

Czech Republic is unable to overturn its (only) loss in a solar case, as Swiss Federal Tribunal declines to set aside 2017 award on jurisdiction and liability

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IAReporter has learned that the Swiss Federal Tribunal has rejected the Czech Republic's bid to set aside a partial award handed down by a tribunal in the [Natland v. Czech Republic](#) case.

The parties were notified of the outcome of the Swiss proceeding on February 2, 2020, but have not yet received a reasoned decision from the court.

As readers may recall, the Natland case was brought by four solar energy investors from three different countries (Cyprus, The Netherlands and Luxembourg) under the Energy Charter Treaty, the Czechoslovakia-Netherlands BIT and the Cyprus-Czech Republic BIT.

In a partial award dated December 20, 2017, a tribunal of [Veijo Heiskanen](#), [Gary Born](#) (claimants' appointee), and [J. Christopher Thomas](#) (respondent's appointee) [asserted jurisdiction](#) over all four investors and [found the Czech Republic liable](#) for a breach of the treaties' fair and equitable treatment provisions.

Mr. Born [subsequently resigned](#) from all of the Czech solar cases, including Natland; however, it's not immediately clear if the claimants have nominated a replacement arbitrator in this case.

As we had [previously reported](#), the damages phase of the arbitration was suspended while the set aside application was heard.

Readers will recall that the Natland case is one of a broader set of cases that arose from the Czech Republic's reform to its solar energy sector and is the only case where arbitrators have found liability to date. Mr. Born wrote dissents in several other cases (see [here](#) and [here](#) for example).

We will update readers when new information about the decision of the Swiss Federal Tribunal and/or the Natland arbitral proceedings becomes available.