

**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. 4**

**ON**

**ICSID ARBITRATION RULES 67 AND 68 APPLICATIONS**

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***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

Date: 4 December 2025

**I. BACKGROUND AND ISSUES TO BE ADDRESSED**

1. On 30 September 2025, the Tribunal issued its Decision on the Respondent’s Rule 41 and Rule 48 Objections (“**Decision**”), subsequently published on the ICSID website pursuant to paragraph 30.2 of the Tribunal’s Procedural Order No. 1 and ICSID Rule 63. The background and procedural history of the case are set out in Sections I and II of the Decision and are not repeated herein. Of relevance for present purposes, the Decision addressed, *inter alia*, the Respondent’s Rule 41 objection concerning the application, in the circumstances of the Claimants’ Request for Arbitration, of the Agreement for the Termination of Bilateral Investment Treaties between the Member States of the European Union (“**EU Termination Agreement**”).
2. By its Procedural Order No. 3, dated 25 April 2025, the Tribunal denied an Application for Leave to Intervene as Non-Disputing Party by the European Commission “at this stage of the proceedings.” By a decision communicated to the Parties by letter dated 27 September 2025, the Tribunal denied the Respondent’s request for leave to submit into the record of the proceedings an additional document comprising “a formal communication transmitted by the Republic of Bulgaria” (“**Bulgaria**”) setting out Bulgaria’s position on the legal effect of the EU Termination Agreement and related matters.
3. By its Decision, the Tribunal, *inter alia*, dismissed the Respondent’s Rule 41 Objection but directed, “pursuant to Rules 42(6) and 43(3) of the ICSID Rules, that the EU Termination Agreement issues raised by the Respondent through its Rule 41 Objection should be addressed in a separate preliminary phase of the proceedings”.
4. By correspondence to the Parties dated 23 October 2025, the Tribunal invited the Parties’ views on a number of procedural issues concerning the contemplated Bifurcated Preliminary Procedure (“**BPP**”), including the following:

Procedural Order No. 4

- a. Whether the BPP should be limited to the EU Termination Agreement issues or should encompass other preliminary objections to jurisdiction or admissibility?
  - b. Whether a cut-off date ought to be applied with respect to any Non-Disputing Party / Non-Disputing Treaty Party (“NDP/NDTP”) application/s to intervene?
5. In separate correspondence dated 21 November 2025, the Parties submitted their respective views to the Tribunal on the procedural questions raised in the Tribunal’s above-referenced correspondence. In response to the two questions noted above, the Parties’ positions are as follows:
- a. The Parties agreed that the BPP should be confined to the Respondent’s EU Termination Agreement Objection, as addressed in the Tribunal’s Decision.
  - b. On the issue of whether a cut-off date ought to be applied to any NDP/NDTP application to intervene, the Claimants proposed a cut-off date of 30 November 2025 for any such applications. The Respondent proposed a cut-off date of 22 December 2025 for any such applications, proposing as well that such applications should be limited to 10 pages. The Claimants did not address the issue of a page limit in respect of any such application.

## **II. DECISION**

- 6. The Tribunal takes note of the interest exhibited in these proceedings by the European Commission and Bulgaria, as addressed in paragraph 2 above. The Tribunal also recalls its appreciation that the Respondent’s EU Termination Agreement Objection raises issues of law “of systemic reach and importance” (Decision, ¶ 101).
- 7. This Procedural Order is confined to addressing the issue of a time-limit for any application

as may be made by a NDP or NDTP under, respectively, Rules 67 and 68 of the ICSID Arbitration Rules 2022 (“**ICSID Rules**”). The Tribunal will address separately, in due course, the procedure to be applied to the BPP more generally.

8. Having regard to its case management responsibilities, *inter alia*, under ICSID Rules 3, 10, 27, 31, 67 and 68, and to the Parties’ responses to the Tribunal’s inquiries indicated in paragraphs 4 and 5 above, the Tribunal directs that a cut-off date of **Tuesday, 30 December 2025** shall apply to any application under Rule 67 or Rule 68 of the ICSID Rules.
9. The Tribunal makes no order as to the page limit applicable to any such application.
10. In so directing, the Tribunal recalls the following from its Decision:

“96. The Claimants submit that there is complexity in the issues raised by the Rule 41 Objection that warrant more careful and complete scrutiny. They note that this is the first case in which the purported termination of an intra-EU investment treaty, and its Sunset Clause, by the EU Termination Agreement is being tested.

97. The Tribunal has sympathy for these contentions and notes that, when pushed in the Hearing, both Parties acknowledged that there were issues to be addressed or to be more fully explored beyond those that had been canvassed in the Parties’ submissions. The Tribunal agrees.

98. In PO3, the Tribunal denied the Commission’s NDP Application. In the circumstances of that Application, it was necessarily rejected. As a consequence, however, the Tribunal and the Parties were denied the possibility of hearing the Commission on the interpretation and application of the EU Termination Agreement. The Tribunal notes also that, in addition to the possibility of a non-disputing party application under Rule 67 of the ICSID Rules, Rule 68 of the ICSID Rules holds the possibility of participation in the proceedings by a non-disputing Treaty Party, here Bulgaria, being the other party to the BIT and whose bilateral agreement with Romania, through the medium of the EU Termination Agreement, is said to have resulted in the termination of the BIT.

99. This observation should not be taken as giving the Commission, or Bulgaria, *carte blanche* with respect to possible applications under Rules 67 or 68 of the ICSID Rules in respect of the proceedings to come. Any such application would fall to be assessed on its merits, in accordance with the requirements of the relevant rules.”

11. Reflecting the Parties’ agreement, the Tribunal directs the Tribunal Secretary to take appropriate steps, either directly or through the good offices of the Parties, or of either of them, to ensure that this Procedural Order is brought to the attention of relevant officials of the European Commission and Bulgaria. Reflecting the Parties’ agreement, the Tribunal further directs that this Procedural Order shall be published forthwith on the ICSID webpage for this case.
12. The Tribunal reserves all other issues of procedure relevant to the BPP to further decision in due course.

For the Tribunal

[signed]

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Sir Daniel Bethlehem KC  
President of the Tribunal

4 December 2025