



**IN THE MATTER OF AN ARBITRATION BEFORE A TRIBUNAL CONSTITUTED IN
ACCORDANCE WITH**

**THE AGREEMENT BETWEEN THE GOVERNMENT OF THE RUSSIAN FEDERATION
AND THE CABINET OF MINISTERS OF UKRAINE ON THE ENCOURAGEMENT AND
MUTUAL PROTECTION OF INVESTMENTS DATED 27 NOVEMBER 1998**

- and -

**THE ARBITRATION RULES OF THE UNITED NATIONS COMMISSION ON
INTERNATIONAL TRADE LAW, 1976**

PCA CASE NO. 2015-21

- between -

JSC CB PRIVATBANK

The Claimant

- and -

THE RUSSIAN FEDERATION

The Respondent

**PROCEDURAL ORDER NO. 14
(REDACTIONS AND CONFIDENTIALITY DESIGNATIONS)**

The Arbitral Tribunal

Professor Pierre-Marie Dupuy (Presiding Arbitrator)

Sir Daniel Bethlehem QC

Dr. Václav Mikulka

Registry

Permanent Court of Arbitration

9 December 2020

1. Procedural Background

- 1.1 In its Procedural Order No. 8 dated 7 October 2019, the Tribunal established a calendar for the filing of the Parties' written submissions in the damages phase of these proceedings (including the Respondent's Illegality Objection).
- 1.2 By letter dated 27 March 2020, further to a request from the Respondent, the Tribunal indicated that a formal document production phase, to be conducted in accordance with Paragraph 4 of the Rules of Procedure, may be envisaged as part of the damages phase of these proceedings, and should take place after the first round of written submissions on quantum (*i.e.*, after the filing of the Claimant's Submission on Quantum and the Respondent's Response on Quantum). The Tribunal also informed the Parties that it would be willing to consider at an earlier time requests for production of a limited number of *specific* documents (*i.e.*, not categories of documents) outside of the formal document production phase.
- 1.3 On 23 June 2020, the Tribunal issued Procedural Order No. 9, a Confidentiality Order with respect to documents to be filed by the Parties in these proceedings.
- 1.4 [REDACTED]
- 1.5 On 7 September 2020, the Tribunal issued Procedural Order No. 11, ordering the Claimant to produce certain documents requested by the Respondent pursuant to the procedure for the production of specific documents set out in the Tribunal's letter of 27 March 2020.
- 1.6 On 28 September 2020, the Tribunal issued Procedural Order No. 12, adopting a revised procedural calendar for the damages phase of these proceedings, including a formal document production phase that will take place between the filing of the Respondent's Response on Quantum and the filing of the Claimant's Reply on Quantum.
- 1.7 [REDACTED]
- 1.8 [REDACTED]
- 1.9 [REDACTED]

2. The Tribunal's Decision

- 2.1 Having carefully considered the Parties' respective arguments, the Tribunal orders as follows.
- 2.2 The Respondent's request for the removal of redactions is denied in its part concerning exhibits filed [REDACTED]. It is for the Claimant to decide what information to file in support of its pleaded case and, at this stage of the proceedings, the

Respondent has not demonstrated the relevance and materiality of the redacted information to its own case (including its Illegality Objection).

- 2.3 The Respondent's request for the removal of redactions is granted in its part concerning documents produced by the Claimant pursuant to Procedural Order No. 11, as in ordering production of those documents the Tribunal had already determined that they are relevant to the case and material to its outcome. The Tribunal further notes that the Claimant failed to object to document production on the basis of Ukrainian personal data and banking secrecy legislation at the time of the Tribunal's decision. The Tribunal therefore sees no reason to revisit its decisions on document production at this time.
- 2.4 The Claimant is accordingly invited to provide to the Respondent, by **Wednesday, 23 December 2020**, unredacted versions of the documents it produced pursuant to Procedural Order No. 11. Further, in order to ensure the protection of any information that is highly sensitive and strictly regulated by applicable law contained in these documents, the Tribunal hereby provisionally designates them as "Confidential Materials" pursuant to Paragraph 2.3 of Procedural Order No. 9.
- 2.5 Either Party shall remain at liberty to apply for a modification of this order in respect of specific documents that have been herein provisionally designated as Confidential Materials.

Date: 9 December 2020

Place of Arbitration: The Hague, the Netherlands



On behalf of the Tribunal
Professor Pierre-Marie Dupuy
Presiding Arbitrator