

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Enwell Energy plc

v.

Ukraine

(ICSID Case No. ARB/25/41)

PROCEDURAL ORDER NO. 2
On Transparency and Confidentiality

Members of the Tribunal

Ms. Lucinda Low, President of the Tribunal
Prof. Dr. Stephan W. Schill, Arbitrator
Professor Jorge E. Viñuales, Arbitrator

Secretary of the Tribunal

Mr. Govert Coppens

5 June 2026

I. INTRODUCTION

1. On 3 April 2026, the Tribunal circulated a draft of this order (“Draft PO2”) for discussion by the Parties.
2. On 1 May 2026, the Parties commented on Draft PO2.
3. On 20 May 2026, the first session was held. During the first session, the Parties and the Tribunal discussed the Parties’ comments on Draft PO2 and the draft procedural order no. 1.
4. This Procedural Order No. 2 contains the Parties’ agreements and the Tribunal’s decisions concerning the transparency regime governing this case.
5. The legal framework applicable to these proceedings is determined by the ICSID Convention and the 2022 ICSID Arbitration Rules.
6. For purposes of Section G below, confidential or protected information is information which is protected from public disclosure, in accordance with Arbitration Rule 66:
 - (a) by the instrument of consent to arbitration;
 - (b) by the applicable law or applicable rules;
 - (c) in the case of information of a State party to the dispute, by the law of that State;
 - (d) in accordance with the orders and decisions of the Tribunal;
 - (e) by agreement of the parties;
 - (f) because it constitutes confidential business information or protected personal information;
 - (g) because public disclosure would impede law enforcement;
 - (h) because a State party to the dispute considers that public disclosure would be contrary to its essential security interests;
 - (i) because public disclosure would aggravate the dispute between the parties; or

(j) because public disclosure would undermine the integrity of the arbitral process.

7. Nothing set forth in this Procedural Order shall preclude the Parties from disclosing information as required by applicable law, regulatory rules, or rules of any stock exchange, including AIM (a market operated by the London Stock Exchange plc).

II. TRANSPARENCY RULES

8. The Tribunal adopts the following transparency and confidentiality rules governing the proceedings.

A. AWARD (ICSID ARBITRATION RULE 62)

9. For the purposes of Article 48(5) of the ICSID Convention and ICSID Arbitration Rule 62, the Parties consent to publication of the Award by ICSID on its website, with any redactions agreed by the Parties.¹ The Parties shall provide ICSID with their jointly redacted text within 60 days after the dispatch of the Award.
10. If the Parties do not agree on a jointly redacted text, they shall, within 60 days after the dispatch of the Award, inform ICSID and provide their respective proposals for redaction. The Secretary-General shall consider any comments received on the proposed excerpts and publish such excerpts in accordance with Arbitration Rule 62(4).

B. ORDERS AND DECISIONS (ICSID ARBITRATION RULE 63)

11. ICSID shall publish the orders and decisions of the Tribunal, with any redactions agreed by the Parties or decided by the Tribunal, in accordance with Section G below.

C. WRITTEN SUBMISSIONS (ICSID ARBITRATION RULE 64)

12. The Parties do not consent to the publication of the Parties' written submissions by ICSID.

¹ Pursuant to ICSID Arbitration Rule 72(2) this procedural order shall continue to apply to an interpretation, revision or annulment proceeding with necessary modifications, unless the Parties agree or the Tribunal or Committee orders otherwise.

D. SUPPORTING DOCUMENTS (ICSID ARBITRATION RULE 64)

13. Supporting documents, including exhibits, legal authorities, witness statements and expert reports (including annexes, appendices or exhibits thereto) shall not be published by ICSID.

E. HEARINGS (ICSID ARBITRATION RULE 65(1)–(2))

14. Hearings shall not be open to the public, unless the Parties agree otherwise at the latest two months before the hearing. If the Parties agree that the hearings shall be open to the public, the Tribunal shall establish a protocol governing public access to a hearing and the non-disclosure of confidential and protected information discussed during the hearing at the latest at the pre-hearing organizational conference.

F. TRANSCRIPTS AND RECORDINGS OF HEARINGS (ICSID ARBITRATION RULE 65(3))

15. Transcripts and recordings of hearings shall not be published by ICSID.

G. PROCEDURE FOR REDACTIONS – NON-DISCLOSURE OF CONFIDENTIAL OR PROTECTED INFORMATION (ICSID ARBITRATION RULE 66) AND DATA PRIVACY

16. With respect to publication pursuant to Section B above, any confidential or protected information as defined in paragraph 6 above that is submitted to the Tribunal shall be protected from disclosure and publication in accordance with the procedure set forth below.
17. The Tribunal is mindful of the need to protect the personal data of individuals and draws the Parties' attention to Section 25 of Procedural Order No. 1. When identifying protected information in accordance with paragraph 18 below, the Tribunal recommends that the Parties redact, to the extent possible, the names of individuals, possible identifiers (such as position, title, nationalities) and information that can be considered sensitive regarding any individuals mentioned in any document to be published.
18. Within 21 days from the date of a decision or order, a Party shall give written notice to the Tribunal and the other Party that it requests the non-disclosure of certain information it considers confidential or protected. Absent such a notice within the 21-

day timeline, the Tribunal will authorize ICSID to publish the document or recording without redactions from the Parties.

19. Within 14 days of receipt of the notice referred to in paragraph 18, the other Party may raise objections to the proposed redactions.
20. If no objections are raised within the deadline established in paragraph 19, the Tribunal will authorize ICSID to publish the document or recording at issue with the requested redactions.
21. If objections are raised within the deadline established in paragraph 19, the Parties shall confer and seek to agree on redactions within 14 days of receipt of the objections to the proposed redactions. If the Parties reach an agreement, the Tribunal will authorize ICSID to publish the document at issue with the agreed redactions.
22. If objections remain unresolved, the disputed redaction requests and the objections thereto shall be submitted to the Tribunal in the form of the Transparency Schedule set out in Annex A to this Order. The Tribunal shall resolve the disputed redactions requests and communicate its decision to the Parties.
23. If information is to be redacted from a document in accordance with paragraphs 20, 21 or 22, the Parties shall provide a redacted version of the document. Upon receipt of the redacted document, the Tribunal will ask ICSID to publish the document.

On behalf of the Tribunal,

[signed]

Ms. Lucinda Low
President of the Tribunal
Date: 5 June 2026

ANNEX A

TRANSPARENCY SCHEDULE

[insert Party]	Request [1]
Information sought to be protected from disclosure	
Legal basis for protection	
Comments	
Reply by opposing Party	
Decision	