

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

Can English barristers with relevant expertise, who are not staff of the law firm, but are also not members of another law firm (because most barristers are self-employed) be proposed under Section II, point 1.2 letter “c” of the General Standards and Rules? If not, can English barristers with relevant expertise be proposed as counsel / experts pursuant to Article 2.7 of the Engagement Letter?

According to Section II, point 1.2, letter “c” of the General Standards and Rules, the law firm participating in the procedure has to present a team from its staff including “the remaining members of the legal team, along with a brief description of their relevant experience”. That being said, the members of the team have to be part of the law firm’s staff. In this respect, if an English barrister is not part of the staff of the law firm, they cannot be proposed under Section II, point 1.2 letter “c”, irrelevant of whether they are not part of the staff of another law firm.

Art. 2.7 of the Engagement Letter does not provide explicit requirements regarding English barristers. Anyway, the purpose of art. 2.7. is to provide a possibility for retaining a local counsel and/or other experts of law and/or other experts with specific expertise in a particular area which may be needed in relation to the representation in the arbitration case. In this relation, art. 2.7. is not meant to provide a possibility for retaining lawyers who are not formally part of the staff of the law firm but have similar relevant expertise which is generally required from the law firm.
