

Argentinien gewinnt „Alter Ego“ – Prozess vor New Yorker Bezirksgericht

Zusammenfassung

In der Frage, ob die New Yorker Niederlassung der Zentralbank (Banco de La Nacion) Argentiniens als „Alter Ego“ unter der direkten Kontrolle der argentinischen Regierung stehe, und deshalb ebenfalls zur Begleichung der titulierten Altforderungen aus der Staatspleite von 2001 heranzuziehen sei, hat der US-Bezirksrichter Thomas Griesa Ende März 2011 gegen eine Gruppe von klagenden Altgläubigern entschieden. Diese hatten im Mai letzten Jahres erwirkt, dass argentinische Einlagen bei der Banco de La Nacion in Höhe von ca. 2,4 Mrd. US-Dollar eingefroren wurden. Obwohl der Staat Argentinien Eigentümer der Bank ist und deren leitende Gremien einberuft, konnte der Beweis, dass die argentinische Regierung das Tagesgeschäft der Bank dirigiere bzw. massive Einflüsse auf die Bank ausübe, nicht erbracht werden. Griesa betont in diesem Zusammenhang, dass dieses Urteil die Werthaltigkeit der Pfändungstitel über ca. 4 Mrd. US-Dollar gegenüber dem Staat Argentinien, welche von ihm zugunsten einiger klagenden Altgläubiger – darunter auch HWB Capital Management – ausgestellt wurden, in keinster Weise beeinträchtigt. Die Möglichkeit einer Pfändung in US-Dollar-Zahlungsströme bleibt von dem Urteil genauso unberührt wie eine mögliche Direktzahlung aus den Währungsreserven.



„It is surely true that the Republic (of Argentina) has failed to pay its bond debts and its judgement debts and this is in the view of this court seriously wrongdoing“ - Thomas Griesa

Argentina Wins Dismissal of Banco Nacion Bondholders 'Alter Ego' Lawsuit¹

Argentina won dismissal of a U.S. lawsuit by bondholders who claimed Banco de La Nacion Argentina was liable for judgments stemming from the nation's defaulted debt because the bank was Argentina's "alter ego." A group of plaintiffs suing Argentina to collect on defaulted debt asked a federal judge in New York in May to declare the bank an alter ego of the republic and that it was "jointly and severally liable to satisfy existing judgments in favor of plaintiffs and against the republic." U.S. District Judge Thomas Griesa today denied that request and dismissed the suit, saying he doesn't have jurisdiction over the group's claims. "As an instrumentality of a foreign state, BNA is presumptively immune from the jurisdiction of the United States courts," he wrote. "It should be noted that what is requested here is to have BNA declared jointly and severally liable with the republic for all the remaining defaulted bond obligations of the republic. The court rejects that BNA is an alter ego of the republic, leading to this result," Griesa said. Argentina defaulted on \$95 billion in debt in late 2001. In 2005, then-President Nestor Kirchner offered holders of defaulted debt 30 cents on the dollar. Holders of about \$20 billion in bonds rejected that deal. Argentina has since refused to reopen negotiations, preventing the country from being able to directly tap international credit markets. The country has also been sued by individual bondholders in cases that are also pending before Griesa. On May 24, Griesa granted the plaintiffs' request to issue a restraining order freezing about \$2.4 billion in Argentine assets held by the bank. The plaintiffs also filed their own alter ego suit in federal court in New York before Griesa four days later on May 28, seeking an order that would allow them the authority to collect the judgments, the judge said in today's decision. "BNA is presumptively immune from the jurisdiction of United States courts unless an exception specified in the Foreign Sovereign Immunities Act," Griesa said in his ruling today. "Plaintiffs put forth insufficient evidence of day-to-day or excessive control to establish that BNA is an alter ego of the republic."

Kontakt für weitere Informationen:
HWB Capital Management / Carsten Salzig
Tel. 0651-1704 301
Mail: carsten.salzig@hwb-fonds.com

¹ Quelle: <http://www.bloomberg.com/news/2011-03-28/argentina-wins-dismissal-of-banco-nacion-bondholders-alter-ego-lawsuit.html>