherwise, fraud by the respondent against the Greek State regarding its possibility (i.e. the respondent's) to perform

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the project within the agreed deadline, which (the corruption/bribery, contravention of the law on intermediaries) relate to criminal proceedings, pending against former employees of SIEMENS and other persons, including officials of the then respondent company that had not been named, as well as the Greek State's petition for the suspension of the arbitral proceedings until the end of the criminal proceedings on the grounds that the Court is not convinced by the case file that the Contract in question or any of its amendments is the result of bribery of government officials by SIEMENS or of fraud against the State or the result of breach of legislation on intermediaries. Nor is confession or bribery inferred by the majority of the arbitrators ~~(though one of the arbitrators asked to invite the litigant parties to submit their views on the influence of the said Settlement Agreement on the aforementioned challenge regarding nullity or invalidity of the contested contract) –~~ from the aforementioned Settlement Agreement, which has the legal force of a law that and in any case it cannot be used as evidence of bribery or another type of corruption. However, on the other hand, the arbitral award, on its substantial assumptions,

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in a way that is indicative of its opposition to public order, accepts the following, as results from the assessment of the same evidence mentioned above: a) that in the present case Siemens, without being a litigant party "is implicated as a subcontractor", b) that "the company Siemens AG, headquartered in Munich, in order to create good public relations but also business relationships in various countries had created a system of unofficial cash payments which included hosting high profile individuals and politicians, donations to political parties but also other direct bribes. This system, according to the decision of the Munich Court of Peace, was also expanded to include Greece from the '90's and in any event it appears that such donations were made toward the then two major political parties which inter-exchanged power in 2004, following separate discussions between the then CEO of Siemens Greece and the treasurers of the two political parties around the end of 2003 and indeed in connection with the C4I Olympic Security System. The system consisted of amounts paid by Siemens AG to companies that did not have a real business, as a fee for consulting services, which supposedly were provided based on fictitious contracts for consulting services in connection with various contracts or projects of the Siemens company. From these companies (which essentially are the so called "slush funds") these funds would then be transferred unofficially. Such companies (as it arises from the two

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German decisions) were the companies Tamarind, Electronic Technology, Weawind, Krhoma Handelsgesellschaft and others. The Manager of some of these companies was Paolo Floriani in Switzerland, while R. Siekaczek was in charge on behalf of Siemens AG to pay money to these companies. Funds which were earmarked for Greece from these companies were wired to the company Fairways which was owned by a Greek private citizen, whose family had close connections with Siemens. From these or "similar "slush funds" it results that funds were transferred in connection with contracts with OTE, OSE, the provision of medical supplies to hospitals and procurements of the Ministry of Defense. The Olympic Security C4I project is featured among the projects in connection with which it is stated by everybody that such funds were transferred; that specific project is being examined more specifically below ~~(See Parliamentary Findings)~~. Particularly in connection with the C4I System in the Decision of the Munich Court of Peace which imposes a sentence of one year imprisonment on M. Christoforakos, it is accepted that M. Christoforakos, in order to accelerate the receipt of the individual projects of the C4I, conceived the plan to influence the competent employees (whom he did not know), through the political parties and for this purpose seven (7) transfers of 250,000 Euros each, i.e.

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1,750,000 Euros in total, were made by Siemens AG and more specifically one transfer to the company Tamarind (8-5-2004), three transfers to the company Weawind (9-2-2004, 9-16-2004 and 10-7-2004) and three transfers to the company Electronic Technology (8-6-2004, 9-2-2004 and 9-7-2004). In view of these, it is alleged that at least one part was given later through M. Christoforakos (per the Decision, at a time that has not been identified but nonetheless until 2005/2006) to the treasurers of the major political parties", c) that "Siemens had developed a practice of briberies in Greece", that "there are serious indications that there were acts of corruption in connection with various ~~illegible~~ *Siemens* [Note from translator: an illegible word is crossed out and "Siemens" is handwritten above the crossed out word] projects in Greece", that "funds were transferred to Greece from the Siemens slush funds for which reference to the C4I was made by M. Christoforakos,", d) that "the seventh paragraph of the Preamble to the Settlement Agreement which contains a statement by Siemens as follows: "Nonetheless, first of all, the Management of Siemens wishes to express its deepest regret towards the Greek People, the Parliament of Greece and the Government of the Hellenic Republic for its actions which had as a result a judicial and parliamentary investigation and consequently the initiation of criminal proceedings by the Greek Justice Department", "clearly refers to improper behavior" and e) that "according to ~~illegible~~ *Siekaczek* [Note from translator: an illegible word is crossed out and "Siekaczek" is handwritten above the crossed out word](in his Deposition to Debevoise and to 4th Investigating Judge), Christoforakos said that he would need 10 to 15 million Euros to give to four ministries "based on promises he had made at the time of

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the assumption of the Contract." Christoforakos gave in a handwritten note the account of Fairways in Switzerland. It is thus proven, also taking into consideration the direct local and temporal relationship of its content with this State, and within the framework of the minimal examination of the arbitral award, that the inclusion of the aforementioned disputed domestic international arbitral award is in manifest, actual and specific contrast to the notion of public order …… therefore the complaint should be accepted as substantially founded for the above reason, and the final decision dated 5/7/2013 (July 5, 2013) of the International Court of Arbitration of the International Chamber of Commerce should be annulled." Subsequently, the Court of Appeal, on the basis of these assumptions, accepted the complaint as well founded and annulled, for the aforementioned reasons, the disputed arbitration decision. However, in this way that the Court of Appeal decided, which arrived at a conclusion upon assessing the evidence as if it was in the position of a civil division Appellate Court adjudicating on the merits of the case on an appellate level, and not by reviewing the operative part and the rationale of the majority of the arbitration decision, which supports its findings, as admissibly reviewed by the Supreme Court while inquiring into the grounds for the appeal, violated the provisions of articles 34 par. 2 subpar. b case bb of law 2735/1999 and article 33 of the Civil Code, without accepting that the true facts constituting "the proof from the findings" on committing an act of investment corruption, mainly through bribes paid to public officials, both in the award and in the execution and delivery of the Athens 2004 C4I Olympic Games project, also constitute assumptions of the disputed arbitration decision, but also without citing the same assumptions. Therefore, the first ground for the appeal per article 559 no. 1 of the Code of Civil Procedure and the third ground for the appeal, as far as its second part, per article 559 no. 1 of the Code of Civil Procedure (by proper evaluation), are well founded.

According to article 559 no. 8 of the Code of Civil Procedure, an appeal is allowed if the court examining the merits considered things that were not proposed or did not consider things that were proposed and have a material effect on the outcome of the trial. Within the meaning of said provision, "things" are considered to be the factual allegations which exist independently and tend to establish, rebut or obstruct a substantive or procedural right, which was filed either as an offensive or as defensive means, and thus support the application for a complaint, counter-complaint, opposition or counter-opposition or a reason for appeal. On the contrary, "things" are not a reasoned rejection of a complaint, the claims which are arguments or conclusions of the parties or the court, which stem from the assessment of evidence, as well as inadmissible or unfounded legal arguments, which do not have a material impact on the outcome of the trial. In this case, the second ground for the appeal per article 559 no. 8 of the Code of Civil Procedure, by which the appellant complains that the Court of Appeal did not consider their allegation that the factual allegations and evidentiary findings that are contained in the annulment complaint, and the proposals of the appellee, were inadmissible, or otherwise illegitimate, is inadmissible, since

said allegation is not a "thing" according to the meaning above, but a reasoned rejection of the annulment complaint.

With the third ground for appeal per article 559 no. 14 of the Code of Civil Procedure, as far as the first part, the appellant complains to the Court of Appeal that the grounds of the annulment were vague, and the annulment complaint should be dismissed as inadmissible, because the relevant factual assumptions of the contested arbitration decision were not included in the relevant legal document. The ground is unfounded because the Court of Appeal, as well as the Supreme Court, admissibly review the operative part and the rationale of the majority of the arbitration decision which support its operative part, and it was not necessary for the lawfulness of the grounds of the annulment of the arbitration decision to include the crucial facts which the Arbitration Court accepted as proven facts.

FOR THESE REASONS

I propose the acceptance of the first ground and the second part of the third ground for the appeal, and the dismissal of the second ground and the first part of the third ground for appeal.

Athens, December 3, 2015
[Signature]
The Rapporteur of the Supreme Court
IOSIF TSALAGANIDIS