

International Centre for Settlement of Investment Disputes

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May 31, 2010

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and
c/o Messrs. Zoltán Faludi and
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c/o Mr. Janos Katona
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Re: Electrabel S.A. v. Republic of Hungary (ICSID Case No. ARB/07/19)

Dear Mesdames and Sirs,

The President asked me to convey the following Procedural Order to the Parties:

The Tribunal has considered the Respondent's application by letter dated 24 May 2010 and the response from the Claimant by letter dated 28 May 2010. These letters raise two distinct issues, each decided by the Tribunal as follows:

First, the Tribunal notes that the new documentation introduced by the Claimant's post-hearing written submissions is considered relevant by both Parties and that both Parties are now agreed that the same can enter the evidential file: namely the decision of the European Commission dated 27 April 2010 and the 2009 Report on Polish Stranded Costs published in March 2010, designated as the Claimant's new Exhibits C-199 & C-200 and both cited in the Claimant's post-hearing submissions.

Given the order made at the end of the hearing, the Claimant should not have introduced these new documents without prior application to and permission from the Tribunal. In the circumstances, however, the Tribunal considers, as a mitigating factor, that the Claimant was caught by surprise by the timing of this documentation's publication. In any

event, what is done is done; and the Tribunal must now address the consequences of the Claimant's conduct as a matter of fairness to the Respondent.

The Tribunal has decided to give to the Respondent a formal opportunity to respond in writing to this new documentation and the related submissions made by the Claimant in its post-hearing submissions (but strictly as a response only) and thereafter to give to the Claimant in turn a formal opportunity to reply in writing to such response (but strictly as a reply only). The Tribunal has also decided to impose a maximum page-limit, ten pages for the Respondent and five pages for the Claimant with such written submissions to be served within 21 days by the Respondent from the date of this order and 14 days thereafter by the Claimant. There shall be no new exhibits or other new evidence.

Second, the Tribunal notes that there is a separate issue raised at page 4 of the Respondent's letter (concerning legal privilege and the inappropriateness of the Tribunal's drawing of any adverse inference) to which the Claimant responds at paragraph 5 of its letter (page 2).

The Tribunal records this exchange but does not require any further written submissions from either Party on this issue.

Given the timing of the Parties' costs submissions and the Parties' additional work in consequence of this Order, the Tribunal grants permission to both Parties to bring their own costs figures up to date within 14 days of the date of the Claimant's reply submissions.

Sincerely yours,

[Signed]

Aurélia Antonietti
Secretary of the Tribunal

cc: Members of the Tribunal