

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

**Ömer Dede and Serdar Elhüseyni v. Romania and AVAS Privatization Agency of the
Government of Romania**

(ICSID Case No. ARB/10/22)

PROCEDURAL ORDER NO. 1

Respondents' Request for Bifurcation of the Proceeding

Arbitral Tribunal:

Prof. William W. Park, President

Prof. Brigitte Stern, Member

Dr. Nicolas Herzog, Member

Secretary of the Tribunal:

Ms. Milanka Kostadinova

Date: 4 January 2013

1. The Tribunal has carefully considered Respondents' request for bifurcation in their Memorial on Preliminary Objections (12 November 2012) and Claimants' reply comments (12 December 2012).
2. The Tribunal notes that Claimants have confirmed their agreement to drop AVAS as a party to these proceedings, on condition that "such confirmation is not recorded or construed as release of AVAS in relation to the disputed matters or a waiver in respect of attributable of AVAS's misconducts to the State." Absent any further observations by Respondents, to be received not later than fourteen (14) calendars days following this communication, AVAS will no longer be considered a Party to these proceedings.
3. Subject to the directions set forth below, with respect to amicable solution and domestic remedies, the Tribunal declines to bifurcate these proceedings into a preliminary jurisdictional phase followed by a stage to decide the merits of the case.
4. Articles 6(2) and 6(4) of the 1996 Agreement between Romania and Turkey on the Reciprocal Promotion and Protection Investments (the "BIT") address amicable solution and domestic remedies. To inform itself better with respect to the requirements in these provisions, the Tribunal directs a limited division of the proceedings for the purpose of addressing these matters.
5. Consequently, the Tribunal envisages a one-day hearing, with scope limited to the above-mentioned two questions arising from Articles 6(2) and 6(4) of the BIT. Tentatively, the Tribunal contemplates such hearing in London on Friday 19 April 2013, and directs the Parties to indicate their availability immediately.
6. The Parties shall confer on simultaneous briefing on these issues, which briefing will in any event be concluded not later than fourteen (14) calendar days prior to the hearing. Such submissions shall include each side's factual and legal contentions with respect to Articles 6(2) and 6(4) of the BIT, including the history of amicable negotiations and proceedings in the local courts.
7. The original timetable is suspended for now.

On behalf of the Tribunal:

[Signed]

Professor William W. Park