

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Mabco Constructions SA

v.

Republic of Kosovo

(ICSID Case No. ARB/17/25)

PROCEDURAL ORDER NO. 7

Members of the Tribunal

Professor George A. Bermann, President of the Tribunal

Mr. Gianrocco Ferraro, Arbitrator

Professor Dr. August Reinisch, Arbitrator

Secretary of the Tribunal

Jara Mínguez Almeida

April 19, 2022

The Tribunal has reviewed and considered Respondent's request of April 4, 2022, for inadmissibility of two expert reports submitted by Claimant with its Reply and the request for an extension of time for submitting its Rejoinder, as well as Claimant's comments of April 11, 2022.

The Tribunal has decided as follows:

1. The request for exclusion of Ms. Ferial El Ayeb's Expert Opinion dated March 4, 2022 ("El Ayeb Opinion"), is granted. Among other reasons is the fact that, in the Tribunal's view, the El Ayeb Opinion makes an extensive recitation of facts of which she does not appear to have any personal knowledge and in her report largely assumes the posture of advocate.
2. On the other hand, the request for exclusion of Mr. Artan Qerkini's Expert Opinion dated March 4, 2022 ("Qerkini Opinion"), is denied. The Tribunal believes that the expert's interpretation of Kosovo law, and in particular the Criminal Procedure Code, as well as his description of the applicable criminal law, are potentially of assistance to it.

The Tribunal acknowledges that the Qerkini Opinion could have been submitted in the first round of pleadings and, on that basis, could be excluded. However, for the reasons stated above, the report stands to have added value. Moreover, the Tribunal notes that the Qerkini Opinion has a relatively narrow focus and can more readily be responded to by Respondent in the pre-hearing time available than the El Ayeb Opinion.

3. That said, fairness requires that Respondent have adequate time to respond to what is essentially new and relevant material. The date by which Respondent must file its submission is accordingly extended by a three-week period and shall be submitted by no later than **May 27, 2022**.

On behalf of the Tribunal,

[Signed]

George A Bermann
President of the Tribunal