

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Eurohold Bulgaria AD and Euroins Insurance Group AD**

**v.**

**Romania**

**(ICSID Case No. ARB/24/18)**

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**PROCEDURAL ORDER NO. 1**

***Members of the Tribunal***

Sir Daniel Bethlehem KC, Presiding Arbitrator

Sir Christopher Greenwood KC, Arbitrator

Professor Brigitte Stern, Arbitrator

***Secretary of the Tribunal***

Ms. Aïssatou Diop

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**12 December 2024**

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## **Introduction**

The First Session of the Tribunal was held on 28 November 2024 at 5:30 am Washington DC time, 10:30 am London time, 11:30 am Milan and Paris time and 12:30 pm Bucharest and Sofia time, by video conference. The session was adjourned at 7:15 am Washington DC time, 12:15 pm London time, 1:15 pm Milan and Paris time and 2:15 pm Bucharest and Sofia time.

An audio recording of the session was made and deposited in the archives of ICSID. The recording was distributed to the Members of the Tribunal and the Parties.

Participating in the conference were:

### Members of the Tribunal:

Sir Daniel Bethlehem KC, Presiding Arbitrator  
Sir Christopher Greenwood KC, Arbitrator  
Professor Brigitte Stern, Arbitrator

### ICSID Secretariat:

Ms. Aïssatou Diop, Secretary of the Tribunal

### Attending on behalf of the Claimants:

Ms. Sylvia Tonova (Pinsent Masons)  
Mr. Juan Pablo Charris (Pinsent Masons)  
Professor Christoph Schreuer  
Mr. Angel Ganev (DGKV)  
Ms. Gergana Monovska (DGKV)

### Attending on behalf of the Respondent:

Mr. Lucas Bastin KC (Essex Court Chambers)  
Mr. Lucian Ilie (Outer Temple Chambers)  
Ms. Iuliana Iacob (Musat & Asociatii)  
Ms. Chloe Carswell (Gunnercooke)  
Dr. Avv. Anna De Luca (Macchi di Cellere Gangemi)

The Tribunal and the Parties considered the following:

- The Draft Procedural Order No. 1 circulated by the Tribunal Secretary on 19 November 2024; and
- The Parties' comments on the Draft Procedural Order received on 26 November 2024, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

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Having considered the above documents and the Parties' views, the Tribunal now issues the present Order:

**Order**

Pursuant to ICSID Arbitration Rules 19 and 20, this first Procedural Order sets out the Procedural Rules that govern this arbitration. The Procedural Calendar is attached as **Annexures B** and **C** hereto.

1. Applicable Arbitration Rules

*Convention Article 44; Arbitration Rule 1*

1.1. This proceeding is conducted in accordance with the ICSID Arbitration Rules in force as of 1 July 2022.

2. Constitution of the Tribunal and Tribunal Members' Declarations

*Arbitration Rules 19, 21*

2.1. The Tribunal was constituted on 4 November 2024 in accordance with the ICSID Convention and the ICSID Arbitration Rules. The Parties confirmed that the Tribunal was properly constituted and that no Party has any objection to the appointment of any Member of the Tribunal.

2.2. The Members of the Tribunal timely submitted their signed declarations in accordance with ICSID Arbitration Rule 19(3)(b). Copies of these declarations were distributed to the Parties by the ICSID Secretariat on 4 November 2024.

2.3. In order for the Members of the Tribunal to fulfil their continuing disclosure obligations, the Tribunal seeks the cooperation of each Party in promptly drawing to the Tribunal's attention any circumstances known to that Party in respect of which it considers that further information would be appropriate as soon as such circumstances become known to that Party.

2.4. The Members of the Tribunal confirmed that they have sufficient availability during the next 24 months to dedicate to this case and that they will use their best efforts to meet all time limits for Orders, Decisions and the Award, in accordance with ICSID Arbitration Rule 12(1).

3. Fees and Expenses of Tribunal Members  
*Convention Article 60; Administrative and Financial Regulation 14; ICSID Schedule of Fees; Memorandum on Fees and Expenses*
- 3.1. The fees and expenses of each Tribunal Member shall be determined and paid in accordance with the ICSID Schedule of Fees and the Memorandum on Fees and Expenses of ICSID Arbitrators in force at the time the fees and expenses are incurred.
- 3.2. Non-refundable expenses incurred due to postponement or cancellation of a hearing shall be reimbursed.
- 3.3. In the event of a cancellation or postponement of a hearing in consequence of a request or decision of the Parties less than one week prior to the scheduled start date of the hearing, or at any time during the hearing, the Tribunal may charge to the Parties 75% of its notional sitting rate based on an 8-hour day multiplied by the number of days reserved for the hearing. In the event of cancellation or postponement of a hearing in consequence of a request or decision of the Parties less than four weeks but more than one week prior to the scheduled start date of the hearing, the Tribunal may charge to the Parties 50% of its notional daily sitting rate, based on an 8-hour day multiplied by the number of days reserved for the hearing. In the event of a cancellation or postponement of a hearing in consequence of a request or decision of the Parties more than four weeks but less than 12 weeks before the scheduled start date, the Tribunal may charge to the Parties 30% of its notional daily sitting rate, based on an 8-hour day multiplied by the number of days reserved for the hearing. This paragraph is without prejudice to any decision by the Tribunal on the award of costs, or the apportionment of costs where an event of a cancellation or postponement is at the instance of only one of the Parties.
- 3.4. The preceding §3.3 shall not apply in the case of the cancellation of the hearing in consequence of *force majeure*, including as regards the Tribunal. Issues concerning fees, costs and other expenses associated with the cancellation of the hearing, and whether a matter falls within the scope of *force majeure* for purposes of this provision, shall be addressed by the Tribunal on an interlocutory basis after affording the Parties an opportunity to present their views.
4. Presence and Quorum  
*Arbitration Rule 33*
- 4.1. Subject to the exception provided in §24.1, the presence of all Members of the Tribunal, including by any appropriate means of communication, constitutes a quorum for its sittings.

5. Rulings of the Tribunal

*Convention Article 48(1); Arbitration Rules 12, 27, 35 and 58*

- 5.1. Decisions of the Tribunal shall be taken by a majority of the Members of the Tribunal.
- 5.2. ICSID Arbitration Rule 27(2) applies to Decisions taken by correspondence except that, where the matter is urgent, the presiding arbitrator may decide procedural matters without consulting the other Members, subject to possible reconsideration of such Decision by the full Tribunal.
- 5.3. Save insofar as time limits for Orders, Decisions or the Award are specified in the ICSID Arbitration Rules, the Tribunal will draft and issue all rulings within a reasonable time. If a ruling, other than a decision on jurisdiction or the Award, has not been issued within three months after the final submission on a particular matter, the Tribunal will provide the Parties with status updates every month thereafter.
- 5.4. The Tribunal shall advise the Parties of special circumstances that may justify a delay in the rendering of an Order, Decision or the Award and the date when it anticipates rendering that Order, Decision or Award.
- 5.5. Orders, Decisions and the Award may be signed electronically.
- 5.6. The presiding arbitrator is authorized to sign Procedural Orders and Decisions on behalf of the Tribunal.
- 5.7. The Tribunal's Orders and Decisions shall indicate the reasons upon which they are made. The reasons may be minimal for non-controversial or minor procedural, administrative and organizational matters, e.g., extensions of time.
- 5.8. The Tribunal's rulings on procedural matters may be communicated to the Parties by the Tribunal Secretary electronically by letter or email.
- 5.9. Any ruling of the Tribunal, including the certified copy of the Award, will be dispatched electronically to the Parties.

6. Power to Fix Time Limits

*Arbitration Rules 9 and 10*

- 6.1. The Tribunal shall fix and extend time limits for the completion of the various steps in the proceeding.
- 6.2. If the matter is urgent, or for some other compelling reason, the presiding arbitrator is authorized to fix or extend time limits without consulting the other Members, subject to possible reconsideration of such decision by the full Tribunal.

7. Secretary of the Tribunal

*Administrative and Financial Regulation 28*

- 7.1. The Tribunal Secretary is Ms. Aïssatou Diop, Senior Legal Counsel, ICSID, or such other person as ICSID may notify to the Tribunal and the Parties from time to time.
- 7.2. To send copies of communications by email, mail, and courier/parcel deliveries to the ICSID Secretariat, the contact details are:

Ms. Aïssatou Diop  
ICSID  
MSN C3-300  
1818 H Street, N.W.  
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Paralegal name: Ms. Ekaterina Minina Polifron  
Paralegal email: [eminina@worldbank.org](mailto:eminina@worldbank.org)  
ICSID case address: [ARB/24/18@icsidcases.worldbank.org](mailto:ARB/24/18@icsidcases.worldbank.org)

- 7.3. For local messenger deliveries, the contact details are:

Ms. Aïssatou Diop  
ICSID  
1225 Connecticut Ave. N.W.  
(World Bank C Building)  
3<sup>rd</sup> Floor  
Washington, D.C. 20036  
U.S.A.  
Tel.: +1 (202) 458-1534



8. Representation of the Parties  
*Arbitration Rule 2*

8.1. Each Party shall be represented by its counsel (below). A Party shall promptly inform the Tribunal and the other Party of any change in such representation.

Eurohold Bulgaria AD and Euroins  
Insurance Group AD

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Mr. Richard Dickman  
Mr. Juan Pablo Charris  
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and

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and

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- 8.2. After the constitution of the Tribunal, a Party shall not retain new representatives when a relationship exists between the representative and an Arbitrator that would create a conflict of interest.
- 8.3. In case of breach of the obligation contained in the preceding paragraph, the Tribunal may take appropriate measures to safeguard the integrity of the proceeding, including the exclusion of the new Party representative/s from participating in the arbitral proceeding.
- 8.4. For the purposes of this Section, “representative” means any person who is notified in accordance with §8.1 above or who otherwise appears or is intended to appear in this arbitration on behalf of a Party, whether or not to make submissions, arguments or representations to the Tribunal on behalf of such Party.

9. Apportionment of Costs and Advance Payments to ICSID

*Convention Article 61(2); Administrative and Financial Regulation 15; Arbitration Rule 50*

- 9.1. The Parties shall cover the direct costs of the proceeding in equal parts, without prejudice to the final decision of the Tribunal as to the allocation of costs.
- 9.2. Following registration of the Request for arbitration, by letter of 9 July 2024, ICSID requested that the Claimants pay US\$200,000 to cover the estimated costs of the initial phase of the proceeding. ICSID received the Claimants' payment on 7 August 2024. Upon the constitution of the Tribunal, by letter of 5 November 2024, ICSID informed the Parties that US\$500,000 will be necessary to cover the estimated costs of the initial phase of the proceeding and requested that the Claimants pay an additional US\$50,000 and the Respondent pay US\$250,000. ICSID received the Respondent's payment on 27 November 2024 and the Claimants' payment on 2 December 2024.
- 9.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.

10. Notice of Third-Party Funding

*Arbitration Rule 14*

- 10.1. If a Party, directly or indirectly, receives funding from any non-Party, be it in the form of a donation or grant or remuneration dependent on the outcome of the case, that Party shall immediately file a written notice with the Tribunal disclosing the name and address of the funder. If the funder is a juridical person, the written notice shall include the names of the persons and entities that own and control that juridical person. The Party shall immediately inform the Tribunal of any changes to the information in the notice.
- 10.2. The Tribunal may order disclosure of further information regarding the funding agreement and the non-party providing funding pursuant to Arbitration Rule 36(3).
- 10.3. Upon the filing of a written notice of third-party funding, the Tribunal Members may submit additional disclosures in order to fulfil their continuing disclosure obligations, as described in §2.3 above.

11. Place of Proceeding

*Convention Articles 62 and 63; Arbitration Rules 32 and 34*

- 11.1. Washington, D.C. shall be the place of the proceeding.

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- 11.2. The Tribunal may hold in person, remote or hybrid hearings as appropriate, subject to prior consultation with the Parties.
- 11.3. The Tribunal Members may deliberate at any place and by any appropriate means they consider convenient.

12. Procedural Language(s), Translation and Interpretation  
*Arbitration Rules 5 and 7*

- 12.1. English is the procedural language of the arbitration.
- 12.2. The Tribunal and the Secretariat shall communicate with the Parties in the English language.
- 12.3. Documents filed in any other language must be accompanied by a translation into English.
- 12.4. It is sufficient to translate only the relevant part of a supporting document, provided that the Tribunal may require a fuller or a complete translation at the request of any Party or on its own initiative.
- 12.5. Translations need not be certified unless there is a dispute as to the content of a translation provided and the Tribunal orders a Party to provide a certified translation.
- 12.6. Documents exchanged between the Parties in a language other than English under §20 below (Production of Documents) need not be translated.
- 12.7. The testimony of a witness called for examination during the hearing who prefers to give evidence other than in the English language shall be simultaneously interpreted.
- 12.8. The Parties will notify the Tribunal, as soon as possible, and no later than at the pre-hearing organizational meeting (see §26 below), which witnesses or experts require interpretation.
- 12.9. The costs of interpretation will be paid from the advance payments made by the Parties, without prejudice to the decision of the Tribunal as to which Party shall ultimately bear those costs.

13. Routing of Communications

*Arbitration Rules 4 and 6*

- 13.1. The ICSID Secretariat shall be the channel of written communications between the Parties and the Tribunal.
- 13.2. Each Party's written communications shall be transmitted by email to the opposing Party and to the Tribunal Secretary, who shall send them to the Tribunal.
- 13.3. Electronic versions of communications ordered by the Tribunal to be filed simultaneously shall be transmitted to the Tribunal Secretary only, who shall send them to the opposing Party and the Tribunal after having received the submissions from both Parties or after the relevant deadline has passed.
- 13.4. The Tribunal Secretary shall not be copied on direct communications between the Parties when such communications are not intended to be transmitted to the Tribunal.

14. Number of Copies and Method of Filing of Parties' Pleadings

*Arbitration Rules 4, 5 and 9*

- 14.1. The Parties shall:
  - 14.1.1. by the relevant filing date,<sup>1</sup> submit by email to the Tribunal Secretary and the opposing Party an electronic version of the pleading with witness statements, expert reports and an index of all supporting documentation;<sup>2</sup> and
  - 14.1.2. within 5 calendar days from the relevant filing date, upload the pleading with all the supporting documentation and updated index to the file sharing platform that will be created by ICSID for purposes of this case.
- 14.2. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be, to the extent possible, text searchable (i.e., OCR PDF or Word).
- 14.3. All pleadings shall be accompanied by a cumulative index of all the supporting documentation that the Party has submitted up to the date of the pleading. The index shall indicate the document number and the pleading with which it was submitted. The Parties shall follow the naming conventions contained in **Annex A**. The cumulative index shall be uploaded to the file sharing platform created by ICSID within 7 days after the relevant filing date.

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<sup>1</sup> The "relevant filing date" is understood to refer to before midnight (UK time) on the date in question.

<sup>2</sup> The World Bank server does not accept emails larger than 25 MB.

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14.4. Within 7 days of the filing of the final written submission in the proceeding, the Claimants (in agreement with Respondent) shall courier to each Member of the Tribunal at the addresses indicated at §14.5 below a USB drive containing an electronic copy of the entire case file (including pleadings, witness statements, expert reports, exhibits, legal authorities and Tribunal Decisions and Orders to date) with a consolidated hyperlinked index of all documents. An identical copy of the entire case file shall also be uploaded to the file sharing platform.

14.5. The addresses of the Tribunal Members are as follows:

|                         |                       |                          |
|-------------------------|-----------------------|--------------------------|
| Sir Daniel Bethlehem KC | Sir Christopher       | Professor Brigitte Stern |
| Twenty Essex            | Greenwood KC          | Rue Pierre Nicole 7      |
| 20 Essex Street         | Magdalene College     | Code A1672               |
| London                  | Cambridge             | Paris 75005              |
| WC2R 3AL                | CB3 0AG               | France                   |
| United Kingdom          | United Kingdom        | Tel. + 33 6 08 80 01 45  |
| Tel. + 44-20-7842 1200  | Tel: + 44 7557 766939 |                          |

15. A Manifestly Without Legal Merit Objection

*Arbitration Rule 41*

15.1. The Respondent having notified its intention to submit a manifestly without legal merit objection, the Procedural Calendar indicated in **Annex B** hereto shall apply to that objection.

16. Claimants' Supplement to Request for Arbitration

*Arbitration Rules 42, 43, 44, 45, 48*

16.1.1. By correspondence dated 1 November 2024, the Claimants filed with the Secretariat a Supplement to the Request for Arbitration, with the same date ("**RfA Supplement**"), together with supporting documents, "*containing additional claims against the Respondent*".

16.1.2. By correspondence to the Tribunal dated 8 November 2024, the Respondent stated that "*it anticipates objecting [to the RfA Supplement] on the basis it is not an 'ancillary claim' within the meaning of Rule 48.*"

16.1.3. By correspondence to the Tribunal dated 19 November 2024, the Respondent informed the Tribunal of the Parties' agreement to address the Respondent's objection to the RfA Supplement under Arbitration Rule 48 and the manifestly without legal merit objection under Arbitration Rule 41 jointly after the First Session.

16.1.4. The Procedural Calendar at **Annex B** hereto shall apply to both objections.

17. Objections to Jurisdiction and/or Competence

*Arbitration Rules 42 – 45*

17.1. Save as the Tribunal otherwise directs or the Parties otherwise agree, Arbitration Rules 42 – 45 shall apply to any objections to jurisdiction or competence.

18. Provisional Measures

*Convention Article 47; Arbitration Rule 47*

17.1. The Tribunal may order provisional measures in accordance with the Article 47 of the ICSID Convention and ICSID Arbitration Rule 47.

19. Number and Sequence of Pleadings

*Arbitration Rule 30*

19.1. The number and sequence of the Parties' pleadings shall be as prescribed in **Annex C** hereto.

20. Production of Documents

*Convention Article 43(a); Arbitration Rules 5 and 36-40*

20.1. The Parties affirm that, from the date of the commencement of the proceeding, they have taken all reasonable steps to preserve all documents relating to the matters in issue in this arbitration and their undertaking to take all necessary steps going forward to ensure the preservation of all documents relating to the matters in issue in this arbitration.

20.2. The Tribunal shall be guided by Articles 3 and 9 of the International Bar Association Rules on the Taking of Evidence in International Arbitration (2020) ("IBA Rules") in relation to document production in this case.

20.3. In accordance with the Procedural Schedule indicated at **Annex C** hereto, each Party may serve a request for production of documents on the other Party. Such a request for production shall comply with the rules set forth in Article 3 of the IBA Rules. The request shall be made in the form of a Schedule on the template indicated at **Annex D** hereto, in both Word and PDF formats, and shall not be copied to the Tribunal or the Tribunal Secretary.

20.4. On the date to be determined in due course, the other Party shall, using the schedule provided by the first Party, provide the requesting Party with reasoned objections

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for its refusal to produce responsive documents.

- 20.5. On the date indicated in the procedural Schedule at **Annex C** hereto, the other Party shall produce the requested documents to which it has not filed any objection.
- 20.6. On the date indicated in the procedural Schedule at **Annex C** hereto, the requesting Party shall reply to the other Party's objections in that same schedule, and if disagreements cannot be resolved, shall submit the schedule to the Tribunal, with a copy to the other Party (in both Word and PDF formats).
- 20.7. The Tribunal will rule on the objections in accordance with the timetable indicated at **Annex C** hereto.
- 20.8. Documents shall be communicated directly to the Requesting Party without copying the Tribunal or the Tribunal Secretary. Documents so communicated shall not be considered to be admitted to the record unless and until a Party subsequently files them as exhibits in accordance with §21 below.
- 20.9. Neither Party shall be permitted to submit additional requests for the production of documents, save under exceptional circumstances admitted at the discretion of the Tribunal upon a reasoned written request followed by observations from the other Party.

21. Submission of Documents

*Convention Article 44; Arbitration Rule 5*

- 21.1. Save as may be varied in subsequent Procedural Orders, each phase of the proceeding shall in principle comprise two rounds of written submissions from each Party. This shall not apply to submissions on procedural applications.
- 21.2. In each phase, each Party shall in principle set out its arguments of fact and law, as well as relevant supporting evidence (including witness statements and expert reports), in its first round of written submissions.
- 21.3. The second round of written submissions shall set out any further arguments of fact and law, as well as relevant supporting evidence (including witness statements and expert reports) as may be appropriate in response to the first-round of submissions of the opposing Party and as may emerge from the document production phase. A Party shall not be precluded from setting out new arguments of fact or law, as well as supporting evidence, in its second-round of pleadings, provided that (i) arguments of fact or law were not available/known at the time of the first-round of submissions, and (ii) the opposing Party will have a reasonable and sufficient opportunity to respond and it is not otherwise prejudicial to the opposing Party to do so.



- 21.4. Save as the Tribunal may otherwise direct, upon application by a Party, a right of response to arguments and evidence advanced by a Party for the first time in its second round of written submissions shall be considered to be available if a reasonable and sufficient opportunity to respond is afforded in the course of oral submissions in a hearing.
- 21.5. Documents shall be submitted in the manner and form set forth in §14 above.
- 21.6. Neither Party shall be permitted to submit additional or responsive documents after the filing of its respective last written submission, unless the Tribunal determines that special circumstances exist based on a reasoned written request followed by observations from the other Party.
- 21.6.1. Should a Party request leave to file additional or responsive documents, that Party may not annex the documents that it seeks to file to its request.
- 21.6.2. If the Tribunal grants such an application for submission of an additional or responsive document, the Tribunal shall ensure that the other Party is afforded sufficient opportunity to make its observations concerning such a document.
- 21.7. The Tribunal may call upon the Parties to produce documents or other evidence in accordance with ICSID Arbitration Rule 36(3).
- 21.8. The documents shall be submitted in the following form:
- 21.8.1. The number of each Exhibit containing a document produced by Claimants shall be preceded by the letter “C-” for factual exhibits and “CL-” for legal exhibits containing authorities etc. The number for each Exhibit containing a document produced by Respondent shall be preceded by the letter “R-” for factual exhibits and “RL-” for legal exhibits containing authorities etc.
- 21.8.2. Exhibits and legal authorities shall be numbered consecutively throughout these proceedings, commencing with “C-001” and “R-001,” and “CL-001” and “RL-001” respectively. The number of the exhibit or legal authority shall appear on the first page of the document, and shall be incorporated into the file name in accordance with §21.8.4.
- 21.8.3. Each exhibit shall comprise one document unless it is particularly difficult to separate the documents.
- 21.8.4. Electronic files and the accompanying indexes shall follow the naming conventions contained in **Annex A**.
- 21.9. The Parties shall number the paragraphs of their written pleadings consecutively.

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- 21.10. Copies of documentary evidence shall be assumed to be authentic unless specifically objected to by a Party, in which case the Tribunal will determine whether authentication is necessary.
- 21.11. The Parties shall file all documents only once by submitting them with their pleadings. Documents need not be resubmitted with witness statements even if referred to in such statements.
- 21.12. Demonstrative exhibits (such as PowerPoint slides, charts, tabulations, etc.) may be used at any hearing, provided they contain no new evidence. Each Party shall number its demonstrative exhibits consecutively and indicate on each demonstrative exhibit the number of the document(s) from which it is derived. The Party submitting such exhibits shall provide them in electronic and, if requested, hard copy format to the other Party, the Tribunal Members, the Tribunal Secretary, the court reporter(s) and interpreter(s) prior to their use at the hearing at a time to be decided at the pre-hearing organizational meeting.

22. Witness Statements and Expert Reports

*Convention Article 43(a); Arbitration Rule 38*

- 22.1. Witness statements and expert reports shall be filed together with the Parties' pleadings.
- 22.2. Neither Party shall be permitted to submit any testimony that has not been filed with the written submissions unless the Tribunal determines that special circumstances exist based on a reasoned written request followed by observations from the other Party (following the procedure outlined in §21.6).
- 22.3. Each witness statement and expert report shall be dated and signed by the witness or expert.
- 22.4. Witness statements and expert reports shall be submitted in English or with a translation into English. Such a translation need not be certified unless requested in accordance with §12.4 above.
- 22.5. It shall not be improper for counsel to meet witnesses and potential witnesses to establish the facts, prepare the witness statements and the examinations. The same should apply to experts.

23. Examination of Witnesses and Experts

*Arbitration Rule 38*

- 23.1. Unless otherwise decided by the Tribunal, IBA Rules Articles 4, 5 and 8 apply to the examination of a Party's fact and expert witnesses, respectively.
- 23.2. The Tribunal may, in exceptional circumstances and after consultation with the Parties, order that part or all of the evidentiary component of the hearing will be conducted as a remote or hybrid hearing. In that event, the Tribunal shall consult with the Parties for purposes of addressing the arrangements for the remote hearing protocol.
- 23.3. Each Party shall be responsible for ensuring the appearance at the hearing, for purposes of examination, of those of its own witnesses and experts whose presence at the hearing has been notified.
- 23.4. No later than 6 weeks prior to the hearing, each Party shall notify to the other Party, with a copy to the Tribunal, which witnesses or experts it wishes to cross examine at the hearing.
- 23.5. Within 2 weeks after the Parties' notification, the Tribunal will indicate to the Parties whether it wishes any witnesses or experts who have not been notified to testify to appear at the hearing.
- 23.6. In the event that a witness or expert is not called for cross-examination by the opposing Party and the Tribunal does not direct his or her appearance, that witness or expert may not give oral evidence at the hearing unless, after hearing both Parties, the Tribunal otherwise directs.
- 23.7. The facts contained in the written statement of a witness whose cross-examination has been waived by the other Party shall not be deemed established by the sole fact that no cross-examination has been requested. Unless the Tribunal determines that the witness must be heard, it will assess the weight of the written statement taking into account the entire record and all the relevant circumstances.
- 23.8. Each Party shall be responsible for the practical arrangements, cost and availability of any witness it offers. The Tribunal will ultimately decide upon the appropriate allocation of such costs.
- 23.9. As regards (i) the appearance and non-appearance of witnesses and experts and the consequences thereof; (ii) the availability of videoconference for witness testimony; and (iii) expert conferencing, the Tribunal will be guided by relevant provisions of the IBA Rules.

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- 23.10. The Tribunal may consider the written statement of a witness who provides a compelling reason for failing to appear when summoned to a hearing, or of a witness who was not called for cross-examination, having regard to all the surrounding circumstances, including the fact that the witness was not subject to cross-examination. The Tribunal shall not consider the witness statement of a witness who fails to appear and does not provide a compelling reason.
- 23.11. Subject to further discussion at the pre-hearing organizational meeting, the examination of each fact or expert witness shall proceed as follows at the hearing:
- 23.11.1. Before giving evidence, fact witnesses shall make the declaration in ICSID Arbitration Rule 38(6), and expert witnesses shall make the declaration in ICSID Arbitration Rule 38(8).
- 23.11.2. Factual and expert witness statements shall stand as examination in chief of the witness at the hearing. The Party who has presented the witness may briefly examine the witness for purposes of asking introductory questions, including about any corrections to be made to the written statement, and of addressing matters which have arisen after that witness's written statement was signed (direct examination). After consultation with the Parties, the Tribunal may also request expert witnesses to give a presentation, with a time-limit to be determined, before the start of their cross-examination summarizing their methodology, findings and conclusions.
- 23.11.3. The other Party may then cross-examine the witness on matters addressed in their witness statement and other matters within the knowledge or expertise of the witness, subject to the control of the presiding arbitrator on behalf of the Tribunal.
- 23.11.4. The Party who has presented the witness may then re-examine the witness with respect to any matters or issues arising out of the cross-examination (re-direct examination).
- 23.11.5. The Tribunal may allow the other Party to conduct re-cross examination, which shall be limited to the subject of the re-direct examination.
- 23.11.6. The Tribunal may examine the witness at any time, either before, during or after examination by a Party.
- 23.12. Subject to a different agreement of the Parties, or a different determination of the Tribunal upon application by a Party, a fact witness shall not be present in the hearing room during oral testimony and arguments, or read any transcript of any oral testimony or argument, prior to his or her examination. Fact witnesses may be

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in the hearing room after completion of their testimony. This limitation does not apply to expert witnesses, who shall not be sequestered.

23.13. Paragraph 23.12 shall not preclude Parties or Party representatives who are also fact witnesses from being present during opening submissions and having access to a transcript. Save as may otherwise be directed by the Tribunal, upon application by a Party, such persons shall not be present in the hearing room after opening submissions, or read any transcript of any oral testimony or argument, prior to their examination.

23.14. The Tribunal shall, at all times, have complete control over the evidentiary hearing as set forth in IBA Article 8(3).

24. Case Management Conferences

*Arbitration Rule 31*

24.1. With a view to the efficient, expeditious and cost-effective conduct of the proceedings, the Tribunal, or the Parties having agreed thereto, the presiding arbitrator, following consultation with the Parties, may convene case management conferences with the Parties in accordance with ICSID Arbitration Rule 31 after the first and second rounds of written submissions in accordance with the Procedural Calendar in **Annex C** hereto, or at such other time as may be appropriate.

25. Submission of Non-Disputing Parties and Participation of Non-Disputing Treaty Party

*Arbitration Rules 67 and 68*

25.1. Any question concerning the submission of a non-disputing party shall be addressed by reference to ICSID Arbitration Rule 67 and such other Convention provisions or Rules as may be relevant and applicable.

25.2. Any question concerning the participation of a non-disputing Treaty Party shall be addressed by reference to ICSID Arbitration Rule 68 and such other Convention provisions or Rules as may be relevant and applicable.

26. Pre-Hearing Organizational Meetings

*Arbitration Rule 31*

26.1. A pre-hearing organizational meeting shall be held on a date determined by the Tribunal after consultation with the Parties. It shall comprise a teleconference or videoconference between the Tribunal, or its presiding arbitrator (as appropriate), and the Parties and should resolve any outstanding procedural, administrative, and

logistical matters (including interpretation and transcription) in preparation for the hearing.

- 26.2. At a date to be determined by the Tribunal, and in any event no later than the date of the pre-hearing conference, the Parties shall submit to the Tribunal jointly – or, where they are unable to agree, separately – a proposal regarding a daily schedule for the hearing.

27. Hearings

*Arbitration Rule 32*

- 27.1. The oral procedure shall consist of a hearing for the presentation of oral arguments and the examination of witnesses and experts, if any.
- 27.2. Save as is otherwise specified herein or may be otherwise directed by the Tribunal after consultation with the Parties, hearings shall be held in-person at a place to be determined in accordance with §11 above.
- 27.3. Hearings shall take place within the calendar windows indicated in the Procedural Calendars set out in Annexures B and C hereto or other Procedural Orders addressing such matters, or on such other dates as soon as practicable after the filing of the last written submission as the Tribunal may determine after consultation with the Parties. A pre-hearing organizational meeting shall take place no less than 4 weeks in advance of the hearing to which it relates.
- 27.4. The Members of the Tribunal shall endeavor to reserve at least one day after the hearing to determine the next steps and to hold deliberations.
- 27.5. In principle, the Parties will have an equal time allocation to make oral arguments and examine witnesses (including experts) at the hearing, subject to adjustments by the Tribunal, after consultation with the Parties, to address a material imbalance in the number of witnesses to be cross-examined by each Party, the scope of such examination, or if due process otherwise requires, taking into account §23.4 above if relevant.
- 27.6. Hearings shall be closed to the public, save that the Tribunal may revisit this issue with the Parties in advance of a hearing, having regard to the provisions of ICSID Arbitration Rules 32(2), 65(1) and 68.
- 27.7. Having regard to §27.6 above and ICSID Arbitration Rules 32(2), 65(1) and 68, in the event that access to a hearing is permitted by persons other than the Parties, their representatives, witnesses and experts, the Tribunal shall address the modalities applicable thereto after consultation with the Parties, in advance of that hearing.

28. Records of Hearings and Sessions

*Arbitration Rule 29(4)(i)*

- 28.1. Sound recordings shall be made of all in-person and telephone hearings and sessions. Video and sound recordings shall be made of all remote video hearings. The sound recordings shall be provided to the Parties and the Tribunal Members.
- 28.2. Verbatim transcripts in the procedural language shall be made of any hearing and session other than sessions on procedural issues. Unless otherwise agreed by the Parties or ordered by the Tribunal, the verbatim transcripts shall, if possible, be available in real-time using LiveNote or similar software and electronic transcripts shall be provided to the Parties and the Tribunal on a same-day basis.
- 28.3. The Parties shall agree on any corrections to the transcripts within a period to be agreed at the end of the hearing. The agreed corrections shall be entered by the court reporter in the transcripts (“revised transcripts”). The Tribunal shall decide upon any disagreement between the Parties and any correction adopted by the Tribunal shall be entered by the court reporter, as determined by the Tribunal, in the revised transcripts.

29. Post-Hearing Briefs and Statements of Costs

*Convention Article 44; Arbitration Rule 51*

- 29.1. At the conclusion of the hearing, the Tribunal, after consultation with the Parties, shall determine whether the submission of post-hearing briefs would be appropriate and, if so, shall issue directions relevant to their scope, content and timing.
- 29.2. The Parties shall submit their cost submissions, as per any agreed format/content, at a date agreed by the Parties in due course or as directed by the Tribunal.

30. Publication, Transparency and Confidentiality

*Convention Article 48(5); Administrative and Financial Regulation 25; Arbitration Rules 62-66*

- 30.1. The publication of an Award, including supplementary decisions on an Award, rectification, interpretation, and revision of an Award, and decisions on annulment shall be governed by ICSID Arbitration Rule 62.
- 30.2. ICSID Arbitration Rule 63 shall apply to the publication of orders and decisions. The reference herein to a “orders” and “decisions” shall in principle include decisions or directions set out in Procedural Orders or otherwise styled by the Tribunal as “Orders” or “Decisions” but shall not include orders, decisions or directions addressed in correspondence.

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- 30.3. Unless consent is provided by both Parties pursuant to ICSID Arbitration Rule 64(1), the Parties do not consent to the publication of any written or oral submission or supporting document filed by the Parties in the proceeding.
- 30.4. The Parties shall endeavor to agree a draft Confidentiality Order to apply to the proceedings. A draft of such Order, or opposing proposals for such an Order, shall be presented to the Tribunal for consideration within 5 weeks of the date of Procedural Order No. 1.

31. Data Privacy and Cybersecurity

- 31.1. The Members of the Tribunal, the Parties and their representatives acknowledge that the processing of their personal data is necessary for the purposes of this arbitration proceeding.
- 31.2. The Members of the Tribunal, 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 arbitration proceeding, where necessary. Should compliance with applicable law require action from another participant in the arbitration proceeding, the Parties are invited to bring that to the attention of that other participant and/or to apply to the Arbitral Tribunal for specific data protection measures to be put in place.
- 31.3. The Parties and their representatives shall ensure that the storage and exchange of the personal data processed in this arbitration is protected by way of appropriate technical and organizational safeguards.



32. Amicable Dispute Settlement

- 32.1. The Tribunal notes that the Parties may seek to reach an amicable settlement of all or part of the dispute, including through mediation under the ICSID Mediation Rules, at any time in the proceeding.
- 32.2. Any agreement pursuant to ICSID Arbitration Rule 54(1), made in order to pursue amicable settlement discussions, should be communicated to the Tribunal.
- 32.3. If the Parties settle the dispute in full, they may request that the Tribunal embody their settlement in its Award, pursuant to ICSID Arbitration Rule 55(2).

On behalf of the Tribunal,

[signed]

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Sir Daniel Bethlehem KC  
President of the Tribunal  
Date: 12 December 2024

**Annex A**

**Electronic File Naming Guidelines**

Please follow these guidelines when naming electronic files and for the accompanying Consolidated Hyperlinked Index. The examples provided (in *italics*) are for demonstration purposes only and should be adapted to the relevant phase of the case.

| <b>SUBMISSION TYPE</b>                          | <b>ELECTRONIC FILE NAMING GUIDELINES</b>   |
|---|--|
| <b>MAIN PLEADINGS</b>                           | <b>Title of Pleading</b><br><i>Memorial on Jurisdiction</i><br><i>Counter-Memorial on the Merits and Memorial on Jurisdiction</i><br><i>Reply on Annulment</i><br><i>Rejoinder on Quantum</i>  |
| <b>SUPPORTING DOCUMENTATION</b><br><br>Exhibits | <b>C-#####</b><br><b>R-#####</b><br>To be produced sequentially throughout the case.<br><b>CLAIMANT’S FACTUAL EXHIBITS</b><br><i>C-001</i><br><i>C-002</i><br><b>RESPONDENT’S FACTUAL EXHIBITS</b><br><i>R-001</i><br><i>R-002</i>         |
| Legal Authorities                               | <b>CL-#####</b><br><b>RL-#####</b><br>To be produced sequentially throughout the case.<br><b>CLAIMANT’S LEGAL AUTHORITIES</b><br><i>CL-001</i><br><i>CL-002</i><br><b>RESPONDENT’S LEGAL AUTHORITIES</b><br><i>RL-001</i><br><i>RL-002</i> |
| Witness Statements                              | <b>Witness Statement-Name of Witness-Name of Submission-</b><br><i>Witness Statement-Maria Jones-Memorial on Jurisdiction</i><br><i>Witness Statement-Maria Jones-Reply on Jurisdiction-[Second Statement]</i>                             |
| Expert Reports                                  | <b>Expert Report-Name of Expert-Type-Name of Submission</b><br><i>Expert Report-Lucia Smith-Valuation-Memorial on Quantum</i><br><i>Expert Report-Lucia Smith-Valuation-Reply on Quantum-[Second Report]</i>                               |
| Legal Opinions                                  | <b>Legal Opinion-Name of Expert-Name of Submission</b><br><i>Legal Opinion-Tom Kaine-Counter-Memorial on the Merits</i><br><i>Legal Opinion-Tom Kaine-Rejoinder on the Merits-[Second Opinion]</i>   |

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|  |   |
|--|---|
| <b>INDICES</b>   | <b>Consolidated Hyperlinked Index</b>                     |
|  | <b>Index of Exhibits-C-#### to C-####</b>                 |
|  | <i>Index of Exhibits-C-001 to C-023</i>                   |
|  | <b>Index of Legal Authorities-RLA-### to RLA-###</b>      |
|  | <i>Index of Legal Authorities-RLA-001 to RLA-023</i>      |
| <b>OTHER APPLICATIONS</b>                              | <b>Name of Application–[Party]</b>                        |
|  | <i>Preliminary Objections under Rule 41(5)-SPA</i>        |
|  | <i>Request for Bifurcation-ENG</i>                        |
|  | <i>Request for Provisional Measures-[Respondent]-SPA</i>  |
|  | <i>Request for Production of Documents-[Claimant]-SPA</i> |
|  | <i>Request for Stay of Enforcement-FR</i>                 |
|  | <i>Request for Discontinuance-[Claimant]-ENG</i>          |
|  | <i>Post-Hearing Brief-[Claimant]-SPA</i>                  |
|  | <i>Costs Submissions-[Respondent]-ENG</i>                 |
| <i>Observations to Request for [XX]-[Claimant]-SPA</i> |   |

**Annex B**

**Procedural Calendar  
with Respect to the Respondent’s joint submission on the Rule 41 Objection (Manifestly  
without legal merit) and Rule 48 (Ancillary claims)**

| <b>Procedural Step</b>  | <b>By</b>  | <b>Date / Period of Time</b>  |
|---|------------|---|
| Respondent’s Rule 41 and Rule 48 Objections                         | Respondent | <b>20 December 2024</b>   |
| Claimants’ Submission on the Objections                             | Claimants  | <b>31 January 2025</b>  |
| Respondent’s Reply on the Objections                                | Respondent | <b>21 February 2025</b>   |
| Claimants’ Rejoinder on the Objections                              | Claimants  | <b>14 March 2025</b>  |
| Hearing on the Objections (in person)                               | All        | <b>20 May 2025 (with 21 May 2025 held in reserve)</b><br><i>In London</i> |
| Decision / Award on the Respondent’s Rule 41 and Rule 48 Objections | Tribunal   | <b>30 September 2025</b>  |

**Annex C  
Procedural Calendar**

**Alternative (1): The following timetable shall apply if the Respondent raises preliminary objections, requests bifurcation and the Tribunal decides against bifurcation**

| Procedural Step  | By         | Date / Period of Time                    |
|--|------------|--|
| <b>First Round of Pleadings</b>  |            |  |
| Claimants’ Memorial on the Merits  | Claimants  | 1 December 2025                          |
| Request for Bifurcation  | Respondent | 15 January 2026                          |
| Observations on Request for Bifurcation  | Claimants  | 2 March 2026                             |
| Decision on Bifurcation (request denied)   | Tribunal   | By 31 March 2026<br><i>[Rule 44.1.e]</i> |
| Respondent’s Counter-Memorial on the Merits and Memorial on Jurisdiction                                     | Respondent | 30 June 2026                             |
| <b>Case Management Conference</b>  |            |  |
| Notification by the Parties to the Tribunal of issues for discussion at a Case Management Conference (“CMC”) | Parties    | 14 July 2026                             |

Procedural Order No. 1 – Annexures

| <b>Procedural Step</b>   | <b>By</b> | <b>Date / Period of Time</b>  |
|--|-----------|-------------------------------|
| Notification by the Tribunal of issues for discussion at a CMC   | Tribunal  | 4 August 2026                 |
| CMC (by videoconference)   | All       | On or before 4 September 2026 |
| Procedural Order (if required) on issues discussed at the CMC  | Tribunal  | 18 September 2026             |
| <b>Document Production Phase</b>   |           |                               |
| Parties to exchange document production requests   | Parties   | 22 September 2026             |
| Parties to exchange any objections to document production requests   | Parties   | 13 October 2026               |
| Parties to exchange replies to objections to document production requests, and to produce documents responsive to non-contested document production requests | Parties   | 3 November 2026               |
| Parties to exchange sur-replies to replies to objections to document production requests   | Parties   | 24 November 2026              |
| Tribunal to rule on contested document production requests   | Tribunal  | 15 December 2026              |
| Parties to produce documents responsive to contested document production requests granted by the Tribunal  | Parties   | 12 January 2027               |

Procedural Order No. 1 – Annexures

| <b>Procedural Step</b>  | <b>By</b>  | <b>Date / Period of Time</b>   |
|---|------------|--|
| <b>Second Round of Pleadings</b>                                    |            |  |
| Claimants’ Reply on the Merits and Counter-Memorial on Jurisdiction | Claimants  | 12 May 2027  |
| Respondent’s Rejoinder on the Merits and Reply on Jurisdiction      | Respondent | 13 September 2027  |
| Claimants’ Rejoinder on Jurisdiction                                | Claimants  | 12 November 2027   |
| Notification of fact and expert witnesses for cross-examination     | Parties    | 26 November 2027   |
| Notification of fact and expert witnesses by the Tribunal           | Tribunal   | 10 December 2027   |
| Pre-Hearing Organizational Meeting                                  | All        | TBD (at least 4 weeks in advance of the Hearing)   |
| Hearing (in person)   | All        | TBD (2-weeks to be reserved)   |
| Post-Hearing Submissions  | Parties    | TBD  |
| Costs Submissions   | Parties    | TBD  |
| Award   | Tribunal   | Tribunal to render its Award within 240 days after the last submission in the proceeding<br><i>[Rule 58(1)(c)]</i> |

**Alternative (2): The following timetable shall apply if the Respondent raises preliminary objections, requests bifurcation and the Tribunal decides to bifurcate**

| <b>Procedural Step</b>   | <b>By</b>  | <b>Date / Period of Time</b>             |
|--|------------|--|
| <b>First Round of Pleadings</b>  |            |  |
| Claimants’ Memorial on the Merits  | Claimants  | 1 December 2025                          |
| Request for Bifurcation  | Respondent | 15 January 2026                          |
| Observations on Request for Bifurcation  | Claimants  | 2 March 2026                             |
| Decision on Bifurcation (request granted)  | Tribunal   | By 31 March 2026<br><i>[Rule 44.1.e]</i> |
| Respondent’s Memorial on Jurisdiction  | Respondent | 1 June 2026                              |
| Claimants’ Counter-Memorial on Jurisdiction  | Claimants  | 31 July 2026                             |
| <b>Case Management Conference</b>  |            |  |
| Notification by the Parties to the Tribunal of issues for discussion at a Case Management Conference (“CMC”) | Parties    | 14 August 2026                           |
| Notification by the Tribunal of issues for discussion at a CMC   | Tribunal   | 4 September 2026                         |



Procedural Order No. 1 – Annexures

| <b>Procedural Step</b>   | <b>By</b> | <b>Date / Period of Time</b> |
|--|-----------|------------------------------|
| CMC (by videoconference)   | All       | 25 September 2026            |
| Procedural Order (if required) on issues discussed at the CMC  | Tribunal  | 9 October 2026               |
| <b>Document Production Phase<sup>3</sup></b>   |           |                              |
| Parties to exchange document production requests   | Parties   | 23 October 2026              |
| Parties to exchange any objections to document production requests   | Parties   | 13 November 2026             |
| Parties to exchange replies to objections to document production requests, and to produce documents responsive to non-contested document production requests | Parties   | 4 December 2026              |
| Parties to exchange sur-replies to replies to objections to document production requests   | Parties   | 23 December 2026             |
| Tribunal to rule on contested document production requests   | Tribunal  | 15 January 2027              |
| Parties to produce documents responsive to contested document production requests granted by the Tribunal  | Parties   | 5 February 2027              |

<sup>3</sup> The document production phase in Alternative 2 would be limited to document requests which are relevant and material to issues of jurisdiction and/or admissibility.

Procedural Order No. 1 – Annexures

| Procedural Step   | By         | Date / Period of Time  |
|---|------------|--|
| <b>Second Round of Pleadings</b>                                |            |  |
| Respondent's Reply on Jurisdiction                              | Respondent | 20 April 2027  |
| Claimants' Rejoinder on Jurisdiction                            | Claimants  | 5 July 2027  |
| Notification of fact and expert witnesses for cross-examination | Parties    | 19 July 2027   |
| Notification of fact and expert witnesses by the Tribunal       | Tribunal   | 2 August 2027  |
| Pre-Hearing Organizational Meeting                              | All        | TBD (at least 4 weeks in advance of the Hearing)   |
| Hearing (in person)   | All        | TBD (1 week to be set aside)   |
| Post-Hearing Submissions  | Parties    | TBD  |
| Decision* or Award on Objections to Jurisdiction                | Tribunal   | Tribunal to render its Award within 180 days after the last submission in the proceeding<br><i>[Rule 58(1)(b)]</i> |

**\* The remainder of the schedule for further proceedings, if any issues remain after the phase on preliminary objections with bifurcation, will be fixed pursuant to Rule 44(3)d.**

**Annex D**

**Proposed Document Production Schedule Template**

|           |   |  |
|-----------|---|--|
|           | <b>Document Request No.</b>   |  |
| <b>A.</b> | <b>Document/s or category of Document/s requested</b>   |  |
| <b>B.</b> | <b>Relevance and materiality:<br/>(1) Reference to specific paragraphs in submissions<br/>(2) Reasons supporting production</b> |  |
| <b>C.</b> | <b>Objections to production of requested document/s</b>   |  |
| <b>D.</b> | <b>Reply to objections</b>  |  |
| <b>E.</b> | <b>Tribunal's decisions and directions</b>  |  |