INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

In the arbitration proceeding between

RAND INVESTMENTS LTD., WILLIAM ARCHIBALD RAND, KATHLEEN ELIZABETH RAND, ALLISON RUTH RAND, ROBERT HARRY LEANDER RAND AND SEMBI INVESTMENT LIMITED
Claimants

and

REPUBLIC OF SERBIA
Respondent

ICSID Case No. ARB/18/8

Decision on the Claimants' Request for a Supplementary Decision

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Members of the Tribunal
Prof. Gabrielle Kaufmann-Kohler, President
Mr. Baiju S. Vasani
Prof. Marcelo G. Kohen

Secretary of the Tribunal
Ms. Marisa Planells-Valero

Assistant to the Tribunal
Mr. Rahul Donde

Date of Dispatch to the Parties: 27 October 2023

REPRESENTATION OF THE PARTIES

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I. INTRODUCTION AND PARTIES

1. This arbitration concerns a dispute submitted to the International Centre for Settlement of Investment Disputes ("ICSID" or the "Centre") under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the "ICSID Convention"). It arises out of the Agreement between Canada and the Republic of Serbia for the Promotion and Protection of Investments, which was signed on 1 September 2014 and entered into force on 27 April 2015 (the "Canada-Serbia BIT" or the "Treaty"), and the Agreement between Serbia and Montenegro and the Republic of Cyprus on Reciprocal Promotion and Protection of Investments, which was signed on 21 July 2005 and entered into force on 23 December 2005.

2. The claimants are Rand Investments Ltd., ("Rand Investments"), a company incorporated under the laws of Canada, Mr. William Archibald Rand ("Mr. Rand"), a natural person having the nationality of Canada, Ms. Kathleen Elizabeth Rand, a natural person having the nationality of Canada, Ms. Allison Ruth Rand, a natural person having the nationality of Canada, Mr. Robert Harry Leander Rand, a natural person having the nationality of Canada (together, the "Canadian Claimants"), and Sembi Investment Limited ("Sembi"), a company incorporated under the laws of Cyprus (together, the Canadian Claimants and Sembi are referred to as the "Claimants").

3. The respondent is the Republic of Serbia ("Serbia" or the "Respondent").

4. The Claimants and the Respondent are collectively referred to as the "Parties". The Parties' representatives and their addresses are listed above on page (i).

5. By an award dated 29 June 2023 (the "Award"), the Tribunal composed of Prof. Gabrielle Kaufmann-Kohler (a Swiss national), Mr. Baiju S. Vasani (a British and U.S. national), and Prof. Marcelo G. Kohen (an Argentine national), decided by majority as follows:

> "a. DECLARES that it has jurisdiction over Mr. Rand's claims under the Canada-Serbia BIT in respect of his interest in the Beneficially Owned Shares and that these claims are admissible;
>
> b. DENIES jurisdiction over all other claims under the Canada-Serbia BIT and the Cyprus-Serbia BIT;

c. DECLARES that the Respondent has breached Article 6(1) of the Canada-Serbia BIT;

d. ORDERS the Respondent to pay EUR 14,572,730 to Mr. William Rand, together with interest at the average EURIBOR for 6 months deposits plus 2% per annum, compounded semi-annually, until the date of payment;

e. ORDERS the Parties to each bear 50% of the Tribunal's fees and expenses and ICSID's fees as notified by ICSID;

f. ORDERS the Parties to bear their own legal fees and other costs;

g. DISMISSES all remaining claims and requests for relief".[1]

6. Prof. Kohen issued a Dissenting Opinion in which he expressed his disagreement with the majority's conclusions on the Tribunal's jurisdiction over Mr. Rand, the admissibility of Mr. Rand's claims, the breach of Article 6(1) of the Canada-Serbia BIT and, by way of consequence, the award of damages.

II. PROCEDURAL HISTORY

7. On 11 August 2023, pursuant to Article 49(2) of the ICSID Convention, the Claimants filed a Request for a Supplementary Decision on the Award, accompanied by Annexes 1 to 6 (the "Request"). On 14 August 2023, in accordance with Rule 49(2)(c) of the Rules of Procedure for Arbitration Proceedings (the "ICSID Arbitration Rules"), the Centre transmitted the Request to the Respondent.

8. On 18 August 2023, the Acting Secretary-General registered the Request in accordance with Rule 49(2)(a) of the ICSID Arbitration Rules. The Centre transmitted the Request to each member of the Tribunal on the same day.

9. On 21 August 2023, in accordance with Rule 49(3) of the ICSID Arbitration Rules, the Tribunal invited the Respondent to submit its observations on the Request by 31 August 2023.

10. On 31 August 2023, the Respondent submitted its Observations on the Claimants' Request, accompanied by Annexes 1 through 11 (the "Respondent's Observations").

[1] Award, §717.

11. On 3 September 2023, the Claimants requested leave from the Tribunal to reply to the Respondent's Observations.

12. On 5 September 2023, the Tribunal invited (i) the Claimants to reply to the Respondent's Observations of 31 August 2023 by 14 September 2023; and (ii) the Respondent to respond to the Claimants' Reply by 24 September 2023.

13. On 14 September 2023, the Claimants submitted their Reply to the Respondent's Observations of 31 August 2023, together with Annexes 7 to 10 (the "Reply").

14. On 24 September 2023, the Respondent submitted its Response to the Claimants' Reply, together with Annex 12 (the "Rejoinder").

15. On 11 October 2023, the Parties were invited to file their cost statements, which they did on 16 October 2023.

16. On 17 October 2023, the Tribunal declared the proceedings closed pursuant to Rule 46 and Rule 49(4) of the ICSID Arbitration Rules.

III. THE PARTIES' POSITIONS AND REQUESTS FOR RELIEF

A. The Claimants' Position

17. The Claimants point out that in paragraph 717(d) of the Award, the Tribunal ordered Serbia to pay EUR 14,572,730 to Mr. Rand, together with interest at the average EURIBOR for 6 months deposits plus 2% per annum, compounded semi-annually, until the date of payment. While the Tribunal decided on the applicable interest rate and the date until which the interest was to be paid, it did not specify the date from which interest would accrue. In the Claimants' submission, it was evident from other paragraphs of the Award that interest would accrue from the date of breach of the fair and equitable treatment standard in Article 6(1) of the Canada-Serbia BIT i.e. from 21 October 2015. However, this was not expressed in the operative part of the Award. As the Claimants would need to enforce the Award if the Respondent did not voluntarily pay the full Award with interest, the Claimants requested the Tribunal to supplement the operative part of the Award and state expressly that interest would accrue from the date of the breach, i.e. 21 October 2015.

18. The Claimants add that it is "common ground" in investment arbitration jurisprudence that interest on damages caused by a breach of fair and equitable treatment accrues from the date of such breach.[2] Serbia did not dispute this position in the course of the arbitration, and its quantum expert, Mr. Cowan, calculated interest from the date of the breach i.e. 21 October 2015.

19. The Claimants reject the Respondent's arguments that interest accrues 120 days after the date of the Award, i.e. from 27 October 2023. They point out that, in paragraph 706 of the Award, the Tribunal recognized the time value of money, and that interest was meant to remedy the non-availability of funds. If the Tribunal now accepted Serbia's position, Mr. Rand would not be compensated for the loss of the time value of money between 21 October 2015 and 27 October 2023. Instead, Serbia would benefit from its breach of the Treaty as it would not suffer any adverse consequences during that time period. This would be contrary to the purpose of investment arbitration, which is to protect foreign investments.

20. Additionally, the Claimants oppose the Respondent's assertion that they claimed interest from 27 September 2021 and not from 21 October 2015. They explain that throughout the arbitration, they always included the amount of interest accrued up to the date of their submission in the item labelled as the amount of compensation claimed. Interest accruing thereafter was claimed as a separate item. The Claimants stress that they also followed this practice in their First Post-Hearing Brief, where they included interest from the date of breach to 27 September 2021 in the amount of compensation claimed, and sought a separate award of interest from the date of the post-hearing brief until the date of payment.

B. The Claimants' Request for Relief

21. In light of the foregoing, the Claimants sought the following relief in their Reply:

> "Based on the above, Claimants respectfully request that the Tribunal:
>
> a. SUPPLEMENT the operative part of the Award to expressly state that Serbia is ordered to pay 'interest at the average EURIBOR for 6 months

[2] Request, §5 et seq. relying *inter alia* on *Deutsche Telekom AG v. Republic of India*, PCA Case No. 2014-10, Interim Award, 13 December 2017, §390, Annex-6 to the Request, and *EDF International S.A., SAUR International S.A. and León Participaciones Argentinas S.A. v. Argentine Republic*, ICSID Case No. ARB/03/23, Award, 11 June 2012, §§141-156, 1036, 1040, 1051, Annex-1 to the Request.

deposits plus 2% per annum, compounded semi-annually, from 21 October 2015 until the date of payment'; and

b. ORDER Serbia to reimburse Claimants for all their costs connected with the Request and its defense, including the USD 10,000 lodging fee and legal costs".[3]

C. The Respondent's Position

22. The Respondent submits that the Request should be denied. Interest on the principal sum awarded to Mr. Rand should accrue from 27 October 2023, i.e. 120 days after the date of issuance of the Award as it arises from the Award itself and the Canada-Serbia BIT. Serbia does not consider a supplementary ruling necessary, but "does not oppose" the Tribunal supplementing its Award mentioning that date if the Tribunal deems it necessary. In the alternative, the Respondent argues that, as the Claimants did not seek interest from the date of the breach in their prayers for relief, the Tribunal cannot make an order to this effect at this stage as otherwise it would rule beyond its mandate. "At minimum", the Tribunal should adopt the *dies a quo* stated in the Claimants' prayers for relief and award interest from 27 September 2021.

23. Serbia points out that neither paragraphs 708 nor 717(d) of the Award cited by the Claimants assist the latter's case. In both paragraphs, a statement on the value of the investment is followed by a statement that interest is due. Neither paragraph identifies the date from which interest accrues. If paragraph 717(d) is supplemented, then it would be necessary to supplement paragraph 708 as well.

24. Since the Award does not indicate the starting date for the interest calculation, the Respondent argues that, in accordance with Article 33(1) of the Canada-Serbia BIT, the Tribunal must decide the issue in application of the terms of the BIT and of international law. The BIT is silent on the issue. Article 35(2) of the BIT merely allows the Tribunal to award "monetary damages and any applicable interest" without specifying the date from which interest accrues. By contrast, international law, including in particular Article 38(2) of the Articles on Responsibility of States for International Wrongful Acts (the "ILC Articles") provides that interest should accrue from the date when the principal sum should have been paid. Here again, there is no precise indication in the Award when the principal awarded to Mr. Rand should be paid. However, the BIT does provide that a

[3] Reply, §34.

party can seek enforcement of an ICSID award 120 days after issuance. For Serbia, this entails that interest only starts running 120 days after the date of the Award i.e. from 27 October 2023.

25. Finally, relying on several authorities, the Respondent insists that the Tribunal cannot "go beyond" the Claimants' requests for relief.[4] In their last request for relief, the Claimants requested interest from 27 September 2021, not from the date of breach, which is 21 October 2015. The Tribunal should not permit the Claimants to use Article 49(2) of the ICSID Convention to reformulate their request for relief and introduce a claim not pled in the arbitration.

D. The Respondent's Request for Relief

26. In light of the foregoing, the Respondent sought the following relief in their Rejoinder:

> "18. Bearing in mind the above, Respondent respectfully requests the Tribunal to deny the Claimants' Request. In the event that the Tribunal finds that it is necessary to supplement the Award, Respondent requests the Tribunal to amend the operative part of the Award ordering Respondent to pay
>
> - 'interest at the average EURIBOR for 6 months deposits plus 2% per annum, compounded semi-annually, from 27 October 2023 until the date of payment';
>
> - or, alternatively, 'interest at the average EURIBOR for 6 months deposits plus 2% per annum, compounded semi-annually, from 27 September 2021 until the date of payment';
>
> 19. In any case, Respondent respectfully asks the Tribunal to order Claimants to pay costs of the proceedings initiated by their Request, including the cost incurred by Respondent in connection with the Request, to be specified at a later stage".[5]

[4] Respondent's Observations, §22 et seq. relying *inter alia* on *Cyprus Popular Bank Public Co. Ltd. v. Hellenic Republic*, ICSID Case No. ARB/14/16, Decision on Annulment, 28 November 2022, §300, Annex-8 to Respondent's Observations, and *İçkale İnşaat Ltd Şirketi v. Turkmenistan*, ICSID Case No. ARB/10/24, Decision on Claimant's Request for Supplementary Decision and Rectification of the Award, 4 October 2016, §114, Annex-9 to Respondent's Observations.

[5] Rejoinder, §§18-19.

IV. ANALYSIS

27. The provisions governing requests for supplementary decisions by ICSID tribunals are contained in Article 49(2) of the ICSID Convention and Rule 49 of the ICSID Arbitration Rules:

> Article 49(2) of the ICSID Convention:
>
> "The Tribunal upon the request of a party made within 45 days after the date on which the award was rendered may after notice to the other party decide any question which it had omitted to decide in the award, and shall rectify any clerical, arithmetical or similar error in the award. […]".
>
> Rule 49 of the ICSID Arbitration Rules:
>
> "(1) Within 45 days of the date on which the award was rendered, either party may request, pursuant to Article 49(2) of the Convention, a supplementary decision on, or rectification of, the award.
>
> […]
>
> (3) The President of the Tribunal shall consult the members on whether it is necessary for the Tribunal to meet in order to consider the request. The Tribunal shall fix a time limit for the parties to file their observations on the request and shall determine the procedure for its consideration.
>
> (4) Rule 46-48 shall apply, *mutatis mutandis*, to any decision for the Tribunal pursuant to this Rule".

28. According to Article 49(2) of the ICSID Convention, the Tribunal "may" decide a question that was omitted in the award. The Tribunal thus has discretion to make a supplementary decision or not.[6] Further, the scope of Article 49(2) of the ICSID Convention is limited to "inadvertent omissions" it is not to "afford a substantive review or reconsideration of the decision".[7]

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[6] See, e.g., *İçkale İnşaat Ltd Şirketi v. Turkmenistan*, ICSID Case No. ARB/10/24, Decision on Claimant's Request for Supplementary Decision and Rectification of the Award, 4 October 2016, §102, Annex-9 to Respondent's Observations; *Railroad Development Corporation v. Republic of Guatemala*, ICSID Case No. ARB/07/23, Decision on Claimant's Request for Supplementation and Rectification of Award, 18 January 2013, §39.

[7] *İçkale İnşaat Ltd Şirketi v. Turkmenistan*, ICSID Case No. ARB/10/24, Decision on Claimant's Request for Supplementary Decision and Rectification of the Award, 4 October 2016, §§102-103, Annex-9 to Respondent's Observations, relying on Christoph Schreuer, with Loretta Malintoppi, August Reinisch and Anthony Sinclair, THE ICSID CONVENTION: A COMMENTARY (Cambridge University Press, 2d ed. 2009), pp. 849-850.

29. Here, the Claimants request that the Award be supplemented to state that interest accrues from the date of breach of Article 6(1) of the Canada-Serbia BIT, i.e. 21 October 2015. The Respondent opposes this Request, stating that the Award is clear and that, if the Tribunal were to supplement the Award, it should do so by stating that interest accrues from 27 October 2023, which is 120 days after the date of the Award.

30. The relevant parts of the Award read as follows:

> "706. In accordance with the principle of full reparation, Mr. Rand is entitled to an interest rate calculated in a manner which "best approximates" the value lost. Mr. Obradovic's conduct is irrelevant in this context and Serbia has not substantiated its argument that it should play a role here. The Respondent recognizes that tribunals have awarded interest at the interbank interest rate plus 2 percentage points. Late interest on debts is intended to remedy the non-availability of funds due or, in other words, to pay for the time value of money. The time value of money can be compensated by taking into account the cost of borrowing funds to make up for the unpaid sums or the loss involved in not being able to invest those sums. Under both assumptions, the interest would exceed a rate applied between financial institutions exclusively. For these reasons, the Tribunal finds it reasonable to award interest at EURIBOR for 6 months deposits, plus 2% per annum, and to compound such interest semi-annually.
>
> 707. It follows from the above that the Tribunal has made several adjustments to the valuations prepared by the Parties' experts, as a result of which the final amounts are as follows:

At 21 October 2015 in EUR m	Value in EUR m
Dobanovci Development Land [Construction Land]	41.9
Other Construction Land	1.3
Novi Becej	0.2
Non-farm assets	**43.4**
Agricultural land	6.4
Other fixed assets	18.8
Current assets	5.0
Deferred tax assets	0.1
Farm Assets	30.3
Total assets	**73.7**
Total estimate liabilities	(42.2)
Conversion fee	(3.1)
Payment to Canadian suppliers	(2.2)
Court proceedings	(0.2)
Capital Gains Tax	(5.7)
Redundancy payments	(0.7)
Total liabilities	**54.1**
Net asset value of BD Agro at 21 October 2015 / Value of 100% shares in BD Agro at 21 October 2015	**19.7**

708. Accounting for these adjustments, the value of 100% of the shares in BD Agro on 21 October 2015 was 19.7 million. Mr. Rand indirectly owned 75.87% of BD Agro's shares, through Rand Investments (in which he had a 100% shareholding) and Sembi (in which he held a 97.5% shareholding),

> resulting in a valuation of EUR 14,572,730. To this figure, interest should be added at 6-month average EURIBOR + 2%, compounded semi-annually until the date of payment (see above, §706).
>
> […]
>
> 717. For the reasons set forth above, the Tribunal:
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> […]
>
> d. ORDERS the Respondent to pay EUR 14,572,730 to Mr. William Rand, together with interest at the average EURIBOR for 6 months deposits plus 2% per annum, compounded semi-annually, until the date of payment".[8]

31. The Tribunal thus applied the principle of full reparation to determine the damages payable to Mr. Rand as a result of Serbia's breach of the fair and equitable treatment standard in Article 6(1) of the Canada-Serbia BIT. Pursuant to that principle, Serbia was to compensate Mr. Rand's loss caused by Serbia's breach as well as the "time value of money", i.e. interest on that amount.

32. It is clear from the description of the amounts owed to Mr. Rand that the Tribunal considered that interest would run from the date of the breach. Paragraph 707 contains a table that refers to the value of BD Agro "[a]t 21 October 2015", and later states that the "[n]et asset value of BD Agro at 21 October 2015 / value of 100% shares in BD Agro at 21 October 2015" after adjustments was EUR 19.7 million. Paragraph 708 then calculates the amounts owed to Mr. Rand for his shareholding in BD Agro, which is said to be EUR 14,572,730. The same paragraph continues with the words "[t]o this figure, interest should be added (emphasis added)" and thereafter specifies the applicable interest rate ("6-month average EURIBOR + 2%, compounded semi-annually") and the end date ("until the date of payment").

33. The statement that interest must be added to "this figure", which is the value on 21 October 2015, makes clear that interest was to accrue from the date of the breach, i.e. 21 October 2015. While there can be no doubt on the meaning of the Award, it is true that the Award does not express such meaning in so many words. As a consequence, the Tribunal considers it appropriate to supplement the Award by expressly stating that interest accrues from 21 October 2015.

[8] Award, §§706-708, 717 (emphasis added).

34. Having reached this conclusion, the Tribunal could dispense with addressing the other objections that the Respondent has raised against the issuance of a supplementary decision. For the sake of completeness, it will briefly examine these objections.

35. Serbia argues that the Claimants did not seek interest from the date of breach in their submissions and that a decision granting interest from that date would extend beyond the Claimants' prayers for relief and thus be impermissible.

36. The Tribunal notes that the Claimants and their quantum expert, Mr. Hern, consistently calculated interest from the date of breach, i.e. 21 October 2015,[9] as did the Respondent's quantum expert, Mr. Cowan.[10] It is true that, in the prayers for relief in their first post-hearing brief, the Claimants sought interest from 27 September 2021 and not from the date of breach.[11] However, like in prior versions of the Claimants' requests for relief, the interest accrued up to the post-hearing brief was part of the amount of compensation claimed in that brief and only the interest for the time thereafter until payment was claimed as a separate item.[12] In other words, the Claimants requested a damage award that covered interest from 21 October 2015 until payment. By contrast, to avoid granting interest on interest, the Award granted compensation without aggregating interest to the principal sum and awarded interest separately from the date of breach until payment. In sum, the Claimants have always computed interest from the date of the breach and by supplementing the Award as mentioned above, the Tribunal only grants relief sought by the Claimants.

37. Serbia also argues that the Award's silence on the date from which interest runs, coupled with the provisions of the BIT and international law, should lead the Tribunal to hold that interest accrues 120 days after the issuance of the Award.

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[9] Expert Report of Dr. Richard Hern, 16 January 2019 ("Hern ER I"), §§170, 177; Claimant's Memorial on the Merits, 16 January 2019, §597; Second Expert Report of Richard Hern, 3 October 2019 ("Hern ER II"), §41; Claimants' Reply, 4 October 2019, §1450; Exh. CE-908, Hern's updated analysis.

[10] Expert Report of Sandy Cowan, 19 April 2019, Appendix 8, p. 77.

[11] Claimants' Post Hearing Brief, 27 September 2021, §353(h), quoted at §181 of the Award.

[12] See table 7.10 in Hern ER I and table 5.6 in Hern ER II. With their first post-hearing brief, the Claimants filed Exhibit C-908, which is an Excel sheet updating Mr. Hern's earlier damage calculations. That Excel sheet has a sub-file entitled "[i]nterest" which shows that interest included in Mr. Hern's updated damage figure runs until 27 September 2021.

38. The foregoing discussion shows that the Award is not silent on the time when the interest starts running, as that time is implied in the Tribunal's analysis. In any event, even if the Award were silent on the date from which interest accrues (*quod non*), it held that Serbia was to provide full reparation to the Claimants for the loss caused by the breach of the Canada-Serbia BIT, including the "time value of money". As Mr. Rand was deprived of his asset at the time of the breach, the remediation of the loss linked to the time value of money can only be achieved if the interest computation commences when the breach occurred. Several investment tribunals have applied the principle of full reparation in the same fashion.[13]

39. Moreover, even if the Tribunal had not referred to the principle of full reparation (*quod non*), neither the terms of the Canada-Serbia BIT nor international law support Serbia's argument that interest should accrue 120 days after the date of the Award. Article 33(1) of the BIT requires the Tribunal to decide the issues in dispute in accordance with the Treaty terms and international law. First, in respect of the Treaty terms, Article 35(2) of the BIT allows the Tribunal to award "monetary damages and any applicable interest". Article 36(2) provides that a disputing party must comply with an award "without delay" and Article 36(3) provides that an ICSID award can be enforced 120 days after its issuance. None of these or other provisions of the BIT specifies the date from which interest accrues. Second, turning to international law, Article 38(2) of the ILC Articles which the Respondent invokes, merely stipulates that "interest runs from the date when the principal sum should have been paid until the date the obligation to pay is fulfilled", without giving any further indication.

40. When arguing that interest should start to run 120 days after the Award was rendered, Serbia conflates the time for complying with an award and the time for enforcing it. With respect to the first, the BIT provides for compliance "without delay". By contrast, under the BIT, the enforcement of an award can start either 120 days after issuance for ICSID

[13] See for e.g. *Azurix Corp. v. The Argentine Republic*, ICSID Case No. ARB/01/12, Award, 14 July 2006, §440, Exh. CLA-39; *EDF International S.A., SAUR International S.A. and León Participaciones Argentinas S.A. v. Argentine Republic*, ICSID Case No. ARB/03/23, Award, 11 June 2012, §§141-156, 305, 1036, 1040, 1051, 1279, Annex-1 to the Request; *Deutsche Telekom AG v. The Republic of India*, PCA Case No. 2014-10, Final Award, 27 May 2020, §§318, 357, Annex-2 to the Request; *Glencore International A.G. and C.I. Prodeco S.A. v. Republic of Colombia*, ICSID Case No. ARB/16/6, Award, 27 August 2019, §§1575, 1616, 1618, 1687(4), Exh. CLA-128 and other authorities cited by the Claimants (Reply, fn. 30).

awards or 90 days for non-ICSID awards.[14] If – as Serbia argues – the time for compliance and enforcement coincides, then one does not understand how the enforcement time can differ for ICSID and other awards, and the Respondent offers no explanation.

41. More importantly, Serbia's argument does not address the reparation of the loss caused by the non-availability of the money from the date of the breach to the date when the interest begins accruing. If Serbia's position were accepted, Mr. Rand would not be compensated for that loss, which would be contrary to the principle of full reparation.

42. In light of the foregoing discussion, the Tribunal grants the Request and specifies that interest accrues from the date of breach of the fair and equitable treatment standard in Article 6(1) of the Canada-Serbia BIT, i.e. from 21 October 2015.

43. Without prejudice to his position concerning the Award, as it was set out in his dissenting opinion, Professor Kohen subscribes to the reasoning of the present decision.

V. COSTS

44. Each Party seeks an award of all costs incurred in connection with the Request.

45. Having considered the Parties' positions, and taking into account that the Award did not expressly state that interest would accrue from the date of breach and that both Parties benefit from the clarity brought by this decision, the Tribunal finds it fair and appropriate that each Party bear its own legal and other costs (including, for the Claimants, the USD 10,000 lodging fee) and 50% of the Tribunal's fees and expenses.

46. The costs incurred by the Tribunal in addressing the Request for a Supplementary Decision are as follows:[15]

[14] Article 36(3) of the Canada-Serbia BIT, CLA-1 ("A disputing party may not seek enforcement of a final award until: (a) in the case of a final award made under the ICSID Convention: (i) 120 days have elapsed from the date the award was rendered […] (b) in the case of a final award under the ICSID Additional Facility Rules or the UNCITRAL Arbitration Rules: (i) 90 days have elapsed from the date the award was rendered […]".).

[15] The ICSID Secretariat will provide the Parties with a detailed financial statement in due course.

Tribunal's Fees and Expenses:		
Gabrielle Kaufman-Kohler:	USD	10,747.38
Baiju Vasani	USD	5,000.00
Marcelo Kohen:	USD	5,000.00
Assistant's Fees and Expenses:		
Rahul Donde:	USD	4,025.00
TOTAL:	**USD**	**24,772.38**

VI. DECISION

47. For the reasons set forth above, the Tribunal:

a. SUPPLEMENTS paragraph 717(d) of the Award to read as follows:

"ORDERS the Respondent to pay EUR 14,572,730 to Mr. William Rand, together with interest at the average EURIBOR for 6 months deposits plus 2% per annum, compounded semi-annually, *from 21 October 2015* until the date of payment;"

b. ORDERS the Parties to each bear 50% of the Tribunal's fees and expenses incurred in relation to this decision, as notified by ICSID;

c. ORDERS that each Party shall bear its legal fees and other costs incurred in connection with this decision; and,

d. DISMISSES all remaining claims and requests for relief.

[signed]

Mr. Baiju S. Vasani
Arbitrator

Date: 16.10.2023

[signed]

Prof. Marcelo G. Kohen
Arbitrator

Date: 20.10.2023

Prof. Gabrielle Kaufmann-Kohler
President of the Tribunal

Date: 20.10.2023