

International Centre for Settlement of Investment Disputes

1818 H Street, N.W., Washington, D.C. 20433, U.S.A.
Telephone: (202) 458-1534 Faxes: (202) 522-2615/2027
Web site: www.worldbank.org/icsid

By Fax

July 15, 2005

OKO Osuuspankkien Keskuspankki Oyj,
Ost-West Handelsbank AG and
Sampo Bank Plc
c/o Mr. Patrik Lindfors
and Mrs. Petra Kiurunen
Hannes Snellman Attorneys
00131 Helsinki, Finland

The Republic of Estonia
c/o Ilmar-Erik Aavakivi
Law Office Aivar Pilv
10146 Tallinn, Estonia
and
Mr. Brian King and
Ms. Melanie van Leeuwen
Freshfields Bruckhaus Deringer
1077 AR Amsterdam, Netherlands
and
Mr. Georgios Petrochilos
75375 Paris Cedex 08
France
and
The Ministry of Finance of the
Republic of Estonia
15006 Tallinn, Estonia

Re: OKO Osuuspankkien Keskuspankki Oyj and others v. Republic of Estonia
(ICSID Case No. ARB/04/6)

Dear Sirs and Mesdames,

I write to convey to you the Tribunal's instructions as follows:

"The Tribunal has considered the Claimants' request for the production of documents of 17 June 2005 and the Respondent's reply thereto of 27 June 2005. The Tribunal should like to say the following.

1. The Tribunal understands that the Respondent has allowed the Claimants to review a number of documents in all three categories mentioned in the Claimants' initial request for the production of documents.
2. The dispute seems now to concentrate on certain documents from what the Claimants have called the first category: minutes of all the meetings of the board of RE Ookean and RAS Ookean, including annexes thereof, for the years 1993 to 1995. In that regard the Claimants now ask the Tribunal to order the Respondent to disclose:
 1. All the minutes of the meetings of the Board of RE Ookean and RAS Ookean that have not already been disclosed or submitted as evidence, especially minutes of the meetings of the Board of RAS Ookean Nos. 8 and 21 to 27 (with their potential annexes); or
 2. Alternatively, should the Tribunal accept Estonia's claim on privilege, the minutes identified in point 1 above, with the privileged parts of the documents covered.
3. The Respondent acknowledges that it refuses to disclose the minutes of 8 meetings of RAS Ookean's board (Nos. 8 and 21-27) because those minutes relate to meetings attended by either

July 15, 2005

██████████ or ██████████, both being members of the Estonian Bar, in their capacity as external counsel to RAS Ookean.

4. The Tribunal cannot derive from the Respondent's explanation in its letter of 27 June 2005 at a) that indeed the fact that ██████████ and ██████████ did attend the said meetings would categorically entail that those minutes are covered by the attorney/client privilege. The Tribunal therefore invites the Respondent to provide a clearer justification of the claim to privilege:
- a. By providing a written account by either the two lawyers or by the Chairmen of the said boards – or both – including a written account of the reasons for the involvement of the said lawyers at each of the litigious board meetings.
 - b. By clarifying why at least a redacted version of the minutes could not be disclosed, excising only those passages said to be privileged from production in these proceedings.”

Sincerely yours,



Martina Polasek
Secretary of the Tribunal

cc:

Mr. O.L.O. de Witt Wijnen, President
Mr. L. Yves Fortier, C.C., Q.C.
Mr. V.V. Veeder, Q.C.