

B R E D I N P R A T

BY E-MAIL

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Permanent Court of Arbitration

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Paris, 5 November 2018

Re: PCA Case No 2012-07 / Mohamed Abdel Raouf Bahgat v. The Arab Republic of Egypt

Dear Members of the Tribunal,

Further to the PCA's email of 1 November 2018, Respondent has taken steps in order to make itself available¹ for the hearing in the above-referenced arbitration to be held during the week of 22 April 2019.

Respondent maintains its request to postpone the December 2018 hearing. Contrary to what his Counsel suggest in their letter of 2 November 2018, Claimant's age cannot legally justify depriving Respondent of its right to appoint an arbitrator who will be in a position to be fully appraised of the totality of the case, including the jurisdictional phase².

The postponement of the hearing following the unfortunate passing away of Pr. Orrego Vicuna, for which Respondent cannot be held responsible, is also in Claimant's interest since a hypothetical award favourable to Claimant might be annulled by the Dutch courts (which did not

¹ Certain of Respondent's experts who must appear at another hearing this same week will have to organize themselves accordingly.

² It should be recalled here that (i) it took Claimant 10 years following his acquittal by the Egyptian courts and 6 years following his return to Finland to send his Notice of Dispute, (ii) Claimant accepted the bifurcation of the proceedings (Claimant's Letter of 23 February 2013) and (iii) it is Claimant who asked for the suspension of the proceedings until the Finnish courts ruled on his nationality (Claimant's Counter-Memorial on Jurisdiction of 30 August 2013; Email from Claimant of 24 September 2013). The jurisdiction phase only resumed following the decision of the Finnish Supreme Court of 15 November 2016.

hesitate to annul the *Yukos* awards on jurisdictional grounds³) in case of a violation of Respondent's right to be treated on an equal footing with Claimant.

In light of the foregoing, Respondent trusts that when the Tribunal will be able to decide this issue, *i.e.* once Mr. Lévy has officially become a member of the Tribunal, it will safeguard due process by postponing the hearing until the dates suggested by the Tribunal, and that Claimant's team will make itself available at that time.

Yours sincerely,



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³ For the avoidance of doubt, Respondent does not accept that Claimant is a Finnish citizen, as the Finnish Supreme Administrative Court has held in Respondent's absence on the sole ground that this finding would enable Claimant to continue the present proceedings, and reserves all its rights in this respect.