

**INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES**

**Security Services, LLC d/b/a Neustar Security Services  
(formerly Neustar, Inc.)**

**v.**

**Republic of Colombia**

**(ICSID Case No. ARB/20/7)**

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**PROCEDURAL ORDER NO. 4  
ON HEARING ORGANIZATION**

***Members of the Tribunal***

Professor Julian D M Lew, KC, President of the Tribunal  
Professor Yves Derains, Arbitrator  
Professor Dr. Kaj Hobér, Arbitrator

***Secretary of the Tribunal***

Veronica Lavista

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28 February 2023

**I. INTRODUCTION**

1. Pursuant to the paragraph 19 of Procedural Order No. 1, a Pre-Hearing Organizational Meeting for the organization of the Hearing on Jurisdiction and Merits (the “**Hearing**”) was held by videoconference between the Members of the Tribunal and the Parties on 20 February 2023, at 12pm, Washington, D.C. time. The audio recording of the meeting was circulated to the Tribunal and the Parties.

2. Participating in the conference were:

Members of the Tribunal  
Prof. Julian DM Lew, KC  
Prof. Yves Derains  
Prof. Kaj Hobér

ICSID Secretariat  
Ms. Veronica Lavista

Participating on behalf of the Claimant  
Mr. Teddy Baldwin  
Ms. Chloe Baldwin

Participating on behalf of the Respondent  
Ms. Ana María Ordoñez  
Ms. Elizabeth Prado  
Mr. Camilo Valdivieso  
Mr. Laurent Gouiffès  
Mr. Daniel E. González  
Ms. Melissa Ordoñez  
Ms. Juliana de Valdenebro Garrido  
Mr. Lucas Aubry

3. During the meeting, the Tribunal and the Parties discussed the agenda order circulated to them on 9 February 2023 including in particular the Parties’ comments of 17 February 2023, advising the Tribunal of the agreements reached and their respective positions where no agreement was reached on the organization of the hearing.

4. The Tribunal has considered the Parties’ positions and, in the present Order, sets out the procedural rules upon which the Parties have agreed and/or the Tribunal has determined will govern the conduct of the Hearing.

## **II. ORGANIZATION OF THE HEARING**

### **A. DATE AND FORMAT**

5. The Hearing will be held in person in London, from 27 March to 28 March 2023, with the morning of 29 March 2023 held in reserve.
6. The Hearing will be held at the International Dispute Resolution Centre (“IDRC”) located at 1 Paternoster Lane, London EC4M 7BQ, United Kingdom.
7. If a Zoom connection is required for the entire duration of the Hearing, it will be hosted by the IDRC to facilitate the remote participation of attendees where circumstances justify (the “Hearing Platform”). The Hearing shall only be attended, whether physically or remotely, by individuals whose presence is notified in advance and approved by the Tribunal. Remote participation of witnesses must be approved by the Tribunal. The Zoom feed, if required, will also be made available in each Party’s respective breakout rooms for the entire duration of the Hearing.

### **B. START/END TIME, TIME ALLOCATION AND AGENDA**

#### **(1) Start and End Time**

8. The Hearing will start each day at 9:30 am (London time). Hearing days will conclude at 5:30 pm, subject to there being a need for additional time, in which case the Tribunal shall allow the day to continue for a maximum of one extra hour.
9. There will be a one-hour lunch break from 12 pm to 1 pm each day, as well as one 15-minute break mid-morning and one 15-minute break mid-afternoon, subject to the court reporters and interpreters needing further breaks.
10. Thirty minutes will be set aside at the commencement of the Hearing for housekeeping matters.

#### **(2) Agenda**

11. On 17 February 2023, the Parties submitted a joint hearing schedule setting out the sequence and structure of the Hearing, including the order of the opening statements. The

Parties' proposed hearing schedule is incorporated as **Annex A** to this Order (the "**Agenda**").

12. The Parties have agreed that the Respondent will decide on the order of the witnesses. For the sake of good order the Respondent shall inform the Claimant and the Tribunal of the order in which the witnesses will be examined by **Thursday, 23 March 2023, 5pm London time.**
13. During the Hearing the Parties shall make a good-faith effort to adhere to the schedule reflected in the Agenda. The Tribunal reserves discretion to adjust the Hearing schedule, including the sitting times on any day, as needed to accomplish the prescribed Agenda and to accommodate any technical disruptions.

**(3) Time Allocation**

14. The Parties have agreed that there will be maximum flexibility in the time allocation during the Hearing. The following limitations will apply to the distribution of time during the Hearing:
  - Each Party's opening statement shall not exceed two hours. Each Party may present clarifications after the opening statements up to a maximum of 10 minutes; these comments shall not be responsive to the arguments presented in the opening statements
  - Direct examination of witnesses shall not exceed 10 minutes
  - Cross-examination of all witnesses shall conclude by the end of the second day of the Hearing
  - At the end of cross examination there shall be a right to re-direct on specific issues on which questions were asked and answered for a maximum of 15 minutes
  - If closing submissions are heard on the third day of the Hearing time shall be distributed equally between the Parties
15. In calculating time used during the Hearing, the Tribunal incorporates the following presumptions:

- 1) Time taken for Tribunal questions will not be charged to the Parties. If necessary, the Tribunal will sit longer hours to ensure that the Parties get their full-time allocation.
  - 2) Time spent in addressing any logistical or housekeeping matters will not be subtracted from the Parties' allotted time.
16. The Parties are expected to seek to use the hearing days efficiently and to avoid unnecessary slippage (e.g., requests for extra breaks between witnesses, or to defer the start of an examination until the next day despite time remaining in a given day). To this end, as a general rule, all witnesses shall be available for examination half a day before and after the time at which his/her examination is anticipated.
17. The Secretary of the Tribunal shall keep time during the Hearing.

**C. WITNESS EXAMINATION**

18. In accordance with Revised Annex B of Procedural Order No. 1, the Claimant notified the Respondent on 6 February 2023 with copy to the Tribunal the witnesses of the opposing Party it wished to cross-examine at the Hearing.
19. The Claimant called for cross-examination:
- Iván Darío Castaño Pérez
  - Luisa Fernanda Trujillo Bernal; and
  - Sylvia Constaín
20. Before giving evidence, each witness shall make the declaration contained in Arbitration Rule 35(2).
21. The rules set out in paragraphs 18.3, 18.4, 18.5 and 18.6 of Procedural Order No. 1 for the examination of witnesses are confirmed. For convenience, the relevant rules are reproduced below:

18.3. Witnesses and experts shall be examined by each Party under the control of the Tribunal. Before giving evidence, witnesses shall make the declaration set out in Arbitration Rule 35(2), and experts the declaration set out in Arbitration Rule 35(3). The Tribunal may

examine the witness or expert at any time during the oral procedure. The Tribunal shall, at all times, have the power to request the presence of any witness or expert presented by the Parties for examination at the hearing, upon application by any Party or on its own motion.

18.4. Direct examination is given in the form of witness statements and expert reports. However, the Party presenting the witness may conduct a brief [maximum 10 minutes] direct examination at the hearing. Experts may summarize their reports and findings, either through direct examination or in the form of a brief presentation. Any witness or expert called for direct examination may be cross-examined by the other Party and questioned by the Tribunal.

18.5. Being duly informed of the dates of the hearing, the Parties will as quickly as possible inform their potential witnesses and experts of such dates [and timings] to secure their presence at the hearing and avoid any disruption in the procedural timetable.

18.6. Witnesses and experts may be cross-examined on relevant matters that either were addressed or presented in the witness's statement(s) or the expert's report(s), or about any evidence in the record of which the witness could reasonably be expected to have personal knowledge and on matters of credibility. The scope of re-examination shall be strictly limited to the matters that have arisen in cross-examination.

18.7. The Tribunal may organize the confrontation of two or more experts, including by way of witness conferencing, if it deems it appropriate, after consultation with the Parties.

22. In accordance with paragraph 18.3 of Procedural Order No. 1, the Tribunal shall have complete control over the procedure for hearing a witness and may, in its discretion:

- 1) Limit or refuse the right of a party to examine a witness when it appears that a question has been addressed by other evidence or is irrelevant; or
- 2) Direct that a witness be recalled for further examination at any time.

23. Pursuant to paragraph 18.1 of Procedural Order No. 1, the Tribunal may consider the written statement of a witness who provides a valid reason for failing to appear when summoned to the Hearing having regard to all the surrounding circumstances. The Tribunal shall, as a general rule, not consider the witness statement of a witness who fails to appear and does not provide a valid reason.

24. Witnesses may not be questioned by more than one attorney at the same time. Where there is a need for a witness to be examined by more than one attorney the first attorney will finish his/her round of questions and the second attorney will question the witness afterwards, that is the questioning shall be successive. The second attorney may not repeat or ask questions on issues already covered by the first attorney.
25. Witnesses shall be sequestered prior to their examination, however, they may be present during the presentation of opening statements.

**D. INTERPRETATION**

26. The ICSID Secretariat has arranged for simultaneous interpretation between English and Spanish for the entire Hearing.
27. The interpreters will provide the interpretation in person.

**E. DOCUMENTS FOR USE AT THE HEARING**

28. By 10 March 2023, the Parties shall courier to each Member of the Tribunal a USB drive containing an electronic copy of the entire case file with a consolidated hyperlinked index of all documents, as required under paragraph 13.4 of Procedural Order No. 1. The hyperlinked record shall also be uploaded to the Box folder for this case.
29. At the beginning of each witness direct examination, the Party who is putting forward the witness will provide the witness with clean unannotated copies of his or her signed statements or reports.
30. For the purposes of cross-examination, the Claimant shall prepare hard copy cross-examination bundles containing copies of all documents on which the witness shall be examined. The Claimant shall distribute these bundles to the other Party, the Members of the Tribunal, the Secretary, the court-reporters and the interpreters immediately prior to the commencement of the examination. Exceptionally, with the permission of the Tribunal, the witness may be referred to a document that is not in the bundle but is part of the record. If the witness is directed to a document that is not part of the cross-examination bundle the document shall be projected on the appropriate screens and the witness shall be permitted to scroll through the document as necessary.

31. Documents that do not form part of the record may not be presented at the Hearing, unless otherwise agreed by the Parties or authorized by the Tribunal in accordance with paragraph 16.3 of Procedural Order No. 1.

32. Demonstrative exhibits shall be used in accordance with paragraph 16.8 of Procedural Order No. 1 reproduced below:

16.8. Demonstrative exhibits (such as PowerPoint slides, charts, tabulations, etc.) may be used at any hearing, provided they contain no new evidence. Each Party shall number its demonstrative exhibits consecutively, and indicate on each demonstrative exhibit the number of the document(s) from which it is derived. The Party submitting such exhibits shall provide them in electronic and, if requested, hard copy to the other Party, the Tribunal Members, the Tribunal Secretary, the court reporter(s) and interpreter(s) at the hearing at a time to be decided at the pre-hearing organizational meeting.

33. The use of demonstrative exhibits is further subject to the following rules:

- 1) Individual demonstrative exhibits (not PowerPoint presentations as a whole) shall be submitted electronically to the Tribunal and other Party by 6pm London time on Sunday, March 26, 2023.
- 2) The Parties may use PowerPoint slides or other visual aids for any opening/closing statements. Hard copies of these presentations or visual aids in A4 format shall be distributed to the other Party, Tribunal Members, the Secretary of the Tribunal, the court reporters, and to interpreters immediately prior to the commencement of the oral statement. In addition, each Party shall distribute an electronic copy of any PowerPoint slides or other visual aids no later than 15 minutes prior to their use at the Hearing via email sent to the entire case email distribution list for each Party, the Secretary of the Tribunal, the Members of the Tribunal, to the court reporter and interpreters.
- 3) In addition, promptly after the conclusion of the Hearing day in which the corresponding demonstrative exhibit is used, the Parties shall upload such document to the case folder in the BOX filesharing platform. With respect to demonstrative exhibits, these shall be saved in BOX with the corresponding number: “CD-\_\_” for Claimant’s demonstrative exhibits, and “RD-\_\_” for Respondent’s demonstrative exhibits.



**F. DRAMATIS PERSONAE/CHRONOLOGY**

34. The Parties shall confer and distribute to the Tribunal an agreed list of *dramatis personae* and chronology in relation to the dispute by 5 pm London time on **Friday, 10 March 2023**. **If** the Parties cannot come to an agreement on such list and chronology, each Party shall submit their own list and chronology at that same time.

**G. AUDIO RECORDING**

35. Paragraph 22.1 of Procedural Order No. 1 concerning audio recording (reproduced below) shall apply:

22.1. Sound recordings shall be made of all hearings and sessions. The sound recordings shall be provided to the parties and the Tribunal Members.

**H. TRANSCRIPTS**

36. In accordance with paragraph 21.2 of Procedural Order No. 1, real-time court reporting in English and Spanish shall be made available to the Hearing participants and electronic versions of the transcripts will be provided to the Parties and the Tribunal on a same-day basis.

37. Pursuant to paragraph 21.3, the Parties shall agree on any corrections to the transcripts within 30 days of the last day of the Hearing or receipt of the final sound recordings and transcripts from the Hearing, whichever is the later. The agreed corrections may be entered by the court reporter in the transcripts (“**revised transcripts**”). The Tribunal shall decide upon any disagreement between the Parties and any correction adopted by the Tribunal shall be entered by the court reporter in the revised transcripts.

**I. TRANSPARENCY – NON DISPUTING PARTY**

38. In accordance with paragraph 25 of Procedural Order No. 1 the Hearing shall be open to the public, subject to a procedure to ensure “protected information” is not disclosed to the public during the Hearing. In this case, a video recording shall be made of the Hearing and published on the ICSID website after the Hearing, once the Parties have had the opportunity to review the recordings and designate any protected information.

39. In accordance with Article 10.20.2. of the US – Colombia TPA, the non-disputing Party (in this case, the United States of America) may make oral submission to the Tribunal regarding the interpretation of the Treaty. In the event the United States wishes to attend the Hearing and make such oral submission (or attend the Hearing without making any oral submissions), the Tribunal will confer with Counsel to ensure that appropriate arrangements will be made for the United States government officials to attend the Hearing and to determine how to adopt the schedule as necessary.

**J. POST HEARING BRIEFS AND COST SUBMISSIONS**

40. In accordance with paragraph 22.1 of Procedural Order No. 1 the Tribunal shall address the necessity and timing of post hearing briefs at the conclusion of the Hearing and in consultation with the Parties.

41. The Tribunal shall determine the manner and timing of statements of costs in accordance with paragraph 22.2 of Procedural Order No. 1.

**K. LOGISTICAL ITEMS**

42. 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 Secretariat.

43. The set up for the Hearing is currently scheduled for Sunday, 26 March at 11 am (London time).

**L. PARTICIPANTS**

44. Each Party shall provide its respective list of Hearing participants (“**List of Participants**”) by **Monday, 20 March 2023, 5pm London time** using the format provided in **Annex B**. If Zoom is required, anyone attending the Hearing remotely, shall be sent the relevant dial-in details by the ICSID Secretariat directly, and such details shall not be forwarded to any additional attendees by either of the Parties.

*Security Services, LLC d/b/a Neustar Security Services (formerly Neustar, Inc.)*  
(ICSID Case No. ARB/20/7)  
Procedural Order No. 4

**Date:** 28 February 2023

[SIGNATURE]

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Professor Julian D M Lew, KC  
For the Arbitral Tribunal

*Security Services, LLC d/b/a Neustar Security Services (formerly Neustar, Inc.)*  
(ICSID Case No. ARB/20/7)  
Procedural Order No. 4 – Annex A

**ANNEX A**

**ESTIMATED HEARING SCHEDULE**

**DAY 1, MONDAY 27 MARCH 2023**

<b>9:30 – 10:00</b>	<i>Tribunal Opening / Housekeeping</i>
<b>10:00 – 12:00</b>	Claimant’s Opening Statement
<b>12:00 – 13:00</b>	Lunch
<b>13:00 – 15:00</b>	Respondent’s Opening Statement
<b>15:00 – 15:15</b>	<i>Coffee Break</i>
<b>15:15 – 17:30<sup>1</sup></b>	Potential clarifications Commence examination of Respondent’s witnesses

**DAY 2, TUESDAY 28 MARCH 2023**

<b>9:30 – 11:00</b>	Examination of Respondent’s witnesses
<b>11:00 – 11:15</b>	<i>Coffee Break</i>
<b>11:15 – 13:00</b>	Examination of Respondent’s witnesses
<b>13:00 – 14:00</b>	Lunch
<b>14:00 – 15:30</b>	Examination of Respondent’s witnesses
<b>15:30 – 15:45</b>	<i>Coffee Break</i>
<b>15:45 – 17:30</b>	Examination of Respondent’s witnesses

**DAY 3, WEDNESDAY 29 MARCH 2023**

<b>9:30 – 11:00</b>	Witness extension/Closing Statements/Session for Tribunal Questions
<b>11:00 – 11:15</b>	<i>Coffee Break</i>
<b>11:15 – 13:00</b>	Closing Statements/Session for Tribunal Questions

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<sup>1</sup> Subject to extension if necessary

