UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ANATOLIE STATI; GABRIEL STATI; ASCOM GROUP, S.A.; TERRA RAF TRANS TRAIDING LTD.,	)	
Petitioners,	)	
v.	)	Civil Action No. 14-1638 (ABJ)
REPUBLIC OF KAZAKHSTAN,	)	
Respondent.	)	

ORDER

This case was filed in September 2014 by Anatolie Stati, Gabriel Stati, Ascom Group, S.A., and Terra Raf Trans Traiding Ltd. ("the Stati Parties"). In it, the Stati Parties sought to confirm an international arbitral award that they had obtained against the Republic of Kazakhstan, arising out of their development of oil and gas fields in Kazakhstan, which Kazakhstan allegedly expropriated. Compl. [Dkt. # 1]. In October 2017, while the original case was pending, Kazakhstan turned around and sued the Stati Parties in this Court, alleging that the Stati Parties submitted false testimony and evidence to the arbitral tribunal in violation of the Racketeer Influenced and Corrupt Organizations ("RICO") Act. *See* Compl. ¶¶ 7, 296, *Rep. of Kaz. v. Stati*, No. 17-cv-2067 (ABJ) (D.D.C. October 5, 2017).

In March 2018, the Court decided the original case pursuant to the Federal Arbitration Act. *Stati v. Rep. of Kaz.*, 302 F. Supp. 3d 187, 202 (D.D.C. 2018) (explaining that the Act "affords the district court little discretion in refusing or deferring enforcement of foreign arbitral awards" unless specific narrow circumstances apply), citing *Belize Soc. Dev. Ltd. v. Gov't of Belize*, 668 F.3d 724, 727 (D.C. Cir. 2012), quoting *Mitsubishi Motors Corp. v. Soler Chrysler–Plymouth, Inc.,* 473 U.S. 614, 631 (1985). The Court confirmed the arbitral award against Kazakhstan "because none of the grounds for refusal or deferral of the award set forth in the New York Convention apply." *Stati*, 302 F. Supp. 3d at 209. The Court also denied Kazakhstan's motion to reconsider a ruling to allow it to present additional defenses based on its theory that the Stati Parties

obtained the award through fraud. *Id*. at 196–201 (ruling that the Court did not err as a matter of law when it found that Kazakhstan had failed to demonstrate a connection between the asserted fraud and the arbitral decision).

In March 2019, the Court dismissed the RICO case for failure to state a claim. *Rep. of Kaz. v. Stati*, 380 F. Supp. 3d 55 (D.D.C. 2019). The Court ruled that Kazakhstan's claims were, "at bottom, . . . entirely predicated on [the Stati Parties'] initiation and prosecution of non-frivolous litigation" and their claimed injures were no more than "the legal costs it incurred in resisting the enforcement of a valid and binding arbitral award," which could not serve as the basis for RICO liability under the law. *Id.* at 61. Having dismissed the federal claims, the Court declined to exercise supplemental jurisdiction over the remaining state law claims of fraud and civil conspiracy. *Id.* at 65.

Kazakhstan appealed both rulings, and the U.S. Court of Appeals for the D.C. Circuit affirmed both. *See Stati v. Rep. of Kaz.*, 773 Fed. Appx. 627 (D.C. Cir. 2019) (per curiam) (affirming decision in the original case); *Stati v. Rep. of Kaz.*, 801 Fed. Appx. 780 (D.C. Cir. 2020) (per curiam) (affirming the decision in the RICO case).

At that point, the matters pending in the U.S. District Court for the District of Columbia were complete, and this Court has remained involved solely in connection with post-judgment discovery.

But as even a cursory review of the docket would reveal, these are very litigious parties. In June 2020, Kazakhstan filed a complaint against Argentem Creek Holdings LLC, Argentem Creek Partners LP, Pathfinder Argentem Creek GP LLC, ACP I Trading LLC, and Daniel Chapman ("the Argentem Parties") in the Supreme Court of New York. Compl. in *Rep. of Kaz. v. Chapman*, Index No. 652522/2020, Ex. 5 to Argentem Parties' Mot. for Leave to File Mot. for Prelim. & Permanent Inj., [Dkt. # 153-5] ("NY Compl.") ¶¶ 4–8. It alleges that the Argentem Parties "are conspiring with, and aiding and abetting, a fraudulent scheme led" by the Stati Parties. NY Compl. ¶ 11. And now the Argentem Parties – who were not parties in the either of the actions filed here – have turned to this Court for relief.

Pending before the Court is the Argentem Parties' motion for leave to file a motion for preliminary injunction. Mot. for Leave to File Mot. for Prelim. & Permanent Inj. [Dkt. # 153] ("Mot. for Leave"). The Argentem Parties are asking for permission to move here to enjoin the lawsuit that Kazakhstan has filed against them in New York state court. *See id.;* Mot. for Prelim.

& Permanent Inj. Relief [Dkt. # 153-2]. Kazakhstan opposes the motion for leave to file, *see* Opp. to Mot. for Leave [Dkt. # 164], and the motion is fully briefed. *See* Reply Mem. in Supp. of Mot. for Leave [Dkt. # 165].

The Argentem Parties seek to enjoin the New York state action because, they contend, the action is precluded by decisions issued by this Court.

According to the Argentem Parties, the Stati Parties originally funded the Kazakh gas and oil field operations through the sale of secured notes to investors. Statement of P. & A. in Supp. of Mot. for Prelim. & Permanent Inj. Relief [Dkt. # 153-3] ("Pet'rs' Mem.") at 5. The Argentem Parties include a "U.S.-based and SEC-regulated investment adviser" that is the investment manager to various funds that hold an interest in these notes. Pet'rs' Mem. at 1. When Kazakhstan expropriated the Stati Parties' Kazakh facilities, the Stati Parties initiated the arbitration that resulted in the award enforced by this Court. *Id.* at 5–8. While they were pursuing their remedies through arbitration, the Stati Parties and the noteholders entered into a "Sharing Agreement" to address the repayment obligations on the notes, which included a provision that any amounts collected by the Stati Parties in the arbitration would be distributed among the noteholders. *Id.* at 5–6.

The Argentem Parties seek permission, pursuant to Federal Rule of Civil Procedure 7(b) and Local Rule 7, to file a motion in this Court's closed case, *Stati v. Rep. of Kaz.*, 14-cv-1638 (ABJ), seeking to enjoin Kazakhstan's state court action against them. *See* Mot. for Leave at 1. The movants emphasize that "a non-party to an original federal court proceeding may seek an injunction under the All Writs Act, 28 U.S.C. § 1651, the Anti-Injunction Act, 28 U.S.C. § 2883, and established collateral estoppel principles to prevent a party to the federal action from prosecuting an action in state court attempting to relitigate, frustrate, or nullify the federal court's judgment." Pet'rs' Mem.. at 2, *citing Thomas v. Powell*, 247 F.3d 260, 262–63 (D.C. Cir. 2001); *In re Nat'l Student Mktg. Litig.*, 655 F. Supp. 659 (D.D.C. 1987); *Ennis & Co. v. Woodmar Realty Co.*, 542 F.2d 45, 49 (7th Cir. 1976); *Mahurkar v. C.R. Bard, Inc.*, 209 F. Supp. 2d 911, 913 n.2 (N.D. Ill. 2002). A motion to enjoin a state court action under the Act is committed to the trial court's discretion. *See Thomas*, 247 F.3d at 266 (noting that appellant had "not argued that the court abused its discretion in issuing the injunction" and finding no reason to question the court's judgment on whether to issue the injunction); *see also In re Nat'l Student Mktg. Litig.*, 655 F. Supp.

at 662; *Delta Air Lines, Inc. v. McCoy Restaurants, Inc.,* 708 F.2d 582, 587 (11th Cir.1983). The Court will decline the invitation to do so.

The Anti-Injunction Act, 28 U.S.C. § 2283 provides that:

> [a] court of the United States may not grant an injunction to stay proceedings in a State Court except as expressly authorized by Act of Congress, or where necessary in aid of its jurisdiction, or to protect or effectuate its judgments.

28 U.S.C. § 2283. The Anti-Injunction Act "generally prohibits the federal courts from interfering with proceedings in the state courts." *Chick Kam Choo v. Exxon Corp.*, 486 U.S. 140, 145 (1988). It "is an absolute prohibition" against an injunction of state court proceedings, unless the injunction falls within one of the three specifically defined exceptions. *Vendo Co. v. Lektro-Vend Corp.*, 433 U.S. 623, 630 (1977). The Act's purpose is to avoid "the inevitable friction between the state and federal courts" that would ensue from federal injunctions against state judicial proceedings, *id.*, and the Supreme Court has admonished that "[a]ny doubts" about the propriety of a federal injunction against a state court proceeding "should be resolved in favor of permitting the state courts to proceed in an orderly fashion to finally determine the controversy." *Id.*, citing *Atl. Coast Line R. Co. v. Bhd. of Locomotive Eng'rs*, 398 U.S. 281, 297 (1970).

The Court notes that Kazakhstan's complaint against the Argentem Parties asserts claims under state law as well as English law, *see* NY Compl. ¶¶ 227–59, while the Court's decision confirming the arbitration award was based solely on the application of the Federal Arbitration Act and the New York Convention. *See Stati*, 302 F. Supp. 3d at 202, 209. While it touched upon Kazakhstan's allegations of fraud, it did not involve the Argentem Parties or consideration of any state claims against those parties – much less any claims under English law. *See id.* Further, the Court's decision in the racketeering case was based on the sufficiency of the federal claims in the complaint filed against the Stati Parties on their face, and it expressly did not address the validity of any state law claims. *See Rep. of Kaz.*, 380 F. Supp. 3d at 61–63, 65.

Given those circumstances, the Court has grounds to question whether an injunction would be appropriate, and in accordance with the guidance set down by the Supreme Court, it finds that the state court is better positioned to determine whether Kazakhstan's claims are precluded. *See Atl. Coast Line R. Co.,* 398 U.S. at 297 ("Any doubts as to the propriety of a federal injunction against state court proceedings should be resolved in favor of permitting the state courts to proceed in an orderly fashion to finally determine the controversy.").

Accordingly, the Court in its discretion[1] hereby **DENIES** the Argentem Parties' Motion for Leave to File Motion for Preliminary and Permanent Injunctive Relief [Dkt. # 153].

SO ORDERED.

AMY BERMAN JACKSON
United States District Judge

DATE: March 19, 2021

1 *See Jackson v. Finnegan, Henderson, Farabow, Garrett & Dunner*, 101 F.3d 145, 151 (D.C. Cir. 1996) (district courts have broad discretion in deciding how best to manage their dockets).