

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

In the arbitration proceeding between

MIRIAN G. DEKANOIDZE AND T.G. TRADE LLC

Claimants

v.

GEORGIA

Respondent

(ICSID Case No. ARB/23/45)

PROCEDURAL ORDER NO. 3
On the Organization of the Hearing on the Rule 41 Objection

Members of the Tribunal

Ms. Judith Levine, President of the Tribunal

Dr. Hamid Gharavi, Arbitrator

Prof. Attila Massimiliano Tanzi, Arbitrator

Secretary of the Tribunal

Ms. Ella Rosenberg

Date: 13 November 2024

A. INTRODUCTION

1. The present Order sets out the procedural rules that the Parties have agreed upon and/or the Tribunal has determined will govern the conduct of the hearing on the Respondent's Rule 41 Objection ("**Hearing**").

B. DATE AND FORMAT OF THE HEARING, SCHEDULE AND ALLOCATION OF TIME

i. Date and format of the Hearing

2. As agreed by the Parties, the Hearing will be held virtually through Zoom on 19 November 2024. The details to join the Zoom session will be shared by the ICSID Secretariat in advance of the Hearing.
3. In accordance with paragraph 22 of Procedural Order No. 2, the Hearing shall be closed to the public.

ii. Schedule of the Hearing

4. The order of proceedings, and a detailed Hearing schedule are indicated in the agenda incorporated as **Annex A**.
5. The Hearing will start at 9:30am Paris time on 19 November 2024. It is expected to conclude by 3 pm Paris time, subject to any adjustment required by the course of the examinations. There will be two breaks.
6. The Tribunal reserves its discretion to adjust the Hearing schedule as needed to accomplish the prescribed agenda and to accommodate any technical disruptions.
7. The Tribunal emphasizes that the Parties are expected to use the Hearing day efficiently and avoid unnecessary slippage (e.g., delays in returning from breaks). In the event of excess slippage, the Tribunal may revisit the length of the sitting day or, in unusual circumstances, the time allocated to the Parties, bearing in mind principles of predictability, equal treatment and a fair opportunity for the Parties to be heard.

iii. Allocation of Time

8. The time at the Hearing shall be allocated to each Party in equal proportions, subject to the Tribunal's discretion taking into account all the relevant circumstances including the number of any fact witnesses for each Party called to testify and the amount of evidence to be presented.

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9. The Hearing time available for the Parties and the Tribunal amounts to a total of 4.5 hours excluding breaks. The Tribunal will provisionally have [1] hour in reserve.
10. The Hearing will be conducted in accordance with the Hearing schedule set in **Annex A**.
11. The Parties may request short extensions of time if necessary and the Tribunal will exercise a limited degree of flexibility in this regard. Any time allocated to each Party for its use during the Hearing shall depend in the end on how much time remains available (or not) at the time of adjournment.
12. Time taken by the Tribunal for its own questions during the Parties' presentations and the answers to those questions shall not be counted against the Parties' time.
13. Time spent dealing with objections from a Party shall not be counted against any Party's time unless the Tribunal determines otherwise if the circumstances warrant a deviation from that rule.
14. Time used for housekeeping or to resolve technical difficulties shall be counted against the Tribunal's time, if needed.
15. The Secretary of the Tribunal shall keep a chess clock account of time and advise the Parties of the total time used at the end of the Hearing day.

C. DOCUMENTS FOR USE AT THE HEARING

i. Demonstrative exhibits and PowerPoint presentations

16. Demonstrative exhibits shall be used in accordance with paragraph 16.8 of Procedural Order No. 1 dated 5 September 2024 ("**PO1**").
17. Pursuant to paragraph 16.9 of PO1, an electronic copy of each demonstrative exhibit 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 Tribunals, the Secretary of the Tribunal, and to the court reporter as necessary by 8 pm on the eve of the Hearing.
18. Pursuant to paragraph 16.9 of PO1, an electronic copy of each presentation (such as PowerPoint slides) setting out the Parties' argument 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 Tribunals, the Tribunal Secretary, to the court reporter and to the interpreters as necessary at least 15 minutes prior to their use at the Hearing.

19. In accordance with paragraph 16.10 of PO1, 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 files sharing platform, designating each with the corresponding “CD-” for Claimants or “RD-” for Respondent.

ii. Electronic presentation of evidence

20. Each Party shall be responsible to present demonstrative exhibits and evidence to the participants in the Hearing using the Zoom screen-sharing function.
21. In accordance with paragraph 16.8 of PO1, demonstrative exhibits may compile information which is on record but not presented in such form, and must indicate from which documentary exhibit or legal authority they are derived. While presenting, the Parties may highlight particular passages of the document to draw attention to the relevant section. Documents that do not form part of the record may not be presented at the Hearing.
22. The Hearing participant displaying the document shall be the only participant with the ability to scroll through the document being displayed. The Parties are advised to limit their use of this function, to minimize pressure on the internet bandwidth and on the stability of the connection.

D. RECORDING OF THE HEARING

23. Pursuant to paragraph 22.1 of PO1, the Hearing will be recorded. A copy of the recording shall be provided to the Parties and the Tribunal.
24. Except for the court reporter, who will make their own audio recording of the Hearing, attendees will not otherwise make any audio or video of the Hearing or any part of it.

E. TRANSCRIPTION OF THE HEARING

25. Paragraph 22.3 of PO1 will apply to the arrangements for the correction of the transcripts.
26. Transcription services in English will be provided by [REDACTED] (the “**Court Reporter**”). The Court Reporter may seek to clarify the record from time to time during the course of the Hearing.
27. Instructions to access the live transcript will be provided by the Secretary of the Tribunal to the participants in advance of the Hearing.

F. REMOTE HEARING ARRANGEMENTS

28. The following procedures shall be followed in order to ensure the good conduct of the remote Hearing:

i. Participants

29. Each Party shall provide its respective List of Hearing Participants (“**List of Participants**”) by 12 November 2024, using the template format that will be provided by ICSID. If a Party wishes to include an additional person not identified on the approved list, such person may participate only with the agreement of all Parties or at the direction of the Tribunal. In any event, no individual shall be in attendance who is not announced at least 24 hours in advance.

30. Participants shall join the Zoom videoconference 30 minutes in advance of the start of the Hearing to facilitate the identification of Participants and to address any technical contingencies.

ii. Connectivity

31. Each Party is responsible for ensuring that its Participants who will attend the Hearing have reliable, high-speed Internet connections offering and suitable video and audio capabilities and equipment.

32. If available, participants are advised to use a wired Ethernet connection instead of Wi-Fi. Participants are also encouraged to keep a smartphone or tablet, having a 4G data connection and mobile hotspot functionality, available as a backup internet connection at all times during the Hearing.

33. The Hearing platform will also offer a dial-in telephone audio connection as a backup option should a participant experience a temporary technical difficulty with a computer online connection.

iii. Equipment and Set-Up

34. For optimum sound quality, especially for the audio recording and the transcription, the Tribunal highly recommends that the main speakers use an external microphone connection such as a headset through the USB or “mic” jack of the computer or laptop that they use for the Zoom videoconference. If not available, the main speakers are asked to speak close to the microphone.

35. While not indispensable, Hearing participants are advised to have at least two screens, and preferably three (it can be one device with multiple screens or a combination of devices including tablets) to facilitate simultaneous viewing of: (i) the Zoom video connection; (ii) the online real-time transcript; and (iii) offline documents.

iv. Videoconference Etiquette

36. Upon joining the Zoom videoconference, Participants using a computer should turn on both their audio and video. The President of the Tribunal will invite each Party to introduce its team. After each Party has introduced all of its relevant Hearing Participants, the Hearing Participants who are not expected to speak shall turn off their video feed and mute their microphones.
37. Once admitted to the Zoom videoconference, and barring technical issues or other exceptional circumstances, lead counsel and Party representatives are to remain connected throughout the Hearing.
38. Other than for the introductions noted at paragraph 35 above, the Parties are advised to keep the number of video connections to a minimum, and, in any event, to Participants that will have an active speaking role (“**Active Participants**”) only. Passive attendees (“**Passive Participants**”) should join the meeting through their computer but connecting only their audio (i.e. turning their video off).
39. Participants shall use the “mute microphone” function unless they are speaking in order to reduce background noise and to avoid interference with the audio recording. The service provider serving as host of the video conference shall have the ability to mute Participants if needed to avoid background noise, under the Tribunal’s control.
40. To facilitate accurate transcription, speakers are advised to speak at a reasonable speed and with pauses between phrases.
41. Participants are advised to join the Hearing from a location without background noise and with adequate lighting. Participants joining via video shall avoid sitting with a window or source of light behind them.

v. Break-out rooms

42. The Secretary of the Tribunal will arrange break-out rooms separate from the Hearing room, to be used securely by the Tribunal, Claimants and Respondent during breaks.

ANNEX A
Hearing Schedule

Day 1: Tuesday, 19 November 2024

<i>Hour (Paris time)</i>	<i>Duration</i>	PROCEDURAL STEP
00:00	(# hours/min.)	
09:30	15 minutes	Introductions and housekeeping
09:45	1 hour and 15 minutes	Respondent's opening statement
11:00	15 minutes	Break
11:15	1 hour and 15 minutes	Claimants' opening statement
12:30	45 minutes	Lunch break
13:15	20 minutes	Respondent's rebuttal
13:35	20 minutes	Claimants' sub-rebuttal
13:55	1 hour	Tribunal's questions
14:55	5 minutes	Closing remarks (if any)
15:00		End