

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Gabriel Resources Ltd. and Gabriel Resources (Jersey)
Applicants on Annulment

v.

Romania
Respondent on Annulment

(ICSID Case No. ARB/15/31)
Annulment Proceeding

PROCEDURAL ORDER NO. 4

Members of the ad hoc Committee

Dr. Eduardo Zuleta Jaramillo, President of the *ad hoc* Committee
Prof. Lawrence Boo, Member of the *ad hoc* Committee
Prof. Dr. Maxi Scherer, Member of the *ad hoc* Committee

Assistant to the ad hoc Committee

Ms. Maria Marulanda Mürrle

Secretary of the ad hoc Committee

Ms. Sara Marzal Yetano

5 December 2025

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I. PROCEDURAL BACKGROUND

1. The Committee issues the present Order in view of the forthcoming Hearing on Annulment, scheduled to take place on 22 and 23 January 2026 in Washington D.C. (the “**Hearing**”)
2. In advance of the Pre-Hearing Organizational Meeting (“**PHOM**”), the Committee circulated a proposed order on 7 November 2025. The parties submitted their joint comments on 13 and 14 November 2025.
3. The PHOM was held by videoconference between the Committee and the parties on 17 November 2025.
4. Participating in the PHOM were:

Committee:

Dr. Eduardo Zuleta Jaramillo, President of the *ad hoc* Committee

Prof. Lawrence Boo, Member of the *ad hoc* Committee

Prof. Dr. Maxi Scherer, Member of the *ad hoc* Committee

Assistant to the President of the *ad hoc* Committee:

Ms. Maria Marulanda Mürrle

ICSID Secretariat:

Ms. Sara Marzal Yetano

Participating on behalf of the Applicants:

Mr. Dragos Tanase, Gabriel Resources

Mr. Simon Lusty, Gabriel Resources

Mr. James Lieber, Gabriel Resources

Ms. Anna El-Erian, Gabriel Resources

Ms. Abby Cohen Smutny, White & Case LLP

Mr. Brody Greenwald, White & Case LLP

Mr. Christopher Harris KC, Gibson Dunn

Ms. Ankita Ritwik, Gibson Dunn

Ms. Nika Madyoon, Gibson Dunn

Participating on behalf of the Respondent:

Mr. Matthias Scherer, LALIVE

Ms. Lorraine de Germiny, LALIVE

Ms. Isabel San Martín, LALIVE
Ms. Puloma Mukherjee, LALIVE
Ms. Crenguta Leaua, LDDP
Ms. Andreea Simulescu, LDDP
Ms. Liliana Deaconescu, LDDP
Ms. Andra Soare-Filatov, LDDP
Ms. Corina Tanase, LDDP

5. At the request of the parties during the PHOM, on 24 November 2025, the Secretary of the Committee provided a cost estimate for the two hearing transparency options proposed by the parties in Applicants' email of 13 November 2025. After further clarifications, the parties submitted their agreement on one of such options on 30 November and 1 December 2025.
6. The Committee has deliberated on the parties' proposals including those related to the hearing schedule, and the present Order sets out the procedural rules that the parties have agreed upon and the Committee has determined will govern the conduct of the hearing.

II. ORGANIZATION OF THE HEARING

A. DATE AND MODALITY

7. The hearing will be held in person at the Centre's facilities in Washington, D.C. on 22 and 23 January 2026, with 24 January 2026 in reserve.

B. ORDER OF PROCEEDINGS AND SCHEDULE

8. Each Party will have 3 hours for its opening oral arguments on Day 1, and 1.5 hours for its rebuttal oral arguments on Day 2
9. The Hearing will proceed according to the following indicative schedule:

DAY 1	
Time	Step
9:00 am – 9:15 am	Introductions and Organizational Matters
9:15 am – 10:45 am	Applicants' Opening Part 1
10:45 am – 11:00 am	Coffee Break

11:00 am – 12:30 pm	Applicants’ Opening Part 2
12:30 pm – 1:45 pm	Lunch Break
1:45 pm – 3:15 pm	Respondent’s Opening Part 1
3:15 pm – 3:30 pm	Coffee Break
3:30 pm – 5:00 pm	Respondent’s Opening Part 2

DAY 2	
Time	Step
9:30 am – 11:00 am	Applicants’ Rebuttal
11:00 am – 11:15 am	Coffee Break
11:15 am – 12:45 pm	Respondent’s Rebuttal
12:45 pm – 1:15 pm	Organizational Matters and Adjournment of the Hearing

1. No specific time shall be allocated separately for questions from the Committee. Instead, the Committee will pose questions as they arise during the course of the Parties’ oral arguments. The Parties shall address such questions immediately unless otherwise directed by the Committee.
2. The Committee will endeavor to pose all or most of its questions during Day 1 of the hearing. Any questions identified by the close of Day 1 will be communicated to the Parties at that time, or as soon as practicable thereafter, through the Secretary of the Committee. The Parties shall address those questions during their rebuttal oral arguments on Day 2, without prejudice to any additional questions the Committee may pose on Day 2.

C. TIME ALLOCATION

3. If a Party objects or otherwise intervenes during the other Party’s speaking time, that time will be counted as part of the objecting party’s time.
4. Time taken by the Committee for its own questions during the Parties’ oral submissions and the Parties’ answers to those questions shall not be counted against the Parties’ time.

5. Time used for housekeeping or to resolve technical difficulties shall not be counted against the Parties' time.
6. The Committee reserves discretion to adjust the Hearing Schedule as needed to accomplish the prescribed agenda and to accommodate the Committee's questions as well as any technical disruptions.

D. DOCUMENTS FOR USE AT THE HEARING

7. **Hearing Bundle:** In accordance with Section 14.4 of Procedural Order No. 1, by **8 January 2026** the parties shall upload to Box an electronic copy of the entire case file (including pleadings, exhibits, legal authorities and Committee decisions and orders to date) with a consolidated hyperlinked index of all documents (the "**Annulment Hearing Bundle**").¹ If any member of the Committee so requests, a USB drive, MAC compatible, containing an electronic copy of the Annulment Hearing Bundle shall be delivered to such member via *courier*.
8. The USB containing the Annulment Hearing Bundle should be sent to the Committee Members in accordance with Section 14.5. or Procedural Order No. 1.
9. The court reporter will also be provided with a copy of the Annulment Hearing Bundle via the ICSID Secretariat.
10. **PowerPoint and Demonstrative Exhibits:** These shall be used in accordance with Section 16 of Procedural Order No. 1, which states in relevant part:

- 16.9 The parties may use PowerPoint slides and demonstrative exhibits (such as charts, tabulations, etc. compiling information which is on record but not presented in such form) at any hearing, provided that

¹ To ensure operation of the hyperlinked index, the entire case file shall be housed within one folder and then uploaded to BOX as a single zip file.

they (i) identify the source in the record from which the information is derived, (ii) do not contain information not in the record.

- 16.10 An electronic copy of each demonstrative exhibit, other than PowerPoint slides that do not contain demonstratives, shall be distributed by the party intending to use it via an electronic mail sent to the entire case email distribution for each party, the Members of the Committee, the Committee Secretary, the Assistant, and to the court reporter and interpreters as necessary 24 hours before their use at the hearing. For the avoidance of doubt, a demonstrative exhibit refers to charts, graphs, diagrams, tabulations, or other visual representations of data that present or compile information already in the record but not in such form. Verbatim quotations to documents in the record do not constitute demonstratives.
- 16.11 In addition, promptly after the conclusion of the hearing day on which the corresponding demonstrative exhibit is used, the parties shall upload such demonstrative to the case folder in the BOX filesharing platform, designating each with the corresponding CD-__ or RD-__ number.
11. PowerPoint slides that do not contain demonstratives shall be distributed by the party intending to use it via an electronic mail sent to the entire case email distribution for each party, the Members of the Committee, the Committee Secretary, the Assistant, and to the court reporter 15 minutes before their use at the hearing.

E. RECORDINGS OF THE HEARING

12. Section 21.1 of Procedural Order No. 1 concerning recording (reproduced in part below) provides as follows:

21.1 Recordings shall be made of all hearings and sessions. The recordings shall be provided to the parties and the Committee Members.

13. The recording will be shared with the parties and the Committee via Box as soon as possible after the conclusion of the Hearing.

F. TRANSCRIPTION

14. Real-time court reporting services are to be provided, with same-day transcript delivery to the Committee and the parties via email. The verbatim transcripts will be available in real-time using LiveNote or similar software.

15. Section 21.3 of Procedural Order No. 1 shall govern the process of correcting the hearing transcript:

21.3 The parties shall agree on any corrections to the transcripts within 15 days of the later of the dates of the receipt of the sound recordings and transcripts. The agreed corrections may be entered by the court reporter in the transcripts (“**revised transcripts**”). The Committee shall decide upon any disagreement between the parties and any correction adopted by the Committee shall be entered by the court reporter in the revised transcripts.

G. TRANSPARENCY AND VIDEO RECORDINGS

16. A video recording of the hearing will be made.

17. Pursuant to Section 20.7 of Procedural Order No. 1 and Section I.1 of Annex C of the Canada-Romania BIT, which shall continue to apply *mutatis mutandis* to the annulment proceeding, the hearing shall be open to the public, subject to the procedures for the protection of confidential information established below.

18. The hearing will be broadcast on closed-circuit television at an overflow room, pursuant Section 4 of Procedural Order No. 3 of 14 November 2016 (the Confidentiality Order).
19. Confidential information shall be protected through the moderation of the video feed, and the redaction of relevant parts of the hearing transcripts, before these are published on the ICSID website. “Moderation” means that the video feed will be muted and will be showing a sign indicating that the hearing is temporarily held privately.
20. The moderation of the video feed will be done in accordance with the following Confidentiality Protocol:
 - i. The parties must request moderation of the video feed BEFORE confidential documents or information are discussed.
 - ii. Each party shall designate one team member to bring moderation requests to the Committee’s attention.
 - iii. Requests can be made orally or using the RED sign provided by the Secretary of the Committee before the hearing starts.
 - iv. Parties may request the resumption of the video feed orally or by using the GREEN sign provided by the Secretary of the Committee before the hearing starts.
 - v. If a party objects to the moderation or resumption of the video feed, it must immediately notify the Committee, which shall hear the parties and decide on the matter. The discussion between the Parties and the Committee shall be held privately.
 - vi. If the Committee decides that confidential information warrants the hearing to be temporarily held privately, it will instruct moderation of the video feed.
 - vii. To minimize the number of interruptions, the Parties are invited to organize the topics addressed during their oral statements so that those which involve confidential documents and information are grouped together, wherever possible.

21. ICSID will announce the hearing on the Centre's website two weeks before the hearing.

Below is a draft of the public announcement:

"A hearing on annulment in the above case is scheduled to take place at the seat of the Centre in Washington, D.C. on January 22 – 23, 2026, beginning at 9:00 a.m. EDT.

Pursuant to Section I.1 of Annex C of the Agreement between the Government of Canada and the Government of Romania for the Promotion and Reciprocal Protection of Investments of May 8, 2009, the hearing shall be broadcast on closed-circuit television in English at the World Bank Main Complex Building, in room [TBD]

Members of the public wishing to attend are requested to contact Ms. Lamiss Al-Tashi of ICSID (laltashi@worldbank.org). All members of the public will be requested to provide their names, affiliation and e-mail addresses in advance, in order to arrange for access to the broadcasting room. Visitor passes will be issued upon presentation of a valid picture ID.

The entrance to the World Bank Main Complex building is located at 1818 H Street NW, Washington, DC.

Cameras and other recording equipment (including phones or laptops) will not be allowed in the broadcasting room."

H. POST-HEARING SUBMISSIONS AND STATEMENTS OF COSTS

22. The matter of Post-Hearing Memorials and Statements of Costs shall be discussed by the Committee and the parties at the end of the hearing

I. LOGISTICAL ITEMS

23. The logistical details (e.g., confirmation of room number assignments, list of participants, set-up details, details on court reporting and technical support services, internet access, audio-visual equipment and catering orders) will be handled through correspondence directly by the ICSID Secretariat.

J. DATA PRIVACY

24. Section 25 of Procedural Order No. 1 states as follows:

- 25.1 The Members of the Committee, the parties and their representatives acknowledge that the processing of their personal data is necessary for the purposes of this annulment proceeding.
- 25.2 The Members of the Committee, the parties and their representatives agree to comply with all applicable data protection and privacy regulations, including providing appropriate notice to data subjects whose personal data will be processed in the annulment proceeding, where necessary. Should compliance with applicable law require action from another participant in the annulment proceeding, the parties are invited to bring that to the attention of that other participant and/or to apply to the Committee for specific data protection measures to be put in place.
- 25.3 The parties and their representatives shall ensure that the storage and exchange of the personal data processed in this annulment proceeding is protected by way of appropriate technical and organizational safeguards.

On behalf of the Committee,

[*Signed*]

Dr. Eduardo Zuleta Jaramillo
President of the *ad hoc* Committee
Date: 5 December 2025