

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

ENCORE Investment Group Limited (Malta)

v.

Republic of Türkiye

(ICSID Case No. ARB/24/46)

PROCEDURAL ORDER NO. 1

Members of the Tribunal

Prof. Gabrielle Kaufmann-Kohler, President of the Tribunal

Prof. George A. Bermann, Arbitrator

Ms. Juliet Blanch, Arbitrator

Secretary of the Tribunal

Ms. Ayong Lim

22 July 2025

CONTENTS

1.	Applicable Arbitration Rules	2
2.	Constitution of the Tribunal and Tribunal Members' Declarations	2
3.	Fees and Expenses of Tribunal Members	2
4.	Presence and Quorum	2
5.	Rulings of the Tribunal	3
6.	Power to Fix Time Limits	3
7.	Secretary of the Tribunal	4
8.	Assistant to the Tribunal	4
9.	Representation of the Parties.....	5
10.	Apportionment of Costs and Advance Payments to ICSID – Division of Advances	6
11.	Place of Proceeding and Hearings.....	7
12.	Procedural Language, Translation and Interpretation	7
13.	Routing of Communications	8
14.	Number of Copies and Method of Filing of Parties' Pleadings	8
15.	Pleadings and Procedural Calendar.....	9
16.	Production of Documents.....	10
17.	Submission of Documents.....	12
18.	Witnesses	13
19.	Experts	15
20.	Case Management Conferences	15
21.	Hearings	16
22.	Recordings of Hearings and Sessions	16
23.	Post-Hearing Memorials and Statements of Costs	17
24.	Transparency Matters.....	17
25.	Data Privacy and Cybersecurity	17
26.	Amicable Dispute Settlement.....	17
27.	Disability Inclusion	18
28.	Artificial Intelligence Tools	18
	Annex A – Electronic File Naming Guidelines	19
	Annex B – Redfern Schedule.....	21

Introduction

The first session of the Tribunal was held on 18 July 2025, at 14:00 CET, by video conference via Zoom. The session was adjourned at 15:00. The Parties had consented to the first session being held after the expiration of the 60-day time limit set in ICSID Arbitration Rule 29(3).

A 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:

Prof. Gabrielle Kaufmann-Kohler, President of the Tribunal
Prof. George A. Bermann, Arbitrator
Ms. Juliet Blanch, Arbitrator

ICSID Secretariat:

Ms. Ayong Lim, Secretary of the Tribunal

Assistant to the Tribunal:

Dr. Adrien Compain

On behalf of the Claimant:

Mr. Timur İbrahim ŞEN, SEN Law Firm
Mrs. Binnaz KAYMAZ, SEN Law Firm
Mr. Alaaddin Anıl ÇİLE, SEN Law Firm

On behalf of the Respondent:

Assoc. Prof. Dr. Eda Atike Manav Özdemir, Presidency of the Republic of Türkiye Directorate of Administrative Affairs
Dr. Açılya Şahin, Presidency of the Republic of Türkiye Directorate of Administrative Affairs
Dr. Güray Özsü, Presidency of the Republic of Türkiye Directorate of Administrative Affairs
Ms. Arzu Yüksel, Saving Deposit Insurance Fund
Ms. Sena Görgülü, Saving Deposit Insurance Fund
Ms. Asude Şahin, Saving Deposit Insurance Fund
Mr. Onur Yorulmaz, Saving Deposit Insurance Fund
Ms. Eda Akış Türkmenoğlu, Saving Deposit Insurance Fund
Mr. Yusuf Derin, Saving Deposit Insurance Fund
Ms. Jessica Beess und Chrostin, King & Spalding International LLP
Mr. Daniel Rosenberg, King & Spalding International LLP
Mr. Erdem Evranos, King & Spalding International LLP.

The Tribunal and the Parties considered the following:

- The Draft Procedural Order No. 1 circulated by the Tribunal Secretary on 27 June 2025; and
- The Parties' comments on the Draft Procedural Order No. 1 received on 11 July 2025, indicating the items on which they agreed and their respective positions regarding the items on which they did not agree.

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

Order

Pursuant to ICSID Arbitration Rules 27 and 29, this Procedural Order sets out the Procedural Rules that govern this arbitration.

1. Applicable Arbitration Rules

Convention Article 44; Arbitration Rule 1

- 1.1. These proceedings are conducted in accordance with the ICSID Arbitration Rules in force as of July 1, 2022.

2. Constitution of the Tribunal and Tribunal Members' Declarations

Arbitration Rule 21

- 2.1. The Tribunal was constituted on May 15, 2025 in accordance with the ICSID Convention and the ICSID Arbitration Rules. The Parties confirmed that the Tribunal was properly constituted and that they had no 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 upon acceptance of each arbitrator's appointment on March 4, April 3 and May 15, 2025.
- 2.3. 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 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 in force at the time the fees and expenses are incurred.

4. Presence and Quorum

Arbitration Rule 33

- 4.1. The participation of all the Members of the Tribunal by any appropriate means of communications is required at the first session, hearings and deliberations, except as otherwise provided in the Arbitration Rules or unless the Parties agree otherwise.

5. Rulings of the Tribunal

Convention Article 48(1); Arbitration Rules 10, 11(4), 12, 27 and 35

- 5.1. Decisions of the Tribunal shall be taken by a majority of the Members of the Tribunal.
- 5.2. Orders, decisions and the Award may be made by any appropriate means of communication.
- 5.3. Orders, decisions and the Award may be signed electronically.
- 5.4. The President is authorized to sign procedural orders and decisions on behalf of the Tribunal.
- 5.5. When the matter is urgent, and consultation with the other Members of the Tribunal is not possible on a timely basis, the President may decide procedural matters without consulting the other Members, subject to possible reconsideration of such decision by the full Tribunal.
- 5.6. The Tribunal's orders and decisions shall indicate the reasons upon which they are made. No reasons need to be provided for non-controversial or minor procedural, administrative and organizational matters, e.g., extensions of time.
- 5.7. The Tribunal will use best efforts to issue all rulings, including the Award, within the time limits prescribed by the ICSID Arbitration Rules. If the Tribunal cannot comply with an applicable time limit, it will advise the Parties of the special circumstances justifying the delay and the date when it anticipates rendering the ruling, in accordance with ICSID Arbitration Rule 12(2).
- 5.8. 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 10 and 11

- 6.1. The President may exercise the Tribunal's power to fix and extend time limits for the completion of each procedural step in the proceeding under Arbitration Rules 10(1) and 11(3), in accordance with Arbitration Rules 10(3) and 11(4).
- 6.2. In exercising the power to fix time limits under Arbitration Rule 10(1), the President shall consult with the Parties as far as possible. If the matter is urgent, the President may fix time limits without consulting the Parties and the other Members of the Tribunal, subject to possible reconsideration of such decision by the full Tribunal.
- 6.3. A time limit shall be satisfied if a procedural step is taken or a document, written submission and/or correspondence is received by the Tribunal Secretary on the relevant date, or on the subsequent business day at the seat of the Centre if the time limit falls on a Saturday or Sunday, or a public holiday in Malta or Turkey.

7. Secretary of the Tribunal

Administrative and Financial Regulation 28

- 7.1. The Tribunal Secretary is Ms. Ayong Lim, Legal Counsel, ICSID, or such other person as ICSID may notify 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. Ayong Lim
ICSID
MSN C3-300
1818 H Street, N.W.
Washington, D.C. 20433
United States of America
Tel.: [REDACTED]
Fax: [REDACTED]
Email: [REDACTED]
Paralegal name: Ms. Phoebe Ngan
Paralegal email: [REDACTED]
ICSID case address: [REDACTED]

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

Ms. Ayong Lim
ICSID
1225 Connecticut Ave. N.W.
(World Bank C Building)
3rd Floor
Washington, D.C. 20036
United States of America
Tel.: [REDACTED]

8. Assistant to the Tribunal

- 8.1. By ICSID letter of 27 June 2025, the Tribunal noted that it would benefit the overall cost and time efficiency of the proceedings if it had an assistant. The Tribunal proposed that Dr. Adrien Compain, a lawyer in the President's firm, be appointed as assistant to the Tribunal. Dr. Adrien Compain's *curriculum vitae* was distributed to the Parties.
- 8.2. The Parties consented to the appointment of Dr. Adrien Compain as assistant to the Tribunal on the terms set out in the letter referred to in the preceding paragraph (the "Assistant"). The tasks of the Assistant will be those described in ICSID's letter of 27 June 2025. The Parties also agreed that the Assistant would receive: (i) USD 300 for each hour of work performed in connection with the case and expenses reimbursed as described in the Secretariat's letter dated 27 June 2025.

8.3. The contact details of the Assistant are:

Dr. Adrien Compain
Lévy Kaufmann-Kohler

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

9. Representation of the Parties

Arbitration Rule 2

9.1. The Parties are represented by the following counsel and may designate additional agents, counsel, or advocates by notifying the Tribunal and the Tribunal Secretary promptly of such designation.

For the Claimant

Mr. Timur İbrahim Şen
Mrs. Binnaz Kaymaz
Mr. Alaattin Anıl Çile
Ms. Bengisu Çelik
SEN Law Firm

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

For the Respondent

Mr. Bekir Keleş
Assoc. Prof. Dr. Atike Eda Manav Özdemir
Ms. Açelya Şahin
Dr. Güray Özsu
The Directorate General for Law and
Legislation, Secretariat General of the
Presidency of the Republic of Türkiye

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Directorate of Administrative Affairs

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Mr. Melek Küreeminoğlu
Mrs. Arzu Yüksel
Ms. Sena Görgülü
Ms. Asude Şahin
Ms. Eda Akış Türkmenoğlu
Mr. Onur Yorulmaz
Savings Deposit Insurance Fund

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Mr. Tom Sprange KC
Mr. Sajid Ahmed
Mr. Julian Ranetunge
Mr. Erdem Evranos
Ms. Lisa Wong
King & Spalding International LLP

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Ms. Jessica Beess und Chrostin
Mr. Daniel Rosenberg
King & Spalding LLP

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

9.2. The Tribunal may refuse the designation of additional agents, counsel, or advocates if the designation would create a conflict of interest with one or more Members of the Tribunal.

10. Apportionment of Costs and Advance Payments to ICSID – Division of Advances
Convention Article 61(2); Administrative and Financial Regulation 15; Arbitration Rule 50

10.1. 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.

- 10.2. Following registration of the request for arbitration, by letter of 25 October 2024, ICSID informed the Parties that USD 300,000 will be necessary to cover the estimated costs of the initial phase of the proceeding through the first session of the Tribunal, as well as the subsequent phase, and requested that the Claimant pay USD 150,000. ICSID received the Claimant's payment on 20 November 2024. Upon the constitution of the Tribunal, by letter of second letter of 15 May 2025, ICSID requested that the Respondent pay USD 150,000. ICSID received the Respondent's payment on 13 June 2025.
- 10.3. ICSID shall request further advances as needed. Such requests shall be accompanied by a detailed interim statement of account.

11. Place of Proceeding and Hearings

Convention Articles 62 and 63; Arbitration Rule 32

- 11.1. Washington D.C. shall be the place of the proceeding.
- 11.2. In-person hearings will in principle be held in London, United Kingdom. The Tribunal may also hold in-person hearings in Paris, France, or at any other place that it considers more appropriate after consultation with the Parties. The method of holding a hearing will be determined in accordance with §20.
- 11.3. The Tribunal Members may deliberate at any place and by any appropriate means they consider convenient.

12. Procedural Language, Translation and Interpretation

Administrative and Financial Regulation 32; Arbitration Rule 7

- 12.1. English is the procedural language of the arbitration.
- 12.2. For documents and communications:
- 12.2.1. Documents filed in a language other than English must be accompanied by a translation into English. Translated documents shall be submitted as separate electronic documents from the original. The original and the translation will bear the same exhibit number but additionally indicate the language in the electronic title.
- 12.2.2. Translations of long documents can be limited to the relevant passages, provided the translated parts are sufficient for the reader to understand the context. The Tribunal may order a Party to provide a fuller or a complete translation.
- 12.2.3. Translations need not be certified, unless the translation is disputed and the Tribunal orders a Party to provide a certified translation.
- 12.2.4. Documents exchanged between the Parties in document production under §16 below may be produced in the original language and need not be translated.
- 12.3. For hearings:

Procedural Order No. 1

- 12.3.1. The Parties will notify the Tribunal, as soon as possible, and no later than at the pre-hearing conference, which witnesses or experts require interpretation.
- 12.3.2. The testimony of a witness called for examination during the hearing who is required to give evidence in a language other than English shall be interpreted simultaneously.
- 12.3.3. At all hearings other than procedural hearings, there shall be simultaneous interpretation available from English to Turkish.
- 12.3.4. 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 Rule 6

- 13.1. Written communications shall be transmitted by email or other electronic means to the Parties, the Tribunal Members, the Assistant and the Tribunal Secretary.
- 13.2. Communications to be filed simultaneously shall be transmitted to the Tribunal Secretary only, who shall send them to the opposing Party, the Tribunal Members and the Assistant, once ICSID has received both Parties' communications.
- 13.3. The Tribunal Secretary, Tribunal Members and the Assistant shall not be copied on communications between the Parties when such communications are not intended to be transmitted to the Tribunal.
- 13.4. The email addresses of the Members of the Tribunal are:

Prof. Gabrielle Kaufmann-Kohler:

[REDACTED]

Prof. George A. Bermann:

[REDACTED]

Ms. Juliet Blanch:

[REDACTED]

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

Arbitration Rules 4, 5 and 9

- 14.1. By the relevant filing date, the Parties shall:
 - 14.1.1. Submit by email to the Tribunal Members, Tribunal Secretary, Assistant and the opposing Party an electronic version of the pleading, witness statements, expert reports (without appended documentation), and an index of all supporting documentation, i.e., factual exhibits, legal authorities, documents appended to witness statements and expert reports;¹

¹ Please note that the World Bank server does not accept emails larger than 25 MB.

- 14.1.2. Within three days following the relevant time limit, a Party shall upload the pleading with all the supporting documentation and index to the file sharing platform that has been created by ICSID for purposes of this case;² and
- 14.1.3. Within seven business days following the relevant time limit, a Party shall upload any necessary English translation of evidence or other document(s) to the file sharing platform that has been created by ICSID for purposes of this case.
- 14.2. Electronic files of pleadings, witness statements, expert reports, exhibits and legal authorities shall be text searchable and unsecured/editable (i.e., OCR PDF or Word).
- 14.3. Exhibits may be submitted in an extension other than .pdf when technically required (i.e., .xls (Excel) or .rar (WinRAR files)). Excel spreadsheets must show the formulae used.
- 14.4. All pleadings shall contain consecutively numbered paragraphs and 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 number and language of the documents and refer to the pleading with which it was submitted and shall follow the naming conventions contained in **Annex A**.
- 14.5. At the conclusion of the written phase of the proceeding, on a date to be determined by the Tribunal, or at any other time the Tribunal or the Secretariat so requests, the Parties shall upload to the file sharing platform, in a format that can be readily downloaded, 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.
- 14.6. A filing shall be deemed timely if a Party meets the requirements set out in § 14.1 above by midnight, Washington, D.C. time, on the relevant date.

15. Pleadings and Procedural Calendar
Arbitration Rule 30

- 15.1. If applicable, the arbitration shall proceed in accordance with a Procedural Timetable to be set by the Tribunal in consultation with the Parties at a later stage of the proceedings, except if the Tribunal, upon a showing of good cause by either Party or on its own initiative, decides to amend the timetable.
- 15.2. In the first exchange of submissions on a given matter (in principle Memorial and Counter-Memorial), the Parties shall set forth all the facts and legal arguments and submit all the documentary and written witness and expert evidence on which they intend to rely in support of their respective cases. Allegations of fact and legal arguments shall be presented in a detailed, specified and comprehensive manner, and shall respond to all allegations of fact and legal arguments made by the other Party. If applicable, appropriate page limitations for the first submissions may be set by the Tribunal in consultation with the Parties at a later stage of the proceedings.

² Supporting documentation shall be uploaded as individual files, not in .zip format.

- 15.3. In the second exchange of submissions (in principle Reply and Rejoinder), if any, the Parties shall limit themselves to responding to fact allegations, legal arguments, and evidence put forward by the other Party in its preceding submission, subject to facts and documents resulting from the document production phase or new facts arisen after the filing Party's last submission. If applicable, appropriate page limitations for the second submission may be set by the Tribunal in consultation with the Parties at a later stage of the proceedings.
- 15.4. Following each factual allegation, the Parties shall, whenever possible, identify the evidence adduced or to be adduced in support of that allegation. Following each legal argument, the Parties shall, whenever possible, identify the legal authority adduced or to be adduced in support of that argument.
- 15.5. The Parties shall include in their submissions a list of abbreviations. Each Party shall strive to use the same abbreviations as the other Party and the Parties shall update their list of abbreviations in subsequent submissions.
- 15.6. All written submissions to the Tribunal must contain consecutively numbered paragraphs and if consisting of more than 10 pages each submission shall include a table of contents.

16. Production of Documents

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

- 16.1. The Tribunal and the Parties shall be guided but not bound by the 2020 IBA Rules on the Taking of Evidence in International Arbitration.
- 16.2. Within the time limit set in the Procedural Timetable, each Party may request from the other Party the production of documents or categories of documents within the other Party's possession, custody or control, in the form of a Redfern Schedule as attached in **Annex B** hereto, in both Word and .pdf format. Such a request shall not be copied to the Tribunal, the Secretary of the Tribunal or the Assistant.
- 16.3. Each request for production shall:
 - 16.3.1. identify with specificity: (i) the type of documents or narrow category of documents whose production is sought (for example, letters, emails, minutes of meetings, memoranda, notes, reports). The Parties shall not use a generic formulation, such as "all documents" or "all records", or use such formulation and then define it to "include" specific types of documents; (ii) the author, sender, recipient, and/or custodian of the requested document or category of documents (i.e., by the name of the individual, department, entity, or organ, as the case may be), being specified that a Party asserting that such identification is not possible must substantiate such assertion; and (iii) a date for individual documents or a narrow and proportionate period for a category of documents;
 - 16.3.2. describe the subject matter of the document in sufficient detail and with necessary particulars to enable an effective search for responsive documents;
 - 16.3.3. specify that the documents requested are not in the possession, custody or control of the requesting Party (or explain why it would be unreasonably burdensome for the

requesting Party to produce them), and that they are likely to exist and be in the possession, custody or control of the other Party; and

- 16.3.4. explain, with specific references to the record, why the document or category of documents sought is relevant to the case and material to its outcome and, more specifically, which fact alleged in the arbitration the document sought is intended to prove; and
- 16.3.5. set out which adverse inference the requesting Party would request the Tribunal to draw if the document sought were ordered to be produced and the other Party did not comply with such order.
- 16.4. Within the time limits set forth in the Procedural Timetable, the other Party shall either produce the requested documents (to the opposing Party only, without copying the Tribunal, the Secretary or the Assistant consistent with §16.8 below) or, using the Redfern Schedule provided by the first Party, submit its reasons for its failure or refusal to produce responsive documents (objections).
- 16.5. Within the time limit set forth in the Procedural Timetable, the requesting Party may seek an order for the production of the documents sought and not produced, in which case it shall reply to the other Party's objections in that same Redfern Schedule. At the same time, it shall submit the Word and .pdf copies of the Redfern Schedule to the Tribunal.
- 16.6. The Parties shall make no submissions in respect of the steps set out in §§16.2, 16.4, and 16.5 above other than those incorporated in the Redfern Schedules.
- 16.7. On or around the date set forth in the Procedural Timetable, the Tribunal will rule upon the production of the documents or categories of documents having regard to the requirements of §16.3 above, the legitimate interests of the Parties and all the relevant circumstances, including applicable privileges. As a rule, a Party shall not be entitled to the production of a document sought to prove a fact (i) for which the other Party bears the burden of proof or (ii) which is already established by other evidence in the record. If a request does not meet the requirements of §16.3 above, in particular if it is insufficiently specific, the Tribunal will in principle not narrow down the scope of the request on its own initiative.
- 16.8. Documents which the Tribunal orders to be produced shall be communicated directly to the requesting Party without copying the Tribunal, the Secretary, and the Assistant. Documents so communicated shall not be considered to be on the record unless and until a Party subsequently files them as exhibits in accordance with §17 below.
- 16.9. In addition, the Tribunal may order a Party to produce documents on its own initiative at any time. In that case, the documents shall be submitted to the other Party and to the Tribunal in accordance with §17 below and shall be considered to be on the record.
- 16.10. If a Party fails to produce documents ordered by the Tribunal, the Tribunal shall be entitled to draw such inferences from such failure to produce as it considers appropriate, in light of all circumstances, including the reasons for the non-production.

17. Submission of Documents

Convention Article 44; Arbitration Rule 5

- 17.1. Documents, including exhibits and legal authorities, shall be submitted together with the memorial or written submission that refers to them in conformity with §§15.2 and 15.3 above.
- 17.2. 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 timely and reasoned written application followed by observations from the other Party.
 - 17.2.1. 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.
 - 17.2.2. 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 document.
- 17.3. Documents shall be submitted in the following form:
 - 17.3.1. 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.
 - 17.3.2. Exhibits and legal authorities shall be numbered consecutively throughout these proceedings, commencing with “C-0001” and “R-0001,” and “CL-001” and “RL-001” respectively. The numbering shall also indicate the language of the document *e.g.* C-0001-ENG for a document submitted only in English, C-0001-SPA for a document submitted only in Spanish and C-0001-ENG/SPA for a document submitted simultaneously in English and Spanish. 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 §17.3.4.
 - 17.3.3. A Party may produce several documents relating to the same subject matter within one exhibit, numbering each page of such exhibit separately and consecutively.
 - 17.3.4. Electronic files and the accompanying indexes shall follow the naming conventions contained in **Annex A**.
- 17.4. Copies of documents shall be assumed to be authentic unless specifically objected to by a Party, in which case the Tribunal will determine whether authentication is necessary.
- 17.5. The Parties shall file all documents only once. Documents need not be resubmitted with later pleadings or witness statements even if referred to in such pleadings or statements.

18. Witnesses

Convention Article 43(a); Arbitration Rule 38

- 18.1. Any person may present evidence as a witness, including a Party or a Party's officer, employee, or other representative.
- 18.2. For each witness, a written witness statement, which shall stand as direct testimony, shall be submitted to the Tribunal.
- 18.3. Each witness statement shall be signed and dated by the witness and include:
 - 18.3.1. the witness's name, date of birth, and involvement in the case;
 - 18.3.2. a statement detailing any past and present relations of the witness with any Party, counsel or Member of the Tribunal;
 - 18.3.3. a description of the witness's position and qualifications, if relevant;
 - 18.3.4. a description of the disputed facts of which the witness has knowledge, and the source of the witness's information as to those facts;
 - 18.3.5. a reference to the documents on which the witness relies that have not already been submitted, which shall be submitted as exhibits to the related pleading, not as annexes to the witness statement;
 - 18.3.6. an indication of the language in which the witness statement was originally prepared and the language in which the witness anticipates giving oral testimony; and
 - 18.3.7. a statement whether the witness received compensation for his or her testimony.
- 18.4. Witness statements shall be submitted in a searchable PDF format and have consecutive numbering on pages, headings and paragraphs.
- 18.5. Witness statements shall be submitted in English or in any other language, provided that an English translation is filed with the witness statement in accordance with paragraph 12.2.2.
- 18.6. In accordance with §§15.2 and 15.3 above, each Party will submit its witness statements together with its written submissions. Neither Party shall be permitted to submit witness evidence that has not been filed with the written submissions. The witness statements shall be numbered independently from other documents and properly identified. If a Party submits two witness statements by the same witness, the subsequent witness statement shall be identified as "Second".
- 18.7. It shall not be improper for counsel to meet witnesses and potential witnesses to establish the facts, prepare the witness statements and the examinations.
- 18.8. On the date provided in the Procedural Timetable, each Party shall identify the witnesses of its opponent whom it intends to cross-examine. A witness whose cross-examination is not sought shall not testify unless the Tribunal directs his or her appearance.

- 18.9. Each Party shall be responsible for summoning its own witnesses to the hearing, except when the other Party has waived cross-examination of a witness and the Tribunal does not direct his or her appearance.
- 18.10. Each Party shall be responsible for the practical arrangements, cost and availability of its witnesses. The Tribunal will decide upon the appropriate allocation of any related costs in the Award.
- 18.11. If a witness fails to appear when first summoned to a hearing, the Tribunal may in its discretion summon the witness to appear a second time if satisfied that (i) there was a compelling reason for the first failure to appear, (ii) the testimony of the witness appears relevant, and (iii) providing a second opportunity for the witness to appear will not unduly delay the proceedings.
- 18.12. Whether in the context of an online hearing or otherwise, the Tribunal may hear witnesses by videoconference if appropriate under the circumstances. It will issue appropriate directions in due time.
- 18.13. The Tribunal may consider the written statement of a witness who was not called for cross-examination, having regard to all the circumstances, including the fact that the witness was not subject to cross-examination. The Tribunal may also consider the written statement of a witness who provides a valid reason for failing to appear when summoned to a hearing having regard to all 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 valid reason.
- 18.14. At the hearing, the examination of each witness shall proceed as follows, subject to further specifications to be discussed at the prehearing conference:
- 18.14.1. Direct examination may cover some introductory questions, questions about corrections to the written statement, and questions about facts which may have arisen after the last opportunity for the Party presenting the witness to file witness statements. Direct examination shall in principle not last more than 10 minutes;
- 18.14.2. The other Party may then cross-examine the witness about relevant facts within the witness's knowledge but not necessarily limited to facts addressed in the witness statement;
- 18.14.3. The Party presenting the witness may then re-examine the witness with respect to any matters arising out of the cross-examination; and
- 18.14.4. The Tribunal may ask its questions at any time, likely mainly at the end.
- 18.15. Subject to other arrangements during the pre-hearing conference, (i) fact witnesses shall be examined prior to expert witnesses, the Claimants' fact witnesses being examined prior to the Respondent's fact witnesses and each Party determining the order of the fact witnesses whom it presents, and (ii) expert witnesses shall be grouped by topics, the Claimants' expert for each topic being examined first.

18.16. Subject to a different agreement by the Parties, a fact witness shall not be present in the hearing room during oral testimony and arguments, or read the transcript of oral testimony or argument, prior to his or her examination. This limitation does not apply to expert witnesses. Party representatives who are also fact witnesses may be present during opening submissions.

18.17. The Tribunal shall, at all times, maintain control over the examination process. In particular, but without limiting the foregoing, the Tribunal may in its discretion:

18.17.1. Limit the examination of a witness if it deals with facts that are already established by other evidence or is irrelevant;

18.17.2. Direct that a witness be recalled for further examination at any time; or

18.17.3. Provide that the witnesses may be examined together (“witness conferencing”), in which case it will give appropriate directions.

19. Experts

Arbitration Rule 38

19.1. Unless inconsistent with this Section, all the rules set forth in §18 above shall apply by analogy to experts.

19.2. Each Party may retain and produce evidence of one or more experts.

19.3. The Tribunal may order experts on the same subject matter on both sides to liaise before the hearing to identify disputed and undisputed issues, and to produce joint expert reports identifying disputed and undisputed issues.

19.4. The Tribunal may, on its own initiative or at the request of a Party, appoint one or more experts. The Tribunal shall consult with the Parties on the selection, terms of reference, and report of any such expert. The Tribunal may, on its own initiative or at the request of any Party, take oral evidence of such expert(s).

19.5. Expert reports shall be accompanied by documents or information upon which they rely, unless such documents or information have already been submitted as exhibits with the Parties’ submissions, in which case reference to such exhibits shall be sufficient. Such documents or information shall be subject to the rules on language set forth in §12 above. Spreadsheets prepared by experts and submitted as part of or accompanying their report(s) shall also be submitted in their native format with all formulae visible.

19.6. After consultation with the Parties, the Tribunal may request non-legal experts to give a presentation summarizing their methodology and conclusions in lieu of direct examination.

20. Case Management Conferences

Arbitration Rule 31

20.1. A pre-hearing conference will be held on the date provided in the Procedural Timetable by way of videoconference, if applicable.

- 20.2. The Tribunal may convene other case management conferences with the Parties in accordance with ICSID Arbitration Rule 31 if necessary or appropriate.

21. Hearings

Arbitration Rule 32

- 21.1. The oral procedure shall consist of a hearing for examination of witnesses and experts, if any, and for oral arguments.
- 21.2. The hearing shall take place on the dates set in the Procedural Timetable, if applicable.
- 21.3. 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.
- 21.4. In principle, each Party will have an equal time allocation for examinations and oral arguments, subject to adjustments in the Tribunal's discretion, particularly if there is a severe imbalance in the number of cross-examinations. The allocation will be discussed at the pre-hearing conference and set by the Tribunal, which may grant short extensions if appropriate under the circumstances and the remaining time so permits.
- 21.5. Hearings (excluding procedural hearings or other short hearings) shall in principle be held in person, to the extent practicable, unless otherwise agreed by the Parties or decided by the Tribunal after consultation of the Parties.

22. Recordings of Hearings and Sessions

Arbitration Rule 29(4)(i)

- 22.1. Sound recordings shall be made of all hearings and sessions. The recordings shall be provided to the Parties and the Tribunal Members.
- 22.2. Verbatim transcripts in the procedural language shall be made of any hearing other than procedural sessions. Unless otherwise agreed by the Parties or ordered by the Tribunal, the verbatim transcripts shall be available in real-time and electronic transcripts shall be provided to the Parties and the Tribunal on a same-day basis.
- 22.3. The Parties shall agree on any corrections to the transcripts within thirty (30) days of the later of the dates of the receipt of the sound recordings and transcripts. The agreed corrections may 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 in the revised transcripts by the court reporter.

23. Post-Hearing Memorials and Statements of Costs

Convention Article 44; Arbitration Rules 51

- 23.1. In consultation with the Parties, the Tribunal will determine at the end of the hearing whether there shall be post-hearing briefs. If so, the Tribunal will address the time limits for, and the length, format, and content of the post-hearing briefs. No new evidence may be produced together with the post-hearing briefs, except with leave or on request of the Tribunal.
- 23.2. The Tribunal will issue directions on the Parties' statements of costs at the end of the hearing.

24. Transparency Matters

Convention Article 48(5), Arbitration Rules 62-66

- 24.1. Transparency matters shall be addressed in a separate procedural order.

25. Data Privacy and Cybersecurity

- 25.1. The Members of the Tribunal, the Assistant, the Parties and their representatives acknowledge that the processing of their personal data is necessary for the purposes of this arbitration proceeding.
- 25.2. 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 Tribunal for specific data protection measures to be put in place
- 25.3. The Parties shall take appropriate measures for the secure transmission of documents, information and communications in this arbitration. If particular documents, information and/or communications require heightened security measures, the Parties will confer in order to take appropriate security measures for the transmission of such documents, information and/or communications. Unless instructed otherwise by the Parties, the Tribunal will not take any special measures beyond its standard procedures to safeguard the cyber security of arbitration-related information and the Parties confirm that communications may be sent by email.

26. Amicable Dispute Settlement

- 26.1. 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. The Parties may agree to suspend the arbitration for this purpose.

- 26.2. At any time during the arbitration, considering the circumstances of the dispute and the interests at stake, the Tribunal may suggest to the Parties to resort to mediation or other appropriate methods of amicable resolution.
- 26.3. Beyond making such a suggestion to the Parties, the Tribunal will not become involved in mediation or other settlement attempts and will continue the proceedings if the Parties do not agree to follow the Tribunal's suggestion or if they agree but the attempt fails.

27. Disability Inclusion

- 27.1. At any point during the proceedings, but ideally as soon as practicable, either Party may advise the Tribunal of a person who, by reason of disability, requires reasonable accommodation to facilitate their full participation in the arbitration, including site visits and oral hearings. In considering such requests, the Tribunal will take account of the privacy rights of such persons against the unnecessary disclosure of their disability. For the purposes of this provision, disability means any physical or mental health condition that, without reasonable accommodation, would significantly impair a person's ability to participate in work related to an arbitration.

28. Artificial Intelligence Tools

- 28.1. The Tribunal may use artificial intelligence ("AI") tools to perform its tasks, such as preparation of summaries, searching and organizing the record and legal research. The Tribunal will not delegate any decision-making functions to such AI tools.
- 28.2. The Tribunal shall ensure that the AI tools that it uses provide adequate guarantees of cybersecurity and confidentiality.

On behalf of the Tribunal,

[signed]

Professor Gabrielle Kaufmann-Kohler
President of the Tribunal
Date: 22 July 2025

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.

All pleadings and accompanying documentation shall indicate the LANGUAGE in which they are submitted (e.g. SPA=Spanish; FR=French; ENG= English). Such indication should be reflected both i) in the name used to identify each individual electronic file and ii) in the Consolidated Hyperlinked Index (which shall be attached to each submission).

For cases with a single procedural language, the “LANGUAGE” designation may be omitted, except for documents in a language other than the procedural language and the corresponding translations.

SUBMISSION TYPE	ELECTRONIC FILE NAMING GUIDELINES
MAIN PLEADINGS	Title of Pleading–LANGUAGE
	<i>Memorial on Jurisdiction-FR</i>
	<i>Counter-Memorial on the Merits and Memorial on Jurisdiction-SPA</i>
	<i>Reply on Annulment-FR</i>
	<i>Rejoinder on Quantum-ENG</i>
SUPPORTING DOCUMENTATION Exhibits	C-####–LANGUAGE
	R-####–LANGUAGE
	To be produced sequentially throughout the case.
	CLAIMANT’S FACTUAL EXHIBITS
	<i>C-0001-ENG</i>
	<i>C-0002-SPA</i>
	RESPONDENT’S FACTUAL EXHIBITS
	<i>R-0001-FR</i>
	<i>R-0002-SPA</i>
Legal Authorities	CL-####–LANGUAGE
	RL-####–LANGUAGE
	To be produced sequentially throughout the case.
	CLAIMANT’S LEGAL AUTHORITIES
	<i>CL-0001-ENG</i>
	<i>CL-0002-FR</i>
	RESPONDENT’S LEGAL AUTHORITIES
	<i>RL-0001-SPA</i>
Witness Statements	<i>RL-0002-ENG</i>
	Witness Statement-Name of Witness-Name of Submission-LANGUAGE
	<i>Witness Statement-Maria Jones-Memorial on Jurisdiction-SPA</i>
Expert Reports	<i>Witness Statement-Maria Jones-Reply on Jurisdiction-[Second Statement]-ENG</i>
	Expert Report-Name of Expert-Type-Name of Submission-LANGUAGE
	<i>Expert Report-Lucia Smith-Valuation-Memorial on Quantum-ENG</i>
Legal Opinions	<i>Expert Report-Lucia Smith-Valuation-Reply on Quantum-[Second Report]-ENG</i>
	Legal Opinion-Name of Expert-Name of Submission-LANGUAGE
	<i>Legal Opinion-Tom Kaine-Counter-Memorial on the Merits-FR</i>
Exhibits to Witness Statements, Expert Reports,	<i>Legal Opinion-Tom Kaine-Rejoinder on the Merits-[Second Opinion]-FR</i>
	WITNESS/EXPERT INITIALS-###
	<i>For exhibits filed with the Witness Statement of [Maria Jones]</i>
	<i>MJ-0001</i>

ENCORE Investment Group Limited (Malta) v. Republic of Türkiye
(ICSID Case No. ARB/24/46)

Procedural Order No. 1 – Annex A

Legal Opinions	<i>MJ-0002</i>
	<i>For exhibits filed with the Legal Opinion of [Tom Kaine]</i>
	<i>TK-0001</i>
	<i>TK-0002</i>
	<i>For exhibits filed with the Expert Report of [Lucia Smith]</i>
	<i>LS-0001</i>
	<i>LS-0002</i>
INDICES	Consolidated Hyperlinked Index
	Index of Exhibits-C-#### to C-####
	<i>Index of Exhibits-C-0001 to C-0023</i>
	Index of Legal Authorities-RLA-### to RLA-###
	<i>Index of Legal Authorities-RLA-0001 to RLA-0023</i>
OTHER APPLICATIONS	Name of Application-[Party]-LANGUAGE
	<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 – Redfern Schedule

1	2	3		4	5	6
Requesting Party [insert]						
No.	Documents or Category of Documents Requested	Relevance and Materiality According to Requesting Party		Responses / Objections to Document Requests	Replies to Objections to Document Requests	Tribunal's Decisions
		Ref. to Pleadings, Exhibits, Witness Statements or Expert Reports	Comments			