

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Finley Resources Inc., MWS Management Inc., and Prize Permanent Holdings, LLC

v.

United Mexican States

(ICSID Case No. ARB/21/25)

PROCEDURAL ORDER NO. 6 ON RESPONDENT'S REQUEST FOR REDACTIONS

Members of the Tribunal

Mr. Manuel Conthe Gutiérrez, President of the Tribunal

Dr. Franz X. Stirnimann Fuentes, Arbitrator

Prof. Alain Pellet, Arbitrator

Secretary of the Tribunal

Ms. Anneliese Fleckenstein

Date: May 26, 2023

I. INTRODUCTION

1. On April 28, 2023, pursuant to Procedural Order No. 2 (“**PO2**”), the Respondent sent its Transparency Schedule to the Claimants’ Reply on the Merits and Counter-Memorial on Objections to Jurisdiction (“**Reply**”) of April 14, 2023, (“*Apéndice de transparencia del Memorial de Réplica con las solicitudes propuestas de la Demandada*”). The English translation of Respondent’s Transparency Schedule was filed on May 12, 2023.
2. By letter dated May 5, 2023, the Claimants filed a Response to the Respondent’s Transparency Schedule. The Spanish translation of the Claimants’ Response was filed on May 12, 2023.
3. In its Schedule, the Respondent requests:
 - a. The redaction of the names of certain individuals that Mexico claims are external to this arbitration which are mentioned in the Claimants’ Reply and in exhibits C-129 and C-130;
 - b. The redaction of the name of Mr. Paullada to the Board of Pemex;
 - c. The redaction of the personal email address and telephone number of Mr. Rob Keoseyan; and
 - d. The redaction of Mr. Rob Keoseyan’s Microsoft Teams meeting recording (Exhibit C-129).
4. The Respondent argues that these redactions are justified because they fall under the provisions of confidential information as defined in PO2. According to the Respondent, pursuant to PO2, a party may classify information as confidential and request that its public disclosure be protected, pursuant to Mexico’s Federal Law on Transparency and Access to Public Information and Mexico’s General Law on Transparency and Access to Public Information.
5. The Respondent makes reference to Article 113, section I of the Federal Law of Transparency and Access to Public Information, and Article 116 of the General Law

which establish that confidential information is considered “that which contains personal data concerning an identified or identifiable natural person”.

6. According to the Respondent, the information it requests be redacted refers to personal data of persons that are not involved in the dispute, that is, “personal data concerning an identified natural person” and data that would allow their identification. Therefore, it is information protected from disclosure by Mexican law. Additionally, the disclosure could cause harm to the legitimate interests of the individuals.
7. In their Reply, the Claimants agree to the redaction of Mr. Keoseyan’s personal email address and mobile number referenced in exhibits C-130 and C-134. They further propose the redaction of similar personal information referenced in Exhibits C-131, C-132 and C-134.
8. The Claimants object to the redaction of the names of individuals and the phrase “his appointment to the Board of Pemex” arguing that this type of information is not protected information pursuant to PO2. According to the Claimants, a person’s name is not personal information as defined under any of laws invoked by the Respondent. Indeed, Article 116 of the General Law on Transparency and Access to Public Information establishes the type of information considered confidential as: “banking, trust, industrial, commercial, tax, stock, and postal secrets.”
9. Additionally, the Claimants argue that a person’s position on a board such as Pemex is not personal information under either law and besides, as a matter of fact, this information is listed on Pemex’s website. According to the Claimants, these persons are not external to the arbitration as argued by the Respondent as they have been identified as being involved in the dispute.
10. Finally, the Claimants argue that the confidentiality of the Microsoft Team’s meeting with Mr. Keoseyan is unwarranted under PO2, which does not allow for redaction of names of individuals or specific phrases. Additionally, the Claimants state that the meeting was recorded after Mr. Keosyan gave his consent to the recording.

II. TRIBUNAL'S ANALYSIS

11. The Tribunal takes note of the Claimants' consent to the redaction of the personal email address and telephone number of Mr. Keoseyan referenced in exhibits C-130 and C-134. The Tribunal further takes note of the Claimants' consent to the redaction of similar personal information referenced in Exhibits C-131, C-132 and C-134.
12. As such, the Tribunal understands that the issues to be resolved remain the following:
 - a. Whether, as requested by the Respondent, the names of a number of people mentioned in Claimants' Reply and in documents C-129 (recording of Teams meeting with Mr. Keoseyan) and C-130 should be redacted.
 - b. Whether the Respondent's requests that the appointment of Mr. Paullada to the Board of Pemex should be redacted.
 - c. Whether document C-129 should be made public only if Mr. Keoseyan expressly consents to such publicity.
13. With respect to the first issue, the Tribunal finds that the name of a person does not fall under protected information pursuant to PO2 for the following reasons: the individual referred to may be considered directly or indirectly related to the case and to Pemex, since they are referred to in their professional capacity; the reference to them in Claimants' document does not imply any accusation or derogatory comment which may affect their honor or privacy; there are already a number of other Pemex officials who are mentioned in Claimants' exhibits, without any objection on the part of the Respondent (e.g. Ingeniero Epitacio Solis, the official signing document C-129); and the redaction of such names might make Claimants' documents difficult to be fully understood.
14. The Tribunal finds that the above applies equally with respect to the second issue, as Mr. Paullada is an individual that sits on Pemex' Board of Directors.
15. Turning to the third issue, whether document C-129 should be made public only if Mr. Keoseyan expressly consents to such publicity, the Tribunal finds that it is not clear what was the scope of Mr. Keoseyan's consent when he accepted the Teams Meeting to be

recorded, as accepting the recording of a conversation with Claimants' counsel does not amount to acquiescing to its release to the general public. Hence, the Tribunal grants the Respondent's request for redaction.

III. ORDER

16. In light of the foregoing, the Tribunal dismisses the Respondent's request to redact

- a. the names of a number of people mentioned in Claimants' Reply and exhibit C-130; and
- b. the appointment of Mr. Paullada to the Board of Pemex.

but instructs the ICSID Secretariat to publish all the relevant documents (i.e. exhibits C-130, C-131, C-132 and C-134), as accepted by the Claimants, with all the email addresses and telephone numbers duly redacted.

17. The Tribunal grants the Respondent's request that exhibit C-129 (i.e. the recorded Microsoft Teams meeting) not be made public.

On behalf of the Tribunal

[Signed]

Manuel Conthe Gutiérrez
President of the Tribunal
Date: May 26, 2023