

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

Bay View Group LLC and The Spalena Company LLC

v.

Republic of Rwanda

(ICSID Case No. ARB/18/21)

**PROCEDURAL ORDER NO. 3
ON BIFURCATION**

Members of the Tribunal

Rt. Hon. Lord Phillips KG, PC, President of the Tribunal
Mr. J. Truman Bidwell, Jr., Arbitrator
Ms. Barbara Dohmann QC, Arbitrator

Secretary of the Tribunal

Mr. Alex B. Kaplan

August 28, 2019

1. In Procedural Order No. 2, the Tribunal stated that “Rwanda’s request to determine its preliminary objections to jurisdiction *ratione temporis* as a preliminary question is granted, save that the Tribunal will reconsider this decision if the Claimants’ Counter-Memorial on Preliminary Objections pleads a viable claim based on matters post-dating the Cut-off Date that require exploration on the merits.”
2. On August 17, 2019, the Claimants duly submitted their Counter-Memorial on Preliminary Objections, a substantial portion of which was devoted to jurisdiction *ratione temporis*.
3. The Tribunal, having deliberated, finds that the Claimants have pleaded a sufficient case—to be investigated during the merits phase—that they have a claim founded on matters occurring after the Cut-off Date of May 14, 2015.
4. Accordingly, the Respondent’s objection to jurisdiction *ratione temporis* shall no longer be bifurcated from the merits phase.

DECISION

5. For the reasons set forth above, the Tribunal orders as follows:
 - (a) Rwanda’s request to determine its preliminary objections to jurisdiction *ratione temporis* as a preliminary question is denied on reconsideration; and
 - (b) The Parties shall confer and propose by September 13, 2019 the number of hearing days required for the hearing on bifurcated preliminary objections scheduled for November 18-22, 2019 together with a provisional schedule of the hearing.

On behalf of the Tribunal,

[signed]

Rt. Hon. Lord Phillips KG, PC
President of the Tribunal
Date: August 28, 2019