

**Procedural Order No. 3 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
ICSID Case No. ARB/17/11

**Requesting Party:**  
The Czech Republic

**Requested Party:**  
Pawlowski AG (also  
“**Claimant 1**”) and Projekt  
Sever s.r.o. (also “**Claimant  
2**”) (together, “**Claimants**”)

<b>Document Request No. 1.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u><b>Requesting party</b></u>	<u><b>Requested party</b></u>	<u><b>Tribunal</b></u>
<p>Documents<sup>1</sup> containing Claimants<sup>2</sup> analyses of the likely outcome of Benice’s and its co-petitioners’ application to annul Change Z 1294/07<sup>3</sup> before (i) the Municipal Court (resulting in decision 9A 113/2012, Exhibit C-94) and (ii) the Supreme Administrative Court (resulting in decision 6Aos 2/2013-95, Exhibit C-95).</p> <p>The existence of such documents is understood from Projekt Sever’s attempt to take part in these legal proceedings (Counter-Memorial, ¶ 118 and footnote 157; Exhibit C-94, p. 29; Exhibit C-95, ¶ 16). It is further understood from Mr. Pawlowski’s characterization of Benice’s and its co-petitioners’ application to annul Change Z 1294/07 as “<i>a very extreme measure that was not justified</i>” (Pawlowski WS, ¶ 47) and by Claimants’ assessment that “[it] was apparently devoid of a rational basis” (Memorial on the Merits, ¶ 138).</p>	<p>Claimants object to Respondent's speculative, argumentative and incorrect assertions regarding why "the existence of such documents is understood".</p>	<p>N.A.</p>
<b>Time frame of issuance</b>		
<p>21 June 2012 (the date Benice expressed its intention to apply for the annulment of Change Z1294/07, Exhibits C-75 and C-76) to 26 February 2014 (the date Supreme Administrative Court decision 6Aos 2/2013-95 was rendered, Exhibit C-95)</p>		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u><b>Requesting party</b></u>	<u><b>Requested party</b></u>	<u><b>Tribunal</b></u>
<p>Respondent’s position is that, contrary to Claimants’ assertions, “<i>the decision to pursue annulment [was] reasonable to protect Benice’s interests</i>” (Counter-Memorial, ¶ 119).</p> <p>These documents are relevant and material, as they will confirm that Claimants knew that Benice’s decision to petition to annul Change Z 1294/07 was reasonable and well-grounded in that Change Z 1294/07 was not definitive and could always be subject to annulment <i>via</i> court review.</p>	<p>Claimants object to Respondent's speculative, argumentative and incorrect assertion regarding what any such documents "will confirm".</p>	<p>N.A.</p>
<b>Reference in Memorial (paras.)</b>		
<p>Counter-Memorial, Section 2.6</p>		

<sup>1</sup> In accordance with Procedural Order 2 (¶¶ 7-9), ‘document’ means a writing, communication, picture, drawing, program or data of any kind, whether recorded or maintained on paper or by electronic, audio, visual or any other means.

<sup>2</sup> For the purposes of the present document production request “Claimants” shall be understood as Pawlowski AG and/or Projekt Sever s.r.o. themselves and/or any representative or member of staff from Pawlowski AG and/or Projekt Sever s.r.o., including Mr. Pawlowski.

<sup>3</sup> Unless indicated otherwise, defined terms have the same meaning as that provided in the Czech Republic’s Counter-Memorial on the Merits and Memorial on Preliminary Objections of 5 December 2018.

<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<b><u>Requesting party</u></b>	<b><u>Requested party</u></b>	<b><u>Tribunal</u></b>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants as part of their recordkeeping.		N.A.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
If any such documents existed, they obviously would be protected by legal privilege, hence the request itself is abusive and made for the purpose of arguing Respondent's case.	<p>Claimants' objection is entirely misplaced. Respondent's request concerns Documents "containing <i>Claimants' analyses of the likely outcome of Benice's and its co-petitioners' application to annul Change Z 1294/07 [...]</i>" (emphasis added). Respondent is not requesting Documents drafted by counsel which, as required by ¶ 23 of PO2, is a <i>sine qua non</i> condition for legal privilege to apply ("<i>[t]he Document has to be drafted by a lawyer acting in his or her capacity as lawyer</i>").</p> <p>In light of this, Claimants' objection should be overruled.</p>	N.A.
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
The requested documents do not exist.	<p>It is not credible that the requested documents do not exist.</p> <p><i>First</i>, Mr. Pawlowski and Claimants have indicated that analyses were undertaken (R1).</p> <p><i>Second</i>, if such analyses did not exist, there would have been no reason for Claimants to assert that "<i>[i]f any such documents existed, they obviously would be protected by legal privilege</i>" (O1). This fallback position indicates that Claimants are unsure of their own assertions regarding the inexistence of the analyses. Tellingly, Claimants have not even indicated whether they have searched for them (<i>compare</i> Claimants' response to Respondent's request no. 16).</p> <p>Claimants' objection should therefore be overruled.</p>	<p>The Tribunal takes note that Claimant states that the requested Documents do not exist.</p> <p>Respondent may draw the inferences it considers appropriate from this statement, in its next written submission.</p>
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<b><u>Requested Party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>Tribunal's Decision</b>		
The Tribunal takes note that the requested Party states that the requested Documents do not exist.		

**Respondent may draw the inferences it considers appropriate from this statement, in its next written submission.**

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
 ICSID Case No. ARB/17/11

**Requesting Party:**  
 The Czech Republic

**Requested Party:**  
 Pawlowski AG (also  
 “**Claimant 1**”) and Projekt  
 Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 2.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Documents containing Claimants’ analyses of the treatment of Change Z 1294/07 after its annulment by decision 9A 113/2012 of the Municipal Court (Exhibit C-94), confirmed by the decision of the Supreme Administrative Court 6Aos 2/2013 (Exhibit C-95).</p> <p>The existence of such documents is understood from Claimants’ assertions that “<i>[i]n defiance of its legal obligations, the Prague City Assembly failed to consider or decide how to deal with the Municipal Court decision</i>” and from Projekt Sever’s letters dated 2014 “<i>notifying [Mayor Hudeček and members of the City Assembly] that the incorrect procedure [was followed]</i>” and urging “<i>the City to move forward expeditiously to remedy the flaws identified by the court, and to ensure that the land in question was properly zoned residential</i>” (Memorial on the Merits, ¶¶ 155-156 (emphasis added); see also Exhibit C-80; Exhibit C-81).</p>		N.A.
<b>Time frame of issuance</b>		
21 June 2012 (the date Benice expressed its intention to apply for the annulment of Change Z 1294/07, Exhibits C-75 and C-76) to 7 April 2017 (the date Claimants filed their Request for Arbitration)		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent’s position is that “<i>the Prague City Assembly had no obligation to resume the procurement process without delay after the annulment of the change</i>” (Counter-Memorial, ¶ 138) and that, in any event, “<i>the Prague City Assembly would still be able to decide, in its discretion, whether to proceed and adopt the change in accordance with its constitutionally protected right to “territorial self-governance”</i>” (Counter-Memorial, ¶ 150).</p> <p>These documents are relevant and material, as they will confirm that Claimants knew that the City of Prague was not bound to take any legal action following the annulment of Zoning Change Z 1294/07 and that, in any event, its procurement was within the discretion of the City of Prague and was not mandatory.</p>	<p>Claimants object to Respondent’s argumentative and incorrect assertions regarding what any such documents “will confirm”.</p> <p>As Respondent is well aware from documents submitted as exhibits in this Arbitration and otherwise within its possession, these documents confirm that Claimants knew that the City of Prague was indeed bound to take action following the annulment of the zoning change and that there was no valid reason that the change should not be procured, hence failure to do so violated the BIT (see, e.g., Exhibits C-2, C-80 and C-81).</p>	The request is not <i>prima facie</i> relevant and material.
<b>Reference in Memorial (paras.)</b>		
Counter-Memorial, Section 2.7.1		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants as part of their	All responsive documents are in Respondent’s possession, custody or control (see, e.g., Exhibits C-2, C-80 and C-81).	N.A.

recordkeeping.		
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
If any additional documents existed, they obviously would be protected by legal privilege, hence the request itself is abusive and made for the purpose of arguing Respondent's case.	<p>Claimants' objection is entirely misplaced. Respondent's request concerns Documents "containing <i>Claimants' analyses of the treatment of Change Z 1294/07[...]</i>" (emphasis added). Respondent is not requesting Documents drafted by counsel which, as required by ¶ 23 of PO2, is a <i>sine qua non</i> condition for legal privilege to apply ("<i>[t]he Document has to be drafted by a lawyer acting in his or her capacity as lawyer</i>").</p> <p>In light of this, and taking into account that Claimants have not, in fact, denied that further responsive Documents exist, Claimants' objection should be overruled.</p>	N.A.
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
The Arbitral Tribunal rejects the request because it does not meet R2.		

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The Czech Republic

**Requested Party:**  
Pawlowski AG (also  
“**Claimant 1**”) and Projekt  
Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 3.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u><b>Requesting party</b></u>	<u><b>Requested party</b></u>	<u><b>Tribunal</b></u>
<p>Documents recording the reasons why Claimants decided not to instigate a new change to the Prague Zoning Plan, following the annulment of the Zoning Change by the decision 9A 113/2012 of the Municipal Court (Exhibit C-94), confirmed by the decision of the Supreme Administrative Court 6Aos 2/2013 (Exhibit C-95).</p> <p>Claimants state that filing such “<i>new application [...] would have meant going through the entire procurement process again and repeating every single stage from the beginning</i>” (Memorial on the Merits, ¶ 163) and that, for this reason, they instead chose to file the Request for Arbitration in 2017. It is reasonable to assume that such business decision was discussed and recorded internally within Claimant 1 and/or Claimant 2, and thus that the requested documents exist.</p>	<p>This request misleadingly suggests that "instead" of filing a new application, Claimants "chose to file" this arbitration in 2017 as "a business decision". But in the years after the 2013 court decision, Claimants pursued the change via means other than an ICSID arbitration including numerous letters to governmental entities and office holders insisting on the usual administrative process after annulment of a zoning plan change. Only after they were ignored or told to file a new application (which would have meant repeating the procurement process and engaging in a futile exercise) did Claimants file the RfA.</p> <p>This request is also an argumentative attempt (i) to minimize the consequences of Benice's belated assault on the zoning plan change and the City's failure to procure the change after it was annulled, and (ii) to pretend that a new application could have been successful in light of the opposition and hostility of Benice and City officials from June 2012 onwards.</p> <p>Further, as Projekt Sever is wholly owned by Pawlowski AG and Pawlowski AG has a single, individual shareholder, Respondent's suggestion that decisions would be discussed and recorded internally (as though these were large companies with separate management and supervisory boards) is misplaced.</p>	N.A.
<u><b>Time frame of issuance</b></u>		
<p>21 June 2012 (the date Benice expressed its intention to apply for the annulment of Change Z 1294/07, Exhibits C-75 and C-76) to 7 April 2017 (the date Claimants filed their Request for Arbitration)</p>		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u><b>Requesting party</b></u>	<u><b>Requested party</b></u>	<u><b>Tribunal</b></u>
<p>Respondent's position is that “<i>Claimants have incorrectly conceived this arbitration as an insurance policy for bad business decisions and inherent business risk</i>” (Counter-Memorial, ¶ 5), and that any purported damage was caused by Claimants' own actions: “<i>the Czech Republic cannot be Claimants' financial back-up – Claimants must live with their own business decisions</i>” (Counter-Memorial, ¶ 419).</p> <p>These documents are relevant and material, as they will confirm, as explained by Respondent, that Claimants made the business decision of not re-applying for a zoning change, thus causing the purported damage they now claim in this arbitration.</p>	<p>Claimants object to Respondent's argumentative assertion regarding what any such documents "will confirm".</p>	N.A.
<u><b>Reference in Memorial (paras.)</b></u>		

Counter-Memorial, ¶¶ 5, 419		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<b><u>Requesting party</u></b>	<b><u>Requested party</u></b>	<b><u>Tribunal</u></b>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants as part of their recordkeeping.	To the extent responsive documents exist, they are already within Respondent's possession, custody or control, i.e. the numerous letters and the notices of claim that Claimants sent to governmental entities and officials (e.g. Exhibits C-2, C-80, C-81 and R-16).	The Tribunal takes note that the requested party alleges that to the extent responsive documents exist, they are already in the file.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<b><u>Requested Party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>Tribunal's Decision</b>		
The Tribunal takes note that the requested Party alleges that to the extent responsive documents exist, they are already in the file.		

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
 ICSID Case No. ARB/17/11

**Requesting Party:**  
 The Czech Republic

**Requested Party:**  
 Pawlowski AG (also  
 “**Claimant 1**”) and Projekt  
 Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 4.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Documents recording Mr. Zugar’s advice to Claimants that, in his view, “<i>Prague could have addressed these issues and reappraised the rezoning</i>” after the annulment of the Zoning Change by the decision 9A 113/2012 of the Municipal Court (Exhibit C-94) (Zugar WS, ¶ 30).</p> <p>The existence of such documents is understood from the fact that Mr. Zugar was advising Projekt Sever from May 2007 (Zugar WS, ¶ 5) and, according to the above-mentioned paragraphs of Mr. Zugar’s witness statement, he provided advice on this very issue.</p>	<p>Claimants object to Respondent's speculative, argumentative and incorrect assertions regarding why "the existence of such documents is understood".</p> <p>Among other things, Mr. Zugar was not Claimants' sole source of legal advice during the time period referenced in the request.</p>	N.A.
<b>Time frame of issuance</b>		
<p>21 June 2012 (the date Benice expressed its intention to apply for the annulment of Change Z 1294/07, Exhibits C-75 and C-76) to 7 April 2017 (the date Claimants filed their Request for Arbitration)</p>		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>By having Mr. Zugar testify as a witness regarding “<i>what happened during the time [he] worked on the Project Sever residential development project</i>” (Zugar WS, ¶ 3), Claimants have waived legal privilege regarding documents connected to such testimony.</p> <p>Respondent’s position is that “<i>the Prague City Assembly had no obligation to resume the procurement process without delay after the annulment of the change</i>” (Counter-Memorial, ¶ 138) and that, in any event, “<i>the Prague City Assembly would still be able to decide, in its discretion, whether to proceed and adopt the change in accordance with its constitutionally protected right to "territorial self-governance"</i>” (Counter-Memorial, ¶ 150).</p> <p>These documents are relevant and material, as they will confirm that Claimants knew that the City of Prague was not bound to take any legal action following the annulment of Zoning Change Z 1294/07 and that its re-procurement was within the discretion of the City of Prague and was not mandatory (in Mr. Zugar’s words, the City “<i>could have</i>” rather than <u>had</u> to take action (Zugar WS, ¶ 30)).</p>	<p>Claimants object to the assertion that there has been any waiver of legal privilege due to the fact that Claimants have submitted a witness statement in this Arbitration from Mr. Zugar. Respondent has not provided any argument or authority to support this statement, and such a concept of waiver does not exist in Czech law, where Mr. Zugar is licensed to practice.</p> <p>Claimants further object to Respondent's speculative, argumentative and incorrect assertions regarding what any such documents "will confirm".</p> <p>As Respondent is well aware from documents submitted as exhibits in this Arbitration and otherwise within its possession, Claimants knew that the City of Prague was indeed bound to take action following the annulment of the zoning change and that there was no valid reason that the change should not be procured, hence failure to do so violated the BIT (see, e.g., Exhibits C-2,</p>	N.A.



<b>Reference in Memorial (paras.)</b>	C-80 and C-81).	
Counter-Memorial, ¶¶ 138, 148, 150; Zugar WS, ¶ 30		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<b><u>Requesting party</u></b>	<b><u>Requested party</u></b>	<b><u>Tribunal</u></b>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants as part of their recordkeeping, or under their control as Mr. Zugar is Claimants' witness.		N.A.
<b>O1: Legal and settlement privilege (max. 250 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
If any additional documents existed, they obviously would be protected by legal privilege, hence the request itself is abusive and made for the purpose of arguing Respondent's case. Respondent does not even allege the existence of any authority supporting its statement that Claimants have waived legal privilege by submitting a witness statement for Mr. Zugar.	<p>Claimants assert that Respondent's waiver argument should be rejected because Respondent has provided no legal authority in support thereof. This is absurd. Waiver is a commonly accepted principle in international arbitration, codified in the IBA Rules on the Taking of Evidence 2010 (Article 9.3(d)). The Parties agreed to be guided by the IBA Rules in this arbitration (PO2, ¶ 7), which includes a broad waiver rule for "<i>consent, earlier disclosure, affirmative use of the Document, statement, oral communication or advice contained therein, or otherwise</i>".</p> <p>To build their case, Claimants are thus making "<i>affirmative use</i>" of Mr. Zugar's professional legal opinion that "<i>Prague could have addressed these issues and reapproved the rezoning</i>", which is an issue central to this arbitration. Claimants have accordingly waived privilege of any Documents recording such opinion, such that Claimants' objection should be overruled.</p>	N.A.
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
No responsive documents exist.	<p>It is not credible that responsive documents do not exist.</p> <p><i>First</i>, it is understood from Mr. Zugar's witness statement that he provided the requested advice to Claimants (R1).</p> <p><i>Second</i>, Claimants' objections are contradictory: on the one hand, Claimants assert that no "<i>additional documents</i>" exist (O1) – implying that some do – whereas they here assert that "<i>[n]o responsive documents exist</i>".</p> <p><i>Third</i>, if such advice did not exist, there would have been no reason for Claimants to assert that "<i>[i]f any additional documents existed, they obviously would be protected by legal privilege</i>" (O1). This fallback position indicates that Claimants are unsure of their own assertions regarding the inexistence of the advice. Tellingly, Claimants have not even indicated whether they have searched for them (<i>compare</i> Claimants' response to Respondent's request no. 16).</p>	<p>The Tribunal takes note that the requested Party states that the requested Documents do not exist.</p> <p>Respondent may draw the inferences it considers appropriate from this statement, in its next written submission.</p>

	Claimants' objection should therefore be overruled.	
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<b><u>Requested Party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>Tribunal's Decision</b>		
<p><b>The Tribunal takes note that the requested Party states that no responsive Documents exist. Respondent may draw the inferences it considers appropriate from this statement, in its next written submission.</b></p>		

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
 ICSID Case No. ARB/17/11

**Requesting Party:**  
 The Czech Republic

**Requested Party:**  
 Pawlowski AG (also  
 “**Claimant 1**”) and Projekt  
 Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 5.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Documents recording Mr. Zugar’s advice to Claimants on the risks that were inherent to the re-zoning process (Zugar WS, ¶ 31).</p> <p>The existence of such documents is understood from the fact that Mr. Zugar was advising Projekt Sever from May 2007 (Zugar WS, ¶ 5) and, according to his witness statement, he understood that the re-zoning was necessary for Projekt Sever’s development (“[t]he consequences for Projekt Sever were severe: Having the zoning plan change annulled and then dropped by the City of Prague destroyed Projekt Sever’s ability to develop the residential project” (Zugar WS, ¶ 31)).</p>	<p>Claimants object to Respondent's speculative, argumentative and incorrect assertions regarding why "the existence of such documents is understood".</p>	N.A.
<b>Time frame of issuance</b>		
<p>1 May 2007 (the estimated date Mr. Zugar was instructed by Claimants: “[i]n May 2007, Mr. Pawlowski requested my assistance, on behalf of Projekt Sever”, Zugar WS, ¶ 5) to 7 April 2017 (the date Claimants filed their Request for Arbitration)</p>		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>By having Mr. Zugar testify as a witness regarding “<i>what happened during the time [he] worked on the Projekt Sever residential development project</i>” (Zugar WS, ¶ 3), Claimants have waived legal privilege regarding documents connected to such testimony.</p> <p>Respondent’s position is that “[b]y the time Mr. Pawlowski had Projekt Sever purchase the plots, the re-zoning was at an initial phase and all plots were still agricultural land. The long and complex Czech re-zoning process, comprising four stages and demanding the approval of multiple entities, could fail at any time[...] The success of the Project was far from certain at the time” (Counter-Memorial, ¶ 54).</p> <p>These documents are relevant and material, as they will confirm that Claimants knew that the re-zoning process entailed significant risks and that the success of their Project was far from certain.</p>	<p>Claimants object to the assertion that there has been any waiver of legal privilege due to the fact that Claimants have submitted a witness statement in this Arbitration from Mr. Zugar. Respondent has not provided any argument or authority to support this statement, and such a concept of waiver does not exist in Czech law, where Mr. Zugar is licensed to practice.</p> <p>Claimants further object to Respondent's speculative, argumentative and incorrect assertions regarding what any such documents "will confirm".</p>	N.A.
<b>Reference in Memorial (paras.)</b>		
<p>Counter-Memorial, ¶ 54; Zugar WS, ¶ 31</p>		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants as part of their recordkeeping, or under their control as Mr. Zugar is Claimants' witness.		N.A.
<b>O1: Legal and settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
If any additional documents existed, they obviously would be protected by legal privilege, hence the request itself is abusive and made for the purpose of arguing Respondent's case. Respondent does not even allege the existence of any authority supporting its statement that Claimants have waived legal privilege by submitting a witness statement for Mr. Zugar.	<p>Claimants assert that Respondent's waiver argument should be rejected because Respondent has provided no legal authority in support thereof. This is absurd. Waiver is a commonly accepted principle in international arbitration, codified in the IBA Rules on the Taking of Evidence 2010 (Article 9.3(d)). The Parties agreed to be guided by the IBA Rules in this arbitration (PO2, ¶ 7), which includes a broad waiver rule for "<i>consent, earlier disclosure, affirmative use of the Document, statement, oral communication or advice contained therein, or otherwise</i>".</p> <p>To build their case, Claimants are thus making "<i>affirmative use</i>" of Mr. Zugar's professional legal opinion that "<i>[t]he consequences for Project Sever were severe [of] [h]aving the zoning plan change annulled and then dropped by the City of Prague</i>". Claimants have accordingly waived privilege of any Documents recording such opinion, such that Claimants' objection should be overruled.</p>	N.A.
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
No responsive documents exist.	<p>It is not credible that responsive documents do not exist.</p> <p><i>First</i>, it is understood from Mr. Zugar's witness statement that he provided the requested advice to Claimants (R1).</p> <p><i>Second</i>, Claimants' objections are contradictory: on the one hand, Claimants assert that no "<i>additional documents</i>" exist (O1) – implying that some do – whereas they here assert that "<i>[n]o responsive documents exist</i>".</p> <p><i>Third</i>, if such advice did not exist, there would have been no reason for Claimants to assert that "<i>[i]f any additional documents existed, they obviously would be protected by legal privilege</i>" (O1). This fallback position indicates that Claimants are unsure of their own assertions regarding the inexistence of the advice. Tellingly, Claimants have not even indicated whether they have searched for them (<i>compare</i> Claimants' response to Respondent's request no. 16).</p> <p>Claimants' objection should therefore be overruled.</p>	<p>The Tribunal takes note that the requested Party alleges that the requested Documents do not exist.</p> <p>Respondent may draw the inferences it considers appropriate from this statement, in its next written submission.</p>

<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
<p><b>The Tribunal takes note that the requested Party states that no responsive Documents exist. Respondent may draw the inferences it considers appropriate from this statement, in its next written submission.</b></p>		

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
ICSID Case No. ARB/17/11

**Requesting Party:**  
The Czech Republic

**Requested Party:**  
Pawlowski AG (also  
“**Claimant 1**”) and Projekt  
Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 6.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Enclosures of Exhibit <b>C-21</b> (“ <i>Application for zoning plan change by Prague-Uhřetěves, October 2, 2003</i> ”), mentioned in the application and not submitted by Claimants:  “ <i>Background documents for a change of the designated use of Plots No. 2001/1, 2001/2, 1999/1, and 1999/4 all in the Cadastral Community of Uhřetěves and Plots No. 285/1, 285/2, 285/3, 285/4, 285/5, 7, 8, 9, 10, 11, 12, 287/3, 287/4, and PK Plots No. 174/2, 174/3, 181, 182, 183/1, 183/2, 184/1, 184/2, and 185 all in the Cadastral Community of Benice – ‘Skalka Locality’ – 41 pages</i> ”.		N.A.
<b>Time frame of issuance</b>		
Taking into account that this request is for the enclosures of a specific exhibit (C-21), Respondent does not specify a time frame.		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The relevance and materiality of these documents cannot be disputed because they constitute missing annexes of an exhibit produced by Claimants.		N.A.
<b>Reference in Memorial (paras.)</b>		
Counter-Memorial, ¶ 44		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent has located part of the requested enclosures, filed with Exhibit <b>R-8</b> . Respondent assumes that the remaining pages are in the possession of Claimants since they are enclosures to a document Claimants have filed as an exhibit.	Claimants do not have possession of the requested documents. Respondent should itself have possession of enclosures to an application to the City of Prague by the District of Prague-Uhřetěves.	The Tribunal takes note that the requested Party states that it is not in possession of the requested Documents.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
<b>The Tribunal takes note that the requested Party states that it is not in possession of the requested Documents.</b>		

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**Requesting Party:**  
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**2**”) (together, “**Claimants**”)

<b>Document Request No. 7.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Enclosures of Exhibit <b>C-22</b> (“<i>Application for zoning plan change by Prague-Benice, April 26, 2004</i>”), mentioned in the application and not submitted by Claimants, specifically Annex 2:</p> <p>“<i>Documentation for the zoning plan change, including photograph of the cadastral map, 1:5000 diagram and list of the affected parcel number</i>”.</p>		N.A.
<b>Time frame of issuance</b>		
Taking into account that this request is for the enclosures of a specific exhibit (C-22), Respondent does not specify a time frame.		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The relevance and materiality of these documents cannot be disputed because they constitute missing annexes of an exhibit produced by Claimants.</p>		N.A.
<b>Reference in Memorial (paras.)</b>		
Counter-Memorial, ¶¶ 40-41		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent assumes that the requested documents are in the possession of Claimants since they are enclosures to a document Claimants have filed as an exhibit.</p>	<p>Claimants do not have possession of the requested documents. Respondent should itself have possession of enclosures to an application to the City of Prague by the District of Prague-Benice.</p> <p>However, Claimants have found the study referenced in Exhibit <b>C-22</b> (“<i>Application for zoning plan change by Prague-Benice, April 26, 2004</i>”) at p. 2, para. 5, namely “<i>the study by KAAMA s.r.o. architects and THER architects, which we will provide by 12 May 2004</i>”. Claimants will voluntarily produce this document.</p>	<p>The Tribunal takes note that Claimants state that they are not in possession of the requested Documents; however, Claimants have voluntarily undertaken to produce the study referenced in Exhibit C-22.</p>
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>



<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
<p><b>The Tribunal takes note that Claimants state that they are not in possession of the requested Documents; however, Claimants have voluntarily undertaken to produce the study referenced in Exhibit C-22.</b></p>		

**Procedural Order No. 2 – Annex B**  
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 Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 8.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>All pages of Exhibit <b>C-36</b> (“<i>Position Statement by the Environmental Division of the Municipal Office of the City of Prague, April 9, 2008</i>”).</p> <p>P. 11 of C-36 contains a quarter of a “<i>map diagram to strengthen the function of vegetation on the southern side of the territory</i>” that shows the Environmental Division’s recommended change to Zoning Change Z 1294/06. Respondent requests the production of these and all other (if any) missing pages of the document.</p>		N.A.
<b>Time frame of issuance</b>		
Taking into account that this request is for the missing pages of a specific exhibit (C-36), Respondent does not specify a time frame.		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The relevance and materiality of these documents cannot be disputed because they constitute missing pages of an exhibit produced by Claimants.</p>		N.A.
<b>Reference in Memorial (paras.)</b>		
Counter-Memorial, ¶¶ 64-71		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent assumes that the requested documents are in the possession of Claimants since they are missing pages of a document they have filed as an exhibit.</p>	<p>As this is a City of Prague document, Respondent has the document in its possession. Respondent’s request does not state that the document is not in its possession.</p> <p>Nevertheless, Claimants will voluntarily produce a complete copy of the document at Exhibit C-36 (and submit a replacement exhibit into the record), as the missing page was due to a scanning error when preparing the submission.</p>	<p>The Tribunal takes note that the requested Party has voluntarily undertaken to produce a complete copy of Exhibit C-36 and submit a replacement exhibit into the record.</p>
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
<p><b>The Tribunal takes note that the requested Party has voluntarily undertaken to produce a complete copy of Exhibit C-36 and submit a replacement exhibit into the record.</b></p>		

**Procedural Order No. 2 – Annex B**  
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ICSID Case No. ARB/17/11

**Requesting Party:**  
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**2**”) (together, “**Claimants**”)

<b>Document Request No. 9.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Copies of the (i) criminal complaint(s) (and its/their attachments) filed against Ms. Topičová and Mr. Hudeček on 22 October 2014 and (ii) any update to this/these first complaint(s) or any further complaint(s) filed by Claimants against Ms. Topičová and Mr. Hudeček.</p> <p>The existence of such documents is understood from Claimants’ Memorial on the Merits, ¶ 184 (“<i>[f]acing this hostility and the repeated misrepresentations by Mayor Hudeček, Projekt Sever filed a criminal complaint on October 22, 2004 [sic]</i>”) and Mr. Pawlowski’s witness statement, ¶ 47 (“<i>[w]e later filed criminal charges in this respect [i.e. Benice’s alleged retaliation against Projekt Sever] but the police found insufficient evidence for the state prosecution to take the charges further</i>”).</p>		<p>The request is sufficiently narrow and specific.</p>
<b>Time frame of issuance</b>		
22 October 2014 (the date Claimants indicate having filed said criminal complaint(s), Memorial on the Merits, ¶ 184) to date		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent’s position is that “<i>Projekt Sever filed a baseless criminal complaint against the former Mayors Topičová and Hudeček, as well as other involved persons</i>” and that the filing of said complaint “<i>demonstrates how far Claimants and Mr. Pawlowski will go to exert pressure over the people they believe have acted against their interests</i>” (Counter-Memorial, ¶ 171).</p> <p>The documents are relevant and material, as they will support Respondent’s position that Ms. Topičová and Mr. Hudeček did not, in Claimants’ words, try to “<i>block</i>” the Project through criminal activities (Memorial on the Merits, ¶ 184).</p>	<p>Claimants object to Respondent’s speculative, argumentative and incorrect assertion regarding what any such documents “will confirm”.</p> <p>Among other things, the fact that the police and prosecutor opened and have pursued investigations against Mayors Topičová and Hudeček confirm that these complaints were not “baseless” and that, indeed, there is credible evidence that Mayor Hudeček engaged in a pattern of illegal conduct while in office.</p>	<p>The requested Documents seem <i>prima facie</i> relevant and material.</p>
<b>Reference in Memorial (paras.)</b>		
Counter-Memorial, ¶¶ 93, 171		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent assumes that the requested documents are in the possession of Claimants since they filed the criminal complaint(s) and expressly referred to the complaint(s) in their Memorial on the Merits.</p>	<p>Respondent has the requested documents in its possession as they were filed with the Respondent. Respondent’s request does not state that the documents are not in its possession.</p>	<p>The Tribunal takes note of the Parties’ statements and invites the Parties to confer among themselves to guarantee that the requesting Party has access to the requested Documents, if they are not already in its possession.</p>

O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O3: Loss, destruction or inexistence (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The request complies with requirements R1 and R2. As to R3, the Tribunal takes note of the Parties' statements and invites the Parties to confer among themselves to guarantee that the requesting Party has access to the requested Documents, if they are not already in its possession.

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**Requesting Party:**  
The Czech Republic

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**2**”) (together, “**Claimants**”)

<b>Document Request No. 10.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Documents recording Claimants’ internal analyses of their decision to file criminal complaint(s) against Ms. Topičová and Mr. Hudeček.</p> <p>The existence of such documents is understood from Claimants’ Memorial on the Merits, ¶ 184 (“<i>facing this hostility and the repeated misrepresentations by Mayor Hudeček, Projekt Sever filed a criminal complaint on October 22, 2004 [sic]</i>”) and Mr. Pawlowski’s witness statement, ¶ 47 (“<i>[w]e later filed criminal charges in this respect [i.e. Benice’s alleged retaliation against Projekt Sever] but the police found insufficient evidence for the state prosecution to take the charges further</i>”). Indeed, it is reasonable to assume that Claimants discussed filing the criminal complaints before doing so.</p>	<p>As Projekt Sever is wholly owned by Pawlowski AG and Pawlowski AG has a single, individual shareholder, Respondent’s suggestion that business decisions would be discussed and recorded internally (as though these were large companies with separate management and supervisory boards) is misplaced.</p>	N.A.
<b>Time frame of issuance</b>		
1 January 2014 (the estimated date at which Claimants may have started to consider filing criminal complaint(s) to date		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent’s position is that “<i>Projekt Sever filed a baseless criminal complaint against the former Mayors Topičová and Hudeček, as well as other involved persons</i>” and that the filing of said complaint “<i>demonstrates how far Claimants and Mr. Pawlowski will go to exert pressure over the people they believe have acted against their interests</i>” (Counter-Memorial, ¶ 171).</p> <p>The documents are relevant and material, as they will support Respondent’s position that Projekt Sever’s criminal complaint was indeed baseless and merely meant to exert pressure on the people they believe have acted against their interests.</p>	<p>Claimants object to Respondent’s speculative, argumentative and incorrect assertion regarding what any such documents “will confirm”.</p> <p>Among other things, the fact that the police and prosecutor opened and have pursued investigations against Mayors Topičová and Hudeček confirm that these complaints were not “baseless” and that, indeed, there is credible evidence that Mayor Hudeček engaged in a pattern of illegal conduct while in office.</p>	N.A.
<b>Reference in Memorial (paras.)</b>		
Counter-Memorial, ¶¶ 93, 171		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants as part of their recordkeeping.		N.A.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
No responsive documents exist.	It is not credible that the requested documents do not exist. Claimants must have evaluated the possible courses of action and ultimately decided to file a criminal complaint. There should be internal communications discussing the possibility and opportunity to file the complaint. Claimants' objection should, therefore, be overruled. What is more, Claimants have not even indicated whether they have searched for them ( <i>compare</i> Claimants' response to Respondent's request no. 16).	The Tribunal takes note that the requested Party states that the requested Documents do not exist.  Respondent may draw the inferences it considers appropriate from this statement, in its next written submission.
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
<p>The Tribunal takes note that the requested Party states that no responsive Documents exist. Respondent may draw the inferences it considers appropriate from this statement, in its next written submission.</p>		

**Procedural Order No. 2 – Annex B**  
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**Requesting Party:**  
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**2**”) (together, “**Claimants**”)

<b>Document Request No. 11.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Documents exchanged between TaK and Claimants concerning the hurdles that the Project faced or would have faced in its different development stages, and which would have hampered or prevented its successful completion: (i) during the Zoning Change’s approval process; (ii) while seeking to obtain the three construction and use of real estate permits; (iii) during the Project’s actual construction.</p> <p>The existence of such documents is understood from Claimants’ Memorial on the Merits, ¶¶ 87-98 and Mr. Tichý’s witness statement, ¶¶ 7-20 (these documents providing a high-level description of TaK’s instruction by Projekt Sever and involvement in the planning and design of the Project). As TaK was in charge of the planning and design of the Project and of obtaining the construction permits, it is reasonable to assume that these documents exist.</p>	<p>Claimants object to Respondent's speculative, argumentative and incorrect assertions regarding why "the existence of such documents is understood".</p>	N.A.
<b>Time frame of issuance</b>		
<p>1 June 2007 (estimated date of TaK’s initial involvement with the Project, Tichý WS, ¶ 7) to 26 April 2013 (date of the Municipal Court decision annulling Zoning Change Z 1294/07, after which TaK stopped working on the Project, Tichý WS, ¶ 23).</p>		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent’s position is that, regardless of the re-zoning of the land, the Project would have faced significant further hurdles that could have prevented or delayed its successful completion (Counter-Memorial, ¶¶ 21, 61-62, 112, 408-410).</p> <p>These documents are relevant and material, as they will show that Claimants were aware of some of these issues, which will confirm the speculative nature of the damages they claim (Counter-Memorial, ¶¶ 408-410).</p>	<p>Claimants object to Respondent's speculative, argumentative and incorrect assertion regarding what any such documents "will confirm".</p>	N.A.
<b>Reference in Memorial (paras.)</b>		
<p>Counter-Memorial, ¶¶ 408-410; Tichý WS, ¶¶ 16-18</p>		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants as part of their recordkeeping, or within Claimants’ control as Mr. Tichý is Claimants’ witness.</p>		N.A.



<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
No responsive documents exist.	<p>It is not credible that the requested documents do not exist.</p> <p>It is understood from Mr. Tichy's witness statement that the requested Documents exist (R1).</p> <p>As TaK was in charge of the Project's planning and design and obtaining construction permits, it is reasonable to assume that TaK would have informed Claimants of hurdles that the Project could have faced in its different stages, and which would have hampered its successful completion.</p> <p>What is more, Claimants have not even indicated whether they have searched for them (<i>compare</i> Claimants' response to Respondent's request no. 16).</p> <p>Claimants' objection should therefore be overruled.</p>	<p>The Tribunal takes note that Respondent alleges that the Documents do not exist.</p> <p>Respondents may draw the inferences it considers necessary from this statement, in its next written submission.</p>
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
<p>The Tribunal takes note that the requested Party states that no responsive Documents exist. Respondents may draw the inferences it considers necessary from this statement, in its next written submission.</p>		

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
ICSID Case No. ARB/17/11

**Requesting Party:**  
The Czech Republic

**Requested Party:**  
Pawlowski AG (also  
“**Claimant 1**”) and Projekt  
Sever s.r.o. (also “**Claimant  
2**”) (together, “**Claimants**”)

<b>Document Request No. 12.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u><b>Requesting party</b></u>	<u><b>Requested party</b></u>	<u><b>Tribunal</b></u>
<p>The land purchase agreements (except those already submitted by Claimants) evidencing Projekt Sever’s acquisition of the plots of land intended for the Project.</p> <p>It is reasonable to assume that the requested documents exist, as such purchases are recorded by contracts.</p>		N.A.
<b>Time frame of issuance</b>		
<p>1 April 2007 (estimated date on which Claimants initiated the acquisition process of the land, Memorial on the Merits, ¶ 49) to 31 December 2008 (Claimants indicate having “<i>completed all of the land purchases necessary for the development of a large residential complex</i>” on 8 December 2018, Memorial on the Merits, ¶ 64 – 31 December 2008 is hence the estimated date by which all related funds were transferred)</p>		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u><b>Requesting party</b></u>	<u><b>Requested party</b></u>	<u><b>Tribunal</b></u>
<p>Respondent’s position is that “<i>there are discrepancies between the Schumacher Report and exhibits or witness statements annexed to the Claimants’ submission</i>” regarding the total area of land acquired by Claimants, (KPMG ER, ¶ 5.3.3, footnote 114).</p> <p>These documents are relevant and material, as they will confirm that, in accordance with Respondent’s position, Claimants are not entitled to the damages they claim. Further, without such detail, Respondent’s expert, KPMG, is prevented from carrying out a complete review of Mr. Schumacher’s damages analysis because “[<i>t</i>]he Schumacher Report does not provide enough supporting documentation and lacks sufficient level of detail, which makes it non-reviewable” (KPMG ER, ¶ 5.3.1).</p>	<p>Claimants object to Respondent's speculative, argumentative and incorrect assertion regarding what any such documents "will confirm".</p> <p>Claimants will address the alleged discrepancies in their Reply submission and expert report.</p>	N.A.
<b>Reference in Memorial (paras.)</b>		
<p>KPMG ER, ¶¶ 5.3.1, 5.3.3 (footnote 114)</p>		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u><b>Requesting party</b></u>	<u><b>Requested party</b></u>	<u><b>Tribunal</b></u>
<p>Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants as part of their recordkeeping.</p>	<p>All such agreements have been submitted in the record of this Arbitration.</p>	<p>The Tribunal takes note that the requested Party states that all agreements requested by the requesting Party have been submitted on the record and that no additional land purchase agreements exist.</p>
<b>O1: Legal or settlement privilege (max. 250 words)</b>		

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
No additional land purchase agreements exist.	Respondent takes note of this response.	The Tribunal takes note.
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
The Tribunal takes note that the requested Party states that all agreements requested by the requesting Party have been submitted on the record and that no additional land purchase agreements exist.		

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
ICSID Case No. ARB/17/11

**Requesting Party:**  
The Czech Republic

**Requested Party:**  
Pawlowski AG (also  
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Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 13.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u><b>Requesting party</b></u>	<u><b>Requested party</b></u>	<u><b>Tribunal</b></u>
<p>Bank account statements evidencing the payments made by Projekt Sever for the purchase of all the acquired plots of land intended for the Project.</p> <p>It is reasonable to assume that the requested documents exist because such purchases should be recorded in Projekt Sever’s bank statements.</p>		N.A.
<b>Time frame of issuance</b>		
<p>1 April 2007 (estimated date on which Claimants initiated the acquisition process of the land, Memorial on the Merits, ¶ 49) to 31 December 2008 (Claimants indicate having “<i>completed all of the land purchases necessary for the development of a large residential complex</i>” on 8 December 2018 (Memorial on the Merits, ¶ 64) – 31 December 2008 is hence the estimated date by which all related funds were transferred)</p>		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u><b>Requesting party</b></u>	<u><b>Requested party</b></u>	<u><b>Tribunal</b></u>
<p>Respondent’s position is that “<i>there are discrepancies between the Schumacher Report and exhibits or witness statements annexed to the Claimants’ submission</i>” regarding the amount spent by Claimants to purchase the land, and that it is unclear how Claimants derived their investment in land figure (KPMG ER, ¶ 5.3.3, footnote 114).</p> <p>These documents are relevant and material, as they will confirm that, in accordance with Respondent’s position, Claimants are not entitled to the damages they claim. Further, without such detail, Respondent’s expert, KPMG, is prevented from carrying out a complete review of Mr. Schumacher’s damages analysis because “<i>the Schumacher Report does not provide enough supporting documentation and lacks sufficient level of detail, which makes it non-reviewable</i>” (KPMG ER, ¶ 5.3.1).</p>	<p>Claimants object to Respondent's speculative, argumentative and incorrect assertion regarding what any such documents "will confirm".</p> <p>Claimants will address the alleged discrepancies in their Reply submission and expert report.</p> <p>Further, it is for Claimants to prove the payments made for the land purchases. Per PO No. 2, para. 19, "document production requests should not be used to put the other party to proof." Bank statements are only one type of potential evidence.</p> <p>Notwithstanding these objections, Claimants will voluntarily produce bank account statements evidencing the payments made to the Ministry of Defense and to the City of Prague as well as to the notary for the payments made to the individual sellers.</p>	<p>The Tribunal takes note that the requested Party has voluntarily undertaken to produce the bank account statements evidencing the payments.</p>
<b>Reference in Memorial (paras.)</b>		
<p>KPMG ER, ¶¶ 5.3.1, 5.3.3 (footnote 114)</p>		

<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<b><u>Requesting party</u></b>	<b><u>Requested party</u></b>	<b><u>Tribunal</u></b>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants as part of their recordkeeping.		N.A.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<b><u>Requested Party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>Tribunal's Decision</b>		
The Tribunal takes note that the requested Party has voluntarily undertaken to produce the bank account statements evidencing the payments.		

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
 ICSID Case No. ARB/17/11

**Requesting Party:**  
 The Czech Republic

**Requested Party:**  
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 “**Claimant 1**”) and Projekt  
 Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 14.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>All pages of exhibit <b>AP-0072</b> (“<i>Aareal Bank, Loan Agreement, starting 30 April 2008</i>”).</p> <p>Mr. Schumacher states that “<i>Claimants provided us with a loan agreement evidencing that the Claimants were granted external funds to (partially) finance the construction of the Housing Complex with bank loans</i>” (Schumacher ER, Annex D, ¶ 35), but only two pages of the agreement are produced.</p>		N.A.
<b>Time frame of issuance</b>		
<p>Taking into account that this request is for the missing pages of a specific exhibit (AP-0072), Respondent does not specify a time frame.</p>		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The relevance and materiality of these documents cannot be disputed because they constitute missing pages of an exhibit produced by Claimants.</p>	<p>In fact, no other pages are relevant to the damage assessment performed by Mr. Schumacher, as he effectively relied only on the credit volume and margin information and these are shown in the pages excerpted for the exhibit.</p>	<p>The Tribunal takes note that the requested Party has voluntarily undertaken to produce the responsive document.</p>
<b>Reference in Memorial (paras.)</b>		
<p>AP-0072 (cited at Schumacher ER, Annex D, ¶ 35)</p>	<p>Nevertheless, the entire document that is at Exhibit AP-0072 will be voluntarily produced.</p>	
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants since they are missing pages of a document they have filed as an exhibit.</p>		N.A.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
<b>The Tribunal takes note that the requested Party has voluntarily undertaken to produce the responsive document.</b>		

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**Requesting Party:**  
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2**”) (together, “**Claimants**”)

<b>Document Request No. 15.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Documents submitted by Claimants to Aareal Bank AG in the process of applying for the loan intended to finance the Project, including but not limited to feasibility studies, business plans, business forecasts and/or financial models (including detailed revenue calculations).  Claimants produce excerpts of the loan agreement concluded with Aareal Bank AG (AP-0072), which is evidence that these documents exist, as it is reasonable to assume that Claimants submitted documentation for such loan to be approved.	Respondent incorrectly assumes that documents specific to the Project were submitted in the process of applying for this loan. In fact, the loan was not targeted to the specific Project at issue in this Arbitration but rather was a credit line applied for in order to support financing of projects in the Czech Republic more generally.	The Tribunal takes note of Claimants’ declaration that no Project-specific documents were submitted in the process of applying for the credit line.
<b>Time frame of issuance</b>		
Taking into account that this request relates to a specific exhibit (AP-0072), Respondent does not specify a time frame.		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent’s position is that Claimants’ claims for lost profits are inherently speculative in particular with respect to expectations of profitability of the intended Project as at the time they were deciding on making the alleged investments (Counter-Memorial, Section 5.1).  These documents are relevant and material as they will confirm that, in accordance with Respondent’s position, the damages claimed by Claimants are hypothetical and uncertain and, therefore, not recoverable (Counter-Memorial, Section 5.1).	Claimants object to Respondent's speculative, argumentative and incorrect assertion regarding what any such documents "will confirm".  As the Aareal Bank AG credit line was not earmarked for a specific project and no Project-specific documents were submitted in the process of applying for this loan, the documents that were submitted to the bank are neither relevant nor material to this arbitration.	N.A.
<b>Reference in Memorial (paras.)</b>		
Counter-Memorial, Section 5.1		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants as part of their recordkeeping.		N.A.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>



<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<p>The documents submitted in the process of applying for the Aareal Bank AG credit line are financial statements of Pawlowski AG, which contain confidential commercial information wholly unrelated to this arbitration.</p>	<p>Claimants’ objection should be rejected <i>in limine</i>. Pursuant to ¶ 30 of PO2, Claimants had to either i) provide a Privilege Log identifying the confidential documents, ii) redact the confidential information from the requested documents, or iii) request Respondent for a confidentiality undertaking. Claimants followed none of the options given by the Tribunal.</p> <p>In addition, it bears noting that Claimants argue that they should not have to produce any Documents pursuant to this request because the “<i>credit line [was] applied for in order to support financing of projects in the Czech Republic more generally</i>” (R1) such that “<i>no Project-specific documents were submitted in the process of applying for this loan</i>” (R2). Respondent clarifies that it has not requested Project-specific Documents. Rather, Respondent has requested “<i>Documents submitted by Claimants to Aareal Bank AG in the process of applying for the loan</i>”. This category obviously covers Documents that are Project-specific and those that are not, including the financial statements Claimants mention.</p> <p>In any event, Claimants’ own expert has confirmed that the Aareal Bank AG loan was granted at least partially for purposes of the Project (“<i>[t]he Claimants provided us with a loan agreement evidencing that the Claimants were granted external funds to (partially) finance the construction of the Housing Complex with bank loans</i>” (Schumacher ER, Annex AP-D, ¶ 35)).</p>	N.A.
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<b><u>Requested Party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>Tribunal's Decision</b>		
<b>The Tribunal takes note of Claimants’ declaration that no Project-specific documents were submitted in the process of applying for the credit line.</b>		

**Procedural Order No. 2 – Annex B**  
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 ICSID Case No. ARB/17/11

**Requesting Party:**  
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**2**”) (together, “**Claimants**”)

<b>Document Request No. 16.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Documents containing feasibility studies, business plans, business forecasts and/or financial models including detailed revenue calculations (including the underlying variables and assumptions) recording calculations of economic return at the time Claimants were deciding on making the alleged investment.</p> <p>It is reasonable to assume that these documents exist as an experienced investor would conduct such analysis before investing.</p>		N.A.
<b>Time frame of issuance</b>		
<p>1 January 2007 (the estimated date on which Claimants started to consider making the alleged investment, Pawlowski WS, ¶¶ 10-12) to 31 December 2008 (Claimants indicate having “<i>completed all of the land purchases necessary for the development of a large residential complex</i>” on 8 December 2018, Memorial on the Merits, ¶ 64)</p>		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent’s position is that Claimants’ claims for lost profits are inherently speculative in particular with respect to expectations of profitability of the intended Project as at the time they were deciding on making the alleged investments (Counter-Memorial, Section 5.1).</p> <p>These documents are relevant and material as they will confirm that, in accordance with Respondent’s position, the damages claimed by Claimants are hypothetical and uncertain and, therefore, not recoverable (Counter-Memorial, Section 5.1).</p>	<p>Claimants object to Respondent's speculative, argumentative and incorrect assertion regarding what any such documents "will confirm".</p> <p>Notwithstanding this objection, Claimants will voluntarily produce the requested documents that they have been able to find which are not already in Respondent's possession.</p>	<p>The Tribunal takes note that the requested Party has agreed to produce the requested Documents that they have been able to find, which are not already in Respondent's possession.</p>
<b>Reference in Memorial (paras.)</b>		
<p>Counter-Memorial, Section 5.1</p>		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants as part of their recordkeeping.</p>	<p>Respondent already has in its possession a valuation of the Project that was conducted in 2009.</p>	N.A.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
This request asks for documents dating back to 2007 and includes documents of a type that are not typically archived by Claimants. Mr. Pawlowski recalls gathering a variety of information and documents prior to purchasing the land and during the design phase and planning process for the Project. However, he has been able to find in Claimants' files or retrieve from legacy IT systems only a limited number of documents. Claimants will continue to search for and attempt to retrieve responsive documents. If these efforts are not successful, such documents will have been lost or no longer exist.	Respondent has taken note of Claimants' comment that they will voluntarily produce the requested documents that they have been able to find which are not already in Respondent's possession, and that they will continue to search for and attempt to retrieve responsive documents.	The Tribunal takes note of the requested Party's declaration.
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<b><u>Requested Party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>Tribunal's Decision</b>		
<b>The Tribunal takes note that the requested Party has agreed to produce the requested Documents that they have been able to find, which are not already in Respondent's possession.</b>		

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**2**”) (together, “**Claimants**”)

<b>Document Request No. 17.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Contracts and/or other documents supporting the detail/breakdown of the alleged “<i>costs incurred</i>” as Claimants “<i>organized and prepared for the implementation of the Housing Complex</i>” (Schumacher ER, ¶ 38).</p> <p>Mr. Schumacher takes the total amount of such costs from Projekt Sever’s financial statements for his model. Total costs necessarily come from detailed accounting costs. This is evidence that the requested documents exist.</p>		<p>The request is sufficiently narrow and specific.</p>
<b>Time frame of issuance</b>		
<p>1 January 2007 (estimated date at which Claimants may have started to incur costs in relation to the Project) to 26 June 2018 (the date of the Schumacher ER)</p>		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The relevance and materiality of these documents cannot be disputed because they constitute documentation underlying inputs used by Mr. Schumacher to calculate Claimants’ purported damages.</p>	<p>It is for Claimants to prove the quantum of damages. Per PO No. 2, para. 19, “document production requests should not be used to put the other party to proof.” Claimants deny that all documentation underlying inputs used by Mr. Schumacher is material or reasonably subject to production. Mr. Schumacher used Projekt Sever’s audited financial statements for his inputs, which are robust and appropriate evidence on which an economic expert may rely.</p> <p>Notwithstanding these objections, additional supporting documents will be voluntarily produced. See also the documents voluntarily produced under Request No. 20.</p>	<p>The Tribunal takes note that the requested Party has voluntarily undertaken to produce additional supporting documents.</p> <p>Pursuant to para. 18 of PO 2, Documents relied upon by an expert to prepare its expert report (excluding working papers used by experts) are <i>prima facie</i> relevant and material, and should be produced by the requested party.</p> <p>To the extent that Claimants’ expert has had access to the requested documents, and based its findings on such documents, such documents should be produced.</p>
<b>Reference in Memorial (paras.)</b>		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that</p>		<p>The Tribunal takes note of Respondent’s</p>

they are in the possession of Claimants as part of their recordkeeping.		declaration.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<p>It is for Claimants to prove the quantum of damages. Per PO No. 2, para. 19, "document production requests should not be used to put the other party to proof."</p> <p>Mr. Schumacher used Projekt Sever's audited financial statements for his inputs, which are robust and appropriate evidence on which an economic expert may rely. Further contracts and/or other documents supporting the detail/breakdown of the alleged "<i>costs incurred</i>" beyond Projekt Sever's audited financial statements is an excessive request that is unreasonably burdensome.</p> <p>Notwithstanding this objection, additional supporting documents will be voluntarily produced.</p>	<p>Respondent has taken note of Claimants' comments that additional supporting documents will be voluntarily produced.</p> <p>Respondent notes that, to date, the "<i>additional supporting documentation</i>" produced consists of invoices (requested under Request No. 18) and annual reports (not requested). Respondent respectfully requests that Claimants be ordered to produce the contracts corresponding to the invoices, as a number of the invoices produced contain only a generic description of services. It should not be unreasonably burdensome for Claimants to find the limited number of contracts that correspond to the invoices they have already provided.</p> <p>Respondent notes that the audited financial statements referred to by Claimants do not provide the detail/breakdown of the costs incurred, only the aggregate numbers.</p>	<p>If Claimants' expert has had access to the documents in question, Claimants should be able to locate and produce the documents without difficulty.</p>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
<p>The Tribunal takes note that the requested Party has voluntarily undertaken to produce additional supporting documents.</p> <p>Pursuant to para. 18 of PO 2, Documents relied upon by an expert to prepare its expert report (excluding working papers used by experts) are <i>prima facie</i> relevant and material, and should be produced by the requested party.</p> <p>To the extent that Claimants' expert has had access to the requested documents, and based its findings on such documents, such documents should be produced.</p>		

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
 ICSID Case No. ARB/17/11

**Requesting Party:**  
 The Czech Republic

**Requested Party:**  
 Pawlowski AG (also  
 “**Claimant 1**”) and Projekt  
 Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 18.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Invoices, bank account statements and/or other documents evidencing the payments made by Projekt Sever above CZK 25,000 for the alleged “<i>costs incurred</i>” as Claimants “<i>organized and prepared for the implementation of the Housing Complex</i>” (Schumacher ER, ¶ 38).</p> <p>Claimants state that such costs were incurred. It is thus reasonable to assume that such costs are recorded in Projekt Sever’s accounting documentation or bank statements.</p>		<p>The request is sufficiently narrow and specific.</p>
<b>Time frame of issuance</b>		
<p>1 January 2007 (estimated date at which Claimants may have started to incur costs in relation to the Project) to 26 June 2018 (the date of the Schumacher ER)</p>		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The relevance and materiality of these documents cannot be disputed because they constitute documentation underlying inputs used by Mr. Schumacher to calculate Claimants’ purported damages.</p>	<p>It is for Claimants to prove the quantum of damages. Per PO No. 2, para. 19, “document production requests should not be used to put the other party to proof.” Claimants deny that all documentation underlying inputs used by Mr. Schumacher is material or reasonably subject to production. Mr. Schumacher used Projekt Sever’s audited financial statements for his inputs, which are robust and appropriate evidence on which an economic expert may rely.</p> <p>Notwithstanding this objection, additional supporting documents will be voluntarily produced under subfolders for Request Nos. 17 and 20.</p>	<p>The Tribunal takes note that the requested Party has voluntarily undertaken to produce additional supporting documents.</p> <p>Pursuant to para. 18 of PO 2, Documents relied upon by an expert to prepare its expert report (excluding working papers used by experts) are <i>prima facie</i> relevant and material, and should be produced by the requested party.</p> <p>To the extent that Claimants’ expert has had access to the requested documents, and based its findings on such documents, such documents should be produced.</p>
<p style="text-align: center;"><b>Reference in Memorial (paras.)</b></p> <p>KPMG ER, ¶ 5.3.1 (footnote 103); Schumacher ER, Annex D, ¶¶ 38-39; Schumacher ER, Annex E, ¶ 14</p>		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent avers that these documents are not in its</p>		<p>The Tribunal takes</p>

possession, custody or control. Respondent assumes that they are in the possession of Claimants as part of their recordkeeping.		note of Respondent's declaration.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u><b>Requested party</b></u>	<u><b>Requesting party</b></u>	<u><b>Tribunal</b></u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u><b>Requested party</b></u>	<u><b>Requesting party</b></u>	<u><b>Tribunal</b></u>
<p>It is for Claimants to prove the quantum of damages. Per PO No. 2, para. 19, "document production requests should not be used to put the other party to proof." Mr. Schumacher used Projekt Sever's audited financial statements for his inputs, which are robust and appropriate evidence on which an economic expert may rely. Documents supporting the detail/breakdown of the alleged "costs incurred" beyond Projekt Sever's audited financial statements is an excessive request that is unreasonably burdensome.</p> <p>Notwithstanding this objection, additional supporting documents will be voluntarily produced under subfolders for Request Nos. 17 and 20.</p>	<p>Respondent has taken note of Claimants' comments that additional supporting documents will be voluntarily produced.</p> <p>Respondents note that, to date, the "additional supporting documents" produced consist of invoices. Respondent respectfully requests that Claimants be ordered to produce Projekt Sever's bank account statements, which should form part of Projekt Sever's recordkeeping and should not be overly burdensome to produce. Indeed, Claimants have already agreed to produce certain bank account information under Request no. 13.</p> <p>Respondent notes that the audited financial statements referred to by Claimants do not provide the detail/breakdown of the costs incurred, only the aggregate numbers.</p>	<p>If Claimants' expert has had access to the documents in question, Claimants should be able to locate and produce the documents without difficulty.</p>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u><b>Requested party</b></u>	<u><b>Requesting party</b></u>	<u><b>Tribunal</b></u>
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u><b>Requested party</b></u>	<u><b>Requesting party</b></u>	<u><b>Tribunal</b></u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u><b>Requested Party</b></u>	<u><b>Requesting party</b></u>	<u><b>Tribunal</b></u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u><b>Requested party</b></u>	<u><b>Requesting party</b></u>	<u><b>Tribunal</b></u>
<b>Tribunal's Decision</b>		
<p><b>The Tribunal takes note that the requested Party has voluntarily undertaken to produce additional supporting documents.</b></p> <p><b>Pursuant to para. 18 of PO 2, Documents relied upon by an expert to prepare its expert report (excluding working papers used by experts) are prima facie relevant and material, and should be produced by the requested party.</b></p> <p><b>To the extent that Claimants' expert has had access to the requested documents, and based its findings on such documents, such documents should be produced.</b></p>		

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
 ICSID Case No. ARB/17/11

**Requesting Party:**  
 The Czech Republic

**Requested Party:**  
 Pawlowski AG (also  
 “**Claimant 1**”) and Projekt  
 Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 19.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u><b>Requesting party</b></u>	<u><b>Requested party</b></u>	<u><b>Tribunal</b></u>
<p>Financial plans and/or other documents showing the detailed year-to-year financing of the construction of the Project, with the amounts to be self-financed, the development of the debt drawing and repayment, and the interest to be paid.</p> <p>Mr. Schumacher uses total amounts of “<i>new debt raised</i>” and “<i>repayment of debt</i>” in his calculations of the alleged lost profits expected from the Project (Schumacher ER, Annex D, ¶ 40), which is evidence that the documents exist, as it is reasonable to assume that Mr. Schumacher based these calculations on documentation.</p>	<p>This request appears to have been made due to Respondent and/or its economic expert having misunderstood Mr. Schumacher’s explanations in his expert report (ER).</p> <p>In Annex D to Mr. Schumacher’s expert report, para. 35 seq., it is clearly stated that:</p> <ol style="list-style-type: none"> <li>1.) The Claimants have never used the loan facility agreed with the Aareal Bank (see AP-072: Aareal Bank, Loan Agreement) given that the actual investment was entirely equity financed;</li> <li>2.) With regard to external financing, Mr. Schumacher made the following assumption also clearly stated in his ER, i.e. Mr. Schumacher “<i>assume[s] for the “But-for” scenario that all planned costs after the start of the pre-construction of the Housing Complex would be financed with debt. These credits are assumed to be repaid with positive cash flow from the sales proceeds.</i>” (Schumacher ER, Annex D, para. 36);</li> <li>3.) Prudently and only implicitly, Mr. Schumacher assumed the cap in the loan granted as shown in the loan facility initially agreed by the Claimants with the Aareal Bank.</li> </ol> <p>Therefore, if the terms “new debt raised” and “repayment of debt” are shown in Mr. Schumacher’s damage assessment they refer to the debt assumed to be required for the financing of the project in the “But-for” scenario only beginning in the year 2016.</p> <p>The requested year-to-year financing of the construction of the Project, with the amounts to be self-financed (Schumacher ER, Annex D, para. 40, table p. 23), the development of the debt drawing (Schumacher ER, Annex D, para. 40, table p. 23) and repayment (Schumacher ER, Annex D, para. 40, table p. 23), and the interest to be paid (Schumacher ER, Annex D, para. 17, table p. 17) are all shown in Mr. Schumacher’s damage calculation provided to the Respondent.</p>	<p>N.A.</p>
<u><b>Time frame of issuance</b></u>		
<p>1 January 2007 (estimated date at which Claimants may have started to incur costs in relation to the Project) to 26 June 2018 (the date of the Schumacher ER)</p>		



	It might be that the Respondent got confused by the term “new debt raised” implying that “old” debt must exist. However, this is neither mentioned in the Schumacher ER nor implied.	
<b>R2: Relevance and materiality (max. 250 words)</b>		
<b><u>Requesting party</u></b>	<b><u>Requested party</u></b>	<b><u>Tribunal</u></b>
The relevance and materiality of these documents cannot be disputed because they constitute documentation underlying inputs used by Mr. Schumacher to calculate Claimants’ purported damages.	It is for Claimants to prove the quantum of damages. Per PO No. 2, para. 19, "document production requests should not be used to put the other party to proof." Claimants deny that all documentation underlying inputs used by Mr. Schumacher is material or reasonably subject to production.  For the reasons stated in R1 to this Request, above, the requested documents are neither relevant nor material to Mr. Schumacher's calculations or this Arbitration.	N.A.
<b>Reference in Memorial (paras.)</b>		
KPMG ER, ¶ 5.3.1; Schumacher ER, Annex D, ¶ 40		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<b><u>Requesting party</u></b>	<b><u>Requested party</u></b>	<b><u>Tribunal</u></b>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants since they are used to support the valuation of their claims by Mr. Schumacher.		N.A.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
The requested documents do not exist.	Claimants have explained in R1 that the financing model used in Mr. Schumacher’s report was based on his assumptions and, seemingly for this reason, assert that the “ <i>requested documents do not exist</i> ”. However, regardless of any assumptions made by Mr. Schumacher, Respondent’s request speaks to financing plans prepared by Claimants themselves, and requests that Claimants be ordered to produce such plans.	The Tribunal takes note that Respondent alleges that the Documents do not exist.  Respondent may draw the inferences it considers necessary from this statement, in its next written submission.
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<b><u>Requested Party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>Tribunal's Decision</b>		
The Tribunal takes note that the requested Party states that no responsive Documents exist.		

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
 ICSID Case No. ARB/17/11

**Requesting Party:**  
 The Czech Republic

**Requested Party:**  
 Pawlowski AG (also  
 “**Claimant 1**”) and Projekt  
 Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 20.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Income tax returns of Projekt Sever since it was acquired by Pawlowski AG in 2007, or – if later – since the first tax period in this time frame.		N.A.
The existence of such documents is understood from regular tax filing obligations.		
<b>Time frame of issuance</b>		
1 January 2007 (first day of the tax year Projekt Sever was acquired by Pawlowski AG) to date		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent’s position is that Mr. Schumacher omits “to apply the corporate income tax of 19% in the lost profits calculation”, which “substantially inflates the damages by CZK 537.7 million. This also has a cascading impact on the loss on Extension [...] and the pre-award interest, which would both decrease” (KPMG ER, ¶¶ 4.2.17-4.2.18).	Respondent’s request is based on a fundamental misconception that Mr. Schumacher has failed to consider taxation issues. This will be addressed in his Reply report. In short, damage awards are generally treated as taxable income. To avoid double counting of the tax effect, damages calculations are regularly performed pre-tax. KPMG’s proposal to include tax on the lost profits would lead to a double counting of the tax effect.	N.A.
These documents are relevant and material as they will confirm that, in accordance with Respondent’s position, Claimants are not entitled to the damages they claim because Mr. Schumacher’s valuation is grossly inflated.	Notwithstanding this objection, the requested income tax returns will be voluntarily produced.	
<b>Reference in Memorial (paras.)</b>		
Counter-Memorial on the Merits, ¶ 445; KPMG ER, ¶¶ 4.2.17-4.2.18		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants as part of their recordkeeping.	Claimants deny that Respondent does not have the requested documents in its possession, as Projekt Sever is a Czech company which files its tax returns in the Czech Republic.  Notwithstanding this objection, the requested income tax returns will be voluntarily produced.	The Tribunal takes note that the requested Party has voluntarily undertaken to produce the requested Documents.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
<b>The Tribunal takes note that the requested Party has voluntarily undertaken to produce the requested Documents.</b>		

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
 ICSID Case No. ARB/17/11

**Requesting Party:**  
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 Pawlowski AG (also  
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 Sever s.r.o. (also “**Claimant**  
 2”) (together, “**Claimants**”)

<b>Document Request No. 21.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The set of assumptions, detailed procedure, conversion table and/or other documents used by Mr. Schumacher to implement the following variables into each construction stage: gross area above ground, priced area, commercial area, number of parking spaces, number of garages.</p> <p>Mr. Schumacher uses these elements in his calculations of the alleged lost profits expected from the Project (Schumacher ER, Annex D, ¶¶ 9-11). It is thus reasonable to assume that documentation underlying these elements exists.</p>		N.A.
<b>Time frame of issuance</b>		
1 January 2007 (estimated date at which Claimants may have started to incur costs in relation to the Project) to 26 June 2018 (the date of the Schumacher ER)		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The relevance and materiality of these documents cannot be disputed because they constitute documentation underlying inputs used by Mr. Schumacher to calculate Claimants’ purported damages.</p>	<p>It is for Claimants to prove the quantum of damages. Per PO No. 2, para. 19, "document production requests should not be used to put the other party to proof." Claimants deny that all documentation underlying inputs used by Mr. Schumacher is material or reasonably subject to production.</p> <p>In any case, the requested information, as far as relevant and material according to Respondent's explanation, has already been provided to the Respondent. The information allegedly missing according to KPMG ER, footnote 103, is shown in detail in the Schumacher ER, Annex D, as follows:</p> <p style="margin-left: 40px;">a.) The requested “<i>breakdown across the stages of construction</i>” is found in: Schumacher ER, Annex D, para. 9, table on p. 15 (i.e. building type across the stages of construction); Schumacher ER, Annex D, para. 10, table on p. 15 (gross area above ground and additional area across the stages of construction); Schumacher ER, Annex D, para. 10, table on p. 15 (priced area across the stages of construction); Schumacher ER, Annex D, para. 13, table on p. 16 (priced area and sold parking spaces across the stages of construction);</p>	<p>The Tribunal takes note that the requested Party states that the requested Documents are already in the file.</p>
<b>Reference in Memorial (paras.)</b>		
KPMG ER, ¶ 5.3.1 (footnote 103); Schumacher ER, Annex D, ¶¶ 9-11		

	<p>b.) The requested “<i>the gross area above ground</i>” is found in: Schumacher ER, Annex D, para. 8, table on p. 14 (gross area above ground (sqm) per housing type); Schumacher ER, Annex D, para. 10, table on p. 15 (gross area above ground and additional area (sqm) per stage of construction);</p> <p>c.) The requested “<i>number of parking spaces</i>” is found in: Schumacher ER, Annex D, para. 13, table on p. 16 (number of parking spaces per stage of construction, separated into garage space residential, parking space residential, garage space commercial and parking space commercial);</p> <p>d.) The requested “<i>year to year allocation of the construction, infrastructure, green areas and equipment costs</i>” is found in: Schumacher ER, Annex D, para. 16, table on p. 17 (sales proceeds per year); Schumacher ER, Annex D, para. 17, table on p. 17 (cost estimate per year including detailed annual costs for construction, streets, infrastructure, green areas, equipment, architects, sales, legal, marketing, etc.);</p> <p>e.) The requested “<i>incurred costs</i>” derived from the Claimant’s financial statements (as those does [allegedly] not provide any level of detail or relevant breakdown, let alone supporting invoices”: This part of the request is the same as the document requests No. 17 and No. 18 shown above. As stated there, the invoices will be provided. Moreover, the financial statements of Projekt Sever have been audited by A.A.T. spol. s r.o., an independent auditing and consulting company registered on the list maintained by the Chamber of Auditors of the Czech Republic under Licence No. 166.</p>	
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**R3: Not in possession of requesting party (max. 100 words)**

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants since they are used to support the valuation of their claims by Mr. Schumacher.	The requested documents are already in Respondent's possession, as detailed in R2 to this Request, above.	The Tribunal takes note of the requested Party’s declaration.

**O1: Legal or settlement privilege (max. 250 words)**

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

**O2: Production is unreasonably burdensome (max. 200 words)**

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

**O3: Loss, destruction or inexistence (max. 100 words)**

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
<b>The Tribunal takes note that the requested Party states that the requested Documents are already in the file.</b>		

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
ICSID Case No. ARB/17/11

**Requesting Party:**  
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**2**”) (together, “**Claimants**”)

<b>Document Request No. 22.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u><b>Requesting party</b></u>	<u><b>Requested party</b></u>	<u><b>Tribunal</b></u>
<p>The set of assumptions, detailed procedure, conversion table and/or other documents used by Mr. Schumacher to implement the following costs into each construction year: construction costs, infrastructure costs, green areas and equipment costs, costs for architects.</p> <p>Mr. Schumacher uses these elements in his calculations of the alleged lost profits expected from the Project (Schumacher ER, Annex D, ¶ 17). It is thus reasonable to assume that documentation underlying these elements exists.</p>		N.A.
<b>Time frame of issuance</b>		
1 January 2007 (estimated date at which Claimants may have started to incur costs in relation to the Project) to 26 June 2018 (the date of the Schumacher ER)		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u><b>Requesting party</b></u>	<u><b>Requested party</b></u>	<u><b>Tribunal</b></u>
<p>The relevance and materiality of these documents cannot be disputed because they constitute documentation underlying inputs used by Mr. Schumacher to calculate Claimants’ purported damages.</p>	<p>It is for Claimants to prove the quantum of damages. Per PO No. 2, para. 19, "document production requests should not be used to put the other party to proof." Claimants deny that all documentation underlying inputs used by Mr. Schumacher is material or reasonably subject to production.</p> <p>In any case, the requested information, as far as relevant and material according to Respondent's explanation, has already been provided to the Respondent. The information allegedly missing according to KPMG ER, footnote 103, is found in the Schumacher ER, Annex D, as follows:</p>	<p>The Tribunal takes note that the requested Party states that the requested Documents are already in the file.</p>
<b>Reference in Memorial (paras.)</b>	<ol style="list-style-type: none"> <li>1.) Construction costs per year: This is repetitive to document request to No. 21. There, the Respondent requested “<i>the year to year allocation of the construction, infrastructure, green areas and equipment costs</i>”. The year to year allocation of the costs can be found under: Schumacher ER, Annex D, para. 17, table on p. 17 (cost estimate per year including detailed annual costs for construction, streets, infrastructure, green areas, equipment, architects, sales, legal, marketing, etc.);</li> <li>2.) The detailed assumptions, underlying</li> </ol>	
KPMG ER, ¶ 5.3.1 (footnote 103); Schumacher ER, Annex D, ¶ 17		

	<p>information, evidence and explanations are shown in Schumacher ER, Annex D, para. 18-39 including associated exhibits covering all cost items, such as:</p> <ul style="list-style-type: none"> <li>- (I) Construction costs;</li> <li>- (Ia) Construction costs of apartment buildings;</li> <li>- (Ib) Construction costs of individual houses;</li> <li>- (II) Streets;</li> <li>- (III) Infrastructure;</li> <li>- (IV) Green areas and equipment;</li> <li>- (V) Architect;</li> <li>- (VI) Sales, legal and marketing costs;</li> <li>- (VII) Additional costs of the post-construction follow-up;</li> <li>- (VIII) Costs for additional land;</li> <li>- (IX) Interest for debt financing</li> </ul>	
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**R3: Not in possession of requesting party (max. 100 words)**

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants since they are used to support the valuation of their claims by Mr. Schumacher.	The requested documents are already in Respondent's possession, as detailed in R2 to this Request, above.	The Tribunal takes note of the requested Party's declaration.

**O1: Legal or settlement privilege (max. 250 words)**

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

**O2: Production is unreasonably burdensome (max. 200 words)**

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

**O3: Loss, destruction or inexistence (max. 100 words)**

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

**O4: Technical or commercial confidentiality (max. 200 words)**

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

**O5: Special political or institutional sensitivity (max. 250 words)**

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

**O6: Production affects fairness or equality of procedure (max. 100 words)**

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

**Tribunal's Decision**

**The Tribunal takes note that the requested Party states that the requested Documents are already in the file.**



**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
 ICSID Case No. ARB/17/11

**Requesting Party:**  
 The Czech Republic

**Requested Party:**  
 Pawlowski AG (also  
 “**Claimant 1**”) and Projekt  
 Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 23.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Documents used by Mr. Schumacher to calculate the reduction in the shared areas for each type of building foreseen for the Project.  Mr. Schumacher uses these elements in his calculations of the alleged lost profits expected from the Project (Schumacher ER, Annex D, ¶¶ 6-8). It is thus reasonable to assume that documentation underlying these elements exists.	Mr. Schumacher did not calculate this reduction, rather he applied a 22% reduction as instructed by Mr. Pawlowski based on Mr. Tichy's experience.	The request is sufficiently narrow and specific.
<b>Time frame of issuance</b>		
1 January 2007 (estimated date at which Claimants may have started to incur costs in relation to the Project) to 26 June 2018 (the date of the Schumacher ER)		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The relevance and materiality of these documents cannot be disputed because they constitute documentation underlying inputs used by Mr. Schumacher to calculate Claimants' purported damages.		Pursuant to para. 18 of PO 2, Documents relied upon by an expert to prepare its expert report (excluding working papers used by experts) are <i>prima facie</i> relevant and material, and should be produced by the requested party.  To the extent that Claimants' expert has had access to the requested documents, and based its findings on such documents, such documents should be produced.
<b>Reference in Memorial (paras.)</b>		
KPMG ER, ¶ 5.3.3; Schumacher ER, Annex D, ¶¶ 6-8	It is for Claimants to prove the quantum of damages. Per PO No. 2, para. 19, "document production requests should not be used to put the other party to proof." Claimants deny that all documentation underlying inputs used by Mr. Schumacher is material or reasonably subject to production.	
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants since they are used to support the valuation of their claims by Mr. Schumacher.		The Tribunal takes note of Respondent's declaration.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The requested documents do not exist.	Respondent takes note of this response.	
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
<p>The Arbitral Tribunal grants the request.</p> <p>Pursuant to para. 18 of PO 2, Documents relied upon by an expert to prepare its expert report (excluding working papers used by experts) are <i>prima facie</i> relevant and material, and should be produced by the requested party.</p> <p>To the extent that Claimants' expert has had access to the requested documents, and based its findings on such documents, such documents should be produced.</p>		

**Procedural Order No. 2 – Annex I**  
**DOCUMENT PRODUCTION SCHEDULE**  
 ICSID Case No. ARB/17/11

**Requesting Party:**  
 The Czech Republic

**Requested Party:**  
 Pawlowski AG (also  
 “**Claimant 1**”) and Projekt  
 Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 24.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Documents comprising the “ <i>market analysis</i> ” referred to by Mr. Schumacher to estimate the discount for the sales price of apartments located farther from the city center (Schumacher ER, ¶ 104).  It is reasonable to assume that Mr. Schumacher based his “ <i>market analysis</i> ” on documents and that, therefore, such documents exist.		N.A.
<b>Time frame of issuance</b>		
1 January 2007 (estimated date at which Claimants may have started to incur costs in relation to the Project) to 26 June 2018 (the date of the Schumacher ER)		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The relevance and materiality of these documents cannot be disputed because they constitute documentation underlying inputs used by Mr. Schumacher to calculate Claimants’ purported damages.	It is for Claimants to prove the quantum of damages. Per PO No. 2, para. 19, “document production requests should not be used to put the other party to proof.”	The Tribunal takes note that the requested Party states that the requested Documents are already in the record.
<b>Reference in Memorial (paras.)</b>	Notwithstanding this objection, the requested documents have already been submitted as exhibits.	
KPMG ER, ¶ 5.3.2 (a); Schumacher ER, ¶ 104		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants since they are used to support the valuation of their claims by Mr. Schumacher.	The responsive documents are already in Respondent’s possession, namely: Exhibits AP-019, AP-020, AP-021, AP-022, AP-023, AP-030, AP-38, AP-039, AP-040, AP-49 and AP-051.	The Tribunal takes note of the requested Party’s declaration.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>Tribunal's Decision</b>		
<b>The Tribunal takes note that the requested Party states that the requested Documents are already in the record.</b>		

**Procedural Order No. 2 – Annex I**  
**DOCUMENT PRODUCTION SCHEDULE**  
ICSID Case No. ARB/17/11

**Requesting Party:**  
The Czech Republic

**Requested Party:**  
Pawlowski AG (also  
“**Claimant 1**”) and Projekt  
Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 25.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Documents comprising the “<i>general market research</i>” referred to by Mr. Schumacher to support the discount he estimated for the sales price of commercial units located farther from the city center (Schumacher ER, ¶ 106, footnote 126).</p> <p>It is reasonable to assume that Mr. Schumacher’s “<i>general market research</i>” brought him to review documents and that, therefore, such documents exist.</p>		N.A.
<b>Time frame of issuance</b>		
1 January 2007 (estimated date at which Claimants may have started to incur costs in relation to the Project) to 26 June 2018 (the date of the Schumacher ER)		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The relevance and materiality of these documents cannot be disputed because they constitute documentation underlying inputs used by Mr. Schumacher to calculate Claimants’ purported damages.</p>	<p>It is for Claimants to prove the quantum of damages. Per PO No. 2, para. 19, “document production requests should not be used to put the other party to proof.”</p>	N.A.
<b>Reference in Memorial (paras.)</b>	<p>Further the Respondent’s request indicates a misunderstanding. The 10% discount applied by Mr. Schumacher to the commercial units is unrelated to the commercial units being “<i>farther from the city center</i>”. The discount related to the location of the Housing Complex is already covered by Request No. 24.</p>	
<p>KPMG ER, ¶ 5.3.2 (d); Schumacher ER, ¶ 106</p>	<p>As noted in footnote 126 of the Schumacher ER, no price discount for the commercial units seems per se necessary. However, due to the heterogeneous prices Mr. Schumacher has identified with the asking prices in the district Prague 10 for retail spaces and restaurants provided with exhibit AP-050, a 10% reduction has been assumed by Mr. Schumacher. This additional 10% discount is a prudent assumption. No other specific document than AP-050 relates to this discount.</p>	

<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<b><u>Requesting party</u></b>	<b><u>Requested party</u></b>	<b><u>Tribunal</u></b>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants since they are used to support the valuation of their claims by Mr. Schumacher.	The responsive document is already in Respondent's possession, at Exhibit AP-50.	The Tribunal takes note that the requested Party states that the responsive Document is already in the record.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<b><u>Requested Party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>Tribunal's Decision</b>		
The Tribunal takes note that the requested Party states that the responsive Document is already in the record.		

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
ICSID Case No. ARB/17/11

**Requesting Party:**  
The Czech Republic

**Requested Party:**  
Pawlowski AG (also  
“**Claimant 1**”) and Projekt  
Sever s.r.o. (also “**Claimant 2**”) (together, “**Claimants**”)

<b>Document Request No.25Bis</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Documents supporting Mr. Schumacher’s “ <i>estimate that the post-construction phase costs 0.25% of total construction costs related to houses and apartments</i> ” (Schumacher ER, Annex D, ¶ 32).  It is reasonable to assume that Mr. Schumacher based this estimation on documentation and, therefore, that the requested documents exist.	In fact such documents do not exist. As stated in Mr. Schumacher's report, no post-construction costs were estimated or planned by the Claimants because the most important post-construction task (i.e. claim management) is usually passed on to the community of owners or subcontractors (Schumacher ER, Annex D, para. 31).	N.A.
<u>Time frame of issuance</u>	However, as a matter of prudence, Mr. Schumacher assumed an additional post-construction phase of 30 months for administrative follow-ups such as payments of construction companies, project accounting as well as potential warranty claims and further administrative work (Schumacher ER, para. 96) estimated at 0.25% of total construction costs related to houses and apartments.	
1 January 2007 (estimated date at which Claimants may have started to incur costs in relation to the Project) to 26 June 2018 (the date of the Schumacher ER)	This estimate represents a total deduction of CZ 6,434,751 over the 30 months period. It is supposed to reflect on average 1-2 administrative employees taking care of such post-construction tasks in case these cannot be passed on to owners and subcontractors as expected by the Claimants. The 0.25% is Mr. Schumacher’s assumption reflecting such potential costs.	
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The relevance and materiality of these documents cannot be disputed because they constitute documentation underlying inputs used by Mr. Schumacher to calculate Claimants’ purported damages.	It is for Claimants to prove the quantum of damages. Per PO No. 2, para. 19, "document production requests should not be used to put the other party to proof."	N.A.
<u>Reference in Memorial (paras.)</u>		
Schumacher ER, Annex D, ¶ 32		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants since they are used to support the valuation of their claims by Mr. Schumacher.		N.A.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
The requested documents do not exist.	Respondent takes note of this response.	The Tribunal takes note that the requested Party states that the requested Document does not exist.
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<b><u>Requested Party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>Tribunal's Decision</b>		
The Tribunal takes note that the requested Party states that the requested Documents do not exist.		



**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
 ICSID Case No. ARB/17/11

**Requesting Party:**  
 The Czech Republic

**Requested Party:**  
 Pawlowski AG (also  
 “**Claimant 1**”) and Projekt  
 Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 26.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Enclosures of exhibit <b>C-50</b> (“ <i>Agreement on Design Work and Engineering Activities between Projekt Sever and TaK, December 23, 2007</i> ”), mentioned in the exhibit but not submitted by Claimants, specifically Schedules 1 to 8.		N.A.
<b>Time frame of issuance</b>		
Taking into account that this request is for the missing annexes of a specific exhibit (C-50), Respondent does not specify a time frame.		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The relevance and materiality of these documents cannot be disputed because they constitute missing annexes of an exhibit produced by Claimants.		N.A.
<b>Reference in Memorial (paras.)</b>		
Memorial on the Merits, ¶ 88		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants since they are enclosures to a document Claimants have filed as an exhibit.	Claimants will voluntarily produce Schedules 1 through 7, however they do not have Schedule 8 in their possession as there was in fact no such schedule (the land parcels concerned are mentioned in the text part of the contract).	The Tribunal takes note that the requested Party has voluntarily undertaken to produce Schedules 1 to 7, and that it declares that Schedule 8 does not exist.
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
There is no Schedule 8 (the land parcels concerned are mentioned in the text part of the contract).	Respondent observes that, although Claimants deny the existence of Schedule 8, the Contract refers to it at no less than two occasions and requests that Claimants be ordered to produce it: <ul style="list-style-type: none"> <li>• in the definition of land plot (<i>i.e.</i> “<i>plot</i>” “<i>shall mean all land plots specified in the extracts from the land register regarding the Investor’s property, a copy of which forms Schedule 8 hereto (including land</i></li> </ul>	The Tribunal takes note that the requested Party states that Schedule 8 does not exist.  Respondents may draw the inferences it considers appropriate.

	<p><i>plots that may be separated from and/or merged into these land plots) [...]”, Article 1.1 of the Contract); and</i></p> <ul style="list-style-type: none"> <li>• in the list of Schedules (Schedule 8 being described “<i>Extracts from the land register regarding the Investor's property</i>”, Article 1.2 of the Contract).</li> </ul>	
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u><b>Requested party</b></u>	<u><b>Requesting party</b></u>	<u><b>Tribunal</b></u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u><b>Requested Party</b></u>	<u><b>Requesting party</b></u>	<u><b>Tribunal</b></u>
<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<u><b>Requested party</b></u>	<u><b>Requesting party</b></u>	<u><b>Tribunal</b></u>
<b>Tribunal's Decision</b>		
<p><b>The Tribunal takes note that the requested Party has voluntarily undertaken to produce Schedules 1 to 7, and that it declares that Schedule 8 does not exist.</b></p>		

**Procedural Order No. 2 – Annex B**  
**DOCUMENT PRODUCTION SCHEDULE**  
ICSID Case No. ARB/17/11

**Requesting Party:**  
The Czech Republic

**Requested Party:**  
Pawlowski AG (also  
“**Claimant 1**”) and Projekt  
Sever s.r.o. (also “**Claimant**  
**2**”) (together, “**Claimants**”)

<b>Document Request No. 27.</b>		
<b>R1: Description of requested Documents (max. 200 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>All pages of exhibit <b>AP-0047</b> (“<i>Ing. Oldřich Nýdrle - Pov Projekt, Technical Report [in the original: “Technické Zprávy”], 23 May 2012</i>”).</p> <p>Mr. Schumacher refers to the exhibit multiple times (Schumacher ER, ¶¶ 93-95), but only three pages of the technical report are produced.</p>		N.A.
<b>Time frame of issuance</b>		
<p>Taking into account that this request is for the missing pages of a specific exhibit (AP-0047), Respondent does not specify a time frame.</p>		
<b>R2: Relevance and materiality (max. 250 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The relevance and materiality of these documents cannot be disputed because they constitute missing pages of an exhibit produced by Claimants.</p>		N.A.
<b>Reference in Memorial (paras.)</b>		
<p>Schumacher ER, ¶¶ 93-95</p>		
<b>R3: Not in possession of requesting party (max. 100 words)</b>		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent avers that these documents are not in its possession, custody or control. Respondent assumes that they are in the possession of Claimants since they are missing pages of a document Claimants have filed as an exhibit.</p>	<p>Claimants will voluntarily produce the full report.</p>	<p>The Tribunal takes note that the requested Party has voluntarily undertaken to produce the responsive Document.</p>
<b>O1: Legal or settlement privilege (max. 250 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O2: Production is unreasonably burdensome (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O3: Loss, destruction or inexistence (max. 100 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O4: Technical or commercial confidentiality (max. 200 words)</b>		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<b>O5: Special political or institutional sensitivity (max. 250 words)</b>		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

<b>O6: Production affects fairness or equality of procedure (max. 100 words)</b>		
<b><u>Requested party</u></b>	<b><u>Requesting party</u></b>	<b><u>Tribunal</u></b>
<b>Tribunal's Decision</b>		
<b>The Tribunal takes note that the requested Party has voluntarily undertaken to produce the responsive Document.</b>		