



Many of our engagements involve matters in which our clients face significant public attention. The following is a list of news stories about the firm, our clients, cases and the results we have achieved.

## **Kobre & Kim Helps Elliott Obtain US \$108 Million Arbitral Award Against the Republic of Korea**

June 22, 2023

SEOUL, JUNE 22, 2023 – Kobre & Kim LLP, together with law firms Three Crowns and KL Partners, have obtained a US \$108 million award for Elliott Associates, L.P., resolving an international arbitration against the Republic of Korea over its alleged unlawful intervention in the 2015 merger between Samsung C&T and Cheil Industries, both affiliates of Samsung Group, Korea's largest *chaebol*.

As a shareholder in Samsung C&T, Elliott sought to block the merger due to unfair terms that had significantly undervalued Samsung C&T. Elliott also raised governance concerns resulting from the proposed deal, designed to consolidate significant corporate power in the son of the then-Samsung chairman at the expense of Samsung C&T shareholders. Despite the controversy, with the support of the state-owned National Pension Service (NPS)—the largest Samsung C&T shareholder at the time as well as a major shareholder in the Samsung Group—the merger was passed by a small margin of 2.8%.

Later, it emerged that the Korean government pressured the NPS into approving the merger of Samsung C&T and Cheil Industries, despite its own analysis showing it would cause significant losses to NPS and other Samsung C&T shareholders. The government intervention later became the focus of a major influence-peddling scandal that not only resulted in the removal from office of South Korean President Park Geun-hye in 2017, but also led to the prosecution, conviction and imprisonment of the former President Park, alongside former Minister of Health and Welfare and several high-ranking officials in the Ministry of Health and Welfare and NPS.

Elliott filed its request for arbitration in April 2018, seeking damages of US \$581.3 million plus interest. Elliott claimed that Samsung C&T shareholders (including Elliott as well as the NPS and other Korean shareholders) suffered significant losses due to the government intervention, which resulted from transfer of significant value from Samsung C&T to Cheil shareholders.

During the arbitration, Elliott obtained a Tribunal order against the Korean government which was refusing to produce documents that it possessed as part of the local criminal investigation and court proceedings. Based on evidence gathered and presented by the Korean prosecutors in the local criminal prosecutions of senior governmental and Samsung officials, Elliott persuaded the Tribunal to order the Korean government to produce further evidence, including transcripts of phone conversations between Ministry and NPS officials and their statements to the prosecutors during the criminal investigation. This evidence was key to establishing the Korean government's illegal conduct against Elliott.

A two-week-long hearing was held in Geneva, Switzerland in November 2021. Kobre & Kim advised Elliott on an overarching multi-jurisdictional legal strategy, with arbitration counsel Three Crowns and KL Partners.

In the Award issued on June 20, 2023, the Tribunal found the ROK in breach of international law, causing losses to Elliott as a result of its unlawful intervention. The US \$108 million award in favor of Elliott represents the damages, interest, and legal fees and costs.

"This award is a total vindication for not just Elliott Associates, but also the state of corporate governance and shareholder rights in Korea," said Kobre & Kim's **Robin Baik**. "We believe this will send a loud and clear message throughout the country about the need for transparency, with the ultimate aim of making Korean corporate entities even more competitive on a global scale."

## **About Kobre & Kim**

# KOBRE & KIM

Kobre & Kim is a global litigation firm that focuses on cross-border disputes and investigations, often involving fraud and misconduct. We primarily act as special advocates in sensitive situations requiring independence and conflict-free advocacy, including situations relating to Korea involving disputes with chaebol companies.