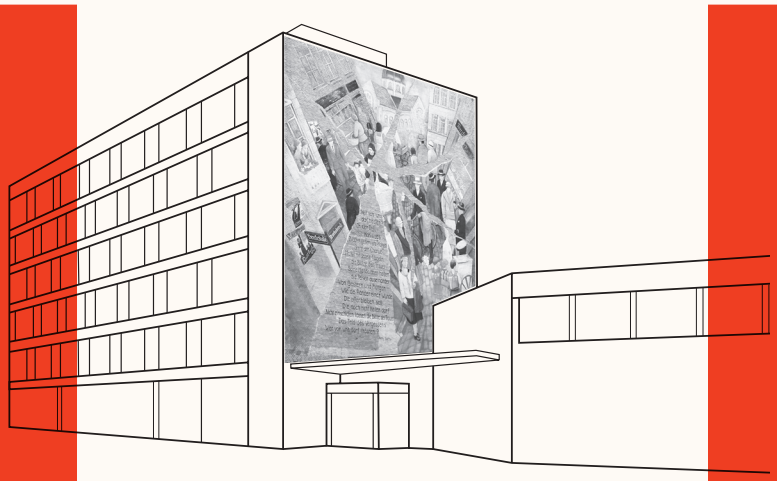

Karsten Nowrot

# Post-Award Remedies in International Investment Arbitration: The Examples of Requests for Correction and Rectification as well as for Additional Awards or Supplementary Decisions

Rechtswissenschaftliche
Beiträge der
Hamburger Sozialökonomie

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## A. Introduction

As a rule, an investment arbitration tribunal is so-called "*functus officio*" from the moment on when the arbitral award is rendered. Consequently, the function of arbitrators in settling the investment disputes normally ends at this stage. In particular, they do not enjoy any competence to revisited the award they have rendered; a legal effect that is also referred to as the principle of finality of awards.[1] Underlying this normative perception are a number of motives, among them the desirability of ending the investment dispute at issue and, albeit closely related, concerns about potential delays, uncertainties and costs resulting from ongoing discussions among the parties concerning the correctness, the completeness as well as the interpretation of the arbitral award.[2]

However, also in the present context the well-known saying applies that there is no rule without exceptions. Recognizing the human inability to completely avoid mistakes, unintended omissions or ambiguities in the award and thus deficits that entail the potential to complicate the enforcement or even to compromise the validity of the award as well as the desirable to avoid the necessity for annulment should an additional fact of significance become available shortly after the rendering of an award,[3] all of the major arbitration rules that are of relevance in the realm of international investment arbitration foresee certain exceptions to the rule of *functus officio* by permitting the parties to request the tribunal to, among others, correct errors, to address omissions and to clarify ambiguities in the award. Against this background, in the following two different types of these so-called "post-award remedies", namely requests for correction and rectification (B.) as well as requests for additional awards and supplementary decisions (C.) will be introduced and assessed.

1 See thereto also, e.g., *Gold Reserve v. Venezuela*, ICSID Case No. ARB(AF)/09/1, Decision regarding the Claimant's and Respondent's Requests for Corrections of 15 December 2014, para. 35; *Perenco v. Ecuador*, ICSID Case No. ARB/08/6, Award of 27 September 2019, para. 902; *Werner/Holtzman*, The Labor Lawyer 3 (1987), 183 *et seq.*; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 24.

2 *Gold Reserve v. Venezuela*, ICSID Case No. ARB(AF)/09/1, Decision regarding the Claimant's and Respondent's Requests for Corrections of 15 December 2014, para. 36; see also, e.g., *Caron/Reed*, Arbitration International 11 (1995), 429.

3 *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 801-802; *Li*, Chinese Journal of Comparative Law 4 (2016), 98 (99).

## B. Correction and Rectification of an Award

All major international arbitration rules and regimes commonly taken recourse to in international investment arbitration include provisions allowing the parties to formally ask the tribunal to correct certain formal and technical errors in its awards. Requests for correction or – usually used synonymously[4] – for rectification are recognized as a permissible type of post-award remedies for example in Article 49 (2) ICSID Convention, Rule 72 (2) of the 2022 ICSID Additional Facility Arbitration Rules, Article 38 (1) of the 2021 UNCITRAL Arbitration Rules, Rule 31.1 of the 2017 Singapore International Arbitration Centre (SIAC) Investment Arbitration Rules, Article 36 (2) of the 2021 International Chamber of Commerce (ICC) Arbitration Rules, Article 27.1 of the 2020 London Court of International Arbitration (LCIA) Arbitration Rules as well as in Article 47 (1) of the 2017 Arbitration Institute of the Stockholm Chamber of Commerce (SCC) Arbitration Rules.

As rightly recognized in arbitral practice and the literature, the overarching purpose of the post-award remedy of rectification is to correct miscalculations and other unintentional mistakes of a clerical, arithmetical or similar kind in an award that have occurred during the award's drafting process and that have the potential to distort the outcome of an arbitral proceeding as intended by the tribunal, thereby possibly even giving rise to challenges as to the legal validity of the award in question. Correcting respective errors is thus aimed at avoiding a situation where the parties find themselves obliged to honor an award that orders a relief that the tribunal did not wanted to grant. Consequently, the correction remedy serves to ensure that the actual (and original) intentions of the tribunal members – and not the errors that they might have unintentionally made in the process of finalizing the written version of their decision – find their manifestation in the text of the award.[5]

Equally important, and at least equally often emphasized by tribunals and scholars alike, is the perception – approaching the issue by way of a negative definition or characterization – of what a request for correction is not supposed to be legitimately aimed at. General agreement exists that it is not the purpose of this remedy to initiate a reconsideration and alteration of the intentions of the tribunal by asking it to reevaluate issues that it already decided in the award, to serve as an appeal and substantive review of the decision or, albeit closely related, to function as a means to revisit and modify or otherwise affect the merits of the respective award.[6]

4 See, however, also for example Article 52 of the former 2010 Arbitration Rules of the Netherlands Arbitration Institute (NAI) that distinguished between requests for rectification (para. 1) and for correction (para. 2) of an award. This differentiation is no longer stipulated in the comparable provision of Article 47 of the current 2015 NAI Arbitration Rules.

5 On these perceptions see also, e.g., *Gold Reserve v. Venezuela*, ICSID Case No. ARB(AF)/09/1, Decision regarding the Claimant's and Respondent's Requests for Corrections of 15 December 2014, para. 38; *Watkins v. Spain*, ICSID Case No. ARB/15/44, Decision on Rectification of 13 July 2020, para. 37; *Gavazzi et al. v. Romania*, ICSID Case No. ARB/12/25, Decision on Rectification of 13 July 2017, para. 54; *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 811-812.

6 *Watkins v. Spain*, ICSID Case No. ARB/15/44, Decision on Rectification of 13 July 2020, para. 38; *Víctor Pey Casado et al. v. Chile*, ICSID Case No. ARB/98/2, Decision on Rectification of the Award of 6 October 2017, para. 49; *Gold Reserve v. Venezuela*, ICSID Case No. ARB(AF)/09/1, Decision regarding the Claimant's and Respondent's Requests for Corrections of 15 December 2014, para. 38; *Philip Morris et al. v. Uruguay*, ICSID Case No. ARB/10/7, Decision on Rectification of 26 September 2016, para. 20; *Ickale Insaat v. Turkmenistan*, ICSID Case No. ARB/10/24, Decision on Claimant's Request for Supplementary Decision and Rectification of the Award of 4 October 2016, para. 103; *Vivendi et al. v. Argentina*, ICSID Case No. ARB/97/3, Decision of the *Ad Hoc* Committee on the Request for Supplementation and Rectification of 28 May 2003, para. 25; *Dolzer/Kriebaum/Schreuer*, Principles of International Investment Law, 444; *Constantin*, International Investment Law Journal 1 (2021), 67 (69-70); *Mouawad/Soule*, in: Fouret/Gerbay/Alvarez (eds.), The ICSID Convention, Regulations and Rules – A Practical Commentary, Article 49, paras. 4.813, 4.833.

It follows from these findings that, for example, no new documents or other evidence may be submitted by the parties in the course of rectification proceedings,[7] and that the requested correction of an error must relate to an aspect of the award that is entirely accessory to the dispute settled by this decision.[8] Nevertheless, this perception should not lead to the conclusion that correcting an error under this remedy could never have an impact on the outcome of the award. Quite to the contrary, for example rectifying a false number or a wrong mathematical calculation of an amount clearly changes the substance of the decision. Such scenarios are also covered by the scope of application of the motion for rectification since – as rightly highlighted by *Andrew N. Vollmer* and *Angela J. Bedford* – such a correction "would not mean that the tribunal has changed its decision. Rather, it would only mean that the tribunal had incorrectly expressed its decision in the first place".[9]

Applying these standards in arbitral practice, investment arbitration tribunals have for example rectified errors related to their own wrong reference to certain decrees,[10] to incorrect factual descriptions,[11] to omissions in the respondent's list of representatives,[12] to other incorrect qualifications of representatives and their affiliation,[13] to misidentifications of witnesses,[14] to misquotations from a submission made by a party,[15] to arithmetical mistakes in the determination of the value of future cash flows,[16] to incorrect names of products[17] as well as to the use of wrong terminologies in the summary of facts and contentions.[18] To the contrary, investment tribunals have rejected requests for correction for example in situation where, according to the respective tribunal's perception, the requesting party intended to subsequently change the methodological approach in the calculation of quantum taken recourse to in the award,[19] to achieve an adjustment in costs,[20] to subsequently raise a new claim to post-award interests[21] or

7 *Gavazzi et al. v. Romania*, ICSID Case No. ARB/12/25, Decision on Rectification of 13 July 2017, para. 58; *Railroad Development Corporation v. Guatemala*, ICSID Case No. ARB/07/23, Decision on Supplementation and Rectification of the Award of 18 January 2013, para. 38; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 34.

8 *Victor Pey Casado et al. v. Chile*, ICSID Case No. ARB/98/2, Decision on Rectification of the Award of 6 October 2017, para. 50 ("purely accessory to the underlying dispute settled by the award"); *Vivendi et al. v. Argentina*, ICSID Case No. ARB/97/3, Decision of the *Ad Hoc* Committee on the Request for Supplementation and Rectification of 28 May 2003, para. 25; *Mouawad/Soule*, in: Fouret/Gerbay/Alvarez (eds.), The ICSID Convention, Regulations and Rules – A Practical Commentary, Article 49, para. 4.833.

9 *Vollmer/Bedford*, Journal of International Arbitration 15 (1998), 37 (39); see also, e.g., *Gavazzi et al. v. Romania*, ICSID Case No. ARB/12/25, Decision on Rectification of 13 July 2017, para. 56.

10 See, e.g., *Victor Pey Casado et al. v. Chile*, ICSID Case No. ARB/98/2, Decision on Rectification of the Award of 6 October 2017, para. 52.

11 *Philip Morris et al. v. Uruguay*, ICSID Case No. ARB/10/7, Decision on Rectification of 26 September 2016, paras. 29-30.

12 *Noble Ventures v. Romania*, ICSID Case No. ARB/01/11, Rectification of Award of 19 May 2006, paras. 2 and 7.

13 *Industria Nacional de Alimentos et al. v. Peru*, ICSID Case No. ARB/03/4, Rectification of the Decision on Annulment of 30 November 2007, paras. 3 *et seq.*

14 *Santa Elena v. Costa Rica*, ICSID Case No. ARB/96/1, Rectification of Award of 8 June 2000, para. 8.

15 *Victor Pey Casado et al. v. Chile*, ICSID Case No. ARB/98/2, Decision on Rectification of the Award of 6 October 2017, paras. 53-54.

16 *Antin Infrastructure Services v. Spain*, ICSID Case No. ARB/13/31, Decision on Rectification of the Award of 29 January 2019, para. 32.

17 *Philip Morris et al. v. Uruguay*, ICSID Case No. ARB/10/7, Decision on Rectification of 26 September 2016, para. 26.

18 *Maffezini v. Spain*, ICSID Case No. ARB/97/7, Rectification of the Award of 31 January 2001, paras. 8 *et seq.*

19 *Watkins v. Spain*, ICSID Case No. ARB/15/44, Decision on Rectification of 13 July 2020, paras. 42 *et seq.*; see also, e.g., *Antin Infrastructure Services v. Spain*, ICSID Case No. ARB/13/31, Decision on Rectification of the Award of 29 January 2019, paras. 35 *et seq.*

20 *Antin Infrastructure Services v. Spain*, ICSID Case No. ARB/13/31, Decision on Rectification of the Award of 29 January 2019, para. 39.

21 *Enron v. Argentina*, ICSID Case No. ARB/01/3, Decision on Claimant's Request for Rectification and/or Supplementary Decision of the Award of 25 October 2007, paras. 42 *et seq.*

to initiate a reevaluation of the evidence by the tribunal.[22]

The competence to revisit the award and correct respective errors therein is only bestowed upon the investment tribunal which rendered the decision.[23] This limitation is particularly obvious in the arbitration regime established by the ICSID Convention based on a systematic interpretation of its Article 49 (2) by taking recourse to the provisions of Article 50 (2) and Article 51 (3) that in the context of requests for interpretation and revisions of the award,[24] contrary to the wording of Article 49 (2), explicitly allow for the constitution of a new tribunal in case a submission of the motion to the original tribunal is not possible.[25] However, it also applies to other major international arbitration rules like Article 38 (1) of the 2021 UNCITRAL Arbitration Rules that are of practical relevance in international investment arbitration. As a consequence, the post-award motion of requests for correction or rectification is in principle not available to the parties in case the original tribunal, for example due to the death of one of its members, cannot be reconvened anymore. Nevertheless, certain exceptions from this rule appear to be accepted in investment arbitration practice, in particular in situations where the post-award proceedings have already commenced prior to the original tribunal becoming unavailable and both parties have consented to their continuation.[26]

As far as the circle of actors entitled to initiate a correction of the award is concerned, most relevant international arbitration rules not only foresee that the parties may request a respective rectification but in addition also allow the tribunal itself to correct the award *sua sponte* within a certain timeframe after rendering the award. A respective competence of the tribunal is for example acknowledged in Article 38 (2) of the 2021 UNCITRAL Arbitration Rules, Rule 72 (1) of the 2022 ICSID Additional Facility Arbitration Rules, Article 47 (2) of the 2017 SCC Arbitration Rules and Article 27.2 of the 2020 LCIA Arbitration Rules. The only major exception is Article 49 (2) ICSID Convention that does not grant the arbitrators themselves the power to rectify awards on their own initiative. Nevertheless, also in the context of the last-mentioned investment arbitration proceedings under ICSID, it is recognized in practice that, once a request has been made by a party, the tribunal may not merely rectify the errors explicitly invoked by the requesting party, but enjoys the competence to correct other related errors in order to ensure "that the total outcome of the Award is correct".[27]

22 *Ickale Insaat v. Turkmenistan*, ICSID Case No. ARB/10/24, Decision on Claimant's Request for Supplementary Decision and Rectification of the Award of 4 October 2016, para. 143.

23 On this finding see also, e.g., *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 35.

24 Generally on requests for interpretion in the present context see, e.g., *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 50, paras. 1 *et seq.*; *Vasani*, in: Fouret/Gerbay/Alvarez (eds.), The ICSID Convention, Regulations and Rules – A Practical Commentary, Article 50, paras. 1 *et seq.*; concerning requests for revision of an award see for example *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 51, paras. 1 *et seq.*; *Remy*, in: Fouret/Gerbay/Alvarez (eds.), The ICSID Convention, Regulations and Rules – A Practical Commentary, Article 51, paras. 1 *et seq.*, each with numerous further references.

25 For further details see for example *Vasani*, in: Fouret/Gerbay/Alvarez (eds.), The ICSID Convention, Regulations and Rules – A Practical Commentary, Article 50, para. 4.860; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 50, paras. 39 *et seq.*; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 51, paras. 38-39.

26 For respective examples see *Antin Infrastructure Services v. Spain*, ICSID Case No. ARB/13/31, Decision on Rectification of the Award of 29 January 2019, paras. 3-11; as well as, albeit from the related realm of supplementary decisions, *Mercer International v. Canada*, ICSID Case No. ARB(AF)/12/3, Supplementary Decision of 10 December 2018, paras. 1-4; see also *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, paras. 36-37.

27 *ConocoPhillips et al. v. Venezuela*, ICSID Case No. ARB/07/30, Decision on Rectification of 29 August 2019, para. 30; see also *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 30.

Moreover, while many arbitration regimes like Article 38 (1) of the 2021 UNCITRAL Arbitration Rules grant to the tribunal a certain discretion to decide whether the requested correction is justified and should thus be made,[28] this does not for example apply – at least based on the wording of the English-language version of the provision ("shall")[29] – to requests for rectification under Article 49 (2) ICSID Convention[30] as well as under Rule 72 of the 2022 ICSID Additional Facility Arbitration Rules. However, these different approaches displayed in arbitration rules are at best of merely limited relevance in practice, since also under those normative frameworks that qualify rectification decisions as discretionary, this discretion is clearly very much limited by the overarching obligation of every arbitral tribunal to render to the parties a coherent and accurate award;[31] and thus an award also being devoid of respective errors.

As already implied by the characterization as a "post-award" motion, and furthermore in particular also confirmed by the wording of the respective provisions stipulated in the various arbitration rules, the request for correction is in principle only applicable to awards. Whereas under arbitration regimes like Article 34 (1) of the 2021 UNCITRAL Arbitration Rules or Article 26 (1) of the 2020 LCIA Arbitration Rules the tribunal may make various separate awards on different issues at various times of the proceedings with the remedy of correction being available to the parties in respect of all of them,[32] in particular the investment arbitration regime under the ICSID Convention recognizes only one type of awards, namely the final decision of the tribunal which disposes of the case. Although a certain exception is stipulated in Article 52 (4) ICSID Convention, extending the scope of application of the remedies available under Article 49 (2) also to annulment decisions of *ad hoc* committees,[33] and despite the fact that also for example the award of a newly constituted tribunal in a resubmitted case in accordance with Article 52 (6) ICSID Convention can legitimately give rise to a request for rectification,[34] it follows from this finding that as a rule this remedy is not – meaning neither under ICSID[35] nor relevant alternative arbitration rules – available as far as other decisions of investment tribunals like those on jurisdiction or on provisional measures are concerned. That said, this verdict should not give rise to the conclusion that an investment tribunal is legally prevented from correcting errors occurring in its preliminary orders or decisions while the arbitration proceedings are still pending. Such scenarios merely fall outside the scope of application of provisions like Article 49 (2) ICSID Convention or Article 38 (1) of the 2021

28 See also, e.g., *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 814.

29 See, however, on the differences in the equally authentic French and Spanish texts of Article 49 (2) ICSID Convention *Mouawad/Soule*, in: Fouret/Gerbay/Alvarez (eds.), The ICSID Convention, Regulations and Rules – A Practical Commentary, Article 49, para. 4.834.

30 *Ickale Insaat v. Turkmenistan*, ICSID Case No. ARB/10/24, Decision on Claimant's Request for Supplementary Decision and Rectification of the Award of 4 October 2016, para. 116; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 47; see also, e.g., *Victor Pey Casado et al. v. Chile*, ICSID Case No. ARB/98/2, Decision on Rectification of the Award of 6 October 2017, para. 49; *Beharry*, in: Beharry (ed.), Contemporary and Emerging Issues on the Law of Damages and Valuation in International Investment Arbitration, 428 (435).

31 Generally on this obligation *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 801.

32 *Vollmer/Bedford*, Journal of International Arbitration 15 (1998), 37 (45-46); *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 812.

33 See, e.g., *Soufraki v. United Arab Emirates*, ICSID Case No. ARB/02/7, Rectification of the Decision of the *Ad Hoc* Committee on the Application for Annulment of 13 August 2007. See also *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 52, para. 705.

34 See thereto *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 27.

35 *Perenco v. Ecuador*, ICSID Case No. ARB/08/6, Decision on Ecuador's Reconsideration Motion of 10 April 2015, para. 57; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 28.

UNCITRAL Arbitration Rules which apply only to awards and, in this regard, in particular to situations in which the investment tribunal has already ended its activities. However, during still ongoing arbitration proceedings, a party is in principle always entitled to request a correction of a decision and the investment tribunal can respond to this request – or even act on its own initiative – by rectifying respective errors based on the general competences bestowed upon it under provisions like Article 44 ICSID Convention[36] or Rule 37 of the 2022 ICSID Additional Facility Arbitration Rules.[37]

Concerning the procedural rules applicable to motions for corrections, three central aspects common to all respective international arbitration rules seem to be particularly worth highlighting. First, the arbitration regimes foresee that a party must make a request for rectification within a certain time limit; ranging from 28 days after the award was received in case of Article 27.1 of the 2020 LCIA Arbitration Rules, over 30 days after the receipt of the award under, among others, Article 38 (1) of the 2021 UNCITRAL Arbitration Rules, Article 36 (2) of the 2021 ICC Arbitration Rules and Rule 31.1 of the 2017 SIAC Investment Arbitration Rules, to 45 days after the award was rendered in accordance with Article 49 (2) ICSID Arbitration[38] as well as Rule 72 (2) of the 2022 ICSID Additional Facility Arbitration Rules. Second, as for example stipulated in Article 38 (1) of the 2021 UNCITRAL Arbitration Rules and Article 49 (2) ICSID Convention, the request for correction must be notified to the other party. Moreover, already in light of the fact that the right to be heard constitutes a fundamental rule of procedure,[39] implied in this requirement is also the right of the other party to comment on this request;[40] an additional legal entitlement that is sometimes – as for example evidenced by Article 47 (1) of the 2017 SCC Arbitration Rules and arguable also by Rule 72 (6) of the 2022 ICSID Additional Facility Arbitration Rules, Article 36 (4) of the 2021 ICC Arbitration Rules and Rule 61 (3) of the 2022 ICSID Arbitration Rules – also explicitly stipulated. Third, most if not all major arbitration rules provide for a time limit for the decision of the tribunal on the request for correction; ranging from 28 days after receipt of the request in accordance with Article 27.1 of the 2020 LCIA Arbitration Rules to 60 days under Rule 61 (7) of the 2022 ICSID Arbitration Rules and Rule 72 (8) of the 2022 ICSID Additional Facility Arbitration Rules.

Almost all international arbitration rules – among them Article 49 (2) ICSID Convention, Rule 31.1 of the 2017 SIAC Investment Arbitration Rules and Article 38 (3) of the 2021 UNCITRAL Arbitration Rules – explicitly stipulate that the tribunal's decision on the request for rectification shall become part of the award.[41] Finally, it seems worth mentioning in the context of investment arbitration proceedings under the ICSID Convention that, contrary to the competences enjoyed by tribunals when dealing with requests for interpretation under

36 Generally on the residual or inherent powers of investment arbitration tribunals under this provision see for example *Brown*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 44, paras. 60 *et seq.*

37 For a respective scenario see, e.g., *Waste Management v. Mexico*, ICSID Case No. ARB(AF)/00/3, Award of 30 April 2004, paras. 13-17; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 28.

38 Further procedural details are stipulated in Rule 61 of the 2022 ICSID Arbitration Rules.

39 Generally on this perception see, e.g., *Fraport v. Philippines*, ICSID Case No. ARB/03/25, Decision on Annulment of 23 December 2010, paras. 197 *et seq.*

40 See also, e.g., *Gold Reserve v. Venezuela*, ICSID Case No. ARB(AF)/09/1, Decision regarding the Claimant's and Respondent's Requests for Corrections of 15 December 2014, paras. 40 *et seq.*; *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 813; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 33.

41 On the procedural consequences see for example *Vollmer/Bedford*, Journal of International Arbitration 15 (1998), 37 (47); *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 97.

Article 50 (2) ICSID Convention or requests for revision under Article 51 (4) ICSID Convention,[42] already based on the wording of Article 49 (2) and by taking recourse to a comparative systematic interpretation, a tribunal is not bestowed with the power to order a stay of enforcement of the award pending its decision on the request for rectification under Article 49 (2) ICSID Convention.[43] This finding also applies to requests for supplementary decisions under Article 49 (2) ICSID Convention; the subject of the following section.[44]

## C. Additional Award and Supplemental Decision

Another post-award remedy frequently foreseen in arbitration rules that are of notable practical relevance in international investment arbitration concerns the competence of the tribunal to render an additional award or a supplemental decision at the request of a party on claims or questions that were submitted in the course of the arbitral proceedings but not decided by the tribunal in the award. Respective motions aimed at remedying such omissions on the side of tribunals are, among others, stipulated in Article 39 (1) of the 2021 UNCITRAL Arbitration Rules, Article 49 (2) ICSID Convention, Rule 72 (2) of the 2022 ICSID Additional Facility Arbitration Rules, Article 36 (3) of the 2021 ICC Arbitration Rules, Article 48 of the 2017 SCC Arbitration Rules, Article 27.3 of the 2020 LCIA Arbitration Rules as well as in Rule 31.3 of the 2017 SIAC Investment Arbitration Rules.

This type of post-award remedy is aimed at removing and filling an analytical gap in the award by addressing and thus rectifying the omission of any claims made by a party during the proceedings that were – unintentionally and thus inadvertently[45] – not dealt with by the arbitral tribunal but should have been decided. It thus allows the parties to request the tribunal to complete the award.[46] This remedy is closely connected to the general obligation incumbent upon every arbitral tribunal to in principle deal in the award with every claim submitted to it by the parties:[47] a requirement that is for example explicitly stipulated in Article 48 (3) ICSID Convention.[48] Moreover, it is clearly also related to the tribunal's overarching duty to ensure

42 See thereto for example *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 50, paras. 51 *et seq.*; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 51, paras. 40 *et seq.*; *Remy*, in: Fouret/Gerbay/Alvarez (eds.), The ICSID Convention, Regulations and Rules – A Practical Commentary, Article 51, paras. 4.928 *et seq.* See also, e.g., *Pey Casado v. Chile*, ICSID Case No. ARB/98/2, Decision on Stay of Enforcement of 5 August 2008 (in French and Spanish); as well as in particular also *Dan Cake v. Hungary*, ICSID Case No. ARB/12/9, Revision Proceedings, Decision on the Continued Stay of Enforcement of the Award of 25 December 2018, paras. 32 *et seq.*

43 For a similar finding see for example *Watkins v. Spain*, ICSID Case No. ARB/15/44, Decision on Rectification of 13 July 2020, paras. 66-74; *Masdar v. Spain*, ICSID Case No. ARB/14/1, Decision on the Respondant's Application to Stay Enforcement of the Award of 24 August 2018, paras. 17-24; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 40.

44 See thereto *infra* under C.

45 On this aspect see for example *Pac Rim Cayman LLC v. El Salvador*, ICSID Case No. ARB/09/12, Decision on the Respondent's Request for a Supplementary Decision of 28 March 2017, para. 1.18.

46 On this perception see, e.g., *Pacc Offshore Services v. Mexico*, ICSID Case No. UNCT/18/5, Decision on Claimant's Application for an Additional Award and on the Applicable Interest Rate of 9 May 2022, paras. 37, 41; *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 821-822.

47 See also, e.g., *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 46.

48 For further details see for example *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 48, paras. 44 *et seq.*

that the parties receive a valid and enforceable award, in particular taking into account that – outside the context of ICSID arbitration proceedings – domestic courts in many countries are likely to set aside an arbitral award for reasons of incompleteness if it fails to address all relevant claims made by a party, thus rendering it invalid and unenforceable.[49]

Nevertheless, in the same way as with regard to requests for rectification or correction,[50] tribunals and academics have also frequently and rightly stressed the limits of this remedy, bearing in mind its object and purpose. In particular, a request for an additional award or a supplemental decision is neither intended to serve as "a door to revise the Award, or to introduce new arguments, or to present new claims",[51] nor as a means that would permit a party to require the tribunal to rule on a claim that it had already deliberately considered as irrelevant or inappropriate for the dispute at issue.

Against this background, it seems, based on a dogmatic perspective, appropriate and useful to adopt a three-step approach when assessing the merits of a request by a party for an additional award or a supplemental decision in international investment arbitration proceedings.[52] In an initial step the tribunal has to determine whether the claim at issue was actually presented – explicitly or at least impliedly[53] – by the party in the course of the prior proceedings. In accordance with the explicit wording of provisions like Article 39 (1) of the 2021 UNCITRAL Arbitration Rules, Rule 31.3 of the 2017 SIAC Investment Arbitration Rules and Article 48 of the 2017 SCC Arbitration Rules, and otherwise based on the object and purpose of this post-award remedy, a tribunal can in this regard only decide claims that have in fact been submitted to it.[54] Once the tribunal has found that the claim or question has indeed been presented in the course of the proceedings, it needs to determine – in a second step – whether it has already dealt with this claim and rendered a decision in this regard in its award. In the affirmative, the arbitral tribunal will – and must – reject the request for an additional award or a supplementary decision, bearing in mind that it is not the purpose of this remedy to initiate a process of

49 *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 821 and 823; *Vollmer/Bedford*, Journal of International Arbitration 15 (1998), 37 (44).

50 See thereto *supra* under B.

51 *Pacc Offshore Services v. Mexico*, ICSID Case No. UNCT/18/5, Decision on Claimant's Application for an Additional Award and on the Applicable Interest Rate of 9 May 2022, para. 37. See also, e.g., *ADM et al. v . Mexico*, ICSID Case No. ARB(AF)/04/05, Decision on the Requests for Correction, Supplementary Decision and Interpretation of 10 July 2008, para. 12; *Vivendi et al. v. Argentina*, ICSID Case No. ARB/97/3, Decision of the *Ad Hoc* Committee on the Request for Supplementation and Rectification of 28 May 2003, para. 11; *LG&E Energy Corp. et al. v. Argentina*, ICSID Case No. ARB/02/1, Decision on Claimant's Request for Supplementary Decision of 8 July 2008, para. 16; *Ickale Insaat v. Turkmenistan*, ICSID Case No. ARB/10/24, Decision on Claimant's Request for Supplementary Decision and Rectification of the Award of 4 October 2016, para. 114; *Vollmer/Bedford*, Journal of International Arbitration 15 (1998), 37 (44).

52 For a similar finding see for example also already *Mouawad/Soule*, in: Fouret/Gerbay/Alvarez (eds.), The ICSID Convention, Regulations and Rules – A Practical Commentary, Article 49, para. 4.815.

53 The sufficiency of an implied claim or question was recognized, e.g., in *Victor Pey Casado et al. v. Chile*, ICSID Case No. ARB/98/2, Decision on the Republic of Chile's Request for Supplementation of the Annulment Decision of 11 September 2013, paras. 59-61; and in *Enron v. Argentina*, ICSID Case No. ARB/01/3, Decision on Claimant's Request for Rectification and/or Supplementary Decision of the Award of 25 October 2007, para. 43.

54 *Pacc Offshore Services v. Mexico*, ICSID Case No. UNCT/18/5, Decision on Claimant's Application for an Additional Award and on the Applicable Interest Rate of 9 May 2022, para. 37; *Ickale Insaat v. Turkmenistan*, ICSID Case No. ARB/10/24, Decision on Claimant's Request for Supplementary Decision and Rectification of the Award of 4 October 2016, paras. 107-114; *Genin et al. v. Estonia*, ICSID Case No. ARB/99/2, Decision on Claimant's Request for Supplementary Decisions and Rectification of 4 April 2002, para. 10; *Enron v. Argentina*, ICSID Case No. ARB/01/3, Decision on Claimant's Request for Rectification and/or Supplementary Decision of the Award of 25 October 2007, para. 42; *Victor Pey Casado et al. v. Chile*, ICSID Case No. ARB/98/2, Decision on the Republic of Chile's Request for Supplementation of the Annulment Decision of 11 September 2013, para. 54; *Mouawad/Soule*, in: Fouret/Gerbay/Alvarez (eds.), The ICSID Convention, Regulations and Rules – A Practical Commentary, Article 49, para. 4.815; *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 824.

reconsideration and thus a potential revision of the award.[55]

Only if the tribunal comes to the conclusion that it has not addressed the submitted claim or question in its award, the need arises – in a third and final step – to assess whether it should deal with and decide the question on the basis of an additional award or a supplemental decision. Most, if not even all, relevant arbitration rules like Article 39 (2) of the 2021 UNCITRAL Arbitration Rules, Article 27.3 of the 2020 LCIA Arbitration Rules and Rule 31.3 of the 2017 SIAC Investment Arbitration Rules grant to the tribunal discretion to decide whether the request for an additional award is justified.[56] Contrary to requests for rectification under Article 49 (2) ICSID Convention,[57] this also applies – already in light of the wording of the provision – to requests for supplementary decisions in accordance with Article 49 (2) ICSID Convention.[58] This discretion enjoyed by investment tribunals is most certainly limited by their already above mentioned general obligation to ensure the completeness, validity and enforceability of the award. Nevertheless, tribunals have also constantly – and rightly – held that the principle of exhaustiveness as for example stipulated in Article 48 (3) ICSID Convention applies to claims and questions that are of relevance in the case at issue in the sense that they might affect the outcome of the dispute, but does not require them to deal with every argument presented by the parties, in particular if it considers them to be devoid of any impact on the award or to be for other reasons irrelevant or inappropriate for the dispute at issue.[59]

In light of these findings, a request for an additional award or a supplementary decision is likely to succeed in practice basically only in those circumstances where an investment arbitration tribunal has unintentionally and thus inadvertently "forgot" to address a claim in its award and therefore not in cases where it has intentionally and deliberately chosen not to deal with a submitted question that it considered irrelevant for the respective dispute.[60] Consequently, in arbitral practice a tribunal has for example decided to supplement its award upon finding that although the respondent had claimed post-award interests on its legal costs, the tribunal had

55 For an application of this second step in the practice of investment arbitration tribunals see, e.g., *Mercer International v. Canada*, ICSID Case No. ARB(AF)/12/3, Supplementary Decision of 10 December 2018, paras. 18-25; *LG&E Energy Corp. et al. v. Argentina*, ICSID Case No. ARB/02/1, Decision on Claimant's Request for Supplementary Decision of 8 July 2008, paras. 13-17; *Vivendi et al. v. Argentina*, ICSID Case No. ARB/97/3, Decision of the *Ad Hoc* Committee on the Request for Supplementation and Rectification of 28 May 2003, paras. 16-22.

56 See, e.g., *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 823; see also *Pacc Offshore Services v. Mexico*, ICSID Case No. UNCT/18/5, Decision on Claimant's Application for an Additional Award and on the Applicable Interest Rate of 9 May 2022, para. 37.

57 See thereto *supra* under B.

58 *Railroad Development Corporation v. Guatemala*, ICSID Case No. ARB/07/23, Decision on Supplementation and Rectification of the Award of 18 January 2013, para. 39; *Ickale Insaat v. Turkmenistan*, ICSID Case No. ARB/10/24, Decision on Claimant's Request for Supplementary Decision and Rectification of the Award of 4 October 2016, para. 102; *Victor Pey Casado et al. v. Chile*, ICSID Case No. ARB/98/2, Decision on the Republic of Chile's Request for Supplementation of the Annulment Decision of 11 September 2013, para. 50; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 47; *Mouawad/Soule*, in: Fouret/Gerbay/Alvarez (eds.), The ICSID Convention, Regulations and Rules – A Practical Commentary, Article 49, para. 4.814.

59 See, e.g., *Standard Chartered Bank v. Tanzania*, ICSID Case No. ARB/10/12, Award of 2 November 2012, para. 273; *MCI Power et al. v. Ecuador*, ICSID Case No. ARB/03/6, Decision on Annulment of 19 October 2009, para. 67; Ömer *Dede et al v. Romania*, ICSID Case No. ARB/10/22, Award of 5 September 2013, para. 194; see thereto also *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 48, paras. 46 *et seq.*

60 *Pacc Offshore Services v. Mexico*, ICSID Case No. UNCT/18/5, Decision on Claimant's Application for an Additional Award and on the Applicable Interest Rate of 9 May 2022, para. 37; see also implicitly *Pac Rim Cayman LLC v. El Salvador*, ICSID Case No. ARB/09/12, Decision on the Respondent's Request for a Supplementary Decision of 28 March 2017, para. 1.18; as well as *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 823; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, paras. 49-50.

unintentionally omitted to decide on this claim in the award.[61]

To the contrary, in situations where the omission to address a claim or question in the award is based on an intentional as well as deliberate choice made by the investment arbitration tribunal and where a request for an additional award or a supplementary decision is thus unlikely to be successful, alternatively a request for annulment of the award pursuant to Article 52 ICSID Convention[62] – most certainly confined to the context of investment arbitration proceedings under the ICSID Convention – seems in fact to be the more promising procedural option, in particular as far as the losing party to the dispute is concerned. Although apparently not supported by the *travaux préparatoires* of the ICSID Convention,[63] *ad hoc* committees have frequently and in principle rightly recognized the direct – and thus without the need for a prior exhaustion of the remedy under Article 49 (2) ICSID Convention – availability of a request for annulment of the award for a party based on an alleged failure to state reasons pursuant to Article 52 (1) (e) ICSID Convention, but also for reasons of a manifest excess of power under Article 52 (1) (b) ICSID Convention as well as of a serious departure from a fundamental rule of procedure in accordance with Article 52 (1) (d) ICSID Convention, in cases where the tribunal has deliberately omitted to decide a submitted claim and where the need for a reconsideration of the reasoning supporting the award arises as a result of a respective supplemental decision.[64] Against this background, the availability of requests for supplementary decisions pursuant to Article 49 (2) ICSID Convention seems to be in practice first and foremost a suitable remedy for the successful party to an investment dispute that wants the tribunal to address and decide on a particular – and previously omitted – claim, but for understandable reasons does not seek to annul the award at issue.[65]

In the same way as in the case of motions for correction and rectification of awards, only the investment tribunal that has rendered the award or – in the case of Article 39 (1) of the 2021

61 *Pac Rim Cayman LLC v. El Salvador*, ICSID Case No. ARB/09/12, Decision on the Respondent's Request for a Supplementary Decision of 28 March 2017, paras. 1.16-1.19. For a related example from arbitral practice see also, e.g., *Getma et al. v. Guinea*, ICSID Case No. ARB/11/29, Decision on Supplementation of 13 December 2016, paras. 16-22 (in French).

62 Generally on annulment proceedings in accordance with Article 52 ICSID Convention see for example *Dolzer/Kriebaum/Schreuer*, Principles of International Investment Law, 435 *et seq.*; *Sabahi/Rubins/Wallace*, Investor-State Arbitration, 775 *et seq.*; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 52, paras. 1 *et seq.*; *Honlet/Legum/Crevon*, in: Bungenberg/Griebel/Hobe/Reinisch (eds.), International Investment Law, 1431 *et seq.*; *Radi*, Rules and Practices of International Investment Law and Arbitration, 468 *et seq.*, each with additional references.

63 On this perception as well as for further details in this regard see, e.g., *Feldman*, ICSID Review – Foreign Investment Law Journal 2 (1987), 85 (105 *et seq.*); *Mouawad/Soule*, in: Fouret/Gerbay/Alvarez (eds.), The ICSID Convention, Regulations and Rules – A Practical Commentary, Article 49, paras. 4.803 *et seq.*, 4.831; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 86.

64 See thereto, e.g., *Wena Hotels v. Egypt*, ICSID Case No. ARB/98/4, Decision on Annulment of 8 December 2000, paras. 100-101; *MCI Power et al. v. Ecuador*, ICSID Case No. ARB/03/6, Decision on Annulment of 19 October 2009, paras. 66 *et seq.*; *Occidental et al. v. Ecuador*, ICSID Case No. ARB/06/11, Decision on Annulment of 2 November 2015, para. 67; *Enron v. Argentina*, ICSID Case No. ARB/01/3, Decision on Annulment of 30 July 2010, paras. 72 *et seq.*; *EDF et al. v. Argentina*, ICSID Case No. ARB/03/23, Decision on Annulment of 5 February 2016, para. 345; generally on the relationship between remedies available pursuant to Article 49 (2) and under Article 52 ICSID Convention see also for example *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, paras. 50, 85 *et seq.*; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 48, paras. 56 *et seq.*; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 52, paras. 505 *et seq.*; as well as already *Broches*, ICSID Review – Foreign Investment Law Journal 6 (1991), 321 (332 and *passim*); *Caron*, ICSID Review – Foreign Investment Law Journal 7 (1992), 21 (42 *et seq.*).

65 On this perception see also already *Mouawad/Soule*, in: Fouret/Gerbay/Alvarez (eds.), The ICSID Convention, Regulations and Rules – A Practical Commentary, Article 49, para. 4.832; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 50. For a respective scenario from arbitral practice see, e.g., *Pac Rim Cayman LLC v. El Salvador*, ICSID Case No. ARB/09/12, Decision on the Respondent's Request for a Supplementary Decision of 28 March 2017.

UNCITRAL Arbitration Rules – issued the termination order enjoys the power to make an additional award or a supplementary decision.[66] However, contrary to the post-award remedy of correction,[67] most relevant arbitration rules foresee that only the parties to the dispute may request a respective supplementation. Therefore, the tribunal itself is not bestowed with the competence to issue additional awards or supplementary decisions *sua sponte* and thus on its own motion.[68] An exception to this rule is provided by Article 27.4 of the 2020 LCIA Arbitration Rules. In accordance with this provision, a tribunal "may also make an additional award upon its own initiative within 28 days of the date of the award, after consulting the parties." Moreover, it has rightly been stated in the literature that under the other relevant arbitration rules, a tribunal that becomes aware of a respective omission is expected to notify the parties of this fact in light of its general obligation to ensure the completeness, validity and enforceability of the award.[69]

As already indicated by the wording of the relevant provisions in the respective arbitration rules, the request for an additional award or a supplementary decision is mostly only permitted with regard to awards.[70] Only Article 39 (1) of the 2021 UNCITRAL Arbitration Rules explicitly recognizes the possibility to take recourse to this remedy also as far as termination orders are concerned.[71] In this last-mentioned scenario, the investment tribunal is in fact – as also indicated by the wording of Article 39 of the 2021 UNCITRAL Arbitration Rules ("an award or an additional award") – frequently not rendering an additional award but rather, in the absence of any prior award in the course of the proceedings, the first award in this connection.[72] Furthermore, as already implied by the term "additional award" or "award" taken recourse to in most arbitration rules like Article 39 of the 2021 UNCITRAL Arbitration Rules, Article 36 (4) of the 2021 ICC Arbitration Rules and Rule 31.3 of the 2017 SIAC Investment Arbitration Rules in order to characterize the respective decision of the tribunal, these decisions usually – contrary to decisions on a request for correction and rectification[73] – do not become part of the original award or termination order. Rather, they qualify as independent awards. The main exceptions are supplementary decisions pursuant to Article 49 (2) ICSID Convention and Rule 72 (9) of the 2022 ICSID Additional Facility Arbitration Rules that become part of the previously issued award.

All major arbitration rules frequently applied in international investment arbitration stipulate that a party is required to make a request for an additional award or a supplementary decision within a specific timeframe; ranging from 28 days following the receipt of the award pursuant to Article 27.3 of the 2020 LCIA Arbitration Rules, over 30 days after the award was received in accordance with Article 39 (1) of the 2021 UNCITRAL Arbitration Rules, Article 48 of the 2017 SCC Arbitration Rules, Article 36 (3) of the 2021 ICC Arbitration Rules as well as Rule 31.3 of the 2017 SIAC Investment Arbitration Rules, to 45 days after the award was rendered under Article 49 (2) ICSID Convention[74] and Rule 72 (2) of the 2022 ICSID

66 See thereto as well as for certain exceptions to this rule already *supra* under B.

67 See thereto *supra* under B.

68 See also, e.g., *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 823; *Sinclair*, in: Schill/Malintoppi/Reinisch/Schreuer/Sinclair (eds.), Schreuer's Commentary on the ICSID Convention, Vol. II, Article 49, para. 30.

69 *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 823.

70 For further details see also already *supra* under B.

71 See thereto *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 822 ("The terms 'termination order' and 'award' (as opposed to 'additional award') are new to the 2010 UNCITRAL Rules. They were included to ensure that arbitral tribunals would have the requisite authority to fulfil their duties in the event it neglected to resolves claims, regardless of what mechanism was used to conclude the proceedings.").

72 *Caron/Caplan*, The UNCITRAL Arbitration Rules – A Commentary, 822.

73 On this aspect see already *supra* under B.

74 Additional procedural details are stipulated in Rule 61 of the 2022 ICSID Arbitration Rules.

Additional Facility Arbitration Rules. Furthermore, the request for an additional award or a supplementary decision must also be notified to the other party as for example explicitly foreseen in Article 39 (1) of the 2021 UNCITRAL Arbitration Rules, Article 27.3 of the 2020 LCIA Arbitration Rules and Rule 61 (3) of the 2022 ICSID Arbitration Rules, with this party also being entitled to comment on the request; a fundamental rule of procedure that is for example explicitly enshrined in Article 48 of the 2017 SCC Arbitration Rules.[75] Finally, all relevant arbitration rules also provide for a time limit concerning the tribunal's decision on the request for an additional award or supplementation; ranging from 45 days after receipt of the request pursuant to Rule 31.3 of the 2017 SIAC Investment Arbitration Rules, over 56 days under Article 27.3 of the 2020 LCIA Arbitration Rules, to 60 days after receipt of the request in accordance with Rule 61 (7) of the 2022 ICSID Arbitration Rules, Rule 72 (8) of the 2022 ICSID Additional Facility Arbitration Rules, Article 48 of the 2017 SCC Arbitration Rules and Article 39 (2) of the 2021 UNCITRAL Arbitration Rules.

75 See on this aspect also already *supra* under B.

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