

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

In the annulment proceeding between

BELMONT RESOURCES INC.

Applicant

and the

SLOVAK REPUBLIC

Respondent

**ICSID CASE NO. ARB/14/14
ANNULMENT PROCEEDING**

**ORDER OF THE *AD HOC* COMMITTEE ON THE
DISCONTINUANCE OF THE PROCEEDING**

Members of the ad hoc Committee

Sir Christopher Greenwood, President of the *ad hoc* Committee
Mr. Gabriel Bottini, Member
Ms. Mahnaz Malik, Member

Secretary of the Tribunal

Mr. Alex B. Kaplan

Date of dispatch to the Parties: 31 October 2019

REPRESENTATION OF THE PARTIES

Representing Belmont Resources Inc.:

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Representing Slovak Republic:

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and

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and

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and

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and

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I. PROCEDURAL HISTORY

1. On 12 December 2017, the International Centre for Settlement of Investment Disputes (“ICSID” or the “Centre”) received an Application for Annulment of the Award rendered on 18 August 2017 in *EuroGas Inc. and Belmont Resources Inc. v. Slovak Republic* (ICSID Case No. ARB/14/14) (the “Application”). The Application was brought by Belmont Resources Inc. (“Belmont”, or the “Applicant”) against the Slovak Republic (the “Respondent”) (together, the “Parties”).
2. On 22 December 2017, the Secretary-General of ICSID notified the Parties that the Application had been registered on that date in accordance with Rule 50(2) of the Arbitration Rules.
3. On 26 January 2018, in accordance with Article 52(3) of the ICSID Convention, the *ad hoc* Committee was constituted, with Sir Christopher Greenwood (United Kingdom) as President, and Mr. Gabriel Bottini (Argentina) and Ms. Mahnaz Malik (Pakistan and United Kingdom) as Members (the “Committee”), and the annulment proceeding was deemed to have begun on that date. Mr. Alex Kaplan, ICSID Legal Counsel, was designated to serve as Secretary of the Committee.
4. On 29 January 2018, pursuant to ICSID Administrative and Financial Regulations 14(3)(d) and (e), the Centre invited the Applicant to make an advance payment of US\$ 200,000 to cover the initial costs of the proceeding (the “Advance”).
5. Following exchanges between the Parties and the Committee, by letter of 14 February 2018 transmitted by the Secretary of the Committee, the Committee informed the Parties that the first session would take place on 21 March 2018 by telephone conference.
6. On 22 February 2018, the Secretary of the Committee transmitted to the Parties a Draft Procedural Order No. 1 and invited them to confer and submit comments on the Draft by 9 March 2018; the Parties did so.

7. By email of 1 March 2018, counsel for the Applicant requested that the deadline for the payment of the Advance be extended until 16 March 2018. By email of 5 March 2018, ICSID confirmed the Committee's agreement to the new deadline and reminded the Parties that the first session could not be held until payment of the Advance was received. By email of 19 March 2018, counsel for the Applicant informed the ICSID Secretariat that it had not received confirmation regarding the payment of the Advance "due to an ongoing change in management"; as such, it recommended that the first session be postponed.
8. By letter of 20 March 2018, the Secretary of the Committee informed the Parties on behalf of the Committee that, following counsel from the Applicant's correspondence of the previous date, the first session scheduled for 21 March 2018 was postponed. The Committee requested that the Applicant provide an update on the status of its payment of the Advance by 27 March 2018. This deadline was subsequently extended to 3 April 2018. By email of 3 April 2018, counsel for the Applicant informed the Committee that it did not yet have clear instructions regarding the payment of the Advance.
9. By letter of 4 April 2018, outside counsel for the Applicant informed the Committee that it would no longer be representing the Applicant in this proceeding, indicating that all correspondence should be sent directly to the Chief Financial Officer of Belmont, Mr. Gary Musil.
10. By letter of 11 April 2018, the Respondent requested that the ICSID Secretariat inform the Applicant of its failure to pay the Advance pursuant to ICSID Administrative and Financial Regulation 14(3)(d).
11. By letter of 13 April 2018, ICSID notified the Parties that, in light of the extension previously granted, the Secretary-General would not commence the default procedures until 16 April 2018 and invited the Applicant to provide an update on the status of its payment of the Advance.
12. By letter of 17 April 2018, the Applicant requested that the Committee grant it a six-month extension of time to retain counsel and raise funds to cover the payment of the Advance.

13. Later on 17 April 2018, ICSID notified the Parties of the Applicant's default and invited either Party to make the outstanding payment of the Advance by 2 May 2018.
14. As no payment was received by the deadline, by letter of 16 May 2018, ICSID informed the Parties that the Secretary-General had moved the Committee to stay the proceeding; the request was subsequently granted by the Committee and communicated to the Parties by ICSID's letter of 1 June 2018. By the same letter, the Parties were notified that if the proceeding was stayed for non-payment of the Advance for a consecutive period in excess of six months, the Secretary-General would, after notice to and as far as possible in consultation with the Parties, move that the Committee discontinue the proceeding.
15. By letter of 13 November 2018, ICSID informed the Parties that the sixth-month period ends on 1 December 2018 and invited the Applicant to confirm whether payment would be made by that date. On 27 November 2018, the Applicant informed the Secretariat that it was not in a position to pay the Advance by the expiry of the suspension on 1 December 2018.
16. On 29 October 2019, after extensive liaison with the Applicant to obtain a payment towards the Advance, the Secretary-General moved that the Committee discontinue the proceeding pursuant to ICSID Administrative and Financial Regulations 14(3)(d) and (e), in light of the Applicant's lack of payment.

II. APPLICABLE PROVISIONS AND ORDER

17. ICSID Administrative and Financial Regulations 14(3)(d) and (e) provide as follows:

(d) [...] in connection with every arbitration proceeding unless a different division is provided for in the Arbitration Rules or is decided by the parties or the Tribunal, each party shall pay one half of each advance or supplemental charge, without prejudice to the final decision on the payment of the cost of an arbitration proceeding to be made by the Tribunal pursuant to Article 61(2) of the Convention. All advances and charges shall be payable [...], as soon as a request for payment is made by him. If the amounts requested are not paid in full within 30 days, then the Secretary-General shall inform both parties of the default and give an

opportunity to either of them to make the required payment. At any time 15 days after such information is sent by the Secretary-General, he may move that the Commission or Tribunal stay the proceeding, if by the date of such motion any part of the required payment is still outstanding. If any proceeding is stayed for non-payment for a consecutive period in excess of six months, the Secretary-General may, after notice to and as far as possible in consultation with the parties, move that the competent body discontinue the proceeding;

(e) in the event that an application for annulment of an award is registered, the above provisions of this Rule shall apply mutatis mutandis, except that the applicant shall be solely responsible for making the advance payments requested by the Secretary-General to cover expenses following the constitution of the Committee, and without prejudice to the right of the Committee in accordance with Article 52(4) of the Convention to decide how and by whom expenses incurred in connection with the annulment proceeding shall be paid.

18. The Committee notes that no payment of the Advance was made by the 2 May 2018 deadline to make the outstanding payment, after which the proceeding was stayed for a period in excess of six months. It further notes that the Secretary-General confirmed that no payment was received by that date and on 29 October 2019, after extensive consultations with the Applicant, moved that the Committee discontinue the proceeding.
19. In light of the above, the Committee has decided to discontinue this proceeding due to non-payment of the Advance in accordance with ICSID Administrative and Financial Regulations 14(3)(d) and (e).

III. ORDER

20. The Committee decides that the annulment proceeding is hereby discontinued pursuant to ICSID Administrative and Financial Regulations 14(3)(d) and (e).

[signed]

Mr. Gabriel Bottini
Member

3 0 OCT. 2019

[signed]

Ms. Mahnaz Málík
Member

3 0 OCT. 2019

[signed]

Sir Christopher Greenwood
President of the *ad hoc* Committee

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