

The Ministry of Finance has received a number of questions in regard to the procedure for conclusion of an Engagement Letter for the provision of Legal Advice and Procedural Representation in International Arbitration Case No. ARB/24/2, filed by Nexo AG, NDS EOOD, and Mirastar EOOD against the Republic of Bulgaria before the International Centre for Settlement of Investment Disputes. The Ministry of Finance provides answers below each question.

1. Could you please confirm that Evidence Proving Experience as Lead Counsel (as defined in Section II.2.2) is not required for the list of all international arbitration proceedings that lawyers described in Letters “a” and “b” of Section II. 1.2 have participated in over the last 10 years, and that this Evidence must only be provided for the Minimum Successful Cases Requirement?

Pursuant to Section II., point 2.5. of the General Standards and each of the proposed attorneys under II.1.2., letters “a” and “b” should present a list of all international arbitration proceedings they have participated in over the last 10 years with an indication of their outcome. No additional documents or proof regarding these cases are required. The evidence proving experience as lead counsel is required solely for the cases, presented as relevant experience according to Section II.1.2, letters “a” and “b”.

2. Can a law firm present, as part of the staff pursuant to Section II.1.2(c) of the General Standards and Rules, lawyers belonging to a local Bulgarian law firm? If so, would that local law firm have to comply with the same requirements established in Section II?

According to Section II., point 1.2, letter “c” the law firm participating in the procedure has to present a team from its staff including “the remaining members of the legal team, along with a brief description of their relevant experience”. That being said, the members of the team have to be part of the law firm’s staff. If the law firm participating in the procedure is not a Bulgarian one then lawyers belonging to another firm (either Bulgarian or else) are not to be included for the purposes of Section II., point 1.2, letter “c”.

The requirements set out in Section II of the General Standards and Rules refer to the law firm participating in the procedure. It is worth pointing out that according to Art. 2.7 of the template Engagement Letter provides for the possibility of retaining a local counsel or expert if needed.

3. Can the law firm satisfy this requirement by submitting, as an attachment to its offer, (i) a binding quote for the required cover from its insurer, and (ii) an undertaking by the law firm representative to pay the premium if the law firm is selected, before entering into the Engagement Letter?

As provided for in Section II, point 1.3 of the General Standards and Rules in order to participate in the procedure the law firm has to provide proof of a valid insurance against “Professional Liability” risk worth no less than EUR 25 million or the equivalent amount in another currency. This requirement is mandatory for admission to participation in the procedure.

4. Could you please confirm that the Contracting Authority has a VAT registration number?

We confirm that the Ministry of Finance has a VAT Registration number.