

**IN THE MATTER OF INVESTMENT DISPUTE UNDER THE AGREEMENT
BETWEEN CANADA AND THE REPUBLIC OF SERBIA FOR THE PROMOTION
AND PROTECTION OF INVESTMENTS AND UNDER THE AGREEMENT
BETWEEN SERBIA AND MONTENEGRO AND THE REPUBLIC OF CYPRUS
ON RECIPROCAL PROMOTION AND PROTECTION OF INVESTMENTS**

**RAND INVESTMENTS LTD., WILLIAM ARCHIBALD RAND, KATHLEEN
ELIZABETH RAND, ALLISON RUTH RAND AND ROBERT HARRY LEANDER
RAND (CANADA)**

AND

SEMBI INVESTMENT LIMITED

(CYPRUS)

CLAIMANTS

– v –

THE REPUBLIC OF SERBIA

RESPONDENT

CLAIMANTS' COST STATEMENT

12 November 2021

SQUIRE 
PATTON BOGGS

nstlaw /  **Stankovic
& Partners**

I. THE CLAIMANTS ARE ENTITLED TO RECOVER THEIR COSTS

1. The Claimants respectfully request that the Tribunal use its broad discretion under Article 61(2) of the ICSID Convention¹ and order Serbia to reimburse all of the Claimants' costs in this arbitration, including both the Claimants' share of the Tribunal's fees and the expenses and reasonable costs of the Claimants' legal representation, in the total amount of **EUR 4,054,775.72, CAD 1,517,905.72 and USD 674,829.89.**
2. For the reasons set forth in the Claimants' prior written and oral submissions, Serbia's case fails as a matter of all jurisdiction, merits and quantum. While the ICSID Convention does not expressly stipulate that the Tribunal should allocate the costs based on the "*costs follow the event*" principle, there is an ample precedent in decisions of international tribunals for doing so.² The Claimants respectfully submit that this principle should be followed if the Claimants prevail in this arbitration.

I. THE CLAIMANTS' COSTS ARE REASONABLE

3. In light of the over 2,000 pages of submissions,³ 1,586 exhibits, and 45 expert reports and witness statements filed by the Parties in this arbitration, the costs incurred by the Claimants are entirely reasonable.

A. Counsel fees and expenses

4. The Claimants were jointly represented by Squire Patton Boggs and Stankovic&Partners. Their total fees and expenses paid by the Claimants were [REDACTED] and [REDACTED] [REDACTED] respectively.
5. The legal fees paid by Claimants are a reasonable reflection of the complexity of this almost four-year long arbitration proceeding. Claimants counsels' tasks included attendance at numerous meetings with the client, gathering and review of documentary evidence, significant legal research and analysis under public international law, Serbian

¹ Article 61(2) of the ICSID Convention provides that the Tribunal shall "*assess the expenses incurred by the parties in connection with the proceedings, and shall decide how and by whom those expenses, the fees and expenses of the members of the Tribunal and the charges for the use of the facilities of the Centre shall be paid.*" ICSID Convention, Regulation and Rules, 2006, p. 29, Article 61(2), **CLA-017**.

² *E.g. ADC Affiliate Limited and ADC & ADMC Management Limited v. Republic of Hungary*, ICSID Case No. ARB/03/16, Award, 2 October 2006, ¶ 533, **CLA-045**; *Phoenix Action, Ltd. v. Czech Republic*, ICSID Case No. ARB/06/5, Award, 15 April 2009, ¶¶ 151-152, **RLA-005**.

³ Excluding submissions exchanged in the document production process and submissions related to Serbia's transparency schedules.

law, Cypriot law and Canadian law, providing support for fact and expert witnesses, drafting and review of written pleadings, attention to various procedural matters and appearance before the Tribunal. Claimants' counsel's expenses include travel and accommodation costs directly borne by Claimants' counsel in relation to this arbitration, as well as translation costs, costs of courier services and phone charges.

B. Expert witnesses' costs

6. The Claimants required the assistance of seven expert witnesses to respond to Serbia's allegations—mainly its objections to jurisdiction. Their total fees and expenses amount to [REDACTED], [REDACTED] and [REDACTED]. The fees and expenses of each of the Claimants' expert witnesses are detailed in Part B of Annex No. 1 hereto.
7. The Claimants' expert witness costs are, again, reasonable in light of the complexity of the matters covered by each of the Claimants' expert witnesses. The Claimants therefore requests their reimbursement in full.

C. Arbitration costs

8. The Claimants have thus far made advance payments of USD 625,000 towards the costs of this arbitration. Serbia should be ordered to bear all of the arbitration costs as determined when this arbitration is concluded and to reimburse the Claimants for the full amount of their advance payments, less any amounts that may be returned to the Claimants by ICSID.

D. Additional costs

9. The Claimants' additional costs consist of compensation for the time spent by Messrs. Broshko and Markićević, as directors of Rand Investments and Sembi, respectively, on the management of this dispute, including preparation of Claimants' submissions and their own witness statements. The amount of this compensation is calculated as: (i) 25% of the monthly remuneration of Messrs. Broshko and Markićević from April to October 2017 (*i.e.* the period when the initial research and discussions with the counsel took place); and (ii) 50% of the monthly remuneration of Messrs. Broshko and Markićević from November 2017 to October 2021 (*i.e.* the period during which the Claimants actively worked on individual submissions in this case). These amounts reflect the time

dedicated by Messrs. Broshko and Markićević to this arbitration,⁴ in comparison to the time they dedicated to other matters related to the management of the Claimants' companies.

10. The category of additional costs also includes travel, accommodation and other minor expenses incurred directly by the Claimants and/or their representatives and fact witnesses during the arbitration, including, without limitation, their attendance at the merits hearing in The Hague and their preparation therefor.
11. Finally, the additional costs include fees of various legal advisors on whom—in addition to experts who submitted their expert reports to the Tribunal—the Claimants relied upon to properly formulate their claims and to rebut Serbia's objections to the Tribunal's jurisdiction. Although outcomes of these analyses were not submitted to the Tribunal in a form of expert reports, they served as a basis for preparation of the Claimants' arguments as included in their briefs.
12. The total amount of such additional costs incurred by the Claimants—as detailed in Annex No. 1—is ██████████ and ██████████. The Claimants request full reimbursement of this amount.

II. REQUEST FOR RELIEF

13. For the foregoing reasons, the Claimants request the following relief:
 - a. an order that Serbia pay the costs of these arbitral proceedings, including the cost of the Tribunal and the legal and other costs incurred by the Claimants, on a full indemnity basis, in the total amount of **EUR 4,054,775.72, CAD 1,517,905.72 and USD 674,829.89**; and
 - b. interest on any costs awarded to the Claimants, in an amount to be determined by the Tribunal.

⁴ They both submitted four witness statements in this arbitration, assisted with gathering of evidence, production of documents and engagement of expert witnesses.

Submitted on behalf of Claimants

Rostislav Petrá

SQUIRE PATTON BOGGS
STANKOVIC & PARTNERS

ANNEX NO. 1

A. COUNSEL FEES AND EXPENSES	
Squire Patton Boggs fees	██████████
Squire Patton Boggs expenses (including travel expenses, translation costs, costs of courier services and phone charges)	██████████
Stankovic & Partners fees and expenses	██████████
	TOTAL: ██████████
B. EXPERT WITNESSES' FEES AND EXPENSES	
Mr. Agis Georgiades	██████████
Mr. Miloš Milošević	██████████
Dr. Richard Hern	██████████
Ms. Bojana Tomić-Brkušanin	██████████
Mr. Krzysztof Grzesik	██████████ ██████████
Mr. Robert J.C. Dean	██████████
Mr. Uglješa Grušić	██████████
	TOTAL: ██████████ ██████████ ██████████
C. ARBITRATION COSTS	
Arbitration costs	USD 625,000
	TOTAL: USD 625,000
D. ADDITIONAL COSTS	
Expenses incurred directly by Claimants and/or their representatives and fact witnesses during the arbitration	EUR 77,152.82 CAD 149,965.15

ANNEX NO. 1

Mr. Broshko's fees	██████████
Mr. Markićević's fees	██████████
Canadian tax law analysis performed by Koffman Kalef	██████████
Canadian tax law analysis performed by Legacy Tax & Trust Lawyers	██████████
Guernsey trust law analysis performed by Ogier	██████████
	TOTAL: ██████████ ██████████

TOTAL COSTS CLAIMED (A+B+C+D):⁵

(i) EUR 4,054,775.72;

(ii) USD 674,829.89; and

(iii) CAD 1,517,905.72

⁵ Less any unused part of the Claimants' payments to ICSID that may potentially be returned to the Claimants.