

**The Secretariat of the ICC International Court of Arbitration**  
33-43 avenue du Président Wilson  
75116 Paris  
France

**From:**

R.S.E. Holdings AG  
CH-320.3.060.394-6  
Zurcherstrasse 61  
Sargans, 7320  
Switzerland

**Cc:**

The Republic of Latvia  
Her Excellency Prime Minister Laimdota Strajuma  
Office of the Prime Minister  
Brīvības Boulevard 36  
Rīga, LV-1520  
Latvia

Sargans, 26 March 2014

**Reference: NN 483/MHM**

We acknowledge receipt of Government of Latvia (hereinafter – "the Respondent") correspondence dated 11 March 2014 as well as the Court secretariat's (hereinafter – "the Secretariat") correspondence dated 17 March 2014 wherein the Secretariat provided the opportunity to R.S.E. Holdings AG (hereinafter – "the Claimant") to comment on the Respondent's letter by 20 March 2014.

We welcome the opportunity to comment on the current case within the applicable time limits in light of the extension granted by the Secretariat on 17 March 2014.

Firstly, the Claimant respectfully submits that it has complied with all applicable requirements of form required in the present ad hoc proceedings.

However, for the sake of speed and efficiency of arbitration, the Claimant consents to continuing proceedings in accordance with article 9(2)(a) of the Agreement between the Swiss Federal Council and the Government of the Republic of Latvia on the Promotion and Reciprocal Protection of Investments (hereinafter – "BIT"). With this the Claimant lodges the Request of Arbitration (see enclosed), which has been sent to the Respondent on the day of this notification by registered mail.

Article 9(2)(a) of the BIT implies nomination of the arbitral tribunal by the parties to the dispute. Therefore composition of the arbitral tribunal shall be administered by the parties within the time limits stipulated in article 9 (2)(a) of the BIT.

Nevertheless, should the Claimant and Respondent fail to agree in accordance with article 9(2)(a) BIT within the terms stipulated thereof, the Claimant respectfully requests the Court to satisfy the relief stipulated in the Request for Appointment dated 14 February 2014.

Enclosures: copy of Request for Arbitration.

Respectfully,



Stefan Maetzler, Director

The Republic of Latvia  
Her Excellency Prime Minister Laimdota Strajuma  
Office of the Prime Minister  
Brīvības Boulevard 36  
Riga, LV-1520  
Latvia

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**Request for Arbitration**

**I. INTRODUCTORY MATTERS**

1. The present request for arbitration (hereinafter – "Request") is filed in accordance with article 9(2)(a) of the Agreement between the Swiss Federal Council and the Government of the Republic of Latvia on the Promotion and Reciprocal Protection of Investments (hereinafter – "BIT"), in response to breach thereof by the Government of the Republic of Latvia and with reference to case NN 483/MHM as well as notification of the Secretariat of the ICC International Court of Arbitration dated 17 March 2014/cgr and letter from the Government of Latvia dated 11 March 2014.

**II. BACKGROUND**

2. R.S.E. HOLDINGS AG is a company incorporated in Switzerland and is the sole shareholder of MANRISA ENTERPRISES LIMITED (hereinafter – "Manrisa"), a company registered in the Republic of Cyprus (registration number 270518, address: Neas Engomis 33, NBC Engomis, Nicosia, 2409, Cyprus) and exercising business activities in the Republic of Latvia (hereinafter – "Latvia").
3. R.S.E. HOLDINGS AG through Manrisa is one of the foreign investors in the Republic of Latvia. The Republic of Latvia has exercised wrongful and discriminatory treatment against R.S.E. HOLDINGS AG as a foreign investor in Latvia. This treatment breaches Latvia's obligations towards foreign investors under international law and is contrary to commitments that Latvia has made to Switzerland concerning protection of investment.
4. R.S.E. HOLDINGS AG has made significant investment into the Latvian banking sector by investing in a subsidiary of a Latvian bank in excess of 1,2 million euros. Latvia, through the conduct of its state controlled bank "Citadele" (registration number 40103303559, registered

address Rīga, Republikas laukums 2A, Latvia, LV-1010) has denied R.S.E. HOLDINGS AG the opportunity to exercise its legal rights as a Swiss shareholder of Manrisa and has denied R.S.E. HOLDINGS AG legitimate expectations as a foreign investor. The effect of Latvia's actions has been to deny R.S.E. HOLDINGS AG the right to manage, maintain and use its investments despite clear legal procedures which oblige Latvia to uphold R.S.E. HOLDINGS AG shareholder rights, and to expose R.S.E. HOLDINGS AG to unfair and unequitable treatment. In addition, the state controlled bank has continuously refused to fulfil its obligations under Latvian law, leading to a breach by Latvia of its obligations under international investment law.

5. The Citadele Bank was created in the middle of 2010 out of profitable assets of Parex Banka as part of a restructuring plan aimed at reversing the assets of the bank, which was forced to take a government bail-out in 2008. The state of Latvia holds 75% of stocks in Citadele Bank, while the minority shareholder is the European Bank for Reconstruction and Development, which holds 25% of stocks. One of main Citadele Bank sector specialisms is client asset management.
6. In 2010 Manrisa was initially approached by the employees of Citadele Bank as well as IPAS "Citadele Asset Management". Manrisa was advised to grant financial support to companies which faced financial hardship and were unable to receive banking loans. On the basis of multiple meetings as well as negotiations with the representatives of Citadele Bank, Manrisa was advised to invest in "Parex Asset Management Ukraine" (hereinafter - "CAMU"). Essentially, the purpose of such transaction was granting a loan to CAMU with a fixed 12% annual rate for 1.5 years. Employee of CAMU further explained that funds were necessary to CAMU in order to finalize construction of residential houses belonging to the CAMU foundation.
7. On 20 October 2010 based on the advice granted by the management of Citadele Bank, Manrisa entered into a contract with CAMU. According to this contract, Manrisa obtained 40% in a Ukrainian registered company "Ekspo-Plus" for the aggregate price of EUR 1 225 000 (one million two hundred and twenty five thousand euros). The agreement provided for a buyback obligation of "Ekspo-Plus" shares by CAMU until 30 April 2012 for a fixed price of EUR 1 443 000 (one million four hundred and forty three thousand euros).
8. The agreement in its relevant section provided as follows:
  - 9.1. *"The Parties have agreed that the Seller<sup>1</sup> is obliged to enter into a share buyback agreement pursuant to the terms of this Agreement, if it is initiated by the Buyer<sup>2</sup> in the future, on the conditions, contemplated by the current section of this agreement"*
  - 9.2. *Obligation of the Seller stipulated in cl.9.1 of this agreement shall be effected on the following conditions:*
    - The Buyer initiates conclusion of a share buyback agreement, and the Seller is under obligation to purchase the share not earlier than on 20 April 2012 and not later than on 30 April 2012.
    - The Buyer initiates conclusion of the share buyback agreement and the Seller is under obligation to buy the shares in Ukrainian currency "hryvna" according to the price equivalent of EUR 1 443 000 (one million four hundred and forty three thousand euros) based on the applicable exchange rate of the Bank of Ukraine on the date of entry into of respective contract."

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<sup>1</sup> Seller – Citadele Asset Management (previously „Parex Asset Management Ukraine“)

<sup>2</sup> Buyer – Manrisa Enterprises Limited

9. On 20 April 2012 Manrisa and CAMU entered into a preliminary purchase agreement which provided that the final agreement had to be entered into not later than on 20 October 2012 and for the aggregate buyback price of EUR 1 521 435,62.
10. Regrettably, on 20 October 2012 and until the date of this Request neither Citadele Bank as controlling entity, nor CAMU as its dependent company have exercised the buyback of "Ekspo-Plus" shares from Manrisa, contrary to the conditions of the agreements concluded earlier. CAMU based its refusal to buy back shares by the worsening of its real estate market. Manrisa contacted Citadele bank in order to clarify the contemplated situation on several occasions. Nevertheless, Citadele excused itself with existing confidentiality policy and refused to enter on the merits. Citadele and CAMU are strictly controlled in accordance with Latvian laws, such as the laws on Credit Institutions and Law on Investment Management Companies.
11. Moreover, Citadele Bank and CAMU have undertaken to render appropriate services and advice pursuant to Latvian law for management of Manrisa assets according to the highest professional standards. Investment by Manrisa in the Ukrainian market was based solely upon Citadele employee advice and consultations. These consultations are confirmed by payment order in favour of "Ekspo-Plus" transaction transferred to the bank account of Citadele.
12. Having exhausted all domestic internal remedies, R.S.E. HOLDINGS AG forwarded its claims to the Government of Latvia on 14 August 2013 as well as 7 November 2013.
13. The Claimant has received a response denying state liability thus forcing R.S.E. HOLDINGS AG to seek justice at international level.

### III. JURISDICTION

14. Article 9 of the Swiss-Latvian BIT provides as follows:

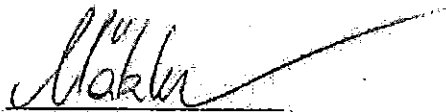
- (1) *"For the purpose of solving disputes with respect to investments between a Contracting Party and an investor of the other Contracting Party and without prejudice to Article 10 of this Agreement (Disputes between Contracting Parties), consultations will take place between the parties concerned".*
- (2) *If these consultations do not result in a solution within six months, the dispute shall upon request of the Investor be submitted to an arbitral tribunal. Such arbitral tribunal shall be established as follows:*
  - (a) *The arbitral tribunal shall be constituted for each individual case. Unless the parties to the dispute have agreed otherwise, each of them shall appoint one arbitrator and these two arbitrators shall nominate a chairman who shall be a national of a third State. The arbitrators are to be appointed within two months of the receipt of the request for arbitration and the chairman is to be nominated within further two months.*
  - (b) *If the periods specified in paragraph (a) of this Article have not been observed, either party to the dispute may, in the absence of any other arrangements, invite the President of the Court of Arbitration of the International Chamber of Commerce in Paris to make the necessary appointments. If the President is prevented from carrying out the said function or if he is a national of a Contracting Party the provisions in paragraph (5) of Article 10 of this Agreement shall be applied mutatis mutandis.*
  - (c) *Unless the parties to the dispute have agreed otherwise, the tribunal shall determine its procedure. Its decisions are final and binding. Each Contracting Party shall ensure the recognition and execution of the arbitral award.*

In its letter dated 14 August 2013 R.S.E. HOLDINGS AG requested payment of damages and indicated possible litigation in international tribunals. The Government of Latvia in its response denied any state liability. The consultation "cooling off" period of 6 (six) months provided in Article 9 (2) of the BIT has already expired and further to article 9(2)(a) the parties have to appoint the arbitrators subsequent to the receipt of the request of arbitration by the Court.

#### IV. REQUEST

In light of the abovementioned arguments as well as in accordance with article 9(2)(a) of the of the Swiss-Latvian BIT, R.S.E. HOLDINGS AG respectfully request the Government of Latvia to nominate its arbitrator within 2 (two) months of the receipt of this request.

Should you have any queries, please do not hesitate to contact R.S.E. HOLDINGS AG – attorney at law Justine Haka at [Justine.haka@varul.com](mailto:Justine.haka@varul.com).

A handwritten signature in black ink, appearing to read 'Stefan Maetzler', with a long, sweeping horizontal line extending to the right.

Stefan Maetzler, Director