



# Dispute Between the Operator of a Toll Road Concession in Latin America and Its Grantor

## SITUATION

The operator of a toll road concession in Latin America alleged that, as a result of breaches by the grantor of the concession (a public organization), it was precluded to carry out the construction and subsequent operation of certain tranches of the concession. This resulted in losses to the operator as a result of the profits it was unable to generate from the operation of the affected tranches. The operator claimed its damages in an arbitration procedure before the International Centre for Dispute Resolution of the American Arbitration Association.

## OUR ROLE

FTI Consulting was appointed as independent expert witness by the operator of a toll road concession to assess the losses faced by the operator and those of its subcontractor in charge of the construction.

We assessed the losses faced by the operator and its shareholder as a result of the claimed breaches. This involved a detailed analysis of the operator's rights and obligations under the concession contract in order to understand and assess the economic consequences of the alleged breaches.

Our work focused on the following aspects:

- Detailed analysis of rights and obligations under the contract;
- Assessment of the economic consequences suffered as a result of the claimed violations;
- Drafting of three expert reports in Spanish detailing our analyses and conclusions for the tribunal.

We also assessed the damages suffered by the subcontractor in charge of the construction, by analysing its loss of profits on the tranches which were not built.

Our analyses were developed in three expert reports submitted to the tribunal.

We did an oral evidence during hearing in December 2022, and the award is yet to be issued.

## OUR IMPACT

Our analysis strengthened the demonstration of causality by analysing from an economic and financial perspective the financial consequences that the breaches had directly on the operator.

We quantified the damages suffered by the operator of a toll road concession and its subcontractor in charge of the construction as a result of the violations.



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