

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

William Archibald Rand
Applicant on Annulment

v.

Republic of Serbia
Respondent on Annulment

(ICSID Case No. ARB/18/18)
Annulment Proceeding

PROCEDURAL ORDER NO. 2

Members of the ad hoc Committee

Prof. Lawrence Boo, President of the *ad hoc* Committee
Dr. Claudia Annacker, Member of the *ad hoc* Committee
Mr. Colm Ó hOisín SC, Member of the *ad hoc* Committee

Assistant to the President of the ad hoc Committee

Ms. Sarra Azaiez

Secretary of the ad hoc Committee

Ms. Marisa Planells-Valero

20 May 2025

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I. PROCEDURAL BACKGROUND

1. The Committee issues the present Order in view of the forthcoming Hearing on Annulment, scheduled to take place on 12 and 13 June 2025 in Madrid, Spain.
2. In advance of the Pre-Hearing Organizational Meeting (“PHOM”), the Committee circulated a proposed order on 30 April 2025. The parties submitted their joint comments on 13 May 2025.
3. The PHOM was held by videoconference between the Committee and the parties on 19 May 2025.

4. Participating in the PHOM were:

Committee:

Prof. Lawrence Boo, President of the Committee
Dr. Claudia Annacker, Member of the Committee
Mr. Colm Ó hOisín SC, Member of the Committee

Assistant to the President of the ad hoc Committee:

Ms. Sarra Azaiez

ICSID Secretariat:

Ms. Marisa Planells-Valero

Participating on behalf of the Applicant:

Mr. Rostislav Pekař, Squire Patton Boggs
Ms. Helena Švandová, Squire Patton Boggs
Mr. Erinn Broshko, Applicant’s personal counsel

Participating on behalf of the Respondent:

Ms. Senka Mihaj, Mihaj, Ilic & Milanovic Law Office
Dr. Vladimir Djerić, Mikijelj, Jankovic & Bogdanovic Law Office
Prof. Petar Djundić, Faculty of Law, University of Novi Sad
Ms. Marija Alhaj, Mihaj, Ilic & Milanovic Law Office
Ms. Kristina Petronijević, Mikijelj, Jankovic & Bogdanovic Law Office

5. The Committee has deliberated on the parties’ proposals including those related to the hearing schedule, and the present Order sets out the procedural rules that the parties have agreed upon and the Committee has determined will govern the conduct of the hearing.

II. ORGANIZATION OF THE HEARING

A. DATE AND MODALITY

6. It is confirmed that the hearing will last two days, taking place on 12 and 13 June 2025.
7. The hearing will be held at the Madrid Court of Arbitration, in Madrid (Spain).
8. The modality of the hearing is “in person” in accordance with Section 20.2 of Procedural Order No. 1. All participants (speaking and non-speaking) shall be present in the hearing room or in the parties’ breakout rooms. A virtual connection will be provided, at the Parties’ request, between the hearing room and the parties’ breakout rooms at the Madrid Court of Arbitration.

B. ORDER OF PROCEEDINGS AND SCHEDULE

9. The parties and the Committee have agreed to the following daily hearing schedule, which is indicative only.

Day 1, Thursday, 12 June 2025	
Time GMT	Description
09:30 – 10:00	Introduction, housekeeping
10:00 – 12:00	Claimant’s opening statement

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12:00 – 13:00	Lunch break
13:00 – 15:00	Respondent’s opening statement
15:00 – 15:30	Coffee break
15:30 – 16:00	Committee’s questions

Day 2, Friday, 13 June 2025	
Time GMT	Description
10:00 – 11:00	Claimant’s rebuttal
11:00 – 11:15	Coffee break
11:15 – 12:15	Respondent’s rebuttal
12:15 – 13:15	Lunch break
13:15 – 16:15	Committee’s questions
16:15 – 16:45	Conclusion, housekeeping

10. The Hearing Schedule is subject to any changes that the Committee may deem necessary or appropriate during the hearing.

C. TIME ALLOCATION

11. In accordance with Section 20.6 of Procedural Order No. 1 and paragraph 9 above, the parties are allocated an equal amount of hearing time — 3 hours per party. The Committee may, however, adjust the time allocation as appropriate in the circumstances.
12. The Committee will set aside 30 minutes on Day 1 and 1 hour on Day 2 for questions to the parties. In addition to the time set aside by the Committee, the Committee may ask questions at any time.
13. Time used for housekeeping or to resolve technical difficulties shall not be counted against the parties' time but shall be counted as Committee time. Time taken by the Committee for its own questions during the parties' presentations and the parties' answers to those questions shall not be counted against the parties' time. If a party objects or otherwise intervenes during the other party's speaking time, that time will be counted as part of the objecting party's time.
14. The parties are amenable to the Committee taking additional time should it so require.

D. DOCUMENTS FOR USE AT THE HEARING

15. **Hearing Bundle:** In accordance with Section 14.5 of Procedural Order No. 1, by **2 June 2025**, the parties will upload to Box and will send a USB via *courier* to each Committee Member, the Committee Assistant, and the Committee Secretary, a Mac and PC compatible electronic copy of the entire case file (including all pleadings, exhibits, legal authorities and Committee decisions and orders to date) with a consolidated hyperlinked index of all documents (the "Annulment Hearing Bundle").¹ The Annulment Hearing Bundle shall not contain any document not previously submitted, issued, or cited in this annulment proceeding.

¹ To ensure operation of the hyperlinked index, the entire case file shall be housed within one folder and then uploaded to BOX as a single zip file.

16. The USB containing the Annulment Hearing Bundle should be sent to the Committee Members and the Committee Assistant in accordance with Section 14.5. or Procedural Order No. 1.
17. Prior to the hearing, the Members of the Committee, the Committee Assistant, the Secretary of the Committee, and the parties shall download the Annulment Hearing Bundle from the BOX Case Folder onto their own devices to have access to it offline during the hearing. The court reporter will also be provided with a copy of the Annulment Hearing Bundle via the ICSID Secretariat.

E. DEMONSTRATIVE EXHIBITS

18. These shall be used in accordance with Section 16 of Procedural Order No. 1, which states in relevant part:
 - 16.9 The parties may use PowerPoint slides and demonstrative exhibits (such as charts, tabulations, etc. compiling information which is on record but not presented in such form), provided that they (i) identify the source in the record from which the information is derived, (ii) do not contain information not in the record.
 - 16.10 An electronic copy of each demonstrative exhibit, other than PowerPoint slides, shall be distributed by the party intending to use it via an electronic mail sent to the entire case email distribution for each party, the Members of the Committee, the Committee Secretary, the Assistant, the court reporter and the interpreters by 5pm CET on the eve of the day of their use.
 - 16.11 In addition, promptly after the conclusion of the hearing day on which the corresponding demonstrative exhibit is used, the parties shall upload such demonstrative to the case folder in the BOX file sharing platform, designating each with the corresponding CD-__ or RD-__ number.

F. RECORDINGS OF THE HEARING

19. Section 21.1 of Procedural Order No. 1 concerning audio recording (reproduced in part below) provides as follows:

21.1 Recordings shall be made of all hearings and sessions. The recordings shall be provided to the parties and the Committee Members.

20. The audio recording will be shared with the parties and the Committee via Box as soon as possible after the conclusion of the hearing.

G. TRANSCRIPTION

21. Real-time court reporting services are to be provided, with same day transcript delivery to the Committee and the parties via email. The verbatim transcripts will be available in real-time using LiveNote or similar software.
22. Section 21.3 of Procedural Order No. 1 shall govern the process of correcting the hearing transcript:

21.3 The parties shall agree on any corrections to the transcripts within the deadline to be agreed at the end of the hearing. The agreed corrections may be entered by the court reporter in the transcripts (“revised transcripts”). The Committee shall decide upon any disagreement between the parties and any correction adopted by the Committee shall be entered by the court reporter in the revised transcripts.

H. INTERPRETATION

23. On 13 May 2025, the parties confirmed that no interpretation is required during the hearing.

I. TRANSPARENCY AND VIDEO RECORDINGS

24. Pursuant to Section 20.7 of Procedural Order No. 1 and in accordance with the transparency rules applicable under the Canada-Serbia BIT, which shall continue to apply *mutatis mutandis* to the annulment proceeding, the hearing is public.
25. The Hearing will be video recorded, and the video recording will be streamed in the English language on the ICSID website shortly after the conclusion of the Hearing. An announcement to this effect will be published on the ICSID website.

J. POST-HEARING SUBMISSIONS AND STATEMENTS OF COSTS

26. The provisions of Procedural Order No. 1, Section 22 apply:
- 22.1 Before the end of the hearing, the Committee shall consult with the parties as to whether they shall submit Post-Hearing-Briefs and shall determine the additional details regarding such briefs, length, format, content and timing. No additional evidence may be produced together with the post-hearing submission.
- 22.2 The Committee shall consult with the parties and issue directions on the parties' statements of costs at the end of the hearing.
27. The Committee will inform the parties at the end of Day 1 of the Hearing whether they will be required to submit Post-Hearing Briefs.

K. LOGISTICAL ITEMS

28. The logistical details (e.g., confirmation of room number assignments, list of participants, set-up details, details on court reporting and technical support services, internet access, audio-visual equipment and catering orders) will be handled through correspondence directly by the ICSID Secretariat.

L. DATA PRIVACY

29. Section 24 of Procedural Order No. 1 states as follows:

- 24.1 The Members of the Committee, the parties and their representatives acknowledge that the processing of their personal data is necessary for the purposes of this annulment proceeding.
- 24.2 The Members of the Committee, the parties and their representatives agree to comply with all applicable data protection and privacy regulations, including providing appropriate notice to data subjects whose personal data will be processed in the annulment proceeding, where necessary. Should compliance with applicable law require action from another participant in the annulment proceeding, the parties are invited to bring that to the attention of that other participant and/or to apply to the Committee for specific data protection measures to be put in place.
- 24.3 The parties and their representatives shall ensure that the storage and exchange of the personal data processed in this arbitration is protected by way of appropriate technical and organizational safeguards.

On behalf of the Committee,

[signed]

Prof. Lawrence Boo
President of the Committee
Date: 20 May 2025