

Procedural Order No. 3 – Annex A
DOCUMENT PRODUCTION SCHEDULE
ICSID Case No. ARB/17/11

Requesting Party:
Claimants

Requested Party:
Respondent

Document Requests No. 1 – 16 regarding the Process for a Zoning Change		
Document Request No. 1.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Please produce the Documents provided or presented to the Benice District Assembly members to prepare for and/or review at the March 13, 2002 Assembly meeting regarding whether to approve filing the application for the zoning plan change.</p>		<p>The request is sufficiently narrow and specific.</p>
Time frame of issuance		
Presumably shortly before or on March 13, 2002		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Claimants have submitted this Benice District Assembly Resolution as Exhibit C-19 but do not have in their possession the underlying minutes or materials regarding such Resolution. Respondent claims that its Exhibit R-8 was attached to Benice's application for a zoning plan change (Counter Memorial (CMoM), para. 44). However, if anything, it appears that this document was attached to the application of Uhříněves, according to the name and date given to the document by Respondent ("<i>Study of the Municipal Districts of Prague Benice Skalka and Part of Uhříněves (submitted as an attachment to Application for zoning plan change by Prague-Uhříněves), dated 2 October 2003</i>"). The document itself neither states that it is an attachment to any application, nor is it dated; its authenticity, author and context can therefore not be assessed. In any case, the document does not reflect the expectations Benice had regarding the zoning plan change. Materials provided to Assembly members for the discussion and vote at the March 13, 2003 Assembly meeting at which Benice approved filing an application for the zoning plan change would be more informative in this regard.</p>	<p>Claimants have not "<i>prove[d] that the Documents are relevant to the case</i>" (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds.</p> <p><i>First</i>, Claimants call into question the authenticity of Exhibit R-8. Such allegations have no place in the document production procedure. If Claimants take issue with the authenticity of Respondent's documents, a separate procedure has been foreseen in ¶ 17.7 of PO1. In any event, Respondent confirms that Exhibit R-8 is authentic and as described in its index of exhibits.</p> <p><i>Second</i>, Claimants argue that the Documents they request would be "<i>more informative</i>" than those adduced by Respondent. This is not Claimants' judgment to make and is of no relevance to document production. It is for the Tribunal to weigh the evidence on the record (here, Exhibit R-8) and draw the conclusions it considers appropriate therefrom.</p> <p>This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).</p>	<p>The request seems <i>prima facie</i> relevant and material.</p>
Reference in Memorial (paras.)		
CMoM, para. 44; Exhibit R-8; Exhibit C-19		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Claimants do not have possession of these</p>		<p>The Tribunal takes note that Claimants</p>

Documents and they are not publicly available.		state that they are not in possession of these Documents.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal grants the requested Documents because the request meets R1, R2 and R3.		

Document Request No. 2.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the minutes of the Benice District Assembly meeting of March 13, 2002, at which the Assembly resolved to file an application for the zoning plan change (Exhibit C-19).		The request is sufficiently narrow and specific.
Time frame of issuance		
Presumably March 13, 2002		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants have submitted this Benice District Assembly Resolution as Exhibit C-19 but do not have in their possession the underlying minutes regarding such Resolution. Respondent claims that its Exhibit R-8 was attached to Benice's application for a zoning plan change (CMoM, para. 44). However, if anything, it appears that this document was attached to the application of Uhříněves, according to the name and date given to the document by Respondent (" <i>Study of the Municipal Districts of Prague Benice Skalka and Part of Uhříněves (submitted as an attachment to Application for zoning plan change by Prague-Uhříněves), dated 2 October 2003</i> "). The document itself neither states that it is an attachment to any application, nor is it dated; its authenticity, author and context can therefore not be assessed. In any case, the document does not reflect the expectations Benice had regarding the zoning plan change. Minutes of the discussion of the March 13, 2003 Assembly meeting at which Benice approved filing an application for the zoning plan change would be more informative in this regard.	<p>Claimants have not "<i>prove[d] that the Documents are relevant to the case</i>" (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds.</p> <p><i>First</i>, Claimants call into question the authenticity of Exhibit R-8. Such allegations have no place in the document production procedure. If Claimants take issue with the authenticity of Respondent's documents, a separate procedure has been foreseen in ¶ 17.7 of PO1. In any event, Respondent confirms that Exhibit R-8 is authentic and as described in its index of exhibits.</p> <p><i>Second</i>, Claimants argue that the Documents they request would be "<i>more informative</i>" than those adduced by Respondent. This is not Claimants' judgment to make and is of no relevance to document production. It is for the Tribunal to weigh the evidence on the record (here, Exhibit R-8) and draw the conclusions it considers appropriate therefrom.</p> <p>This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).</p>	The requested Document seems <i>prima facie</i> relevant and material.
Reference in Memorial (paras.)		
CMoM, para. 44; Exhibit R-8; Exhibit C-19		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of the requested Document and it is not publicly available.		The Tribunal takes note that Claimants state that they are not in possession of this Document.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal grants the requested Document because the request meets R1, R2 and R3.		

Document Request No. 3.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Please produce all Documents reflecting or recording communications relating to the document submitted as Exhibit R-8, entitled "Study of the Municipal Districts of Brague Benice Skalka and Part of Uhříněves", including but not limited to the communications by which preparation of such study was instructed or mandated, and the cover e-mails or other Documents by which drafts and the final version of the study were transmitted.</p>	<p>The request does not provide for a “<i>narrow and specific</i>” category of Documents (PO2, ¶ 14). Instead, the request is drafted in overbroad terms: Claimants request documents relating to “<i>all Documents reflecting or recording communications relating to the document submitted as Exhibit R-8</i>”. Even Claimants’ purported description of Documents falling under the category of “<i>all [...] communications</i>” is overbroad: “<i>including but not limited to [...] other Documents</i>” (emphasis added). Moreover, Claimants do not even venture to specify which persons or entities “<i>issued the category of Documents</i>”, as required by PO2, ¶ 14.</p>	N.A
<p style="text-align: center;">Time frame of issuance</p> <p>March 13, 2002 (Resolution of the Benice District Assembly regarding the zoning plan change) through October 2, 2003 (purported date of the study).</p>	<p>This request thus does not meet Requirement R1 and should be rejected <i>in limine</i> (PO2, ¶ 15).</p>	
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Respondent claims that its Exhibit R-8 was attached to Benice's application for a zoning plan change (CMoM, para. 44). However, if anything, it appears that this document was attached to the application of Uhříněves, according to the name and date given to the document by Respondent (“<i>Study of the Municipal Districts of Prague Benice Skalka and Part of Uhříněves (submitted as an attachment to Application for zoning plan change by Prague-Uhříněves), dated 2 October 2003</i>”). The document itself neither states that it is an attachment to any application, nor is it dated; its authenticity, author and context can therefore not be assessed. The requested Documents will shed light on who authored the study, for what reasons, with which instructions, and by whom the author was mandated. The requested Documents are expected to further show that the study does not reflect the expectations Benice had regarding the zoning plan change.</p>	<p>Claimants have not “<i>prove[d] that the Documents are relevant to the case</i>” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds.</p> <p><i>First</i>, Claimants call into question the authenticity of Exhibit R-8. Such allegations have no place in the document production procedure. If Claimants take issue with the authenticity of Respondent’s documents, a separate procedure has been foreseen in ¶ 17.7 of PO1. In any event, Respondent confirms that Exhibit R-8 is authentic and as described in its index of exhibits.</p> <p><i>Second</i>, Claimants’ request is nothing more than a fishing expedition. Claimants do not request Documents in relation to specific facts but rather, vaguely, to “<i>shed light on</i>” questions that are of no visible importance to this case (“<i>who authored the study, for what reasons, with which instructions, and by whom the author was mandated</i>”).</p> <p><i>Third</i>, as expressly acknowledged by Claimants, this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof (“<i>[t]he requested Documents are expected to further show that the study does not reflect the expectations Benice had regarding the zoning plan change</i>”, emphasis added), which is in direct contradiction with the terms of ¶ 19 of PO2. The fact that Claimants seek to disprove Respondent’s case is confirmed by the fact that Claimants refer solely to Respondent’s Counter-Memorial and Respondent’s exhibit in support of their request.</p>	The requested Document does not seem <i>prima facie</i> relevant and material.
<p style="text-align: center;">Reference in Memorial (paras.)</p> <p>CMoM, para. 44, Exhibit R-8</p>	<p>This request thus does not meet Requirement R2</p>	

	and should be rejected <i>in limine</i> (PO2, ¶ 17).	
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.		N.A.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal rejects the request. The request does not meet R2.		

Document Request No. 4.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the minutes of the public discussion of the draft outline for change Z 1294/06 (CMoM, para. 48; Tomoszková Opinion, para. 47).		The request is sufficiently narrow and specific.
Time frame of issuance		
On or around February 28, 2005		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The minutes of the public hearing will show what the basic parameters of the discussed Project and of the zoning plan change were during the draft outline phase of the procurement of the zoning plan change. They will further show that no objections were raised by Benice.	The request covers the period on or around 28 February 2005 and aims at showing that “ <i>no objections were raised by Benice</i> ” in light of “ <i>what the basic parameters of the discussed Project and of the zoning plan change were during the draft outline phase of the procurement of the zoning plan change</i> ”.	The requested Document seems <i>prima facie</i> relevant and material.
Reference in Memorial (paras.)	However, this is neither relevant to the case nor material to its outcome because the fact that Benice did not raise objections in the context of the public discussion of the draft outline on or around 28 February 2005 is undisputed by the Czech Republic, which specifically explained what the objections raised by Benice were and their context at ¶¶ 78-81 of its Counter-Memorial.	
CMoM, para. 48; Tomoszková Opinion, para. 47	This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of this Document and it is not publicly available.		The Tribunal takes note that Claimants state that they are not in possession of this Document.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal grants the requested Document because the request meets R1, R2 and R3.		

Document Request No. 5.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the Documents underlying Change number Z 1294 in the City Council's proposed Resolution submitted as Exhibit R-9, including but not limited to the minutes of the Zoning Plan Department's discussion of the draft outline for Change Z 1294/06, the Zoning Plan Department's statement of disapproval, and any other Document recording the reasons for the Zoning Plan Department's disapproval of the draft outline for Change Z 1294/06, as alleged in para. 50 CMoM.	The request does not provide for a “ <i>narrow and specific</i> ” category of Documents (PO2, ¶ 14). Instead, it is overbroad (“ <i>Documents underlying [...] R-9</i> ”). The overbroad character of this request is only reinforced by the examples provided by Claimants as to Documents falling within this category (“ <i>Documents [...] including but not limited to [...] any other Document recording the reasons for the Zoning Plan Department's disapproval</i> ”, emphasis added).	The request is not sufficiently narrow and specific. The Tribunal decides to narrow it down to: “The minutes of the Zoning Plan Department's discussion of the draft outline for Change Z 1294/06 and the Zoning Plan Department's statement of disapproval of the draft outline for Change Z 1294/06”.
<u>Time frame of issuance</u>	This request thus does not meet Requirement R1 and should be rejected <i>in limine</i> (PO2, ¶ 15).	
Between April 24, 2004 (City Council Decree launching wave 06 zoning plan changes) and February 23, 2006 (City Assembly Resolution approving draft change, Exhibit R-9).		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent claims that the Zoning Plan Department opposed the draft outline of the zoning plan change (CMoM, para. 50). The Documents underlying the City Council's proposed Resolution are expected to show that the Zoning Plan Department's concerns were unrelated to the reasons for the ultimate annulment of the zoning plan change and/or that the Zoning Plan Department's concerns were addressed during the course of the zoning change and/or planning process.	Claimants have not “ <i>prove[d] that the Documents are relevant to the case</i> ” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds. <i>First</i> , Claimants’ request is nothing more than a fishing expedition. Claimants are themselves unsure what the requested Documents are “ <i>expected to show</i> ”, and they have not even attempted to explain why the possible facts to be revealed would be of any importance to this case. <i>Second</i> , as expressly acknowledged by Claimants, this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof (“ <i>[t]he requested Documents are expected to further show that the study does not reflect the expectations Benice had regarding the zoning plan change</i> ”, emphasis added), which is in direct contradiction with the terms of ¶ 19 of PO2. The fact that Claimants seek to disprove Respondent’s case is confirmed by the fact that Claimants refer solely to Respondent’s Counter-Memorial in support of their request.	The narrowed down request seems <i>prima facie</i> relevant and material.
<u>Reference in Memorial (paras.)</u>	CMoM, para. 50	
	This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.		The Tribunal takes note that Claimants state that they are not in possession of these Documents.
O1: Legal or settlement privilege (max. 250 words)		

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
<p>The Tribunal decides to narrow the request down to: "The minutes of the Zoning Plan Department's discussion of the draft outline for Change Z 1294/06 and the Zoning Plan Department's statement of disapproval of the draft outline for Change Z 1294/06".</p> <p>The Tribunal grants the narrowed down request because it meets R1, R2 and R3.</p>		

Document Request No. 6.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Please produce the Documents provided or presented to the Prague City Assembly members to prepare for and/or review at the assembly meeting of February 23, 2006, including, but not limited to the preceding recommendation by the Prague City Council Commission for zoning plan changes ("<i>Komise rady HMP pro zmeny uzemniho planu HMP</i>"), the preceding recommendation by the Prague City Assembly Committee on Spatial Development and the Zoning Plan ("<i>Vybor pro uzemni rozvoj a uzemni plan zastupitelstva HMP</i>"), and the preceding decision of the Prague City Council ("<i>Rada HMP</i>").</p>		<p>The request is sufficiently narrow and specific.</p>
Time frame of issuance		
<p>February 2004 (City Council Decree launching the wave 06 zoning plan changes) through February 23, 2006 (Prague City Assembly Resolution 35/06 approving the draft outline).</p>		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The requested Documents are expected to show that at the time of Claimants' purchase of the land, the draft outline of zoning plan change Z 1294/06 was approved with a density coefficient of OB-C, without the zoning plan change being faced with any insurmountable obstacles. They will also show no record of any objection to the zoning plan change by Benice, contrary to Respondent's allegation (CMoM, para. 78: "<i>Benice, which was very worried about Mr. Pawlowski's Project, immediately submitted several negative opinions</i>").</p>	<p>The request covers a period between February 2004 and 23 February 2006 and aims at showing that "<i>contrary to Respondent's allegation (CMoM, para. 78: 'Benice, which was very worried about Mr. Pawlowski's Project, immediately submitted several negative opinions')</i>" there was no record of Benice's objections to the zoning plan change during said timeframe.</p> <p>However, this is neither relevant to the case nor material to its outcome because the fact that Benice did not raise objections in the context of the approval process of the draft outline between February 2004 and February 2006 is undisputed by the Czech Republic. Claimants have disingenuously taken the quote from ¶ 78 of the Counter-Memorial out of context, willingly omitting to refer to the Czech Republic's explanations on what the objections raised by Benice were and their context at ¶¶ 79-81 of its Counter-Memorial.</p> <p>This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).</p>	<p>The requested Documents seem <i>prima facie</i> relevant and material.</p>
Reference in Memorial (paras.)		
<p>CMoM, para. 78</p>		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Claimants do not have possession of these Documents and they are not publicly available.</p>		<p>The Tribunal takes note that Claimants state that they are not in possession of these</p>

		Documents.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal grants the requested Documents because the request meets R1, R2 and R3.		

Document Request No. 7.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the Benice Assembly Resolution and the Benice Council Resolution underlying Exhibit R-2, the minutes of the meeting(s) where the issue was discussed, the minutes of the meeting(s) where a decision on the issue was taken, and the materials provided or presented to Council or Assembly members to prepare for and/or review at such meeting(s).		The request is sufficiently narrow and specific.
<u>Time frame of issuance</u>		
September 1, 2007 through December 1, 2008		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Exhibit R-2 states that the district of Benice opposes the zoning plan change. If Mayor Topičová opposed the zoning plan change on behalf of her constituents (CMoM, para. 78 - 80), she required a mandate by the district assembly. The underlying materials and minutes of the Assembly discussions and Benice Council discussions (if any) will shed light on the factual basis (if any) for the points raised in Exhibit R-2 and the fact that they were unrelated to the zoning plan change but rather were issues that could and should have been addressed in the planning process rather than by destroying the Project by filing for an annulment of the zoning plan change.	Claimants have not “ <i>prove[d] that the Documents are relevant to the case</i> ” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds. <i>First</i> , Claimants’ request is nothing more than a fishing expedition. Claimants request Documents ostensibly to “ <i>shed light on</i> ” facts that they are not even sure occurred (“ <i>discuss[i]ons (if any)</i> ”; “ <i>the factual basis (if any)</i> ”). <i>Second</i> , this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof (here, the facts underlying Exhibit R-2), which is in direct contradiction with the terms of ¶ 19 of PO2. The fact that Claimants seek to disprove Respondent’s case is confirmed by the fact that Claimants refer solely to Respondent’s Counter-Memorial and Respondent’s exhibit in support of their request. This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	The requested Documents seem <i>prima facie</i> relevant and material.
<u>Reference in Memorial (paras.)</u>		
CMoM, para. 78 – 80; Exhibit R-2		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.		The Tribunal takes note that Claimants state that they are not in possession of these Documents.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal grants the requested Documents because the request meets R1, R2 and R3.		

Document Request No. 8.		
R1: Description of requested Documents (max. 200 words)		
Requesting party	Requested party	Tribunal
Please produce the minutes of the public discussion of the concept for change Z 1294/06 (see Tomoszková Opinion, para. 52).		The request is sufficiently narrow and specific.
Time frame of issuance		
On or around March 25, 2009		
R2: Relevance and materiality (max. 250 words)		
Requesting party	Requested party	Tribunal
The minutes of the public hearing will show what the basic parameters of the discussed Project and of the zoning plan change were during the concept phase of the procurement of the zoning plan change. They will further show that no objections were raised by Benice, contrary to Respondent's allegations (CMoM, para. 78, alleging that " <i>Benice, which was very worried about Mr. Pawlowski's Project, immediately submitted several negative opinions</i> ").	The request covers the period on or around 25 March 2009 and aims at showing that " <i>no objections were raised by Benice</i> " in light of " <i>what the basic parameters of the discussed Project and of the zoning plan change were during the concept phase of the procurement of the zoning plan change</i> ". However, this is neither relevant to the case nor material to its outcome because the fact that Benice did not raise objections in the context of the public discussion of the draft concept on or around 25 March 2009 is undisputed by the Czech Republic. Claimants have disingenuously taken the quote from ¶ 78 of the Counter-Memorial out of context in an attempt to demonstrate the materiality of this request, willingly omitting to refer to the Czech Republic's explanations on what the objections raised by Benice were and their context at ¶¶ 79-81 of its Counter-Memorial. This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	The requested Document seems <i>prima facie</i> relevant and material.
Reference in Memorial (paras.)		
CMoM, para. 78; Tomoszková Opinion, para. 52		
R3: Not in possession of requesting party (max. 100 words)		
Requesting party	Requested party	Tribunal
Claimants do not have possession of this Document and it is not publicly available.		The Tribunal takes note that Claimants state that they are not in possession of this Document.
O1: Legal or settlement privilege (max. 250 words)		
Requested party	Requesting party	Tribunal
O2: Production is unreasonably burdensome (max. 200 words)		
Requested party	Requesting party	Tribunal
O3: Loss, destruction or inexistence (max. 100 words)		
Requested party	Requesting party	Tribunal
O4: Technical or commercial confidentiality (max. 200 words)		
Requested party	Requesting party	Tribunal

O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal grants the requested Document because the request meets R1, R2 and R3..		

Document Request No. 9.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the Documents in which the Development Section of the Capital City of Prague responded or referred to the letter submitted as Exhibit R-2.	The Development Section recorded Benice's objections raised in its letter dated 1 December 2008 (Exhibit R-2) in the record of the consultation of the borough's comments dated 31.3.2009 (Exhibit R-3). After a reasonable search, Respondent confirms that R-3 is the only document responsive to this Request. Respondent nevertheless raises the objections set forth in R2 below.	The Tribunal takes note that Respondent declares that, after a reasonable search, Doc. R-3 is the only document responsive to this Request.
Time frame of issuance		
December 1, 2008 through March 26, 2010		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
There is no record of these objections by Benice in the annexes to the City Assembly Resolutions concluding the concept stage, the draft change stage or the procurement of the zoning plan change as a whole. Objections by Benice are only on record for the Environmental Impact Assessment, which was conducted in the context of the planning process. Unless Respondent can produce Documents by the authorities responsible for zoning referencing the letter submitted as Exhibit R-2, the conclusion must be that the letter was not sent, not received, or that it was disregarded by the authorities because it was belated (the letter dated December 1, 2008 comments on the concept stage of the zoning plan change, which had however already been concluded by then pursuant to City Assembly Resolution no. 20/71, dated October 30, 2008 (Exhibit C-39)).	Claimants have not " <i>prove[d] that the Documents are relevant to the case</i> " (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds. <i>First</i> , Claimants make a series of factually incorrect assertions in this request. Document production is not the adequate juncture to plead factual issues and the Czech Republic will refrain from doing so at this stage, reserving all of its rights in this regard. <i>Second</i> , Claimants misguidedly assert that, should Respondent not produce the requested Documents, " <i>the conclusion must be that the letter [Exhibit R-2] was not sent, not received, or that it disregarded by the authorities because it was belated</i> ". This is not Claimants' judgement to make and is of no relevance to document production. It is for the Tribunal to weigh the evidence on the record and draw the conclusions it considers appropriate therefrom. <i>Third</i> , this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof (here, Benice's objections), which is in direct contradiction with the terms of ¶ 19 of PO2. The fact that Claimants seek to disprove Respondent's case is confirmed by the fact that Claimants refer solely to Respondent's Counter-Memorial and Respondent's exhibit in support of their request. This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	N.A.
Reference in Memorial (paras.)		
CMoM, para. 78; Exhibit R-2		

R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of any such Documents.		N.A.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal takes note that Respondent declares that, after a reasonable search, Doc. R-3 is the only document responsive to this Request.		

Document Request No. 10.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce a complete and final version of the document submitted as Exhibit R-3.	Respondent confirms that R-3 is the complete and final version of the document. Respondent nevertheless raises the objections set forth in R2 below.	The Tribunal takes note that Respondent confirms that Doc. R-3 is the complete and final version of the document.
Time frame of issuance March 31, 2009 (if Exhibit R-3 was the final version of the @@) or a subsequent date if Exhibit R-3 was not the final version of the document.		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Exhibit R-3 is an extract of a table that has been submitted with no cover page or other context showing its author or authenticity. Further, the original is unsigned, although p. 2 provides for signatures on behalf of the district, the Zoning Plan Division and the Development Section. A complete and final version of the document is likely to show that this chart was elaborated as an intermediate step in the procurement of the zoning plan change, and that Benice's objections (if any were in fact filed and recorded) were addressed in the process of the procurement of the zoning plan change, which was approved in 2010.	Claimants have not “ <i>prove[d] that the Documents are relevant to the case</i> ” (PO2, ¶ 16). Instead, Claimants call into question the authenticity of Exhibit R-3 (<i>Benice’s Objections to the Draft Concept, dated 31 March 2009</i>). Such allegations have no place in the document production procedure. If Claimants take issue with the authenticity of Respondent’s documents, a separate procedure has been foreseen in ¶ 17.7 of PO1. In any event, Respondent confirms that Exhibit R-3 is authentic. This request does not meet Requirement R2 and should thus be rejected <i>in limine</i> (PO2, ¶ 17).	N.A.
Reference in Memorial (paras.) CMoM, para. 79; Exhibit R-3.		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of the requested Document(s) and they are not publicly available.		N.A.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal takes note that Respondent confirms that Doc. R-3 is the complete and final version of the document.

Document Request No. 11.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Please produce the Documents provided or presented to the Prague City Assembly members to prepare for and/or review at the assembly meeting of October 20, 2008, related to the zoning plan change Z 1294/06 including, but not limited to the preceding recommendation by the Prague City Council Commission for zoning plan changes ("<i>Komise rady HMP pro zmeny uzemniho planu HMP</i>"), the preceding recommendation by the Prague City Assembly Committee on Spatial Development and the Zoning Plan ("<i>Vybor pro uzemni rozvoj a uzemni plan zastupitelstva HMP</i>"), and the preceding decision of the Prague City Council ("<i>Rada HMP</i>").</p>		<p>The request is sufficiently narrow and specific.</p>
Time frame of issuance		
<p>February 23, 2006 (Prague City Assembly Resolution 35/06 approving the draft outline) to October 20, 2008 (Prague City Assembly Resolution 20/71 approving the concept).</p>		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The requested Documents are expected to show that Benice did not raise any objections against zoning plan change Z 1294/06 at the concept stage of the procurement (contrary to Respondent's allegation that "<i>Benice [...] immediately submitted several negative opinions</i>" in the zoning process (CMoM, para. 78)), and that the zoning plan change was not faced with any insurmountable obstacles.</p>	<p>This request does not meet Requirement R2 and should thus be rejected <i>in limine</i> (PO2, ¶ 17).</p> <p>The request covers the period between 23 February 2006 and 20 October 2008 and aims at showing that "<i>Benice did not raise any objections against zoning plan change Z 1294/06</i>" during said timeframe.</p> <p>However, this is neither relevant to the case nor material to its outcome because the fact that Benice did not raise objections in the context of the public discussion of the draft concept between 23 February 2006 and 20 October 2008 is undisputed by the Czech Republic. Claimants have disingenuously taken the quote from ¶ 78 of the Counter-Memorial out of context, willingly omitting to refer to the Czech Republic's explanations on what the objections raised by Benice were and their context at ¶¶ 79-81 of its Counter-Memorial.</p>	<p>The requested Documents seem <i>prima facie</i> relevant and material.</p>
Reference in Memorial (paras.)		
<p>CMoM, para. 78</p>		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Claimants do not have possession of these Documents and they are not publicly available.</p>		<p>The Tribunal takes note that Claimants state that they are not in possession of these Documents.</p>
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal grants the requested Documents because the request meets R1, R2 and R3.		

Document Request No. 12.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the minutes of the public discussion of draft change Z 1294/06 (see Tomoszková Opinion, para. 56).		The request is sufficiently narrow and specific.
<u>Time frame of issuance</u>		
On or around January 15, 2010		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The minutes of the public hearing will show what the basic parameters of the discussed Project and of the zoning plan change were during this final phase of the procurement of the zoning plan change. They will further show that no objections were raised by Benice, contrary to Respondent's allegations (CMoM, para. 78, alleging that "Benice, which was very worried about Mr. Pawlowski's Project, immediately submitted several negative opinions").	This request does not meet Requirement R2 and should thus be rejected <i>in limine</i> (PO2, ¶ 17). The request covers the period on or around 15 January 2010 and aims at showing that " <i>no objections were raised by Benice</i> " in light of " <i>what the basic parameters of the discussed Project and of the zoning plan change were during this final phase of the procurement of the zoning plan</i> ". However, this is neither relevant to the case nor material to its outcome because the fact that Benice did not raise objections in the context of the public discussion of the draft change on or around 15 January 2010 is undisputed by the Czech Republic. Claimants have disingenuously taken the quote from ¶ 78 of the Counter-Memorial out of context, willingly omitting to refer to the Czech Republic's explanations on what the objections raised by Benice were and their context at ¶¶ 79-81 of its Counter-Memorial.	The requested Document seems <i>prima facie</i> relevant and material.
<u>Reference in Memorial (paras.)</u>		
CMoM, para. 78		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of this Document and it is not publicly available.		The Tribunal takes note that Claimants state that they are not in possession of this Document.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal grants the requested Document because the request meets R1, R2 and R3.		

Document Request No. 13.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Please produce the Documents provided or presented to the Prague City Assembly members to prepare for and/or review at the assembly meeting of March 25, 2010, related to the zoning plan change Z 1294/07 including, but not limited to the preceding recommendation by the Prague City Council Commission for zoning plan changes ("<i>Komise rady HMP pro zmeny uzemniho planu HMP</i>"), the preceding recommendation by the Prague City Assembly Committee on Spatial Development and the Zoning Plan ("<i>Vybor pro uzemni rozvoj a uzemni plan zastupitelstva HMP</i>"), and the preceding decision of the Prague City Council ("<i>Rada HMP</i>").</p>		<p>The request is sufficiently narrow and specific.</p>
<p>Time frame of issuance</p>		
<p>October 20, 2008 (Prague City Assembly Resolution 20/71 approving the concept) through March 26, 2010 (Prague City Assembly Resolution 35/38 approving the zoning plan change).</p>		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The requested Documents are expected to show that Benice did not raise any objections against zoning plan change Z 1294/07 at the final stage of its procurement (contrary to Respondent's allegation that "<i>Benice, which was very worried about Mr. Pawlowski's Project, immediately submitted several negative opinions</i>" in the zoning process (CMoM, para. 78)), and that the zoning plan change was not faced with any insurmountable obstacles.</p>	<p>This request does not meet Requirement R2 and should thus be rejected <i>in limine</i> (PO2, ¶ 17).</p> <p>The request covers the period between 20 October 2008 and 26 March 2010 and aims at showing that "<i>Benice did not raise any objections against zoning plan change Z 1294/07 at the final stage of its procurement (contrary to Respondent's allegation that "Benice, which was very worried about Mr. Pawlowski's Project, immediately submitted several negative opinions" in the zoning process [...])</i>".</p>	<p>The requested Documents seem <i>prima facie</i> relevant and material.</p>
<p>Reference in Memorial (paras.)</p>	<p>However, this is neither relevant to the case nor material to its outcome, because the objections raised by the Czech Republic during this period concomitantly with the Project's Environmental Impact Assessment were duly recorded, as clearly indicated by the Czech Republic at ¶¶ 78-81 of its Counter-Memorial.</p>	
<p>CMoM, para. 78</p>	<p>Claimants have disingenuously taken the quote from ¶ 78 of the Counter-Memorial out of context and make a series of factually incorrect assertions in this request. Document Production is not the adequate juncture to plead factual issues and the Czech Republic will refrain from doing so at this stage, reserving all of its rights in this regard.</p>	

R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.		The Tribunal takes note that Claimants state that they are not in possession of these Documents.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal grants the requested Documents because the request meets R1, R2 and R3.		

Document Request No. 14.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the minutes of the City Assembly meetings of February 23, 2006, October 20, 2008 and March 25, 2010.		N.A.
Time frame of issuance		
On or shortly after February 23, 2006, October 20, 2008 and March 25, 2010, respectively.		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
These minutes are expected to show that no insurmountable obstacles arose during the procurement of the zoning plan change. No objection to the zoning plan change by Benice is on that record, contrary to Respondent's allegation that " <i>Benice, which was very worried about Mr. Pawlowski's Project, immediately submitted several negative opinions</i> " (CMoM, para. 78). Benice only raised objections in the context of the Environmental Impact Assessment, i.e. in the planning process.	This request does not meet Requirement R2 and should thus be rejected <i>in limine</i> (PO2, ¶ 17). The request covers several periods on or shortly after 23 February 2006, 20 October 2008 and 25 March 2010 and aims at showing that "[n]o objection to the zoning plan change by Benice is on that record, contrary to Respondent's allegation that " <i>Benice, which was very worried about Mr. Pawlowski's Project, immediately submitted several negative opinions</i> " (CMoM, para. 78)" [...]".	
Reference in Memorial (paras.)	However, this is neither relevant to the case nor material to its outcome, because the objections raised by the Czech Republic during this period concomitantly with the Project's Environmental Impact Assessment were duly recorded, as clearly indicated by the Czech Republic at ¶¶ 78-81 of its Counter-Memorial.	N.A
CMoM, para. 78	Claimants have disingenuously taken the quote from ¶ 78 of the Counter-Memorial out of context and make a series of factually incorrect assertions in this request. Document Production is not the adequate juncture to plead factual issues and the Czech Republic will refrain from doing so at this stage, reserving all of its rights in this regard.	
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.	Respondent objects to the production of the requested Documents because all of the minutes of the Prague City Assembly are publicly available at the following website: http://www.praha.eu .	The tribunal takes note that Respondent argues that all of the minutes of the Prague City Assembly are publicly available at the following website: http://www.praha.eu .
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O3: Loss, destruction or inexistence (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal takes note that Respondent argues that all of the minutes of the Prague City Assembly are publicly available at the following website: <http://www.praha.eu>. The Tribunal invites the Parties to confer to facilitate Claimants' access to these documents.

Document Request No. 15.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the Documents by which all objections to zoning plan changes Z 1294/06 and Z 1294/07, were filed by Benice and/or Ms. Štěpánková and/or Mr. Hepner in a timely manner, in the course of the procurement of the zoning plan change (i.e. made outside the context of the environmental impact assessment (EIA)), along with Documents showing that such objections were received and recorded by the relevant authority responsible for zoning.		N.A.
<u>Time frame of issuance</u>		
April 26, 2004 (Application for zoning plan change by Prague-Benice) through March 26, 2010 (Prague City Assembly Resolution 35/38 approving the zoning plan change).		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent claims that " <i>Benice, which was very worried about Mr. Pawlowski's Project, immediately submitted several negative opinions</i> " in the zoning process (CMoM, para. 78). The requested Documents (if any) are expected to show that in fact, Benice was very passive and failed to use the opportunities it had to comment on the proposed zoning plan change. The only objections by Benice recorded by the authorities were raised in the context of the environmental impact assessment (EIA), i.e. in the planning process.	This request does not meet Requirement R2 and should thus be rejected <i>in limine</i> (PO2, ¶ 17). The request covers a period between 26 April 2004 and 26 March 2010 and aims at showing that " <i>Benice was very passive and failed to use the opportunities it had to comment on the proposed zoning plan change</i> ". However, this is neither relevant to the case nor material to its outcome, because the objections raised by the Czech Republic during this period concomitantly with the Project's Environmental Impact Assessment were duly recorded, as clearly indicated by the Czech Republic at ¶¶ 78-81 of its Counter-Memorial.	The request does not meet R2. According to para. 19 of PO no. 2 it is not for a Party to disprove, by way of document requests directed to the counterparty, allegations for which the counterparty bears the burden of proof, since failure to discharge such burden will by itself lead to dismissal of the allegation.
<u>Reference in Memorial (paras.)</u>		
CMoM, para. 78	Claimants have disingenuously taken the quote from ¶ 78 of the Counter-Memorial out of context and make a series of factually incorrect assertions in this request. Document Production is not the adequate juncture to plead factual issues and the Czech Republic will refrain from doing so at this stage, reserving all of its rights in this regard.	
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.		N.A.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O3: Loss, destruction or inexistence (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal rejects the request because it does not meet R2.

Document Request No. 16.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>To the extent not produced in response to Request Nos. 1-15 or not already filed in the record of this arbitration as exhibits, please produce all Documents in the City of Prague file concerning zoning plan changes Z 1294/06 and Z 1294/07.</p>	<p>The request does not provide for a “<i>narrow and specific</i>” category of Documents (PO2, ¶ 14). The request is drafted in grossly overbroad terms and is submitted as a catch-all category of Documents for “<i>all Documents</i>” that were “<i>not produced in response to</i>” the previous requests or “<i>not already filed in the record of this arbitration</i>”. As evidence of the breadth of this request, Claimants are, of course, unable to provide “<i>the name of the person, authority or entity which has issued the category of Documents</i>” (PO2, ¶ 14), as the request arguably covers anyone working for the Czech Republic in any function related to land use. Nor are Claimants able to provide a proper “<i>initial and the final date of the period during which the Documents belonging to the category were issued</i>” (PO2, ¶ 14), instead putting forth a request that spans an outlandish 12-year period.</p>	<p>The request is not sufficiently narrow and specific.</p>
<p style="text-align: center;">Time frame of issuance</p> <p>Documents within this file should extend from October 2003 (the date of the application by Uhříněves) to approximately July 2015 (three months after the City Assembly Resolution to terminate the procurement of zoning plan change Z 1294, which was issued on April 14, 2015).</p>	<p>This request thus does not meet Requirement R1 and should be rejected <i>in limine</i> (PO2, ¶ 15).</p>	
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The complete file concerning zoning plan changes Z 1294/06 and Z 1294/07 will clarify what was considered by the City of Prague, when, and show that the process up to and including the approval of the zoning plan change did not raise any insurmountable concerns. Benice did not raise any objections against zoning plan change Z 1294/07 (contrary to Respondent's allegation that “<i>Benice [...] immediately submitted several negative opinions</i>” in the zoning process (CMoM, para. 78)).</p> <p>The Documents in the requested file dating from the approval of the zoning plan change (March 26, 2010, C-44 and C-45) to the Decision of the Municipal Court to annul the zoning plan change (April 26, 2013) are expected to show that the Project was well on track after the approval of the zoning plan change and the increase of the density coefficient, and that no insurmountable obstacles arose.</p> <p>The Documents in the requested file dating from the Decision of Municipal Court to annul the zoning plan change (April 26, 2013) to the City Assembly Resolution to terminate the procurement of zoning plan change Z 1294 (April 14, 2015) are expected to show that the authorities responsible for zoning not only failed to sufficiently address the issue of what action they were legally required to take, but that their</p>	<p>Claimants have not “<i>prove[d] that the Documents are relevant to the case</i>” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds.</p> <p><i>First</i>, Claimants’ request is abusive.</p> <p><i>One</i>, the request is nothing more than a full-fledged pleading, whereby Claimants manipulate facts. However, document production is not the adequate juncture to plead factual issues and Respondent will refrain from doing so at this stage, reserving all of its rights in this regard.</p> <p><i>Two</i>, Claimants dare to argue that all Documents in Respondent’s possession related to the zoning plan changes are somehow relevant and material. This defies the logic and purpose of the document production exercise.</p> <p><i>Second</i>, Claimants are themselves unsure what the requested Documents are “<i>expected to show</i>” and do not request Documents in relation to specific facts – not even to a specific period of time, using this request as a mere pretext to abusively attempt to launch a fishing expedition and make a series of factually incorrect assertions.</p> <p><i>Third</i>, seeing as Claimants refer solely to Respondent’s Counter-Memorial in support of their request, it would appear that Claimants’ motivation is to disprove the Czech Republic’s case instead of proving their own, which is in</p>	<p>N.A.</p>

decision not to take any action was based on misinformation provided and organized by Mayor Hudeček.	direct contradiction with the terms of ¶ 19 of PO2.	
Reference in Memorial (paras.)	This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	
CMoM, para. 78		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The requested Documents are not in Claimants' possession and are not publicly available.		N.A.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
As explained in R1 and R2, Claimants' request is drafted in grossly overbroad terms and is submitted as a catch-all category, Claimants even failing to provide " <i>the name of the person, authority or entity which has issued the category of Documents</i> " (PO2, ¶ 14). Claimants' request constitutes a fishing-expedition that covers anyone working for the Czech Republic in any function related to land use over an outlandish 12-year period. For these reasons, this request is obviously unreasonably burdensome.	Respondent's objection does not explain why producing the requested Documents would be burdensome at all, much less unreasonably burdensome. The request asks for production of " <i>all Documents in the City of Prague file concerning zoning plan changes Z 1294/06 and Z 1294/07</i> " (emphasis added) on the assumption that these Documents were archived together such that they could be relatively easily produced as a set. This is a reasonable assumption given that zoning plan changes proceed through a defined procurement process and must ultimately be approved by the City of Prague Assembly on the basis of the record made during that process (see, e.g., Exhibit C-44, p. 6, stating that " <i>All materials from the joint discussion and public consultation of draft wave 07 changes...are stored with the procurer – Zoning Plan Division of the Municipal Office of the City of Prague...</i> "). Even if not originally archived together, Respondent has presumably collected these documents given that this zoning plan procurement process is the central issue in this arbitration. Respondent does not claim otherwise. Claimants have attempted to reduce any burden related to duplicate production by allowing exclusion of Documents already in the record or produced in response to other, more specific requests. In fact, it may be less burdensome for Respondent to produce the entire file.	N.A.
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal rejects the request because it does not meet R1.		

Document Request No. 17 regarding the Increase of the Density Coefficient		
Document Request No. 17.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce all Documents regarding meetings and/or negotiations between Mayor Topičová or any other representatives of Benice, and Mr. Martin Turnovský or any other representatives of Uhříněves, regarding Residential Complex Benice.	The request does not provide for a “ <i>narrow and specific</i> ” category of Documents (PO2, ¶ 14). Instead, the request is drafted in overbroad terms: “ <i>all Documents regarding meetings and/or negotiations between Mayor Topičová or any other representatives of Benice, and Mr. Martin Turnovský or any other representatives of Uhříněves, regarding Residential Complex Benice</i> ” (emphasis added).	The request is not sufficiently narrow and specific.
Time frame of issuance	This request thus does not meet Requirement R1 and should be rejected <i>in limine</i> (PO2, ¶ 15).	
January 1, 2011 through May 30, 2011.		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent claims that Benice was pressured to accept the proposed increase in density by Mr. Martin Turnovský, then a councilor of Uhříněves, who allegedly threatened that Uhříněves would deny children from Benice kindergarten spots if Benice did not agree to the proposed density increase (CMoM, para. 102). To the extent contemporaneous Documents regarding such communications exist, they should be produced.	Claimants have not “ <i>prove[d] that the Documents are relevant to the case</i> ” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds. <i>First</i> , Claimants’ request is nothing more than a fishing expedition. Claimants do not explain what the requested Documents are supposed to demonstrate and have not even attempted to explain why the possible facts to be revealed would be of any importance to this case. As a justification for their request, Claimants merely affirm that “[<i>t</i>]o the extent contemporaneous Documents regarding such communications exist, they should be produced”. <i>Second</i> , Claimants expressly acknowledge that this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof (“ <i>Respondent claims that Benice was pressured to accept the proposed increase in density by Mr. Martin Turnovský [...] who allegedly threatened that Uhříněves would deny children from Benice kindergarten spots if Benice did not agree to the proposed density increase</i> ”), which is in direct contradiction with the terms of ¶ 19 of PO2. The fact that Claimants seek to disprove Respondent’s case is confirmed by the fact that Claimants refer solely to Respondent’s Counter-Memorial in support of their request. This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	The request does not meet R2. According to para. 19 of PO no. 2 it is not for a Party to disprove, by way of document requests directed to the counterparty, allegations for which the counterparty bears the burden of proof, since failure to discharge such burden will by itself lead to dismissal of the allegation.
Reference in Memorial (paras.)		
CMoM, para. 102		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not possess any such Documents		N.A.

O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal rejects the request because it does not meet R1 and R2.		

Document Requests No. 18 – 23 regarding the Planning Process		
Document Request No. 18.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce a copy of the opinion from the Department of Environmental Protection which was annexed to the letter dated December 1, 2008, submitted as Exhibit R-2 (see Exhibit R-2, para. 1).	Respondent clarifies that there was an error in the translation of Exhibit R-2. The passage stating that “[a] copy of the opinion <i>from</i> the Department of Environmental Protection of the City Hall (“DEP”) is annexed to this letter” should have read “[a] copy of the opinion <i>for</i> the Department of Environmental Protection of the City Hall is annexed to this letter”. The requested attachment to the letter from Benice to the Development Section of the City of Prague, dated 1 December 2008 (Exhibit R-2) is the letter from Benice to the Environmental Division of the Municipal Office of the City of Prague, of the same date (already on the record as Exhibit R-1).	The Tribunal takes note that Respondent states that the responsive Document has been submitted on the record as Doc. R-1.
Time frame of issuance The annex was attached to the letter of December 1, 2008. The date of the underlying opinion is not known but it presumably was issued in the months prior to December 1, 2008.		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The document submitted as Exhibit R-2 is incomplete, as it mentions an annex which was not included with the exhibit. It is unclear how the opinion of the Department of Environmental Protection relates to Benice's opposition to the zoning plan change. The opinion is expected to show that it is merely an opinion issued by one of the authorities consulted in the zoning process expressing concerns to be addressed during the zoning change or planning process, and not a decision which blocks or imposes clear or binding limits on the Project.		N.A.
Reference in Memorial (paras.)		
CMoM, para. 79; Exhibit R-2		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of this Document and it is not publicly available.		N.A.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal takes note that Respondent states that the responsive Document has been submitted on the record as Doc. R-1.		

Document Request No. 19.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
If not already produced in response to Document Request No. 7, please produce the Benice Assembly Resolution and the Benice Council Resolution underlying Exhibit R-1, the minutes of the meeting(s) where the issue was discussed, the minutes of the meeting(s) where a decision on the issue was taken, and the materials provided or presented to Council or Assembly members to prepare for and/or review at such meeting(s).		The request is sufficiently narrow and specific.
Time frame of issuance		
September 1, 2007 through December 1, 2008		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Exhibit R-1, dated December 1, 2008, refers to a negative opinion by the Council of Benice on Residential Complex Benice, suggesting that such a Benice Council resolution exists. If Mayor Topičová opposed the proposed project on behalf of her constituents (CMoM, para. 78 - 80), she required a mandate by the district assembly. The underlying materials and minutes of the Assembly and Council discussions (if any) will shed light on the factual basis (if any) for the points raised in Exhibit R-1 and the fact that they were unrelated to the zoning plan change but rather were issues that could and should have been addressed in the planning process rather than by destroying the Project by filing for an annulment of the zoning plan change.	<p>Claimants have not “<i>prove[d] that the Documents are relevant to the case</i>” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds.</p> <p><i>First</i>, Claimants’ request is nothing more than a fishing expedition. Claimants request Documents ostensibly to “<i>shed light on</i>” facts that they are not even sure occurred (“<i>discuss[i]ons (if any)</i>”; “<i>the factual basis (if any)</i>”).</p> <p><i>Second</i>, this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof, which is in direct contradiction with the terms of ¶ 19 of PO2. The fact that Claimants seek to disprove Respondent’s case is confirmed by the fact that Claimants refer solely to Respondent’s Counter-Memorial and Respondent’s exhibit in support of their request.</p>	The requested Documents seem <i>prima facie</i> relevant and material.
Reference in Memorial (paras.)		
CMoM, para. 78 – 80; Exhibit R-1	This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.		The Tribunal takes note that Claimants state that they are not in possession of these Documents.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal grants the requested Documents because the request meets R1, R2 and R3.		

Document Request No. 20.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the letter from Be Nice o.s. to the Environmental Division of the Municipal Office of Prague dated December 2, 2008 which is referenced in Exhibit R-11 at para. 1, and any Documents by the Environmental Division of the Municipal Office of Prague responding or reacting to such letter.	Respondent objects to this Request on the grounds set forth in R2 below. In a spirit of cooperation, Respondent will nevertheless voluntarily produce the requested Documents. In addition, evidence for the Environmental Division's receipt and acknowledgement of Be Nice's letter is already on the record at Exhibit C-53, pp. 2-3.	The Tribunal takes note that Respondent has voluntarily undertaken to produce the requested Documents, and that evidence for the Environmental Division's receipt and acknowledgement of Be Nice's letter is already on the record at Exhibit C-53, pp. 2-3.
<p style="text-align: center;">Time frame of issuance</p> December 2, 2008, through March 26, 2010		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
There is no record of Be Nice's objections of December 2, 2008, as referenced in Exhibit R-11, in the annexes to the City Assembly Resolutions concluding the concept stage, the draft change stage or the procurement of the zoning plan change as a whole. Objections by Be Nice are only on record for the Environmental Impact Assessment, which was conducted in the context of the planning process. Unless Respondent can produce the letter and a Document by the authorities responsible for zoning referencing the objections by Be Nice o.s., the conclusion must be that the letter was not sent, not received, or that it was disregarded by the authorities because it was belated (the letter dated December 2, 2008 comments on the concept stage of the zoning plan change, which was however concluded by City Assembly Resolution No. 20/71, dated October 30, 2008 (Exhibit C-39)).	<p>Claimants have not “<i>prove[d] that the Documents are relevant to the case</i>” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds.</p> <p><i>First</i>, Claimants do not explain what the requested Documents are supposed to demonstrate and have not even attempted to explain why the possible facts to be revealed would be of any importance to this case.</p> <p><i>Second</i>, Claimants argue that “<i>[u]nless Respondent can produce the letter and a Document by the authorities responsible for zoning referencing the objections by Be Nice o.s., the conclusion must be that the letter was not sent, not received, or that it was disregarded by the authorities because it was belated</i>” (emphasis added). This is not Claimants' judgment to make and is of no relevance to document production. It is for the Tribunal to weigh the evidence on the record and draw the conclusions it considers appropriate therefrom.</p> <p><i>Third</i>, this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof, which is in direct contradiction with the terms of ¶ 19 of PO2. The fact that Claimants seek to disprove Respondent's case is confirmed by the fact that Claimants refer solely to Respondent's Counter-Memorial and Respondent's exhibit in support of their request.</p> <p>This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).</p>	N.A.
<p style="text-align: center;">Reference in Memorial (paras.)</p> CMoM, paras. 82-83; Exhibit R-11;		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of this Document and it is not publicly available.		N.A
O1: Legal or settlement privilege (max. 250 words)		

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O3: Loss, destruction or inexistence (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal takes note that Respondent has voluntarily undertaken to produce the requested Documents, and that evidence for the Environmental Division's receipt and acknowledgement of Be Nice's letter is already on the record at Exhibit C-53, pp. 2-3.

Document Request No. 21.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the Benice Assembly Resolution underlying Exhibit R-4, the minutes of the meeting(s) where the issue was discussed, the minutes of the meeting(s) where a decision on the issue was taken, and the materials provided or presented Assembly members to prepare for and/or review at such meeting(s).		The request is sufficiently narrow and specific.
<u>Time frame of issuance</u>		
Presumably in the months prior to April 24, 2009		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
If Mayor Topičová opposed the zoning plan change on behalf of her constituents (CMoM, para. 78 - 80), she required a mandate by the district assembly. The minutes of the assembly discussions (if any) will shed light on the factual basis (if any) for the points raised in Exhibit R-4 and the fact that they were unrelated to the zoning plan change but rather were issues that could and should have been addressed in the planning process rather than by attacking the Project by filing for an annulment of the zoning plan change.	<p>Claimants have not “<i>prove[d]</i> that the Documents are relevant to the case” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds.</p> <p><i>First</i>, Claimants’ request is nothing more than a fishing expedition. Claimants request Documents ostensibly to “<i>shed light on</i>” facts that they are not even sure occurred (“<i>discuss[i]ons (if any)</i>”; “<i>the factual basis (if any)</i>”).</p> <p><i>Second</i>, this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof, which is in direct contradiction with the terms of ¶ 19 of PO2. The fact that Claimants seek to disprove Respondent’s case is confirmed by the fact that Claimants refer solely to Respondent’s Counter-Memorial in support of their request.</p> <p>This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).</p>	The requested Documents seem <i>prima facie</i> relevant and material.
<u>Reference in Memorial (paras.)</u>		
CMoM, para. 78 - 80		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.		The Tribunal takes note that Claimants state that they are not in possession of these Documents.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal grants the requested Documents because the request meets R1, R2 and R3.		

Document Request No. 22.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce Mayor Topičová's and/or Benice's "request for a statement of 13 February 2012", referenced in the letter by the Development Section to Mayor Topičová, dated March 5, 2012, submitted as Exhibit R-14.		The request is sufficiently narrow and specific.
<u>Time frame of issuance</u>		
February 13, 2012		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The request for the referenced statement by Mayor Topičová will shed light on the status of and motivation for her and/or Benice's opposition to Residential Complex Benice.	Claimants have not “ <i>prove[d] that the Documents are relevant to the case</i> ” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds.	The requested Document seems <i>prima facie</i> relevant and material. Pursuant to para. 18 of PO 2, documents referred to in other documents that have already been submitted, are generally considered relevant.
<u>Reference in Memorial (paras.)</u>	<p><i>First</i>, Claimants’ request is nothing more than a fishing expedition. Claimants do not request Documents in relation to specific facts but rather, vaguely, to “<i>shed light on</i>” issues which Claimants have not even attempted to explain why they would be of any importance to this case.</p> <p><i>Second</i>, this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof, which is in direct contradiction with the terms of ¶ 19 of PO2. The fact that Claimants seek to disprove Respondent’s case is confirmed by the fact that Claimants refer solely to an exhibit produced by Respondent in support of their request.</p> <p>This request does not meet Requirement R2 and should thus be rejected <i>in limine</i> (PO2, ¶ 17).</p>	
Exhibit R-14		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of this Document and it is not publicly available.		The Tribunal takes note that Claimants state that they are not in possession of this Document.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal grants the requested Document because the request meets R1, R2 and R3.		

Document Request No. 23.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce all Documents reflecting or recording communications between Mayor Topičová or other representatives of Benice and Mgr. Jana Vaněčková or other representatives of the Development Section regarding Residential Complex Benice or zoning plan change Z 1294.	The request does not provide for a “ <i>narrow and specific</i> ” category of Documents (PO2, ¶ 14). Instead, the request is drafted in overbroad terms: Claimants request documents relating to “ <i>all Documents reflecting or recording communications between Mayor Topičová or other representatives of Benice and Mgr. Jana Vaněčková or other representatives of the Development Section</i> ” regarding the zoning plan change (emphasis added). In other words, Claimants request nothing less than <u>all communications</u> between <u>all persons</u> working for Benice and the Development Section on the zoning change over a period of 4 years. This request thus does not meet Requirement R1 and should be rejected <i>in limine</i> (PO2, ¶ 15).	The request is not sufficiently narrow and specific.
Time frame of issuance		
May 1, 2011 through April 30, 2015.		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Exhibit R-14 is a letter from Mgr. Jana Vaněčková of the Development Section to Mayor Topičová which includes a statement claiming that the Department does not agree with the "intent" of Residential Complex Benice although, at the time the letter was sent, the zoning plan change and density increase had already been approved and no court challenge to the change had yet been filed. The requested Documents will shed light on the status of and motivation for Mayor Topičová's and/or Benice's opposition to Residential Complex Benice and collusion between Mayor Topičová and Mgr. Vaněčková or others acting for Benice and the City of Prague to destroy the Project.	Claimants have not “ <i>prov[e]d</i> that the Documents are relevant to the case” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds. Claimants’ request is nothing more than a fishing expedition. Claimants do not request Documents in relation to specific facts but rather, vaguely, to “ <i>shed light on</i> ” facts on an alleged “ <i>collusion between Mayor Topičová and Mgr. Vaněčková or others acting for Benice and the City of Prague to destroy the Project</i> ”. Here, Claimants merely use document production as a pretext to make a series of factually incorrect assertions. Document Production is not the adequate juncture to plead factual issues and the Czech Republic will refrain from doing so at this stage, reserving all of its rights in this regard.	N.A.
Reference in Memorial (paras.)		
Exhibit R-14	This request does not meet Requirement R2 and should thus be rejected <i>in limine</i> (PO2, ¶ 17).	
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.		N.A.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O3: Loss, destruction or inexistence (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal rejects the request because it does not meet R1.

Document Requests No. 24 – 26 regarding the Annulment of the Zoning Plan Change

Document Request No. 24.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the materials provided or presented to Benice District Assembly members to prepare for and/or review at the assembly meeting of June 21, 2012, at which the assembly resolved to file for an annulment of zoning plan change Z 1294/07 (CMoM, para. 117).		The request is sufficiently narrow and specific.
Time frame of issuance		
June 23, 2011 (approval of the increase of the density coefficient by the Benice District Assembly) through June 21, 2012 (decision of the Benice District Assembly to file for an annulment of zoning plan change Z 1294/07).		

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The requested Documents will show that the Benice District Assembly's June 21, 2012 resolution was taken in the full knowledge of what Claimants were planning to build on the land, but without a factual, rational reasons expressed in supporting documentation, and without a real need to file for an annulment to achieve any reasonable objectives.	Claimants have not “ <i>prove[d] that the Documents are relevant to the case</i> ” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds.	The requested Documents seem <i>prima facie</i> relevant and material.
Reference in Memorial (paras.)	<i>First</i> , instead of demonstrating the materiality or the relevance of their request, Claimants merely make a series of factually incorrect assertions, arguing that “ <i>the Benice District Assembly's June 21, 2012 resolution was taken in the full knowledge of what Claimants were planning to build on the land, but without a factual, rational reasons expressed in supporting documentation, and without a real need to file for an annulment to achieve any reasonable objectives</i> ”. Document Production is not the adequate juncture to plead factual issues and the Czech Republic will refrain from doing so at this stage, reserving all of its rights in this regard.	
CMoM, para. 117	<i>Second</i> , Claimants’ request seeks to demonstrate that “ <i>that the Benice District Assembly's June 21, 2012 resolution was taken in the full knowledge of what Claimants were planning to build on the land</i> ”. However, this is neither relevant to the case nor material to its outcome because the fact it is undisputed by the Czech Republic that the Benice District Assembly's June 21, 2012 resolution was taken in full knowledge of the extent of Claimants’ project. <i>Third</i> , this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof, which is in direct contradiction with the terms of ¶ 19 of PO2. The fact that Claimants seek to disprove Respondent’s case is confirmed by the fact that Claimants refer solely to Respondent’s Counter-Memorial in support of their request. This request thus does not meet Requirement R2	

	and should be rejected <i>in limine</i> (PO2, ¶ 17).	
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.		The Tribunal takes note that Claimants state that they are not in possession of these Documents.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal grants the requested Documents because the request meets R1, R2 and R3.		

Document Request No. 25.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce any and all Documents reflecting or recording communications between Benice and/or Ms. Topičová and Ms. Štěpánková and/or Mr. Hepner regarding their cooperation to prevent the realization of Residential Complex Benice, or to at least minimize its scale, as referenced in Exhibit C-76 (CMoM, para. 117).	The request does not provide for a “ <i>narrow and specific</i> ” category of Documents (PO2, ¶ 14). Instead, the request is drafted in overbroad terms: “ <i>any and all Documents reflecting or recording communications between Benice and/or Mayor Topičová and Ms. Štěpánková and/or Mr. Hepner</i> ” (emphasis added). This request thus does not meet Requirement R1 and should be rejected <i>in limine</i> (PO2, ¶ 15).	The request is not sufficiently narrow and specific.
Time frame of issuance June 23, 2011 (approval of the increase of the density coefficient by the Benice District Assembly) through June 21, 2012 (decision of the Benice District Assembly to file for an annulment of zoning plan change Z 1294/07).		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
These Documents are expected to show that Benice never sought to minimize the scale of Residential Complex Benice, but that its actions were aimed at preventing the realization of the Project. They will also shed light on the development of and motivation for Mayor Topičová's, Benice's, Ms. Štěpánková 's and/or Mr. Hepner's opposition to Residential Complex Benice.	Claimants have not “ <i>prove[d]</i> that the Documents are relevant to the case” (PO2, ¶ 16). Instead as expressly acknowledged by Claimants, this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof, with the declared objective of “ <i>show[ing]</i> that Benice never sought to minimize the scale of Residential Complex Benice”, which is in direct contradiction with the terms of ¶ 19 of PO2. The fact that Claimants seek to disprove Respondent’s case is confirmed by the fact that Claimants refer solely to Respondent’s Counter-Memorial in support of their request. This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	N.A.
Reference in Memorial (paras.) CMoM, para. 117		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.		N.A.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
It is likely that a certain number of communications between Benice and/or Mayor Topičová and Ms. Štěpánková and/or Mr. Hepner exchanged over the requested period of time included their lawyer, Mr. Bernard, as part of their litigation strategy and, accordingly, would be privileged.	Respondent does not actually claim legal privilege and has not produced a privilege log or redacted Documents, in violation of PO2, para. 25. In any case, no legal privilege could attach to documents that were not exchanged with the lawyer, Mr. Bernard. Nor does the fact that Mr. Bernard may have been included in a communication mean that the Document meets the test for legal privilege protection.	N.A.

O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal rejects the request because it does not meet R1.		

Document Request No. 26.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the budgets for the District of Benice for the years 2007-2012.	Respondent objects to this Request on the grounds set forth in R2 below. In a spirit of cooperation, Respondent will nevertheless voluntarily produce the requested Documents.	The Tribunal takes note that Respondent has voluntarily undertaken to produce the requested Documents.
Time frame of issuance Annually for each of the years 2007 through 2012.		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Mayor Topičová's witness statement claims that Benice did not have sufficient resources to accommodate a residential development with 4,000 new inhabitants because it received only 4 million Czech crowns per year and had to use these funds for various municipal requirements (Topičová WS, para. 20). Mr. Pawlowski has testified that Mayor Topičová demanded payments of 20 to 30 million Czech crowns in exchange for allowing the Project to go forward (Pawlowski WS, paras. 35-37). The requested documents are expected to confirm Claimants' arguments that the funds being demanded by Mayor Topičová were far in excess of any reasonable municipal needs and that Benice was not required to expend funds on the tasks mentioned or suggested by Mayor Topičová because such requirements were taken care of by the District of Uhřetěves or the City of Prague.	Claimants have not "prove[d] that the Documents are relevant to the case" (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds. Claimants have not even attempted to explain why the possible facts to be revealed would be of any importance to this case and merely make a series of factually incorrect assertions in this request, arguing that "the funds being demanded by Mayor Topičová were far in excess of any reasonable municipal needs and that Benice was not required to expend funds on the tasks mentioned or suggested by Mayor Topičová because such requirements were taken care of by the District of Uhřetěves or the City of Prague". Document Production is not the adequate juncture to plead factual issues and the Czech Republic will refrain from doing so at this stage, reserving all of its rights in this regard. This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	N.A.
Reference in Memorial (paras.) Topičová WS, para. 20		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of the requested Documents nor are they publicly available.		N.A.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal takes note that Respondent has voluntarily undertaken to produce the requested Documents.

Document Requests No. 27 – 33 regarding the Handling of the Matter after the Annulment of the Zoning Plan Change		
Document Request No. 27.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce all Documents reflecting or recording communications between Mayor Topičová or other representatives of Benice and Mayor Hudeček regarding Claimants, regarding Residential Complex Benice or zoning plan change Z 1294, and/or regarding the present arbitration proceeding.	The request does not provide for a “ <i>narrow and specific</i> ” category of Documents (PO2, ¶ 14). The request is drafted in overbroad terms and is submitted as a catch-all category of Documents: “ <i>all Documents reflecting or recording communications between Mayor Topičová or other representatives of Benice and Mayor Hudeček regarding Claimants, regarding Residential Complex Benice or zoning plan change Z 1294, and/or regarding the present arbitration proceeding</i> ” (emphasis added). In other words, Claimants seek all communications, between all possible persons, regarding all possible issues touching on the present proceedings.	N.A.
Time frame of issuance	This request thus does not meet Requirement R1 and should be rejected <i>in limine</i> (PO2, ¶ 15).	
Since June 21, 2012 (decision of the Benice District Assembly to file for an annulment of zoning plan change Z 1294/07).		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The requested Documents will shed light on the motivation for Mayor Topičová's, Benice's and/or Mayor Hudeček's opposition to Residential Complex Benice and on their efforts to destroy the Project, and they are expected to disprove Respondent's allegation that “ <i>they [Mayor Topičová and Mayor Hudeček] do not know each other personally and have not discussed this matter together</i> ” (CMoM, para. 167), or that they “ <i>barely knew each other</i> ” (CMoM, para. 283), and the resulting suggestion that there was no collusion between Benice and Mayor Hudeček.	Claimants have not “ <i>prove[d] that the Documents are relevant to the case</i> ” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds. <i>First</i> , Claimants do not request Documents in relation to specific facts but rather, vaguely, to “ <i>shed light on</i> ” the alleged opposition of Mayor Topičová's, Benice's and/or Mayor Hudeček's to Residential Complex Benice and on their efforts to destroy the Project. <i>Second</i> , as expressly acknowledged by Claimants, this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof “ <i>they are expected to disprove Respondent's allegation [...]</i> ”, which is in direct contradiction with the terms of ¶ 19 of PO2. The fact that Claimants seek to disprove Respondent's case is confirmed by the fact that Claimants refer solely to Respondent's Counter-Memorial in support of their request.	N.A.
Reference in Memorial (paras.)	This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	
CMoM, para. 167, CMoM, para. 283		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.		N.A.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<p>The requested documents do not exist. Mayor Topičová clearly indicated at ¶ 43 of her witness statement that she: (i) does not personally know Mayor Hudeček; (ii) did not discuss the matter with him; and (iii) did not communicate with him regarding (a) Claimants, (b) the Residential Complex Benice, (c) the zoning plan change Z 1294, and/or (d) the present arbitration proceedings. To Respondent's knowledge, neither did other representatives of Benice.</p>	<p>Respondent's objection that the requested Documents do not exist is followed by an explanation that qualifies this statement in a manner that makes it unreliable. It is not clear whether Respondent has asked Mayor Topičová or Mayor Hudeček about such communications or conducted a reasonable search for such Documents rather than relying on assumptions made based on Mayor Topičová's witness statement. In addition, the request is not limited to Mayor Topičová's communications with Mayor Hudeček. This objection states that to "Respondent's knowledge" other representatives of Benice did not communicate with Mayor Hudeček. But there is no indication that Respondent has inquired or conducted any search at all for responsive Documents.</p>	<p>The Tribunal takes note that Respondent alleges that the requested Documents do not exist.</p>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
<p>The Tribunal takes note that Respondent alleges that the requested Documents do not exist.</p>		

Document Request No. 28.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Please produce Documents reflecting or recording all internal communication between the Prague authorities responsible for land use planning (in particular, to and from Mayor Hudeček, Deputy Mayor Matěj Stropnický, the Zoning Plan Department, the Development Section, the Environmental Division of the Municipal Office of Prague and the Ministry of Regional Development) regarding the handling of zoning plan change Z 1294 subsequent to its annulment.</p>	<p>The request does not provide for a “<i>narrow and specific</i>” category of Documents (PO2, ¶ 14). The request is drafted in overbroad terms and is submitted as a catch-all category of Documents for “<i>Documents reflecting or recording all internal communication between the Prague authorities responsible for land use planning</i>” (emphasis added). As evidence of the breadth of this request, Claimants are, of course, unable to provide “<i>the name of the person, authority or entity which has issued the category of Documents</i>” (PO2, ¶ 14), as the request arguably covers anyone working for the Czech Republic in any function related to land use (Claimants vaguely refer to “<i>the Prague authorities responsible for land use planning</i>”, but give the example of “<i>the Ministry of Regional Development</i>”, which is a <u>central</u> authority).</p> <p>This request thus does not meet Requirement R1 and should be rejected <i>in limine</i> (PO2, ¶ 15).</p>	<p>The request is not sufficiently narrow and specific.</p>
<u>Time frame of issuance</u>		
<p>April 26, 2013 (Decision of Municipal Court annulling the zoning plan change) to April 30, 2015 (just after the City Assembly Resolution to terminate the procurement of zoning plan change Z 1294)</p>		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>The requested Documents will shed light on the motivation for Mayor Hudeček's opposition to Residential Complex Benice, on his efforts to destroy the Project, and on his personal antipathy towards Mr. Pawlowski (disputed by Respondent in CMoM, para. 166).</p>	<p>Claimants have not “<i>prove[d] that the Documents are relevant to the case</i>” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds.</p> <p><i>First</i>, Claimants’ request is abusive and runs counter the purpose of document production. Claimants dare to argue that all communications internal to the City of Prague relating to land use planning over a two-year period are somehow relevant and material. This defies the logic and the purpose of the document production exercise.</p> <p><i>Second</i>, Claimants’ request is nothing more than a fishing expedition. Claimants do not request Documents in relation to specific facts but rather, vaguely, to “<i>shed light on</i>” on an alleged “<i>personal antipathy [of Mayor Hudeček] towards Mr. Pawlowski</i>”.</p> <p>This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).</p>	<p>N.A.</p>
<u>Reference in Memorial (paras.)</u>		
<p>CMoM, para. 166; Exhibit R-16</p>		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Claimants do not have possession of these Documents and they are not publicly available.</p>		<p>N.A.</p>
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
As explained in R1 and R2, Claimants' request is drafted in overbroad terms and is submitted as a catch-all category, Claimants even failing to provide " <i>the name of the person, authority or entity which has issued the category of Documents</i> " (PO2, ¶ 14). Claimants' request constitutes a fishing-expedition that covers anyone working for the Czech Republic (the City of Prague and the Czech Republic's central authorities) in any function related to land use and, for these reasons, this request is obviously unreasonably burdensome.	This request is limited to internal City communications regarding the handling of a specific zoning plan change (Z 1294) for a defined period of time (two years) commencing with the annulment of the change and lists specific likely authors and/or custodians of such Documents. Respondent's objection does not explain why searching for or producing the requested Documents would be burdensome at all, much less unreasonably burdensome. Very likely such documents were stored or have been gathered in a central file. If not, the limited period of time and specific subject matter make this request readily amenable to targeted searching.	The Tribunal acknowledges Respondent's objection O2.
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal rejects the request as it does not comply with R1.		

Document Request No. 29.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Please produce all Documents reflecting or recording communications relating to the document submitted as Exhibit R-17, entitled "City of Prague Memorandum, Information on the Projekt Sever, s.r.o. case", including but not limited to the communications by which preparation of such memorandum was instructed or mandated, the cover e-mails or other Documents by which drafts and the final version of the memorandum were transmitted, and communications suggesting or ordering that changes be made to drafts of the memorandum.</p>	<p>The request does not provide for a “<i>narrow and specific</i>” category of Documents (PO2, ¶ 14). The request is drafted in overbroad terms and is submitted as a catch-all category of Documents: “<i>all Documents reflecting or recording communications relating to the document submitted as Exhibit R-17</i>” (emphasis added). As evidence of the breadth of this request, Claimants have, of course, failed to provide “<i>the name of the person, authority or entity which has issued the category of Documents</i>” (PO2, ¶ 14).</p>	<p>The request is too broad. The Tribunal limits its scope to: “Communications by which preparation of the "City of Prague Memorandum, Information on the Projekt Sever, s.r.o. case" was instructed or mandated, the cover e-mails by which drafts and the final version of the memorandum were transmitted, and communications suggesting or ordering that changes be made to drafts of the memorandum, between April 26, 2013 to May 29, 2014”.</p>
<u>Time frame of issuance</u>	<p>This request thus does not meet Requirement R1 and should be rejected <i>in limine</i> (PO2, ¶ 15).</p>	
<p>April 26, 2013 (Decision of Municipal Court annulling the zoning plan change) through May 29, 2014 (first City Assembly Meeting addressing the annulled zoning plan change).</p>		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>In the first City Assembly Meeting addressing the annulled zoning plan change, on May 29, 2014, Mr. Hudeček stated that he relied on "legal opinions" supporting the position that the Assembly did not need to take any action (see Exhibit C-96, p. 3). The document submitted as Exhibit R-17, entitled "City of Prague Memorandum, Information on the Projekt Sever, s.r.o. case" (see CMoM, para. 159) does not contain any date or any indication of the memorandum's author or to whom it was transmitted. The requested Documents are expected to show that the memorandum was drafted specifically to support the inaction of the authorities, which was however motivated by improper bias against Mr. Pawlowski and his companies.</p>	<p>Claimants have not “<i>prove[d] that the Documents are relevant to the case</i>” (PO2, ¶ 16). Instead, Claimants call into question the authenticity of Exhibit R-17. Such allegations have no place in the document production procedure. If Claimants take issue with the authenticity of Respondent’s documents, a separate procedure has been foreseen in ¶ 17.7 of PO1. In any event, Respondent confirms that Exhibit R-17 is authentic.</p>	<p>The narrowed down request seems <i>prima facie</i> relevant and material.</p>
<u>Reference in Memorial (paras.)</u>	<p>This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).</p>	
<p>CMoM, para. 159; Exhibit R-17</p>		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
<p>Claimants do not have possession of these Documents and they are not publicly available.</p>		<p>The Tribunal takes note that Claimants state that they are not in possession of these Documents.</p>
O1: Legal or settlement privilege (max. 250 words)		

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
<p>The request is narrowed to “Communications by which preparation of the "City of Prague Memorandum, Information on the Projekt Sever, s.r.o. case" was instructed or mandated, the cover e-mails by which drafts and the final version of the memorandum were transmitted, and communications suggesting or ordering that changes be made to drafts of the memorandum, between April 26, 2013 to May 29, 2014”.</p> <p>The Tribunal grants the narrowed down request as as it complies with R1, R2 and R3.</p>		

Document Request No. 30.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce all Documents reflecting or recording communications from the City Assembly or any other authority responsible for the zoning plan change process to Projekt Sever or Mr. Pawlowski informing them of the content of the Memorandum submitted as R-17.		N.A.
Time frame of issuance		
May 1, 2014, through July 31, 2014		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Exhibit R-17 describes how Projekt Sever should allegedly exercise its rights as the owner of the relevant property and what the consequence of filing an application for a zoning plan change would be. Unless Respondent can produce a document showing otherwise, the assumption must be that Projekt Sever was never informed or provided assurances that the application for the change would start from the draft stage (i.e. the third of four stages), as opposed to having to start the zoning plan change again from the beginning.	Claimants have not “ <i>prove[d] that the Documents are relevant to the case</i> ” (PO2, ¶ 16). Instead, they state that “[u]nless Respondent can produce a document showing otherwise, the assumption must be that Projekt Sever was never informed or provided assurances that the application for the change would start from the draft stage”. This is not Claimants’ judgment to make and is of no relevance to document production. It is for the Tribunal to weigh the evidence on the record and draw the conclusions it considers appropriate therefrom.	The request does not meet R2. According to para. 19 of PO no. 2 it is not for a Party to disprove, by way of document requests directed to the counterparty, allegations for which the counterparty bears the burden of proof, since failure to discharge such burden will by itself lead to dismissal of the allegation.
Reference in Memorial (paras.)	This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	
Exhibit R-17		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not possess any such Documents.	As the requested documents are documents “ <i>reflecting or recording communications [...] to Projekt Sever or Mr. Pawlowski</i> ”, the original documents are <i>a fortiori</i> in the possession of Claimants. This request hence does not meet Requirement R3 and should be rejected <i>in limine</i> (PO2, ¶ 20).	N.A.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
The Tribunal rejects the request because it does not meet R2.		

Document Request No. 31.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the minutes of any and all meetings of the Prague City Council and/or of the Prague City Assembly Committee on Spatial Development and the Zoning Plan, at which the continuation or termination of the procurement of zoning plan change Z 1294 was discussed, and at which Mayor Topičová was present.	Mayor Topičová did not attend any meetings of the Prague City Council and/or of the Prague City Assembly Committee on Spatial Development and the Zoning Plan during said period of time. The requested documents therefore do not exist	The Tribunal takes note that Respondent alleges that the Documents do not exist.
<u>Time frame of issuance</u> April 26, 2013 (Decision of Municipal Court annulling the zoning plan change) through shortly after April 14, 2015 (City Assembly Resolution to terminate the procurement of zoning plan change Z 1294).		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The requested Documents will shed light on the influence exerted by Mayor Topičová over the Prague City Council (MoM, para. 192), and on her motivation for opposing Residential Complex Benice, as well as on the reasons for the City Council's suggestion to terminate the procurement of zoning plan change Z 1294.		N.A.
<u>Reference in Memorial (paras.)</u> MoM, para. 192		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.		N.A.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
The requested documents do not exist, as explained in R1 above.	Claimants contest the accuracy of this statement. When the City Assembly discussed the issue on April 14, 2015, the speech by Deputy Mayor of Prague, Matěj Stropnický, included a reference to Mayor Topičová's presence at the respective Council meeting, specifically: <i>"This is relatively well-known land belonging to Projekt Sever, which is owned by the businessman Sebastian Pawlowski; the owner of the land seeks</i>	The Tribunal takes note that Respondent alleges that the Documents do not exist. Claimants may draw the inferences they consider appropriate in their next written submission.

to get a court to ensure that this land is transformed into building land, which we judged to be unacceptable pressure; there is no legal entitlement to the procurement of zoning plan changes. For that reason we decided to terminate the procurement of this change, a change Prague – Benice district does not agree with. She was present at the session of the Council that discussed it. We therefore propose that the termination of the procurement of this change be approved." (Exhibit C-100, p. 1, emphasis added).

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal takes note that Respondent alleges that the Documents do not exist.

Claimants may draw the inferences they consider appropriate from this statement in their next written submission.

Document Request No. 32.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce the Documents provided or presented to the Prague City Assembly members to prepare for and/or review at the assembly meeting of April 14, 2015.		The request is sufficiently narrow and specific.
<u>Time frame of issuance</u>		
April 26, 2013 (Decision of Municipal Court annulling the zoning plan change) through April 14, 2015.		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The relevant Documents will show that the Prague City Assembly members were not provided with unbiased and complete information to decide whether to continue or whether to terminate the procurement of zoning plan change Z 1294 (MoM, paras. 192-194).	Claimants have not “ <i>prove[d] that the Documents are relevant to the case</i> ” (PO2, ¶ 16). Instead, this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof (attempting to disprove that the Prague City Assembly members received “ <i>unbiased and complete information to decide whether to continue or whether to terminate the procurement of zoning plan change</i> ”), which is in direct contradiction with the terms of ¶ 19 of PO2. This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	The request seems <i>prima facie</i> relevant and material.
<u>Reference in Memorial (paras.)</u>		
MoM, paras. 192-194		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of these Documents and they are not publicly available.		The Tribunal takes note that Claimants state that they are not in possession of these Documents.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision		
The Tribunal grants the requested Documents because the request meets R1, R2 and R3.		

Document Request No. 33.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce a copy of the complete minutes of the April 14, 2015 City Assembly meeting.		N.A.
<u>Time frame of issuance</u>		
April 14, 2015 or shortly afterwards		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
At its April 14, 2015 meeting, the Prague City Assembly resolved to terminate the procurement of zoning plan change Z 1294/07. The publicly available minutes of the assembly meeting (see Exhibit C-100, p. 1) do not record an actual discussion of the matter in the Assembly, other than one statement by a Mr. Ferjenčík (MoM, para. 193). Respondent claims that " <i>the Prague City Assembly carefully considered Projekt Sever's position before issuing its decision</i> " (CMoM, para. 337). The requested copy of the complete minutes would document the alleged " <i>careful consideration</i> ", and the Assembly's motivation for consenting to the termination of the procurement, and hence allow the Claimants to respond to this allegation.	<p>Claimants have not "<i>prove[d] that the Documents are relevant to the case</i>" (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds.</p> <p>As expressly acknowledged by Claimants, this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof ("<i>Respondent claims that 'the Prague City Assembly carefully considered Projekt Sever's position before issuing its decision'</i>"), which is in direct contradiction with the terms of ¶ 19 of PO2.</p> <p>This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).</p>	N.A.
<u>Reference in Memorial (paras.)</u>		
CMoM, para. 337; Exhibit C-100; MoM, para. 193		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of this Document and it is not publicly available.	Respondent objects to the production of the requested Documents because all of the minutes of the Prague City Assembly are publicly available at the following website: http://www.praha.eu .	The Tribunal takes note that Respondent alleges that all of the minutes of the Prague City Assembly are publicly available at the following website: http://www.praha.eu
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal takes note that Respondent alleges that all of the minutes of the Prague City Assembly are publicly available at the following website: <http://www.praha.eu>. The Tribunal invites the Parties to confer to facilitate Claimants' access to these documents.

Document Request No. 34 regarding the Criminal Investigation		
Document Request No. 34.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Please produce Documents (e.g. transcripts, minutes and/or statements) recording testimony or answers to questions by potential witnesses and by the accused given in criminal investigations conducted by the Police of the Czech Republic with respect to the criminal complaint filed by Projekt Sever against former Mayors Topičová and Hudeček (as well as other involved persons).		N.A.
Time frame of issuance		
2015		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
The requested Documents will show that Projekt Sever's criminal complaint was not "baseless", as alleged by Respondent (CMoM, para. 93), but that Mayor Topičová and Mayor Hudeček committed an abuse of office in their actions aimed at "blocking" the Project.	Claimants have not " <i>prove[d] that the Documents are relevant to the case</i> " (PO2, ¶ 16). As expressly acknowledged by Claimants, this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof (" <i>Documents will show that Projekt Sever's criminal complaint was not 'baseless', as alleged by Respondent</i> "), which is in direct contradiction with the terms of ¶ 19 of PO2.	N.A.
Reference in Memorial (paras.)		
CMoM, para. 93	This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants are in possession of transcripts of the statements made by Mr. Nováček (Exhibit C-84) and by former Mayor Topičová (dated August 17, 2015, Ref. no. OKFK-969-40/TČ-2015-251002). Claimant is not in possession of any other transcripts, which are not publicly available.	The Ministry of Finance is not in possession, and cannot come into possession, of the requested Documents any differently than Claimants. As part of a criminal file, the Ministry of Finance, like Claimants, could only obtain the requested Documents pursuant to a court order and subject to certain conditions. Under Section 65(1) of the Criminal Procedure Code " <i>[t]he accused, the injured and the participating person, their counsel and proxies [...] shall have the right of access to the files [...]. Other persons may do so with the authorization by the presiding judge of a panel (a prosecutor, an investigator or a police body in pre-trial proceedings) only if this is necessary for the exercise of their rights</i> ".	The Tribunal takes note of Respondent's statement that "the Ministry of Finance, like Claimants, could only obtain the requested Documents pursuant to a court order and subject to certain conditions".
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
Tribunal's Decision		
<p>The Tribunal takes note of Respondent’s statement that “the Ministry of Finance, like Claimants, could only obtain the requested Documents pursuant to a court order and subject to certain conditions”.</p> <p>The Document production phase cannot be used to subvert the legal regime of confidentiality of criminal proceedings under the Czech Republic law.</p>		

Document Requests No. 35 – 36 regarding the Discrimination of Claimants

Document Request No. 35.

R1: Description of requested Documents (max. 200 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Regarding the ORCO development on the other side of Pitkovice Creek mentioned in Exhibit R-4 at the bottom of the page, please produce: (a) the application(s) for the zoning plan change, (b) all comments in opposition of the zoning plan change, responses or references to such comments, (c) the SEA, (d) the EIA, (e) all records of public and joint discussions of the change, (f) all Council and Assembly minutes and resolutions considering or deciding on the change, (g) the Documents provided or presented to the Prague City Assembly members to prepare for and/or review for the assembly meeting at which the change was decided on, and (h) all planning, building and occupancy permits issued for the referenced development.	The request does not provide for a “ <i>narrow and specific</i> ” category of Documents (PO2, ¶ 14). The request is drafted in grossly overbroad terms and is submitted as a catch-all category of Documents related to potential “ <i>application(s)</i> ” to an unidentified zoning change, “ <i>all comments in opposition</i> ”, all “ <i>responses or references to such comments</i> ”, “ <i>all Council and Assembly minutes and resolutions</i> ” and “ <i>all planning, building and occupancy permits</i> ”. As evidence of the breadth of this request, Claimants are, of course, unable to provide the “ <i>initial and the final date of the period during which the Documents belonging to the category were issued</i> ” (PO2, ¶ 14), putting forth a request with no time frame at all (“ <i>[p]resumably in the years prior and after April 2009</i> ”). In short, Claimants are indiscriminately asking for the entire zoning file of the ORCO development.	The request is not sufficiently narrow and specific. The Tribunal decides to narrow it down to: (a) the application(s) for the zoning plan change, (c) the SEA, (d) the EIA, (f) all Council and Assembly minutes and resolutions considering or deciding on the change, (g) the Documents provided or presented to the Prague City Assembly members to prepare for and/or review for the assembly meeting at which the change was decided on.
Time frame of issuance		
Presumably in the years prior to and after April 2009.	This request thus does not meet Requirement R1 and should be rejected <i>in limine</i> (PO2, ¶ 15).	

R2: Relevance and materiality (max. 250 words)

<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent argues that zoning plan change Z 1294 and/or Residential Complex Benice were fatally flawed or could never have been realized (CMoM paras. 64 et seqq.) and that Claimants were not discriminated against as compared to neighboring developers (CMoM paras. 341 et seqq.). However, according to Exhibit R-4 dated April 24, 2009, a new development comprising 800-900 residential units was about to be built on the other side of Pitkovice Creek from Residential Complex Benice. Further, Exhibit R-4 states that this development was going to occur “[f]ollowing the change in the functional use of the territory.” The circumstances of this change of use and development are expected to show that Claimants' Project and zoning plan change Z 1294 could have been finally realized and that they were in fact treated less favorably than other similarly situated developers.	Claimants have not “ <i>prove[d] that the Documents are relevant to the case</i> ” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds. <i>First</i> , Claimants’ request is nothing more than a fishing expedition. Claimants are themselves unsure what the requested Documents are “ <i>expected to show</i> ”, since they do not know whether said zoning plan change ever existed nor if a project comprising 800-900 residential units was ever effectively planned or built (“ <i>a new development [...] was about to be built</i> ”). <i>Second</i> , as expressly acknowledged by Claimants, this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof (“ <i>Respondent argues that zoning plan change Z1294 and/or the Residential Complex Benice were fatally flawed or could never have been realized [...] and that Claimants were not discriminated against</i> ”), which is in direct contradiction with the terms of ¶ 19 of PO2. The fact that Claimants seek to disprove Respondent’s case is confirmed by the fact that Claimants refer solely to Respondent’s Counter-Memorial and exhibit in support of their request.	The narrowed down request seems <i>prima facie</i> relevant and material.
Reference in Memorial (paras.)		
CMoM paras. 64 et seqq. and 341 et seqq.; Exhibit R-4	This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	

R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of the requested Documents nor do they have sufficient information to find or request any of the documents which might be publicly available.		The Tribunal takes note that Claimants state that they are not in possession of the requested Documents.
O1: Legal or settlement privilege (max. 250 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O2: Production is unreasonably burdensome (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
As explained in R1 and R2, Claimants' request is drafted in grossly overbroad terms and is submitted as a catch-all category, Claimants even failing to provide the "initial and the final date of the period during which the Documents belonging to the category were issued" (PO2, ¶ 14). Claimants' request constitutes a fishing-expedition that covers <u>the entire zoning file</u> of the ORCO development for an undefined period. For these reasons, this request is obviously unreasonably burdensome.	The request asks for production of Documents regarding a specific zoning plan change on the assumption that these Documents were archived together or can be relatively easily collected and produced as a set. This is a reasonable assumption given that zoning plan changes proceed through a defined procurement process and must ultimately be approved by the City of Prague Assembly on the basis of the record made during that process (see, e.g., Exhibit C-44, p. 6, stating that " <i>All materials from the joint discussion and public consultation of draft wave 07 changes...are stored with the procurer – Zoning Plan Division of the Municipal Office of the City of Prague...</i> "). Respondent does not claim otherwise. If the alleged burdensomeness relates to photocopying or scanning physical documents, Claimants are willing to accept production via physical access to the Documents sufficient to allow them to be reviewed by Claimants' representatives for identification of a subset of Documents to be copied or scanned and produced in hardcopy or electronically.	The Tribunal takes note of Claimants' offer to minimize the burdensomeness.
O3: Loss, destruction or inexistence (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O4: Technical or commercial confidentiality (max. 200 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O5: Special political or institutional sensitivity (max. 250 words)		
<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>
O6: Production affects fairness or equality of procedure (max. 100 words)		
<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal decides to narrow down the request to: (a) the application(s) for the zoning plan change, (c) the SEA, (d) the EIA, (f) all Council and Assembly minutes and resolutions considering or deciding on the change, (g) the Documents provided or presented to the Prague City Assembly members to prepare for and/or review for the assembly meeting at which the change was decided on.

The narrowed down request is granted as it complies with R1, R2 and R3.

The Parties should confer to minimize the burdensomeness of the document production in accordance with Claimant offer.

Document Request No. 36.		
R1: Description of requested Documents (max. 200 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Regarding the Central Group development on the other side of Pitkovice Creek mentioned in Exhibit R-4 at the top of page 2, and in AlixPartners Report, page 19, please produce: (a) the application(s) for the zoning plan change, (b) all comments in opposition of the zoning plan change, responses or references to such comments, (c) the SEA, (d) the EIA, (e) all records of public and joint discussions of the change, (f) all Council and Assembly minutes and resolutions considering or deciding on the change, (g) the Documents provided or presented to the Prague City Assembly members to prepare for and/or review for the assembly meeting at which the change was decided on, and (h) all planning, building and occupancy permits issued for the referenced development.	The request does not provide for a “ <i>narrow and specific</i> ” category of Documents (PO2, ¶ 14). The request is drafted in grossly overbroad terms and is submitted as a catch-all category of Documents related to potential “ <i>application(s)</i> ” to an unidentified zoning change, “ <i>all comments in opposition</i> ”, all “ <i>responses or references to such comments</i> ”, “ <i>all Council and Assembly minutes and resolutions</i> ” and “ <i>all planning, building and occupancy permits</i> ”. As evidence of the breadth of this request, Claimants are, of course, unable to provide the “ <i>initial and the final date of the period during which the Documents belonging to the category were issued</i> ” (PO2, ¶ 14), putting forth a request with no time frame at all (“ <i>[p]resumably in the years prior and after April 2009</i> ”).	The request is not sufficiently narrow and specific. The Tribunal decides to narrow it down to: (a) the application(s) for the zoning plan change, (c) the SEA, (d) the EIA, (f) all Council and Assembly minutes and resolutions considering or deciding on the change, (g) the Documents provided or presented to the Prague City Assembly members to prepare for and/or review for the assembly meeting at which the change was decided on.
Time frame of issuance	This request thus does not meet Requirement R1 and should be rejected <i>in limine</i> (PO2, ¶ 15).	
Presumably in the years prior to and after April 2009.		
R2: Relevance and materiality (max. 250 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Respondent argues that zoning plan change Z 1294 and/or Residential Complex Benice were fatally flawed or could never have been realized (CMoM paras. 64 et seqq.) and that Claimants were not discriminated against as compared to neighboring developers (CMoM paras. 341 et seqq.). However, according to Exhibit R-4 dated April 24, 2009, "extensive development" was simultaneously being completed by Central Group. The AlixPartners Report, page 19, shows that such extensive development was sited right across Pitkovice Creek from Residential Complex Benice. Presumably, the construction of the Central Group development required a zoning plan change. The circumstances of this change of use and development are expected to show that Claimants' Project and zoning plan change Z 1294 could have been finally realized and that they were in fact treated less favorably than other similarly situated developers.	Claimants have not “ <i>prove[d] that the Documents are relevant to the case</i> ” (PO2, ¶ 16). Claimants instead attempt to justify this request on other unavailing grounds. <i>First</i> , Claimants’ request is nothing more than a fishing expedition. Claimants are themselves unsure what the requested Documents are “ <i>expected to show</i> ”, since they do not know whether said zoning plan change ever existed (“ <i>[p]resumably, the construction of the Central Group development required a zoning plan change</i> ”). <i>Second</i> , as expressly acknowledged by Claimants, this request is merely aimed at disproving allegations for which the Czech Republic bears the burden of proof (“ <i>Respondent argues that zoning plan change Z1294 and/or the Residential Complex Benice were fatally flawed or could never have been realized [...] and that Claimants were not discriminated against</i> ”), which is in direct contradiction with the terms of ¶ 19 of PO2.	The narrowed down request seems <i>prima facie</i> relevant and material.
Reference in Memorial (paras.)	This request thus does not meet Requirement R2 and should be rejected <i>in limine</i> (PO2, ¶ 17).	
CMoM paras. 64 et seqq. and 341 et seqq.; Exhibit R-4; AlixPartners Report, page 19		
R3: Not in possession of requesting party (max. 100 words)		
<u>Requesting party</u>	<u>Requested party</u>	<u>Tribunal</u>
Claimants do not have possession of the		The Tribunal takes note that Claimants

requested Documents nor do they have sufficient information to find or request any of the documents which might be publicly available.		state that they are not in possession of the requested Documents.
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O1: Legal or settlement privilege (max. 250 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O2: Production is unreasonably burdensome (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>
<p>As explained in R1 and R2, Claimants' request is drafted in grossly overbroad terms and is submitted as a catch-all category, Claimants even failing to provide the "initial and the final date of the period during which the Documents belonging to the category were issued" (PO2, ¶ 14). Claimants' request constitutes a fishing-expedition that covers the entire zoning file of the Central Group development for an undefined period. For these reasons, this request is obviously unreasonably burdensome.</p>	<p>The request asks for production of Documents regarding a specific zoning plan change on the assumption that these Documents were archived together or can be relatively easily collected and produced as a set. This is a reasonable assumption given that zoning plan changes proceed through a defined procurement process and must ultimately be approved by the City of Prague Assembly on the basis of the record made during that process (see, e.g., Exhibit C-44, p. 6, stating that "All materials from the joint discussion and public consultation of draft wave 07 changes...are stored with the procurer – Zoning Plan Division of the Municipal Office of the City of Prague..."). Respondent does not claim otherwise. If the alleged burdensomeness relates to photocopying or scanning physical documents, Claimants are willing to accept production via physical access to the Documents sufficient to allow them to be reviewed by Claimants' representatives for identification of a subset of Documents to be copied or scanned and produced in hardcopy or electronically.</p>	<p>The Tribunal takes note of Claimants' offer to minimize the burdensomeness.</p>

O3: Loss, destruction or inexistence (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O4: Technical or commercial confidentiality (max. 200 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O5: Special political or institutional sensitivity (max. 250 words)

<u>Requested Party</u>	<u>Requesting party</u>	<u>Tribunal</u>

O6: Production affects fairness or equality of procedure (max. 100 words)

<u>Requested party</u>	<u>Requesting party</u>	<u>Tribunal</u>

Tribunal's Decision

The Tribunal decides to narrow down the request to: (a) the application(s) for the zoning plan change, (c) the SEA, (d) the EIA, (f) all Council and Assembly minutes and resolutions considering or deciding on the change, (g) the Documents provided or presented to the Prague City Assembly members to prepare for and/or review for the assembly meeting at which the change

was decided on.

The narrowed down request is granted as it complies with R1, R2 and R3.

The Parties should confer to minimize the burdensomeness of the document production in accordance with Claimant offer.