

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Libra LLC and Others
Claimants

v.

Republic of Azerbaijan
Respondent

(ICSID Case No. ARB/23/46)

**DECISION ON RESPONDENT’S REQUEST FOR RECONSIDERATION OF THE
DECISION ON PROVISIONAL MEASURES AND CLAIMANTS’ REQUEST FOR
SANCTIONS**

Members of the Tribunal

Prof. Eduardo Zuleta, President of the Tribunal
Mr. D. Brian King, Arbitrator
Dr. Claus von Wobeser, Arbitrator

Secretary of the Tribunal

Leah W. Njoroge

Assistant to the Tribunal

María Marulanda Mürrle

October 30, 2025

Decision on Respondent's Request for Reconsideration of the Decision on Provisional Measures and Claimants' Request for Sanctions

I. PROCEDURAL BACKGROUND

1. On July 2, 2025, the Tribunal issued its Decision on the Claimants' Second Renewed Request for Provisional Measures, "ordering that the Respondent immediately take all actions necessary to lift the restrictions on Eran Muduroglu's right to leave Azerbaijan and facilitate Eran Muduroglu's departure from the country"¹ (the "PMO").
2. On July 10, 2025, the Claimants informed the Tribunal that they had twice requested an update from Respondent's counsel on the steps being taken to execute the PMO but had received no substantive response. The Claimants requested that the Tribunal convene an emergency conference and direct the Respondent to provide (i) a substantive update on the steps being taken to execute the PMO, and (ii) a date upon which Mr. Muduroglu would be permitted to depart Azerbaijan.
3. On July 14, 2025, upon the Tribunal's invitation to respond, Respondent's counsel communicated that they were seeking instructions from the Respondent and would provide an update within one week.
4. On July 22, 2025, the Claimants reiterated their request for an emergency conference, noting that three weeks had elapsed since the PMO and the Respondent had taken no visible steps to implement it or communicate with the Claimants or the Tribunal regarding this matter.
5. On July 25, 2025, the Tribunal directed the Respondent to provide, by July 29, 2025, (i) a substantive update regarding the actions being taken to implement the PMO, and (ii) a date certain upon which Mr. Muduroglu would be permitted to depart Azerbaijan.
6. On July 29, 2025, Respondent's counsel informed the Tribunal that they were still taking instructions from the Respondent and would provide a substantive response by August 1, 2025.
7. On August 13, 2025, having received no substantive response from the Respondent, the Tribunal convened an emergency conference to take place virtually on August 19, 2025, during which the Respondent was to provide (i) a substantive update on the steps being taken to comply with the PMO, and (ii) a date upon which Mr. Muduroglu would be permitted to depart Azerbaijan.

¹ Decision on the Claimants' Second Renewed Request for Provisional Measures dated July 2, 2025, para. 64(a).

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8. On August 17, 2025, the Respondent submitted a letter to the Tribunal, accompanied by legal authorities RL-150 and RL-151, informing the Tribunal that (i) the travel bans imposed on Mr. Muduroglu in relation to the Neptun tax assessment and the failure to hold Libra shareholder meetings would be lifted, but (ii) it could not implement the PMO in relation to the travel ban imposed on Mr. Muduroglu on April 14, 2025 in connection with the ongoing criminal investigation into alleged irregular related party transactions and tax evasion (the “**Criminal Tax Investigation Travel Ban**”).
9. On August 18, 2025, the Claimants submitted two documents in advance of the emergency conference: (i) a letter from the Ministry of Economy of Azerbaijan to Mr. Muduroglu dated June 25, 2025, in which the Ministry confirmed that Azerbaijan would take “necessary measures” in accordance with the Tribunal’s decisions on the Claimants’ requests for provisional measures (C-691), and (ii) an independent expert opinion rendered in the Neptun tax case before the Court of Appeal on July 21, 2025, in which the independent expert confirmed that the State Tax Service’s calculations were erroneous and that Neptun had no outstanding tax debt (C-692).
10. On August 19, 2025, the Parties and the Tribunal held an emergency conference regarding the PMO. At the conference, the Parties agreed to confer and seek to reach agreement on the schedule and page limits for briefing in respect of the Respondent’s August 17, 2025 letter.
11. The Parties were unable to reach agreement on these matters, and the Tribunal fixed the briefing schedule and page limits for submissions in respect of the Respondent’s August 17, 2025 letter.
12. On September 2, 2025, the Claimants filed their response to the Respondent’s August 17, 2025 letter, accompanied by exhibits C-694 to C-706 and legal authorities CL-305 to CL-317. In their submission, the Claimants requested, *inter alia*, that the Tribunal sanction the Respondent for failing to comply with the PMO (the “**Request for Sanctions**”).
13. On September 12, 2025, the Respondent filed its reply submission, accompanied by the expert reports of Arif Ayyubov and Firuza Abbasova, exhibits R-435 to R-437, and legal authorities RL-415 to RL-437. In its submission, the Respondent requested that the Tribunal reconsider the PMO (the “**Request for Reconsideration**”).
14. On September 17, 2025, the Claimants submitted their rejoinder, accompanied by exhibits CL-318 to CL-322.

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II. THE PARTIES' POSITIONS

A. RESPONDENT'S REQUEST FOR RECONSIDERATION

1. The Respondent's Position

15. The Respondent requests that the Tribunal reconsider its PMO "to the extent [that it] purports to constrain the Respondent's exercise of its sovereign criminal jurisdiction."²
16. The Respondent argues that the PMO did not address the legal result under Azerbaijani law that lifting the travel ban in respect of the pending criminal investigation would have, purportedly being to prevent Azerbaijan from continuing its investigations and, if warranted, pursuing prosecution and imposing sanctions in the proper exercise of its sovereign criminal jurisdiction.³ According to the Respondent, this would constitute a grave infringement of "a most obvious and undisputed part of the sovereign right of a state to implement and enforce its national law on its territory."⁴ The Respondent contends that ICSID tribunals do not sit as plenary appellate courts over the criminal law enforcement authorities of ICSID Member States, and do not have jurisdiction to second-guess the criminal law enforcement activities of States; they may only decide investment disputes.⁵
17. The Respondent asserts that the crimes in respect of which Mr. Muduroglu is being investigated cannot be further investigated or tried *in absentia*. According to the Respondent, Azerbaijan law does not permit conducting criminal prosecutions *in absentia* in respect of offenses under Articles 201-1 and 213 of the Criminal Code of the Republic of Azerbaijan (the "**Criminal Code**"), as Article 467-13.1 of the Criminal Procedure Code ("**CPC**") permits criminal prosecution *in absentia* only where the accused is charged under one of a closed list of offenses (which does not include Articles 201-1 and 213 of the Criminal Code) and the accused is deliberately evading proceedings from outside Azerbaijan.⁶
18. The Respondent further contends that suspension of the criminal proceedings against Mr. Muduroglu would be mandatory if the PMO were to be followed. According to the Respondent, Article 53.1.4 of the CPC provides that criminal proceedings may be

² Request for Reconsideration, para. 64.

³ Request for Reconsideration, para. 5.

⁴ Request for Reconsideration, para. 5.

⁵ Request for Reconsideration, para. 1.

⁶ Request for Reconsideration, paras. 14-15.

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suspended where the accused is outside the territory of Azerbaijan, and under the CPC, if *in absentia* proceedings are not permitted, the fact that the accused is abroad impedes prompt prosecution and a full investigation, requiring suspension of the proceedings under Article 53.1.4.⁷

19. Contrary to the Claimants' contentions, the Respondent argues that videoconferencing cannot be used to carry out the investigation in this case,⁸ and that an expert opinion is not required to initiate a criminal investigation.⁹ Additionally, it explains that payment of compensation is not a ground for discharge from criminal liability under Article 201 of the Criminal Code, and that Mr. Muduroglu has at no point offered to pay full compensation for the damage caused by the crime alleged to have been committed under Article 213 of the Criminal Code.¹⁰
20. In addition, the Respondent asserts that even if Azerbaijan could lift the travel ban, extradition difficulties would make prosecuting Mr. Muduroglu impossible.¹¹
21. Finally, the Respondent submitted formal written undertakings of Mr. Metin Eynullayev, authorized representative of the Republic of Azerbaijan, concerning the integrity of these proceedings, arguing that in light of these undertakings, the Claimants and the Tribunal may be reassured that there are appropriate arrangements in place to safeguard the integrity of these proceedings without further encroachment on the Respondent's sovereign criminal jurisdiction, and that the undertakings directly address the Tribunal's earlier concern that the travel ban may hinder the Claimants' preparation of their case or have a chilling effect on Mr. Muduroglu's ability to testify freely.¹²

2. The Claimants' Position

22. The Claimants contend that the Tribunal should reject the Respondent's Request for Reconsideration. They argue that the Respondent must show "compelling new circumstances that would undermine the fundamental basis of that [provisional measures order]" to warrant rescinding or modifying the PMO, and that Azerbaijan presents no new material facts, instead simply rehashing its arguments on the "chilling effect" and making

⁷ Request for Reconsideration, paras. 20-21.

⁸ Request for Reconsideration, paras. 24-27.

⁹ Request for Reconsideration, para. 31.

¹⁰ Request for Reconsideration, paras. 28-30.

¹¹ Request for Reconsideration, para. 32.

¹² Request for Reconsideration, paras. 4, 9-10.

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unfounded new arguments based on existing Azerbaijani law that it failed to raise before.¹³

23. First, the Claimants argue that Respondent conspicuously fails to address Claimants' primary argument that domestic law cannot be used to thwart a State's international law obligations, which is a core tenet of international law, codified in the Vienna Convention on the Law of Treaties, the Articles on State Responsibility, and referenced repeatedly by tribunals.¹⁴ Citing *Ipek v. Türkiye*, the Claimants argue that the PMO binds the entire State and its organs, and obliges each to comply to satisfy Azerbaijan's international law obligations.¹⁵
24. Second, the Claimants contend that the Respondent continues to refuse to address the chilling effect created by Mr. Muduroglu's detention in Azerbaijan.¹⁶ The Tribunal's assessment that the continued prohibition on Mr. Muduroglu leaving the country hinders the Claimants' preparation of their case and has a chilling effect on Mr. Muduroglu's ability to testify freely and on the Claimants' pursuit of the arbitration remains correct, and those concerns are even more serious today than on July 2, 2025.¹⁷ The Claimants argue that Mr. Muduroglu is unjustifiably limited in what he can say because of the very real fear of further retaliation for his testimony, and that is unquestionably a violation of the Claimants' due process rights; further, potential witnesses in Azerbaijan familiar with Mr. Muduroglu's ongoing detention have expressed unwillingness to testify in these proceedings because of that same fear of retaliation.¹⁸
25. The Claimants argue that the Respondent's undertakings provide no comfort regarding Mr. Muduroglu's safety, characterizing the Respondent's non-specific commitment not to "take any measures to prevent or interfere with Mr Eran Muduroglu's right and ability to participate in the arbitration proceeding" as "ludicrous" given that Azerbaijan is currently interfering with that right by refusing to abide by the PMO, and most concerning, a commitment not to jail Mr. Muduroglu during the pendency of this arbitration is conspicuously absent from the undertakings.¹⁹
26. Third, the Claimants contend that the Respondent's purported justification for non-compliance with the PMO is not based on any change in the underlying facts, let alone

¹³ Claimants' letter to the Tribunal dated September 17, 2025 ("**Claimants' September 17 Letter**"), para. 2.

¹⁴ Claimants' September 17 Letter, paras. 3-4.

¹⁵ Claimants' September 17 Letter, para. 7.

¹⁶ Claimants' September 17 Letter, paras. 8-9.

¹⁷ Request for Sanctions, paras. 19-22.

¹⁸ Request for Sanctions, paras. 19-22.

¹⁹ Claimants' September 17 Letter, paras. 11-13.

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"compelling new circumstances," and that the Respondent's stated justifications (no chilling effect and sovereign prerogative in criminal law) were both raised in its submissions on provisional measures in this arbitration, and while Azerbaijan now cites to limited additional statutory authority, it does not claim that any of these laws are new or that any of the circumstances surrounding Mr. Muduroglu's detention have changed.²⁰

27. In any event, the Claimants argue that the Respondent's contentions do not change the key points that (i) Mr. Muduroglu's departure from Azerbaijan does not mandate suspension of the criminal proceedings; (ii) Azerbaijan's prosecution of Mr. Muduroglu under Article 213 was not carried out in accordance with the prescribed procedures; and (iii) Azerbaijan has provided no evidence that any other individual has ever been prosecuted under Article 201.²¹

B. CLAIMANTS' REQUEST FOR SANCTIONS

1. The Claimants' Position

28. The Claimants assert that Azerbaijan has stated in no uncertain terms that it will not comply with the PMO, and this brazen disregard for the Tribunal's power and the ICSID Convention is almost unprecedented in international law and requires that the Tribunal act decisively in response to preserve fairness between the Parties and the integrity of the ICSID Convention.²² Accordingly, the Claimants request that the Tribunal issue the following sanctions against the Respondent:
- (a) An interim order granting the Claimants all costs and fees incurred in the preparation of the Claimants' provisional measures requests and related briefing (in the amount of US\$ 1,371,161, as of August 24, 2025), with the right to update such amount as these proceedings continue, to be incorporated into the Tribunal's Final Award.²³
 - (b) An order imposing a daily monetary penalty of US\$ 50,000 on Azerbaijan, dating from August 1, 2025 until Azerbaijan fully complies with the PMO, with this daily penalty doubling on November 1, 2025, and then doubling again on the first day of each additional month in which Mr. Muduroglu remains detained in the country

²⁰ Request for Sanctions, paras. 12-14; Claimants' September 17 Letter, para. 14.

²¹ See Claimants' September 17 Letter, paras. 14-23.

²² Request for Sanctions, para. 39.

²³ Request for Sanctions, para. 47

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(i.e., increasing to US\$ 100,000 per day on November 1, 2025, then to US\$ 200,000 per day on December 1, 2025, etc.), to be incorporated into the Final Award.²⁴

- (c) Convocation of a case management conference as soon as possible to be held in person at a location of the Tribunal's convenience outside of Azerbaijan, with the Tribunal calling Mr. Muduroglu as a Tribunal witness to appear at the case management conference to testify on the adverse impact that his detention has had and continues to have on the Claimants' ability to prosecute this case, and that the Tribunal or the ICSID Secretary-General issue a certificate in accordance with Articles 21 and 22 of the ICSID Convention confirming that Mr. Muduroglu shall enjoy the same immunities from immigration restrictions, alien registration requirements and national service obligations, the same facilities as regards exchange restrictions and the same treatment in respect of traveling facilities as are accorded by Contracting States to the representatives, officials and employees of comparable rank of other Contracting States.²⁵
 - (d) Suspension of Azerbaijan's right to continue to participate in these proceedings on any issue other than briefing its compliance with the PMO, including striking Azerbaijan's Counter-Memorial, suspending Azerbaijan's right to participate in the document production phase of these proceedings (other than to respond to the Claimants' document requests), and suspending Azerbaijan's right to file a Rejoinder submission or participate in the hearing on the merits, unless and until it allows Mr. Muduroglu to depart Azerbaijan in accordance with the PMO.²⁶
 - (e) An order permitting the Claimants to unilaterally publish their pleadings in this proceeding, including their pleadings concerning provisional measures, given the continued risk to Mr. Muduroglu's safety and the potential necessity to transmit pleadings to diplomatic officials and/or news outlets as another potential avenue to securing Mr. Muduroglu's release or ensuring his safety pending his release.²⁷
29. The Claimants argue that the ICSID Convention grants the Tribunal broad latitude to set penalties for non-compliance with its directives through Article 44, which provides that "[i]f any question of procedure arises which is not covered by this Section or the Arbitration Rules or any rules agreed by the parties, the Tribunal shall decide the question," and the Tribunal is thus empowered to order procedural or other relief it deems

²⁴ Request for Sanctions, para. 47.

²⁵ Request for Sanctions, para. 47.

²⁶ Request for Sanctions, para. 47.

²⁷ Request for Sanctions, para. 47.

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appropriate to sanction Azerbaijan's refusal to comply with its orders.²⁸ The Claimants argue that the decision by the drafters of the Convention not to adopt draft Article 50(2) does not evidence that the Tribunal lacks the power to order sanctions against a recalcitrant party, but on the contrary, it evidences the choice of the Contracting Parties to grant tribunals broad discretion in fashioning such relief, and the legislative history of Article 47 contains repeated references to the tribunals' power to award damages to the aggrieved party where the other party had not complied with provisional measures.²⁹

30. The Claimants argue that the proposed financial sanctions are not punitive, but are rather intended to (i) compensate for the procedural harm to the Claimants caused by the Respondent's defiance of the PMO, and (ii) compel the Respondent to comply with those obligations.³⁰ The Claimants argue that the purpose of the compounding financial sanction is to compensate the Claimants for the continuing harm to their procedural and due process rights created by the Respondent's conduct and for the moral injury the Claimants have suffered on account of Azerbaijan's harassment. Under international law, the breach of a provisional measures order constitutes a standalone internationally wrongful act breaching the underlying instrument, and Article 31 of the Articles on State Responsibility obliges a State to compensate for any damage, whether material or moral, caused by the internationally wrongful act of that State.³¹
31. The Claimants also contend that it is disingenuous for the Respondent to claim that the Claimants' request violates the fundamental rule of the equal treatment of the parties, as it is the Respondent's conduct that has destabilized the equality of arms through its refusal to allow the Claimants' key witness to leave the country based on absurd and fabricated grounds, and their requested sanctions are intended to level the procedural playing field until the Respondent either complies with its international law obligations and releases Mr. Muduroglu, or chooses to forfeit its right to defend these proceedings.³² The Claimants clarify that their request is not that the Respondent's participation in this arbitration must be permanently and irrevocably suspended, but that the Respondent's rights be provisionally suspended "unless and until" it allows Mr. Muduroglu to depart Azerbaijan. Azerbaijan would have the power to relieve itself of this sanction by complying with the PMO, which aligns with the approach of the *Kazmin* and *RSM* tribunals.³³

²⁸ Request for Sanctions, paras. 40-41.

²⁹ Claimants' September 17 Letter, para. 27.

³⁰ Claimants' September 17 Letter, para. 28.

³¹ Claimants' September 17 Letter, paras. 31-33.

³² Claimants' September 17 Letter, paras. 39-40.

³³ Claimants' September 17 Letter, paras. 41-42.

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2. The Respondent's Position

32. The Respondent requests that the Tribunal decline to grant the extraordinary measures sought by the Claimants, which are neither justified nor proportionate.³⁴
33. The Respondent argues that the ICSID Convention does not provide for the enforcement of provisional measures by a tribunal having recommended the measures, and though arbitral practice recognizes that a tribunal may consider a party's non-compliance with provisional measures in rendering its award, such as by allocation of costs or the drawing of adverse inferences, the financial and procedural sanctions sought by the Claimants fall far outside the accepted scope of powers an ICSID tribunal may exercise. The Contracting States, in drafting the ICSID Convention, expressly rejected a proposal that would have empowered tribunals to impose penalties on a party that fails to comply with an order for provisional measures.³⁵
34. The Respondent argues that to the extent that a monetary reparation flows from a party's non-compliance with provisional measures, it must compensate for damages actually suffered by the other party and not amount to a penalty, which aligns with customary international law, pursuant to which "the award of punitive damages is not recognized (...) even in relation to serious breaches of obligations arising under peremptory norms," such that any monetary payment by a defaulting party must be "essentially compensatory."³⁶
35. The Respondent argues that the daily monetary penalty that the Claimants seek is not tied to the value of their purported investment, nor to any notion of moral damages, and this lack of connection to material, pecuniary, or moral heads of damage brings the Claimants' request outside of the permissible scope of reparations permissible under international law, and in essence, the daily monetary penalty would amount to punitive damages. Indeed, the Claimants themselves label this sanction a "penalty" and make no attempt to connect it to a measure of compensation for material, pecuniary, or moral damages.³⁷ The Respondent argues that the Claimants' requested daily monetary penalty is nothing short of punitive damages in the guise of an administrative penalty. The "award of punitive damages is not recognized in international law even in relation to serious breaches of

³⁴ Respondent's letter to the Tribunal dated September 12, 2025 ("**Respondent's September 12 Letter**," also referred to as "Request for Reconsideration"), para. 64.

³⁵ Respondent's September 12 Letter, paras. 36-37.

³⁶ Respondent's September 12 Letter, para. 38.

³⁷ Respondent's September 12 Letter, para. 40.

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obligations arising under peremptory norms,” and it is axiomatic that Mr. Muduroglu's inability to leave Azerbaijan falls far short of a violation of *jus cogens*.³⁸

36. The Respondent next argues that the costs sought by the Claimants (USD 1,371,161 and counting) are disproportionate and are unsupported by any evidence whatsoever, and though it is open to the Tribunal to allocate costs relating to the preliminary measures proceedings ahead of incorporating such an order in a final award, it should not do so in this case, as the Tribunal should consider the costs of this phase of the proceeding in its final award, not least because it remains to determine the Respondent's objections to jurisdiction and admissibility, and the serious matters of bribery, corruption and other illegality they entail.³⁹ The Respondent argues that it has ample valid reasons for maintaining its position with respect to the criminal travel ban, as the exercise of criminal jurisdiction arises from Azerbaijan's sovereignty, and no decision of the Tribunal has brought this into question. The Tribunal has not purported to pronounce on the legality of the criminal travel ban under domestic law, or on Azerbaijan's justifications for maintaining it, and consequently, the Tribunal has not decided that the Respondent's conduct is without justification in a manner that would justify allocating the costs of the provisional order proceedings ahead of issuing a final award.⁴⁰
37. The Respondent contends that the request to suspend Azerbaijan's right to continue to participate in these proceedings is unprecedented and would amount to a grave violation of the Respondent's procedural right to equality of treatment protected pursuant to ICSID Arbitration Rule 3(2), which provides that “[t]he Tribunal shall treat the parties equally and provide each party with a reasonable opportunity to present its case.” A failure to treat the parties equally is also a basis for the annulment of an award pursuant to Article 52(1)(d) of the ICSID Convention, and striking out the Respondent's Counter-Memorial and precluding it from participating further in the proceedings would constitute “a serious departure from a fundamental rule of procedure” prohibited by the ICSID Convention.⁴¹ The Respondent argues that neither the ICSID Convention nor the ICSID Arbitration Rules permit the Tribunal to render an award without hearing from a party that is willing to participate in the proceedings, as Article 45(2) of the ICSID Convention provides that before rendering an award, the Tribunal shall notify, and grant a period of grace to, the party failing to appear or to present its case, unless it is satisfied that the party does not

³⁸ Respondent's September 12 Letter, para. 41.

³⁹ Respondent's September 12 Letter, para. 44.

⁴⁰ Respondent's September 12 Letter, para. 46.

⁴¹ Respondent's September 12 Letter, para. 47.

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intend to do so, and here it is evident that Azerbaijan has not failed to participate in these proceedings and intends to participate in the remainder of the proceedings.⁴²

38. The Respondent argues that there is no parallel to be drawn between the proposed exclusion of the Respondent from these proceedings and previous arbitral decisions where tribunals have suspended or discontinued proceedings upon a claimant's failure to pay security for costs, as the circumstances are not analogous, and crucially, in both cases relied upon by the Claimants, the discontinuation or suspension of proceedings was effected so as to avoid prejudicing the parties' rights.⁴³
39. The Respondent argues that the Tribunal should decline to convene an in-person case management conference at which Mr. Muduroglu would be called to testify, as Mr. Muduroglu is not "detained," and neither the ICSID Arbitration Rules nor Procedural Order No. 1 foresees the capacity of a person to testify as a witness without first providing a written statement in these proceedings, and the Claimants have not filed a witness statement from Mr. Muduroglu going to the issues they now purport must be the topic of a case management conference. The Claimants' request thus attempts to circumvent the requirement to file a written witness statement.⁴⁴
40. The Respondent further argues that convening an in-person case management conference outside of Azerbaijan would, in essence, pre-judge the very question on which the Tribunal has invited the parties' briefing, as if Mr. Muduroglu is permitted to testify at an in-person case management conference outside of Azerbaijan, he is unlikely to return, which would lead to the suspension of the criminal investigation against him by operation of Azerbaijani law; and in the alternative, if the Tribunal is still minded to convene an in-person case management conference, it should be held in Baku at a neutral location.⁴⁵

⁴² Respondent's September 12 Letter, paras. 50-51.

⁴³ Respondent's September 12 Letter, paras. 52-54.

⁴⁴ Respondent's September 12 Letter, paras. 55-58.

⁴⁵ Respondent's September 12 Letter, paras. 60-61.

III. THE TRIBUNAL'S ANALYSIS

A. THE SCOPE OF THE PMO

41. In its submissions regarding non-compliance with the PMO, as well as in its Counter-Memorial, the Respondent appeared to question whether the PMO extends to the Criminal Tax Investigation Travel Ban.⁴⁶
42. The Respondent's position is unfounded. In the PMO, the Tribunal addressed all five travel bans that had been imposed on Mr. Muduroglu at that time, including the travel ban related to the criminal investigation concerning alleged irregular related party transactions and tax evasion (i.e., the "**Criminal Tax Investigation**").⁴⁷
43. In the operative part of the PMO, the Tribunal ordered the Respondent to "immediately take all actions necessary to lift the restrictions on Eran Muduroglu's right to leave Azerbaijan and facilitate Eran Muduroglu's departure from the country."⁴⁸ This order, as the Claimants correctly observe, included no caveats and did not require Azerbaijan to lift only some of the travel bans. It was clear and unequivocal that all restrictions on Mr. Muduroglu's right to leave Azerbaijan—including the Criminal Tax Investigation Travel Ban—were to be lifted and his departure from the country facilitated.
44. If any doubt existed—which in view of the clear and unequivocal language of the PMO is hardly credible—the Respondent should have promptly requested clarification. Instead, more than six weeks after the issuance of the PMO, the Respondent informed the Tribunal that it would not comply with the order to lift the Criminal Tax Investigation Travel Ban. Nearly one month after that announcement, the Respondent requested reconsideration of the PMO with respect to the Criminal Tax Investigation Travel Ban.
45. Having confirmed that the PMO extends to the Criminal Tax Investigation Travel Ban, the Tribunal now turns to the Respondent's request for reconsideration.

⁴⁶ Respondent's Letter to the Tribunal dated August 17, 2025, para 13; Request for Reconsideration, para. 13; Respondent's Counter-Memorial and Objections to Jurisdiction and Admissibility dated August 18, 2025, para. 933.

⁴⁷ See Decision on the Claimants' Second Renewed Request for Provisional Measures dated July 2, 2025, paras. 55-60.

⁴⁸ Decision on the Claimants' Second Renewed Request for Provisional Measures dated July 2, 2025, para. 64(a).

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B. THE RESPONDENT'S REQUEST FOR RECONSIDERATION

46. In its submission of September 12, 2025, the Respondent requested that the Tribunal reconsider and modify the PMO with respect to the Criminal Tax Investigation Travel Ban.
47. The Respondent relies on two principal arguments in support of its Request for Reconsideration: first, that the PMO did not address the legal result under Azerbaijani law that lifting the travel ban would prevent Azerbaijan from continuing its criminal investigation and, if warranted, pursuing prosecution and imposing sanctions, thereby infringing upon Azerbaijan's proper exercise of its sovereign criminal jurisdiction;⁴⁹ and second, that the undertakings provided by Mr. Eynullayev alter the circumstances that led to the issuance of the PMO.⁵⁰
48. The Tribunal is not persuaded that either point justifies revisiting the PMO.
49. Reconsideration or modification of a provisional measures order requires a material change in circumstances that undermines the fundamental basis upon which the original order was granted. This standard has been applied by other ICSID tribunals when examining requests for reconsideration of provisional measures orders. For instance, the *Nova Group v. Romania* tribunal held that modification of its provisional measures order required a showing that "circumstances have changed (...) to such a degree as to demonstrate compelling new circumstances that would undermine the fundamental basis of [the provisional measures order]."⁵¹ Similarly, the tribunal in *First Majestic Silver Corp. v. United Mexican States* concluded that a modification or rescission of a provisional measures order "requires a material change in the circumstances that justified the granting of the measure in the first place."⁵²
50. These tribunals have further emphasized that a request for reconsideration of a provisional measures order is not an opportunity to re-litigate the tribunal's decision, especially on the basis of facts or legal arguments that were or could have been presented earlier.⁵³

⁴⁹ Request for Reconsideration, para. 5.

⁵⁰ Request for Reconsideration, para. 10.

⁵¹ CL-0306, *Nova Group Investments, B.V. v. Romania*, ICSID Case No. ARB/16/19, Procedural Order No. 8 – Decision on Respondent's Request for Reconsideration of Procedural Order No. 7, April 18, 2017, paras. 31-32.

⁵² CL-0305, *First Majestic Silver Corp. v. United Mexican States*, ICSID Case No. ARB/21/14, Decision on Respondent's Request for Revocation of Provisional Measures, September 1, 2023, para. 36

⁵³ CL-0306, *Nova Group Investments, B.V. v. Romania*, ICSID Case No. ARB/16/19, Procedural Order No. 8 – Decision on Respondent's Request for Reconsideration of Procedural Order No. 7, April 18, 2017, para. 32.

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51. In the present case, the Respondent has not invoked any material change in the circumstances that led the Tribunal to issue the PMO. Rather, the Respondent contends that the PMO failed to address the alleged legal consequences under Azerbaijani law of allowing Mr. Muduroglu to leave the country,⁵⁴ and that the Tribunal's finding that lifting the travel bans would not preclude the State from continuing its investigations or imposing administrative or criminal sanctions is incorrect as a matter of Azerbaijani law.⁵⁵
52. This argument merits several clarifications. First, the PMO did not fail to consider or address any relevant point of fact or law raised by the Parties in their pleadings prior to its issuance. The Respondent did not raise the issue of the alleged legal consequences of Mr. Muduroglu's potential departure from Azerbaijan on the Prosecutor's Office's ability to investigate and prosecute him in its submissions on provisional measures. The Tribunal addressed the arguments as they were presented at the time.
53. Second, the PMO expressly found that "[l]ifting the travel bans would not preclude the State from continuing its investigations or imposing sanctions where appropriate."⁵⁶ Nothing in the arguments now advanced by the Respondent demonstrates that this analysis was incorrect. It remains undisputed that the imposition of travel bans is not mandatory under Azerbaijani law, even in cases involving criminal proceedings. The Respondent has not shown that the legal framework or factual circumstances have materially changed since the PMO was issued.
54. Third, the Respondent's argument rests on the hypothetical scenario that Mr. Muduroglu would leave Azerbaijan, fail to return, and refuse to cooperate with the investigation. This scenario is not only speculative, but the Tribunal is also not persuaded that Mr. Muduroglu's departure from Azerbaijan would inevitably lead to the indefinite suspension of the criminal investigations against him.
55. In the Tribunal's view, the plain text of Article 53-1.4 of the CPC does not support the Respondent's contention that it must suspend the criminal proceedings if Mr. Muduroglu departs Azerbaijan. Article 53-1.4 provides that criminal proceedings "*may* be suspended [...] If the participation of the accused in the process is temporarily impossible [...] due to his being outside the borders of the Republic of Azerbaijan."⁵⁷ The Tribunal agrees with the Claimants that suspension is not automatic—indeed, the word "*may*" implies discretion—and is warranted only when participation is impossible. The Respondent's

⁵⁴ Request for Reconsideration, para. 5.

⁵⁵ Respondent's letter to the Tribunal dated August 17, 2025, para. 15.

⁵⁶ Decision on the Claimants' Second Renewed Request for Provisional Measures dated July 2, 2025, para. 61.

⁵⁷ Exhibit C-0693-ENG, Excerpts of the Azerbaijani Code of Criminal Procedure, Art. 53-1.4 (emphasis added).

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experts' analysis does not suggest otherwise.⁵⁸ Accordingly, the Respondent has not demonstrated that Mr. Muduroglu's departure would compel the suspension of the criminal investigations.

56. As to the undertakings offered by the Respondent, the Tribunal finds that they lack the specificity necessary to provide meaningful assurance that the circumstances which led to the issuance of the PMO have materially changed. The undertakings do not, in the Tribunal's view, alter the analysis set forth in the PMO.
57. For these reasons, the Tribunal denies the Respondent's Request for Reconsideration.

C. THE CLAIMANTS' REQUEST FOR SANCTIONS

58. The preceding sections establish that the PMO encompasses the Criminal Tax Investigation Travel Ban and that the Respondent has not demonstrated any material change in circumstances that would justify modification or revocation of the PMO.
59. While the Respondent has announced that it will lift the restrictions related to the Neptun tax assessment and the alleged failure to hold Libra shareholders' meetings, it is undisputed that the Respondent has failed to comply with the PMO insofar as it has not lifted the Criminal Tax Investigation Travel Ban imposed on Mr. Muduroglu, and Mr. Muduroglu in fact remains in Azerbaijan and is prevented from departing.
60. Although Article 47 of the ICSID Convention and Rule 47(1) of the ICSID Arbitration Rules use the word "recommend," it is well settled that provisional measures issued by ICSID tribunals are legally binding and must be complied with by the parties.⁵⁹
61. In view of the Respondent's non-compliance with the PMO, the Claimants have requested that the Tribunal impose certain consequences. The Tribunal addresses each request in turn below.

⁵⁸ See Expert Report of Firuza Abbasova dated September 12, 2025, para. 24-27; Expert Report of Arif Ayyubov dated September 12, 2025, paras. 28-32.

⁵⁹ Exhibit CL-0058, *WOC Photovoltaik Portfolio GmbH & Co. KG and others v. Kingdom of Spain*, ICSID Case No. ARB/22/12, Decision on Claimant's Application for Provisional Measures dated May 3, 2023, para. 73.

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1. Daily Monetary Penalties and Suspension of Respondent's Participation

62. The Claimants request that the Tribunal impose daily monetary penalties on the Respondent until it complies with the PMO, and that it temporarily suspend the Respondent's participation in the arbitration until compliance is achieved.
63. The Tribunal doubts that it has the authority under the ICSID Convention and the ICSID Rules to impose such measures. Even if it had such authority, the Tribunal considers that these sanctions would be disproportionate to the circumstances. Particularly, the suspension of the Respondent's participation in the arbitration would raise serious due process concerns and would be inconsistent with the fundamental principles of fairness that govern these proceedings.
64. Accordingly, the Tribunal denies these requests.

2. Case Management Conference

65. The Claimants request that the Tribunal convene an in-person case management conference outside of Azerbaijan and call Mr. Muduroglu as a Tribunal witness to testify on the adverse impact that his detention has had and continues to have on the Claimants' ability to prosecute this case, particularly in terms of his access to counsel and the chilling effect of his inability to leave Azerbaijan.
66. The Tribunal does not see a need for such a conference at this stage and in the present circumstances. The matters currently before the Tribunal concern the scope and enforcement of the PMO, which can be adequately resolved on the basis of the record as it stands. Further, aided by the clarifications provided by the present Decision, it is to be expected that compliance by the Respondent will be forthcoming.
67. Accordingly, the Tribunal denies this request.

3. Interim Order on Costs

68. The Claimants request an interim order on costs in their favor in relation to the provisional measures proceedings.

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69. While the Respondent submits that the Tribunal should not allocate costs relating to the provisional measures proceedings ahead of incorporating such an order in a final award, it does not contest the Tribunal's power to do so.⁶⁰
70. The Tribunal finds that this request has merit. The Respondent has failed to demonstrate any compelling justification for its non-compliance with the PMO. In the circumstances, it is appropriate to award costs for this phase of the proceedings at this stage.
71. Accordingly, the Tribunal invites the Claimants to submit a statement of costs, limited to a breakdown of legal and other costs incurred in connection with the provisional measures proceedings, certified by counsel, within 7 days of this Decision. The Respondent shall have 7 days following receipt of the Claimants' statement of costs to submit any comments thereon. Following receipt of the Respondent's comments, or the expiry of the time period for such comments, the Tribunal will issue an interim decision on costs.

4. Publication of Pleadings

72. The Claimants request authorization to unilaterally publish their pleadings in this arbitration, asserting that it may be necessary to transmit them to diplomatic officials and/or news outlets as a potential avenue to securing Mr. Muduroglu's release or ensuring his safety.⁶¹
73. This request would require the Tribunal to depart from Procedural Order No. 2 ("**PO2**"), which provides that the ICSID Secretariat shall not publish written submissions and/or supporting documents "unless both Parties agree otherwise no later than 30 days after the filing of the relevant submission." Publication of only the Claimants' submissions would not reflect the full record before the Tribunal. Any such publication would necessarily have to include both Parties' submissions in order to provide a complete representation of the proceedings.
74. In any event, the Tribunal does not consider it appropriate to depart from PO2 at this time. As the Respondent correctly notes, PO2 mandates the confidentiality of the documents comprising the Parties' written submissions. However, nothing in PO2 or ICSID Arbitration Rule 66 prevents Mr. Muduroglu from discussing his situation with consular or diplomatic officials, provided that he does not share confidential documents or disclose information in a manner that would aggravate the dispute.

⁶⁰ Respondent's September 12 Letter, para. 42.

⁶¹ Request for Sanctions, para. 47.

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75. Accordingly, the Tribunal denies this request.

IV. THE TRIBUNAL'S DECISION

76. For the reasons set out above:

- (a) The Tribunal confirms that the PMO includes the Criminal Tax Investigation Travel Ban;
- (b) The Respondent's Request for Reconsideration is denied;
- (c) The Claimants' requests for daily monetary penalties, suspension of the Respondent's participation in the arbitration, a case management conference, and unilateral publication of pleadings are denied;
- (d) The Claimants are invited to submit a statement of costs in accordance with paragraph 71 above by November 6, 2025, and the Respondent is invited to submit any comments thereon within 7 days following receipt of the Claimants' statement of costs.

For and on behalf of the Tribunal,

[signed]

Professor Eduardo Zuleta
President of the Tribunal
October 30, 2025