

**IN THE MATTER OF AN ARBITRATION PROCEEDING UNDER ARTICLE 8(2)(A) OF THE
AGREEMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND
THE GOVERNMENT OF THE CZECH AND SLOVAK FEDERAL REPUBLIC FOR THE PROMOTION
AND PROTECTION OF INVESTMENTS AND THE UNCITRAL ARBITRATION RULES (1976)**

A11Y LTD.

v.

CZECH REPUBLIC

(ICSID Case No. UNCT/15/1)

PROCEDURAL ORDER NO. 6 – Organization of the Hearing on Jurisdiction

Tribunal

Yves Fortier, PC, CC, OQ, QC, Presiding Arbitrator
Stanimir Alexandrov, Arbitrator
Anna Joubin-Bret, Arbitrator

Secretary to the Tribunal

Jara Mínguez Almeida

Assistant to the Tribunal

Annie Lespérance

8 September 2016

I. PROCEDURAL HISTORY

1. Pursuant to Section 17.6 of Procedural Order No. 1, a pre-hearing organizational call between the Parties and the President of the Tribunal was held by telephone conference on 7 September 2016, in preparation for the Hearing on Jurisdiction (the “Hearing”) in this case.

2. Participating in the telephone conference were:

Members of the Tribunal:

Mr. Yves Fortier, PC, CC, OQ, QC, President of the Tribunal

ICSID Secretariat:

Ms. Jara Mínguez Almeida, Secretary of the Tribunal

Assistant to the Tribunal:

Ms. Annie Lespérance, Assistant to the Tribunal

On behalf of Claimant:

Mr. Hussein Haeri, Withers LLP

Miss. Ruzin Dagli, Withers LLP

Mr. Lucas Bastin, Quadrant Chambers

On behalf of Respondent:

Mr. Alfred Siwy, zeiler.partners

Ms. Anna Bilanová, Czech Ministry of Finance

Mr. Tomáš Munzar, Czech Ministry of Finance

3. The President of the Tribunal and the Parties considered: (i) the draft Agenda circulated by the Secretary of the Tribunal on 25 August 2016, and (ii) the Parties’ observations on the items in the draft Agenda submitted by the Claimant on behalf of both Parties on 31 August 2016.

4. An audio recording of the telephone conference was made and deposited in the archives of ICSID. The recording was subsequently made available to the Members of the Tribunal and the Parties on 7 September 2016.

5. Following the session, the Tribunal now issues the present order.

II. ORGANIZATION OF THE HEARING

6. The Tribunal has taken note of the areas of agreement between the Parties, and of the Parties’ respective positions in the areas of disagreement, included both in their comments on the draft Agenda for the pre-hearing organizational call and discussed during the call.

7. Having considered the Parties' positions, the Tribunal issues this Procedural Order setting out the Procedural Rules that the Parties have agreed upon and/or the Tribunal has determined will govern the conduct of the Hearing.

A. Date and Venue

8. The Hearing will take place on 28 and 29 September 2016.
9. The Hearing will take place at the ICC facilities in Paris, France, located at 112 Avenue Kléber, 75016 Paris, as previously informed in ICSID's communication of 22 August 2016.

B. Daily Schedule

10. On the first day, the Hearing will commence at 2:00 p.m. and it will conclude at 6:00 p.m. (approximately). On the second day, the Hearing will commence at 9:30 a.m. and it will conclude at 5:00 p.m. (approximately).

C. Order of Proceedings

11. Having listened to the Parties' positions, the Tribunal has determined that the general structure of the Hearing shall be as follows:

Day 1: Wednesday, 28 September 2016, beginning at 2 pm

TIME	PROCEDURAL STEP
120 minutes	Respondent's Opening
	Short Break
120 minutes	Claimant's Opening

Day 2: Thursday, 29 September 2016, beginning at 9:30 am

TIME	PROCEDURAL STEP
90 minutes	Cross-Examination of Mr. Buchal and Any Redirect Examination <i>(cross-examination bundle to be handed to Mr Buchal on the morning of the first day of the hearing)</i>
	Extended Break to Prepare for Closing Arguments and Lunch
60 minutes	Respondent's Closing
	Break (30 minutes)
60 minutes	Claimant's Closing

D. Time Allocation

12. The principle of equal time as between the Parties shall be observed in the conduct of the hearing. The Secretary of the Tribunal shall act as the timekeeper and use a chess clock approach.
13. The Tribunal may take time for its own questions during the Parties' presentations or during witness examination. In this event, the time available for the Parties will be correspondingly reduced.

E. Documents for Use at the Hearing

14. At the commencement of the Hearing on Wednesday, the Parties shall provide to each Member of the Tribunal, as well as the Tribunal's Assistant, the Tribunal's Secretary and the court reporter with:
 - i. a core bundle of contemporaneous documents (or extracts) in chronological order, cross-referenced to where these documents are exhibited in the arbitration file; and,
 - ii. Unified USB sticks (PC and Mac compatible) of all pleadings, witness statements, expert reports, exhibits, legal authorities, and orders in the arbitration file, with a unified hyper-linked index.
15. At the commencement of the Hearing on Wednesday, the Respondent shall provide to each Member of the Tribunal, as well as the Claimant, the Tribunal's Assistant, the Tribunal's Secretary and the court reporter, with an Examination Bundle for Mr. Buchal.
16. The provisions of Procedural Order No. 1, Section 15.7 concerning Demonstrative Exhibits remain applicable.
17. In addition, promptly after the conclusion of the Hearing day in which the corresponding Demonstrative Exhibit is used, the Parties shall upload the Demonstrative Exhibit to the case folder in the electronic file sharing system ("BOX"), assigning it a consecutive exhibit number.

F. Witnesses and Experts Examination

18. As a general principle, the procedure for hearing oral witnesses at the Hearing will be as follows:
 - i. The scope of the re-examination will be limited to matters that have arisen in the cross-examination.
 - ii. The Tribunal will have the right to examine the witness at any time and to interject questions during the examinations by counsel for the Parties. Nonetheless, the Tribunal will endeavour to save its principal questions to a time following that witness's re-examination; and in that event, the Tribunal would seek to ensure that

each Party shall have an opportunity to examine a witness on matters arising from questions by the Tribunal.

- iii. The Tribunal shall have at all times complete control over the procedure in relation to any witness giving oral evidence, including the right to recall a witness and the right to limit or deny, on its own motion or at the request of a Party, the right of a Party to conduct any examination-in-chief, cross-examination or re-examination if it appears to the Tribunal that such examination or evidence is unlikely to serve any relevant purpose.

G. Interpretation

19. The provision of Procedural Order No. 1, Section 11.3 applies.
20. The World Bank's Interpretation Division will search for a qualified interpreter and provide the candidate's *curriculum vitae* to the Parties.

H. Audio Recording and Hearing Transcripts

21. The provision of Procedural Order No. 1, Section 18.1 on audio recording applies.
22. The provisions of Procedural Order No. 1, Section 18.2 and 18.3 on transcripts apply.

I. Post-Hearing Briefs

23. The question of the Post-Hearing Briefs will be considered at the conclusion of the Hearing.

J. Statement on Costs

24. As agreed by the Parties, they shall file Statements on Costs of not more than four pages each (including any costs schedules) by **6:00 p.m. (Paris time) on Friday, 21 October 2016**. The Parties have agreed on the following configuration for the Statements on Costs:

- Font: Arial 10;
- Line spacing: 1,5;
- Consecutively numbered paragraphs;
- 1 cover page (not included in the 4 page limit);
- Numbered footnotes; and
- Margins - top: 1,5cm, bottom: 1.17cm, left: 2.2cm, right: 2cm.

K. Closed Hearing

25. The provision of Procedural Order No. 1, Section 17.5 applies.

L. Logistical Items

26. The logistical details (e.g., confirmation of room number assignments, list of Hearing participants, set up details, details on court reporting and interpretation services, internet access, audio-visual equipment and catering orders) will be handled through correspondence directly by the ICSID Hearing Organization Team.
27. The set up for the Hearing is currently scheduled for **Tuesday, 27 September 2016 between 2:00 p.m. and 5:00 p.m.**

III. SKELETON ARGUMENTS

28. The parties shall file skeleton arguments (maximum 20 pages in length) by **c.o.b. 20 September 2016**. The Parties have agreed that the skeleton arguments shall have the following configurations:
- Font: Arial 10;
 - Line spacing: 1,5;
 - Consecutively numbered paragraphs;
 - 1 cover page (not included in the 20 page limit);
 - Numbered footnotes; and
 - Margins - top: 1,5cm, bottom: 1.17cm, left: 2.2cm, right: 2cm.

Paris, this 8th day of September 2016

Signed on behalf of the Arbitral Tribunal

[signed]

L. Yves Fortier, PC, CC, OQ, QC
President