



**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. 9
(CONFIDENTIALITY ORDER)**

The Arbitral Tribunal

Professor Pierre-Marie Dupuy (Presiding Arbitrator)

Sir Daniel Bethlehem QC

Dr. Václav Mikulka

Registry

Permanent Court of Arbitration

23 June 2020

1. Procedural Background

1.1 [REDACTED]

1.2 By letter dated 18 June 2020, the Tribunal invited the Respondent to comment on the Claimant's request for an order on confidentiality.

1.3 [REDACTED]

2. The Tribunal's Confidentiality Order

2.1 The Tribunal has considered the arguments and proposed language for a confidentiality order set out in the Parties' respective correspondence dated 17 and 22 June 2020. On this basis, and in order to address the concern [REDACTED] regarding the confidentiality of information that is highly sensitive and strictly regulated by law, the Tribunal adopts the terms on confidentiality set out in the following paragraphs.

2.2 All documents prepared and filed by the Parties specifically in relation to these proceedings (including pleadings, witness statements, expert reports and correspondence with the Tribunal) (collectively, the "**Arbitration Documents**") shall be kept confidential. The Parties shall put in place adequate mechanisms and procedures to preserve the confidentiality of the Arbitration Documents filed by the opposing Party.

2.3 Either Party may apply to the Tribunal to designate any other materials as strictly confidential that the designating Party identifies as containing information that is highly sensitive and strictly regulated by applicable law (collectively, "**Confidential Materials**"). Such Confidential Materials should in principle include only specifically designated parts of pleadings, witness statements, expert reports, correspondence with the Tribunal and any evidence or exhibits, whether produced in support of a Party's case or in response to a document production request. The Tribunal shall, when deciding a request, take into account the public interest in treaty-based investor-State arbitration. In the event that the Tribunal so designates Confidential Materials, the Parties shall put in place adequate mechanisms and procedures to preserve the confidentiality of any such Confidential Materials filed by the opposing Party, whilst at the same time not preventing the legitimate use thereof.

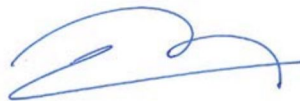
2.4 The Parties shall not (whether directly or indirectly) disclose, reveal, process or otherwise refer to any of the Arbitration Documents or Confidential Materials filed by the opposing Party except for the purpose of (a) these proceedings; (b) any associated revocation, annulment or

enforcement proceedings; (c) if required by law, by a court or other government authority to produce the document; or (d) in order to protect or pursue a legitimate interest in bona fide legal proceedings before any court or arbitral tribunal in which the Party has an interest.

- 2.5 The Parties shall notify the Tribunal of any intended use of the Arbitration Documents or Confidential Materials under Paragraph 2.4 (c) and (d) in order to permit the opposing Party the opportunity to request or propose redactions so as to prevent the disclosure of information that is highly sensitive and strictly regulated by law. The Tribunal shall determine whether a Party's proposed redactions are necessary and/or appropriate to keep confidential highly sensitive and legally regulated information, taking into consideration any applicable legal restrictions on the disclosure of such information.
- 2.6 The Parties shall not be required to provide the Tribunal with prior notice of the use of the Arbitration Documents or Confidential Materials under Paragraph 2.4 (a) and (b).
- 2.7 The Tribunal also recalls that, in accordance with Paragraph 2.13.3 of its Procedural Order No. 2, it has from time to time instructed the PCA to issue press releases containing information on the procedural steps taken by this Tribunal, each time after providing a copy of the press release to the Parties in advance of its being made publicly available. The Tribunal shall continue to instruct the PCA to issue such press releases in accordance with Paragraph 2.13.3 of Procedural Order No. 2.
- 2.8 The terms of this Order shall survive these proceedings, and the Parties shall retain their rights to enforce the Order in any court or tribunal of competent jurisdiction.
- 2.9 The Parties shall be at liberty to apply to the Tribunal for the lifting or variation of these restrictions on a case by case basis. Each Party is also at liberty to apply to the Tribunal for a modification of the provisions of this Order should the need arise.

Date: 23 June 2020

Place of Arbitration: The Hague, the Netherlands



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