



February 20, 2020

By email

AS PNB Banka and others
c/o Mr. Stephen Jagusch QC
Dr. Anthony Sinclair
Mr. Armando Neris
Ms. Tina Kang
Dr. David Pusztai
Mr. Ram Mashru
Mr. James Mohajer
Quinn Emanuel Urquhart & Sullivan LLP
90 High Holborn
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and
Mr. Vīgo Krastiņš
Administrator of the insolvent
“AS PNB Banka”
and
Mr. Okko Behrends
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Taunusanlage 21
60325 Frankfurt am Main
Germany

Republic of Latvia
c/o Dr. Ilze Dubava
Nērika Lizinska
Dainis Pudelis
State Chancellery of the Republic of Latvia
Legal Department
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and
Mr. Pierre-Olivier Savoie
Savoie Arbitration
63, rue Pierre Charron
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and
Ms. Marie P. Michon
Avocat à la Cour
62 boulevard de la Tour Maubourg
75007 Paris
France

Re: AS PNB Banka and others v. Republic of Latvia
(ICSID Case No. ARB/17/47)

Dear Sirs and Mesdames,

I confirm our receipt of a submission from Mr. Okko Hendrik Behrends on behalf of AS PNB Banka dated February 17, 2020, proposing the disqualification of James Spigelman QC, HE Judge Peter Tomka and Mr. John Townsend pursuant to Articles 14 and 57 of the ICSID Convention and ICSID Arbitration Rule 9 (the “Disqualification Proposal”). The Disqualification Proposal is hereby transmitted to the Parties and will be transmitted to the members of the Tribunal under separate cover.

Article 57 of the ICSID Convention provides that “[a] party may propose ... the disqualification of any of [the Tribunal’s] members ...” Similarly, ICSID Arbitration Rule 9 provides that a “party” may propose the disqualification of an arbitrator pursuant to Article 57 of the ICSID Convention.

Article 58 of the ICSID Convention provides that the proposal to disqualify a majority of the arbitrators will be decided by the Chairman of the Administrative Council.

I note that, in Procedural Order No. 8, the Tribunal in the above-referenced matter has decided as follows:

“a. The Tribunal recognises Mr. Krastiņš as the representative of the Bank for the purposes of completing submissions on the Bifurcated Issue in answer to the Tribunal questions.

[...]

c. Until further order, the Tribunal rejects Mr. Behrends’ application to be accepted as the representative of the Bank. The parties are directed to continue to copy Mr. Behrends on any communication relating to the representation of the Bank.”¹

While AS PNB Banka is one of the Claimants, the Tribunal has decided that Mr. Behrends does not represent AS PNB Banka in this proceeding. In the circumstances, the application filed by Mr. Behrends cannot be considered a submission by “a party” to the proceeding and, as such, does not meet the requirement for submission to the Chairman of the Administrative Council under Article 57 of the ICSID Convention and ICSID Arbitration Rule 9.

Yours sincerely,

A handwritten signature in black ink, appearing to read "Meg Kinnear". The signature is fluid and cursive, with the first name "Meg" being particularly prominent.

Meg Kinnear
Secretary-General

Attachments

cc (by email): Members of the Tribunal

¹ Procedural Order No. 8, dated January 30, 2020, paragraph 38.