

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

DEUTSCHE TELEKOM AG,

Petitioner,

v.

REPUBLIC OF INDIA,

Respondent.

Civil Action No. 1:21-cv-01070-RJL

**THE REPUBLIC OF INDIA’S MOTION TO DISMISS THE
PETITION TO CONFIRM AN ARBITRATION AWARD**

Pursuant to Rule 12(b)(1) of the Federal Rules of Civil Procedure, Respondent Republic of India respectfully submits this Motion to Dismiss the Petition to Confirm an Arbitration Award on the grounds of forum non conveniens and for lack of subject-matter jurisdiction under the Foreign Sovereign Immunities Act (“FSIA”). 28 U.S.C. §§ 1602-11.

As set forth in the accompanying Statement of Points and Authorities, in accordance with the unique treaty provisions of the 1995 India-Germany Bilateral Investment Treaty (ECF 1-5), only an Indian court can enforce an arbitral award against India—just as only a German court can enforce an arbitral award against Germany. Accordingly, this litigation thus must be dismissed in accordance with the Treaty parties’ expectations under the doctrine of *forum non conveniens*.

Moreover, Petitioner also cannot establish that it satisfies any exception to immunity under the FSIA, because India did not waive its sovereign immunity (*see* 28 U.S.C. § 1605(a)(1)), nor did it offer to arbitrate the present dispute with Petitioner (*see* 28 U.S.C. § 1605(a)(6)), and no other exception applies.

Pursuant to Rule 7(a) of the Civil Rules of the United States District Court for the District of Columbia, Respondent submits herewith a Statement of Points and Authorities in Support of its Motion to Dismiss. Respondent also submits the Declaration of Nicolle Kownacki dated September 23, 2021, with exhibits attached, in further support of this Motion.

Pursuant to Rule 7(c) of the Civil Rules of the United States District Court for the District of Columbia, Respondent also submits herewith a Proposed Order.

Dated: September 23, 2021
Washington, DC

Respectfully submitted,

WHITE & CASE

/s/ Nicolle Kownacki

Nicolle Kownacki (D.C. Bar No. 1005627)
David P. Riesenberg (D.C. Bar No. 1033269)
Weiqian Luo (D.C. Bar No. 1613732)
701 Thirteenth Street, NW
Washington, DC 20005
Telephone: + 1 202 626 3600
Facsimile: + 1 202 639 9355
nkownacki@whitecase.com

Counsel for the Republic of India