

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Park Avenue Capital LLC

v.

Republic of Moldova

(ICSID Case No. ARB/25/25)

PROCEDURAL ORDER NO. 4 ON BIFURCATION

Members of the Tribunal

Mr. Matthew Gearing KC, President of the Tribunal

Prof. Zachary Douglas KC, Arbitrator

Prof. Dr. Stephan Schill, Arbitrator

Secretary of the Tribunal

Ms. Izabela Chabinska

Assistant to the Tribunal

Ms. Laura Brierly

15 May 2026

I. INTRODUCTION AND RELEVANT PROCEDURAL BACKGROUND

1. This case concerns a dispute submitted to the International Centre for Settlement of Investment Disputes (“**ICSID**” or the “**Centre**”) on the basis of the Treaty between the United States of America and the Republic of Moldova Concerning the Encouragement and Reciprocal Protection of Investment, signed on 21 April 1993 (the “**Moldova-U.S. BIT**” or “**Treaty**”), and the Convention on the Settlement of Investment Disputes between States and Nationals of Other States which entered into force on 14 October 1966 (the “**ICSID Convention**”).
2. The proceeding is administered under the ICSID Arbitration Rules 2022 (the “**ICSID Arbitration Rules**”).
3. The claimant is Park Avenue Capital LLC, a company organised under the laws of the United States of America (the “**Claimant**” or “**Park Avenue**”). The respondent is the Republic of Moldova (the “**Respondent**” or “**Moldova**”). The Claimant and the Respondent are collectively referred to as the “**Parties**”.
4. Following the first session held on 17 November 2025 by video conference, the Tribunal issued Procedural Order No. 1 dated 25 November 2025, recording the agreement of the Parties on procedural matters (“**PO1**”). PO1 also sets out the agreed procedural timetable at Annex B (the “**Procedural Timetable**”), including in respect of the Parties’ submissions on bifurcation. The Procedural Timetable provided for Moldova to submit any request for bifurcation by 27 March 2026. Also on 25 November 2025, the Tribunal issued Procedural Order No. 2 concerning transparency and confidentiality.
5. On 13 February 2026, the Tribunal issued Procedural Order No. 3 regarding confidentiality of the Parties’ written submissions and other documents (“**PO3**”) and extended the timeline for the Respondent to file its request for bifurcation, if any, until 1 April 2026.
6. Also on 13 February 2026, the Claimant filed its Memorial on the Merits (the “**Memorial**”), accompanied by Exhibits C-001 through C-295 and Legal Authorities CL-001 through CL-093; the Expert Report of Almir Smajlovic (together with Exhibits CER-001; CER-001-AS-001 through CER-001-AS-057; CER-001-Appendices 1 through 3, 3.5.2 through 3.5.4, and 7); Appendices 2, 3, 3.5.2, 3.5.3 and 7; and the Witness Statement of Scott Finlay (together with Exhibit SF-001).
7. This Procedural Order No. 4 addresses Moldova’s Request for Bifurcation dated 1 April 2026 (the “**Request for Bifurcation**”) which was filed in accordance with the Procedural Timetable

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as amended by PO3. The Request for Bifurcation was accompanied by Exhibits R-001 through R-013, Legal Authorities RL-001 through RL-029, and a Consolidated Index of Exhibits and Legal Authorities.

8. On 24 April 2026 the Claimant submitted its response to the Request for Bifurcation (the “**Response on Bifurcation**”), accompanied by Legal Authorities CL-094 through CL-112.
9. The Tribunal summarizes the Parties’ respective requests and positions in Section II and the Tribunal’s analysis and decision are set out in Sections III and IV.

II. THE PARTIES’ REQUESTS AND POSITIONS ON BIFURCATION

10. Moldova requests that the Tribunal “*bifurcate the proceedings, suspend proceedings on the merits, and decide Moldova’s jurisdictional objections as a preliminary matter*”.¹ The Claimant requests that the Tribunal deny Moldova’s Request for Bifurcation.²
11. The Parties agree that, pursuant to Article 41(2) of the ICSID Convention and Rule 44 of the ICSID Arbitration Rules, the Tribunal has discretion either to deal with jurisdictional objections as a preliminary question or to decide such objections together with the merits of the dispute. Under ICSID Arbitration Rule 44(2), in determining whether to bifurcate, the Tribunal shall consider all relevant circumstances, including whether:

“(a) bifurcation would materially reduce the time and cost of the proceeding;

(b) determination of the preliminary objection would dispose of all or a substantial portion of the dispute; and

(c) the preliminary objection and the merits are so intertwined as to make bifurcation impractical”.

12. Both Parties agree that ensuring efficiency in the arbitration proceeding should be an important factor in the Tribunal’s decision, and that this will overlap with consideration of whether bifurcation might resolve all or a substantial portion of the dispute.³

¹ Request for Bifurcation, ¶ 142.

² Response on Bifurcation, ¶ 43.

³ Request for Bifurcation, ¶¶ 12-13; Response on Bifurcation, ¶ 4.

13. The Claimant asserts that the Tribunal must also consider “*whether the jurisdictional objection is prima facie serious and substantial*”.⁴

A. THE RESPONDENT’S POSITION

14. Moldova raises nine objections to the jurisdiction of the Tribunal. It submits that these objections should be heard in a preliminary phase because:

- i. “*they are substantial*”;
- ii. “*they are entirely distinct from the merits*”; and “*will not require the Tribunal to analyse any factual evidence concerning the Claimant’s alleged breaches*”; and
- iii. “*if successful, the objections will materially reduce time and costs, as they will eliminate the entirety of the Claimant’s claims*”.⁵

15. Moldova’s **first** jurisdictional objection is that the dispute is no more than a contractual claim to performance of the 2002 Marketing Agreement (as amended and assigned),⁶ which does not qualify as an investment dispute under Article VI of the Treaty.⁷ Moldova submits that the Claimant’s assertions regarding the rights it allegedly acquired under the 2002 Marketing Agreement (as amended and assigned) are “*fundamentally [flawed] and without legal merit*”;⁸ the Claimant did not make any payments to Moldova;⁹ and the Moldovan counterparties to the 2002 Marketing Agreement (as amended and assigned) did not act on behalf of Moldova in any of the alleged transactions.¹⁰

⁴ Response on Bifurcation, ¶ 3, citing *Eco Oro Minerals Corp. v. Republic of Colombia*, ICSID Case No. ARB/16/41, Procedural Order No. 2, 28 June 2018 (“*Eco Oro v. Colombia*”) (CL-096), ¶¶ 49, 51; *Red Eagle Exploration Limited v. Republic of Colombia*, ICSID Case No. ARB/18/12, Decision on Bifurcation, 13 August 2020 (“*Red Eagle v. Colombia*”) (CL-097), ¶¶ 41-42; *Aris Mining Corporation (formerly known as GCM Mining Corp. and Gran Colombia Gold Corp.) v. Republic of Colombia*, ICSID Case No. ARB/18/23, Procedural Order No. 3, 17 January 2020 (“*Aris v. Colombia*”) (CL-098), ¶¶ 25-27.

⁵ Request for Bifurcation, ¶¶ 14; 134.

⁶ Agreement for Marketing Services with Internet Subdomain Names using Top-Level Domain “.md” concluded between MoldData and GI-Marketing SRL, 2 December 2002 (the “**2002 Marketing Agreement**”) (C-011).

⁷ Request for Bifurcation, ¶¶ 15-17, 33, 42. Moldova notes that investment tribunals have consistently held that arbitral tribunals under investment treaties do not have jurisdiction to hear purely contractual claims, citing *Abaclat and others (formerly Giovanna A. Beccara and others) v. Argentine Republic*, ICSID Case No. ARB/07/5, Decision on Jurisdiction and Admissibility, 4 August 2011 (RL-014), ¶ 316; *Malicorp Limited v. Arab Republic of Egypt*, ICSID Case No. ARB/08/18, Award, 7 February 2011 (RL-017), ¶ 103; *BP America Production Company and others v. Argentine Republic*, ICSID Case No. ARB/04/8, Decision on Preliminary Objections, 27 July 2006 (RL-018), ¶ 91; *Joy Mining Machinery Limited v. Arab Republic of Egypt*, ICSID Case No. ARB/03/11, Award on Jurisdiction, 6 August 2004 (RL-019), ¶ 78.

⁸ Request for Bifurcation, ¶¶ 19-26.

⁹ Request for Bifurcation, ¶¶ 27-28.

¹⁰ Request for Bifurcation, ¶¶ 29-31.

16. Moldova's **second to seventh** objections are that the following aspects of the Claimant's alleged investment do not qualify as an "*investment*", as defined by Article I(1)(a) of the Treaty nor constitute a qualifying investment for the purposes of Article 25(1) of the ICSID Convention, and do not meet the inherent characteristics of an investment (including contribution, the expectation of profit and risk/return):¹¹
- i. the 2002 Marketing Agreement, as amended, the 2003 Assignment Agreement, as amended,¹² and the 2006 Amendment to the 2002 Marketing Agreement¹³ - Moldova argues that the Claimant has pure contractual claims to performance which do not exhibit the "*inherent characteristics of an 'investment'*", and have not been shown to be "*associated with an investment*" as required by Article 1(1)(iii) of the Treaty;¹⁴
 - ii. alleged payment of US\$ 175,000 by the Claimant - Moldova argues that: (i) the Claimant has not provided evidence that it paid this amount, and if so for what purpose; and (ii) such payment would not, in any event, be an investment;¹⁵
 - iii. alleged advance payments "*towards future registrations*" of subdomain names in .md ccTLD amounting to US\$ 120,000 - Moldova asserts that the Claimant has not proven that it made these payments, which arose under a commercial contract to which the Claimant was not party, and this would not, in any event, amount to an investment;¹⁶
 - iv. an alleged "*patent to secure communications across top-level domains*" - Moldova submits that the application for this patent was not made by the Claimant, there is no evidence that it has been granted, and, even if granted, the patent will not be "in the territory of Moldova";¹⁷
 - v. alleged "*Investments in .md Growth and Brand Development*" - Moldova submits that there is no evidence that the Claimant's alleged marketing and brand development efforts led to an increase in registrations in the .md domain, and that the Claimant inhibited registrations

¹¹ See also Request for Bifurcation, Section J, ¶¶117-132, in which Moldova asserts that none of the Claimant's alleged investments fall within the ordinary meaning of the term "*investment*" as required by Article 31(1) of the Vienna Convention on the Law of Treaties and awards in previous investor-State arbitrations.

¹² Assignment Agreement between GI-Marketing SRL and Park Avenue Capital LLC, 23 April 2003 ("**Assignment Agreement**") (C-016); Amendment of the Assignment Agreement, 25 August 2003 (C-017); Amendment of the Assignment Agreement, 1 April 2004 (C-018).

¹³ Amendment to the 2002 Marketing Agreement by and between MoldData and Park Avenue Capital LLC, 26 July 2006 (C-012).

¹⁴ Request for Bifurcation, ¶¶ 44, 52-61.

¹⁵ Request for Bifurcation, ¶¶ 64-70.

¹⁶ Request for Bifurcation, ¶¶ 71-79.

¹⁷ Request for Bifurcation, ¶¶ 80-83.

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by charging high fees for registration and packaging it with “value-added services” (such as email services, chat and conference communication);¹⁸ and

vi. alleged “success fees” to [REDACTED] (US\$ 50,000), [REDACTED] (US\$ 100,000), and Mirmar Limited (US\$ 2,500,000) - Moldova asserts that the Claimant has provided insufficient details of the services received for these fees, or how they exhibited the characteristics of an investment.¹⁹

17. Moldova’s **eighth** objection is that the Claimant’s alleged investments were not made in the territory of Moldova (as required by the definition of investment in Article 1(1) of the Treaty). Moldova asserts that the Claimant did not manage or operate the .md ccTLD on behalf of Moldova, but merely offered registration services for subdomain names (which were not State property) in a number of foreign countries. Moldova submits that the Claimant’s place of business was in the United States of America, the alleged payments of US\$ 175,000 and success fees were made outside Moldova, and the alleged patents were registered or located in the United States of America.²⁰

18. **Ninth**, Moldova submits that if, contrary to its first to eighth objections, the Claimant had an investment, that investment is in breach of “*core rules and principles of Moldovan law*”, and is therefore excluded from the protection of the Treaty. Specifically, Moldova asserts that the 2002 Marketing Agreement is null and void because it was obtained without a competitive procurement procedure, “*in violation of the best interests of MoldData*” and “*of the interests of local Internet community*”.²¹

B. THE CLAIMANT’S POSITION

19. The Claimant opposes Moldova’s Request for Bifurcation on the grounds that none of Moldova’s objections are *prima facie* serious or substantial and all are inextricably linked to the merits and would require the Tribunal to consider issues of Moldovan law and test witness evidence and factual evidence spanning over a decade. The Claimant asserts that procedural efficiency therefore dictates hearing the jurisdiction and merits issues together. The Claimant also asserts that six of the nine objections are insufficient to dispose of all or a substantial part of the case.²²

¹⁸ Request for Bifurcation, ¶¶ 84-92.

¹⁹ Request for Bifurcation, ¶¶ 93-94.

²⁰ Request for Bifurcation, ¶¶ 95-108.

²¹ Request for Bifurcation, ¶¶ 109-116.

²² Response on Bifurcation, ¶¶ 2, 5-6, 33-37.

20. In response to Moldova’s **first** objection, the Claimant asserts that it does not plead a bare claim to contractual performance under the 2002 Marketing Agreement (as amended). Rather, it asserts that:
- i. the Claimant had a protected investment in the form of “*a bundle of rights and assets ... granted by a wholly state owned counterparty acting within the scope of delegated governmental authority*”, which involved “*promises only a State could make (like regulatory exclusions)*”; and
 - ii. the measures which violated those alleged rights were pure State conduct.²³
21. The Claimant submits that the Tribunal cannot decide on Moldova’s first objection without “*full ventilation of substantial and contested evidentiary issues*” concerning “*the nature of the .md regime, the public functions of MoldData and STISC, the State’s role in the exemption under the 2006 Agreement and later regulatory reversals, and whether the measures complained of were exercises of governmental authority directed at a protected investment*”.²⁴
22. As to Moldova’s **second** objection, the Claimant submits that the three primary contracts on which it relies “*formed a unitary legal architecture*” through which the Claimant acquired exclusive rights in relation to a State asset, and were “*associated with a broader investment operation including a six-figure loan to MoldData, patent development*”, and marketing expenses and generation of revenues for Moldova. Again, the Claimant asserts that, to decide on this objection the Tribunal must consider the full evidentiary record regarding the agreements and the context in which they were made.²⁵
23. The Claimant asserts that the alleged evidentiary deficiencies which form the basis of Moldova’s **third, fourth and seventh** objections require consideration of documentary and witness evidence. It follows that these objections cannot be decided on a *prima facie* basis. The Claimant adds that, in any event, each of the elements of the alleged investment targeted by these objections are part of the broader protected investment. Disposing of any one of them would not prevent the case proceeding to the merits phase.²⁶
24. Similarly, the Claimant argues that Moldova’s **fifth and sixth** objections, if successful, would not dispose of the case, or even a material part of it, as they each relate only to one element of

²³ Response on Bifurcation, ¶ 12.

²⁴ Response on Bifurcation, ¶ 13.

²⁵ Response on Bifurcation, ¶¶ 14-16.

²⁶ Response on Bifurcation, ¶¶ 17-19.

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the broader alleged investment (an alleged patent application and development of the MaxMD brand). Furthermore, to decide on Moldova’s objections (in particular its assertion of a lack of causal link between the Claimant’s marketing efforts and growth in registrations, which the Claimant describes as a “*core merits determination*”), the Tribunal will require a full evidentiary record.²⁷

25. In response to Moldova’s **eighth** objection, the Claimant reiterates its pleaded case that the “*centre of gravity*” or “*focal point*” of its investment was the marketing, sale and registration of rights in Moldovan State property, and submits that, to decide this issue, the Tribunal will need to decide intricate factual issues concerning the status of .md as State property, the role of the National Registrar, the location and function of registry infrastructure and how rights are recorded in Moldova.²⁸
26. As to Moldova’s **ninth** objection, the Claimant submits that Moldova has “*retroactively recast a long-performed arrangement as unlawful once it decided it no longer wished to honour it*”, and has failed to justify this objection with any particularity. The Claimant asserts that the Tribunal would need to hear expert evidence on Moldovan law to decide this objection, which it claims is incompatible with a *prima facie* objection suitable for preliminary disposal.²⁹

III. THE TRIBUNAL’S ANALYSIS

27. The Tribunal now turns to consider Moldova’s Request for Bifurcation, beginning with the applicable legal standard, before considering each of the jurisdictional objections in turn.

A. LEGAL STANDARD

28. Pursuant to Article 41(2) of the ICSID Convention, it is for the Tribunal to determine whether to examine any jurisdictional objection as a preliminary question or to join it to the merits of the dispute.³⁰
29. As stated above, both Parties acknowledge that ICSID Arbitration Rule 44(2) provides that the Tribunal shall, in determining whether to bifurcate,

“consider all relevant circumstances, including whether:

²⁷ Response on Bifurcation, ¶¶ 20-24.

²⁸ Response on Bifurcation, ¶¶ 25-27.

²⁹ Response on Bifurcation, ¶¶ 28-31.

³⁰ ICSID Convention, Article 41(2).

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- (a) *bifurcation would materially reduce the time and cost of the proceeding;*
- (b) *determination of the preliminary objection would dispose of all or a substantial portion of the dispute; and*
- (c) *the preliminary objection and the merits are so intertwined as to make bifurcation impractical*.³¹

30. As to (b), it is not necessary to show that an objection would, if successful, constitute a knock-out blow, but an objection which is a potential knock-out blow is likely to be stronger than one which would not be. This is because the need for a second merits/quantum phase in any event often runs against the necessary finding of a material reduction in time and costs. As to (c), both Parties accept that it is necessary to consider whether the jurisdictional objections are distinct from the merits.³²
31. In addition to the factors summarized in ICSID Arbitration Rule 44(2), successful requests for bifurcation are usually able to identify one or more points that:
- i. involve no serious factual inquiry, or at the least only involve confined factual inquiry that does not threaten to include facts relevant to the merits; and
 - ii. are, as the Claimant says, “*serious and substantial*”,³³ in that they raise a serious issue to be determined on the basis of the materials currently before the Tribunal.
32. It is well-established that a *prima facie* test as to the merits must be applied when deciding on jurisdictional issues, specifically when determining whether the substantive claims as pleaded fall within the scope of the Tribunal’s jurisdiction.³⁴ It follows that the Tribunal must take the factual matrix of the Claimant’s case on the merits as pleaded and will not, at this stage, examine whether the facts pleaded by the Claimant are correct.
33. The Tribunal is not called on at this stage to express any view as to the merits of the Respondent’s jurisdictional objections or the Claimant’s case. Moreover, the Tribunal’s considerations and decisions regarding bifurcation do not prejudice any future decision the

³¹ ICSID Arbitration Rules 2022, Rule 44(2).

³² Request for Bifurcation, ¶ 14; Response on Bifurcation, ¶ 4.

³³ Response on Bifurcation, ¶ 3. See also e.g. *Eco Oro v. Colombia* (CL-096), ¶¶ 49, 51; *Red Eagle v. Colombia* (CL-097), ¶¶ 41-42; *Aris v. Colombia* (CL-098), ¶¶ 25-27.

³⁴ See e.g. *Eco Oro v. Colombia* (CL-096), ¶ 52; “Article 41” in C. Schreuer and others, *The ICSID Convention: A Commentary* (2009), (CL-104), ¶¶ 86-92.

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Tribunal will make with respect to the substance of the Respondent's objections, or any of the Parties' submissions on the merits.

34. The Tribunal has carefully reviewed and considered all arguments presented by the Parties. The fact that this decision does not expressly reference all of them does not mean such arguments have not been analyzed or taken into consideration.

B. INITIAL OBSERVATIONS

35. The Claimant appears to accept that the Respondent's first, eighth, and ninth objections are potential knock-out blows, i.e. objections capable of dismissing the case on the merits entirely.³⁵ The other objections are not potential knock-out blows.
36. As set out below, it appears to the Tribunal that potentially wide-ranging factual evidence would need to be considered to determine the Respondent's objections, which the Respondent accepts will involve the determination of the nature of the various aspects of the Claimant's alleged investment.³⁶ On its face, it appears likely that this factual exercise will overlap with facts relevant to the merits.
37. Neither Party has presented an alternative timetable if the Tribunal were to bifurcate. The current Procedural Timetable set out at Annex B to PO1 leads to a hearing on both jurisdiction and the merits in November 2027. The Tribunal is not convinced that the timetable for a preliminary phase to determine the Respondent's jurisdictional objections would necessarily be very much shorter than the current Procedural Timetable for the whole case.
38. The Tribunal now addresses each of the Respondent's objections in turn.

C. THE FIRST OBJECTION

39. Moldova's first objection is that this is not an investment dispute under Article VI of the Treaty, but a purely contractual dispute over a claim to performance. The Claimant accepts that, if sustained, this objection would be a knock-out blow.³⁷

³⁵ Response on Bifurcation, ¶ 37.

³⁶ Request for Bifurcation, ¶ 133.

³⁷ Response on Bifurcation, ¶ 37.

40. However, the Tribunal is persuaded by the Claimant's assertion that the Claimant does not plead a bare claim to contractual performance, but rather a dispute arising out of or relating to Moldova's breach of Treaty rights with respect to a protected investment.³⁸
41. In its Response on Bifurcation, the Claimant identifies its investment as "*a bundle of rights and assets acquired by the State and operated with the State over the course of two decades*".³⁹ The bundled nature of the alleged investment is pleaded in the Claimant's Memorial, in which the Claimant asserts that it held "*substantial claim[s] to performance having economic value*" under the 2002 Agreement, as amended, which it acquired "*alongside its making of a six-figure loan to its State-owned contracting partner*". It asserts that it also "*developed a patent to secure communications across top-level domains, including .md that it was authorized to develop and monetize, and it spent significant sums on marketing this state property in order to generate profit for itself and remit regular revenue to the Respondent State*".⁴⁰
42. The alleged breaches involve direct sovereign interference with the Claimant's investment in the form of "*regulatory changes targeted at Claimant's exclusivity, denial of access to state registry infrastructure, criminal investigations and interference carried out by State entities, and ultimately legislation that extinguished Claimant's long-term, exclusive mandate*".⁴¹ The Claimant concludes that the Respondent, acting through emanations of the State, targeted and sought to destroy its investment. It invokes, *inter alia*, protections against expropriation and unfair and inequitable treatment which are contained only in the Treaty.⁴²
43. While the Respondent argues that the Claimant's case is "*fundamentally [flawed] and without legal merit*",⁴³ as noted above, the Tribunal must take the facts of the case as pleaded at this stage. A detailed factual analysis of the conduct of, and relationship between, the Parties over a substantial period of time will be required to determine whether the facts pleaded are made out on the evidence. This analysis appears likely to be heavily intertwined with the factual inquiry that will be required at the merits stage to determine whether the alleged breaches in fact occurred.
44. The Tribunal therefore concludes that Moldova's first objection is not suitable for bifurcation. While it would dispose of the whole dispute if successful, it is so intertwined with the merits,

³⁸ Response on Bifurcation, ¶ 12.

³⁹ Response on Bifurcation, ¶ 12, citing Memorial ¶¶ 234, 237-240. Moldova acknowledges this description of the investment in its Request for Bifurcation, at ¶ 44.

⁴⁰ Memorial, ¶¶ 238-239.

⁴¹ Response on Bifurcation, ¶ 12, citing Memorial, ¶¶ 261-262, 268, 291.

⁴² Memorial, ¶¶ 190-191.

⁴³ Request for Bifurcation, ¶ 19.

and requires a potentially broad and overlapping factual inquiry, that it would be impractical to separate it from the merits phase.

D. THE SECOND TO SEVENTH OBJECTIONS

45. Moldova's second to seventh objections are all partial attacks on jurisdiction. None of them are capable of constituting knock-out blows.
46. These objections concern whether certain parts of the Claimant's alleged investment qualify independently as investments for the purposes of the Treaty and the ICSID Convention. However, the Claimant does not allege that it had multiple individual investments, but rather that it held a "*unitary bundle of long-term, exclusive, assignable, State-conferred rights*"⁴⁴ acquired through "*interconnected instruments*" and that the "*resulting 'claims to performance' were not solely trade transactions, but were associated with a broader investment operation that included a six-figure loan to MoldData, patent development, and substantial expenditures on marketing and monetization that generated millions in revenue for Moldova*".⁴⁵
47. Again, the Tribunal must apply a *prima facie* test as to the merits at this stage and, to that end, must take the factual case as pleaded. It follows that the three agreements (which are the subject of the second objection), the three payments (which are the subject of the third, fourth, and seventh objections), the alleged patent (which is the subject of the fifth objection), and the Claimant's alleged growth and brand development (which are the subject of the sixth objection) must be assessed together.
48. On its face, the Claimant has pleaded an "*investment*" within the ordinary meaning of the term and for the purposes of Article 1(1)(a) of the Treaty and Article 25(1) of the ICSID Convention, and provided some supporting documents.⁴⁶ As such, the Claimant meets any required threshold of a credible allegation. A broad-based factual inquiry into the Parties' interactions and conduct over many years will be needed to determine the Respondent's second to seventh objections. This inquiry threatens to overlap with the merits. The Tribunal therefore concludes that the second to seventh objections are unsuitable for bifurcation.

⁴⁴ Response on Bifurcation, ¶ 19.

⁴⁵ Response on Bifurcation, ¶ 15.

⁴⁶ See e.g. Memorial, ¶¶ 58, 81 and fn 122 (re. payments); and Memorial, ¶¶ 60-78 and fn 152 (re. growth and brand development, and the patent applied for).

E. THE EIGHTH OBJECTION

49. The Respondent asserts that the Claimant's alleged investment was not made in the territory of Moldova.⁴⁷ If sustained, this objection would be a knock-out blow.
50. However, the Claimant has pleaded that its investment was in the territory of Moldova, as it must. It has argued, *inter alia*, that the “centre of gravity” and “focal point” of its investment “was the marketing, sale and registration of derivative rights in Moldova’s self-described state property; Claimant’s dealings were recorded on the primary authoritative .md server maintained in Moldova by the National Registrar of Moldova; and the rights sold to foreign registrants were rights in Moldova’s sovereign digital namespace”.⁴⁸
51. Once again, a decision on the Respondent’s objection will involve factual issues, in this case concerning the status and administration of .md and registration of subdomains. These issues appear likely to be closely connected to factual issues relevant to the merits, thus making bifurcation of this objection impractical.

F. THE NINTH OBJECTION

52. Finally, Moldova argues that the Claimant’s alleged investment was illegal.⁴⁹ This is certainly a serious objection that could dispose of the entire case.
53. However, the Tribunal considers that the argument is insufficiently substantiated to justify bifurcation at this stage. Moldova does not specify which rules and principles of Moldovan law are said to have been violated, what these rules and principles say, and how the Claimant is alleged to have breached them.

G. CONCLUSION

54. Accordingly, having considered the arguments raised by both Parties, the Tribunal has decided not to bifurcate these proceedings because:
- i. The Respondent’s first to eighth objections to jurisdiction would involve deciding on factual issues which are so intertwined with the merits as to make bifurcation impractical;
 - ii. The ninth objection has not been sufficiently substantiated to justify bifurcation at this stage; and

⁴⁷ Request for Bifurcation, ¶¶ 101-108.

⁴⁸ Response on Bifurcation, ¶ 26, citing Memorial, ¶ 241.

⁴⁹ Request for Bifurcation, ¶ 109.

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- iii. Bifurcation is unlikely to save time and cost, and may materially increase them, as a jurisdictional phase involving substantial disputed factual evidence would not be concluded materially earlier than the full hearing on jurisdiction and the merits currently scheduled for November 2027.

IV. DECISION

55. For the reasons set out above, the Tribunal hereby denies the Respondent's Request for Bifurcation.
56. The proceedings will progress in accordance with the Procedural Timetable set out in PO1, Annex B, Scenario 2.

On behalf of the Tribunal,

[signed]

Mr. Matthew Gearing KC
President of the Tribunal
Date: 15 May 2026