

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

EuroGas Inc. and Belmont Resources Inc.

v.

Slovak Republic

(ICSID Case No. ARB/14/14)

PROCEDURAL ORDER No. 5

Members of the Tribunal

Professor Pierre Mayer, President of the Tribunal

Professor Emmanuel Gaillard, Arbitrator

Professor Brigitte Stern, Arbitrator

Secretary of the Tribunal

Ms. Lindsay Gastrell

11 January 2016

The Arbitral Tribunal has carefully studied and discussed the various procedural issues resulting from the Claimants' decision not to be represented by Dr Gharavi in the hearing scheduled to take place from 18 until 22 January 2016 (joint letter from Belmont Resources' President and Eurogas' CEO to Dr Gharavi of 5 January 2016).

The following letters have been sent to the Tribunal by the Partie's counsel:

- Claimants' letters of 5 and 8 January 2016
- Respondent's letters of 7 and 8 January 2016.

ORDER

1. Claimants have announced that for the time being Dr Gharavi is not allowed to "jointly represent their interests in this arbitration". The examination of witnesses and experts cannot properly take place in the absence of Claimants' counsel.
As a consequence, the hearing scheduled to take place from 18 until 22 January 2016 is cancelled.
2. Article 45 of the ICSID Convention and Rule 42 of the Arbitration Rules, invoked by Respondent, do not oblige the Arbitral Tribunal to render an award, on the request of one party, on the sole ground that the other party has announced that it will not be in a position to appear at a scheduled hearing. "The procedure in default is not a sanction for procedural shortcomings that is imposed automatically once a party has failed to take certain procedural steps. Rather, it is a measure of last resort that is taken once the tribunal has reached the conclusion that there is no realistic chance to secure cooperation" (Christoph Schreuer, *The ICSID Convention: A commentary*, § 61). This is clearly not the situation here.
3. A grace period of 60 days, as mentioned in Rule 42 (2), would not make sense in this case, since it is impossible to schedule a one-week hearing within such a short time-period.
4. A new date for a one-week hearing will be shortly determined, in concertation with the Parties. Taking into account the already existing risk of a conflict of interests, Claimants are ordered to decide **now** how they wish to be to be represented until the end of these proceeding, i.e. by one counsel or two.
5. The Tribunal will determine at a later stage the allocation of the costs of the preparation of the cancelled hearing.
6. The Tribunal does not consider that Claimants' request to re-schedule the hearing constitutes a valid reason to reconsider its decision on Respondent's request for security for costs.

Dated this day, 11 January 2016,

On behalf of the Arbitral Tribunal,

[signed]

Pierre Mayer
President