

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

EuroGas Inc. and Belmont Resources Inc.

v.

Slovak Republic

(ICSID Case No. ARB/14/14)

PROCEDURAL ORDER NO. 8

Members of the Tribunal

Professor Pierre Mayer, President of the Tribunal
Professor Emmanuel Gaillard, Arbitrator
Professor Brigitte Stern, Arbitrator

Secretary of the Tribunal

Ms. Lindsay Gastrell

Assistant to the Tribunal

Ms. Céline Lachmann

23 September 2016

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A. INTRODUCTION

1. The hearing on jurisdiction and merits took place in Paris from 12 to 16 September 2016 (the “Hearing”).
2. At the end of the Hearing, the Tribunal requested the Parties to produce certain documents and consulted them as to the next steps for these proceedings.
3. In this Procedural Order No. 8 (“PO8”), the Tribunal restates the directions given at the Hearing.

B. ORDER FOR THE PRODUCTION OF DOCUMENTS EVIDENCING THE DATE OF VSK’S FIRST “DOBÝVANIE”

4. During the Hearing, on 16 September 2016, the Tribunal questioned Respondent as to the date when the mine’s new operator VSK actually start “*dobývanie*”.¹
5. Counsel for Respondent responded that VSK started “*dobývanie*” on 9 April 2010 and that this was recorded in a formal letter from the directors of VSK to the District Mining Office as well as in the minutes of the District Mining Office’s inspection of the site on 14 April 2010.²
6. The Tribunal confirms its directions to Respondent regarding the production of the letter dated 9 April 2010 and the minutes of the inspection on 14 April 2010, as well as any subsequent document regarding the date of VSK’s first “*dobývanie*” at the site.³
7. The Tribunal requests Respondent to produce these documents **by 7 October 2016**.

C. ORDER FOR THE PRODUCTION OF DOCUMENTS REGARDING CLAIMANTS’ AGREEMENT AS TO THE ALLOCATION BETWEEN THEM OF ANY “PROCEEDS” FROM THESE ARBITRAL PROCEEDINGS

8. During the Hearing, the Tribunal requested Claimants to provide explanations regarding Exhibit R-0158 (Belmont’s news release dated 20 November 2013) whereby Belmont indicated that it had “*agreed to provide a Power of Attorney to a law firm located in Paris, France which is acting on behalf of both Belmont and EuroGas Inc. in filing an action for*

¹ Hearing Transcript, Day 5, Page 255, Line 8 to Page 256, Line 19.

² Hearing Transcript, Day 5, Page 256, Line 20; Page 259, Lines 23-24; Page 267, Lines 13-17.

³ Hearing Transcript, Day 5, Page 267, Lines 18-19 - GAILLARD : “*We would like these two documents, plus any other subsequent document related to the same topic.*”

damages against the Slovak Federal [...] before an International Arbitration Court within the scope of the investor protection program provided by a Bilateral Investment Treaty (BIT) between the United States of America and the Czech and Slovak Federal Republic [...]” and that “the agreement with EuroGas Inc. also stipulates that Belmont will not be responsible for any expenses, legal fees, or disbursements with respect to the lawsuit, and that [Belmont] would be entitled to receive from EuroGas 3.5% of any award or settlement from the lawsuit subject only to legal fees and financing charges incurred by EuroGas in the Arbitration.”

9. Counsel for Belmont explained that the underlying agreement with EuroGas mentioned in Exhibit R-0158 had already been provided to Respondent during the document production phase of these proceedings. He added that the agreement in question may have been amended or superseded by other arrangements.⁴ Counsel for Belmont also stated that the agreement with the funder would need to be redacted.⁵
10. The Tribunal confirms its directions to Claimants regarding the production of the underlying agreement mentioned in Exhibit R-0158 as well as any subsequent amendments to that agreement or other arrangements relevant to the allocation between Claimants of any damages that may be awarded to them by the Tribunal, if necessary with appropriate redactions.⁶
11. The Tribunal requests Claimants to produce these documents **by 7 October 2016**.

D. POST-HEARING BRIEFS

12. In accordance with the Parties’ agreement communicated orally to the Tribunal at the Hearing, the Parties shall not file any post-hearing briefs.⁷

⁴ Hearing Transcript, Day 5, Page 265, Lines 12-17: “GHARAVI: ... *With the understanding that there may be other documents now, and that agreement no longer stands, because there is a subsequent agreement of third-party financing with respect to Belmont and La Française and EuroGas where there is no such allocation of any shares; each party keeps the 57%.*”

⁵ Hearing Transcript, Day 5, Page 268, Lines 16-23 : “GHARAVI: ... *The other agreement is subsequent, dates from March 2014. It's a little bit more complicated. I don't know if there is a third one. But the second one is with third-party funding, so that contains some privileged information in terms of strategy, amount reserved for this, amount of a prospective settlement. So we would submit it to you with the paragraphs redacted.*”

⁶ Hearing Transcript, Day 5, Page 267, Lines 23-25 to Page 268, Lines 1-3.

⁷ Hearing Transcript, Day 5, Page 269, Lines 10-12 - ANWAY : “*Dr Gharavi will correct me if I misstate anything. But the parties have agreed not to submit post-hearing briefs, unless of course the Tribunal requests them.*”

E. COSTS SUBMISSIONS

13. At the end of the Hearing, on 16 September 2016, the Parties indicated that they had agreed to submit their costs submissions “*within 30 days*”, providing only “*the lump sum amount*”.⁸
14. The Tribunal requests the Parties to submit their respective costs submissions simultaneously **on 21 October 2016 by 6:00pm (Paris time)**.
15. Upon authorisation from the Tribunal and in accordance with any future directions, the Parties may submit comments on the other Parties’ costs submissions.

F. CORRECTIONS TO THE HEARING TRANSCRIPT

16. The Tribunal requests the Parties to submit any corrections they may have to the Hearing transcript **by 21 October 2016**.

G. ONLINE PUBLICATION OF THE HEARING VIDEO RECORDING

17. At the end of the Hearing, the Parties were asked whether they would like any part of the Hearing videotape to be redacted before it is made available on the ICSID’s website.
18. The Parties confirmed that they did not require redaction based on the need to protect confidential information.⁹
19. However, per their request, the edited version of the videotape (i.e.: removing breaks, etc.) shall be made available to the Parties before online publication.

For the Tribunal,

[signed]

Professor Pierre Mayer
President of the Tribunal

⁸ Hearing Transcript, Day 5, Page 269, Lines 12-18 - ANWAY : “*We have agreed to submit our costs within 30 days, and corrections to the transcript within 30 days. With respect to the form of costs, each party will simply provide the lump-sum amount. If there are further questions about that amount, the other side can of course raise it at that time.* »

⁹ Hearing Transcript, Day 5, Page 269, Lines 19-24 - ANWAY : “*With respect to the videotape -- for which we thank you, Lindsay, in particular, and also our cameraman -- we both agree we don't have any confidential information that will need redaction.*”