

Building International Investment Law
The First 50 Years of ICSID

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CHAPTER 11

Criteria to Determine Investor Nationality (Natural Persons)

Soufraki v. UAE, ICSID Case No. ARB/02/7¹

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I. INTRODUCTION

The term “nationality” describes the formal relationship of individuals with a State. It is relevant for a number of issues in international law, including personal jurisdiction and diplomatic protection.

Traditionally, questions of nationality were largely shaped by cases involving diplomatic protection. The relevance of that practice to investment arbitration is a matter of debate.² Applicable treaties as well as arbitral practice on the nationality of individuals in investment law differ in several respects from the principles developed for diplomatic protection.

The principle that an individual’s nationality is determined by the law of the country whose nationality is at issue, subject, where necessary, to applicable rules of international law, was generally acknowledged in the course of the ICSID Convention’s drafting.³

The ICSID Convention’s *travaux préparatoires* also show some debate about how a nationality should be determined. The Preliminary Draft to the Convention foresaw “a written affirmation of nationality signed by or on behalf of the Minister of Foreign

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1. *Hussein Nuaman Soufraki v. The United Arab Emirates*, ICSID Case No. ARB/02/7, Award (7 July 2004) (Fortier, Schwebel, El Kholy) [hereinafter *Soufraki v. UAE*, Award].
 2. *Eudoro Armando Olguín v. Republic of Paraguay*, ICSID Case No. ARB/98/5, Award (26 July 2001) (Oreamuno, Rezek, Mayora Alvarado), ¶ 62 [hereinafter *Olguín v. Paraguay*].
 3. International Centre for Settlement of Investment Disputes, *History of the ICSID Convention* vol. II, 67, 286, 321, 448, 580, 582, 658, 705, 839, 868, 874, 876-877 (1970).

Affairs of the State whose nationality is claimed.”⁴ There was considerable opposition to this suggestion, and the idea of an official certification of nationality was dropped.⁵

Investment tribunals have addressed a number of questions pertaining to the nationality of individuals. These include dual or multiple nationalities, the effectiveness of nationality, the probative value of certificates of nationality and the power of tribunals to determine the existence of a nationality.

In ICSID arbitration the investor’s nationality is important for several purposes:

- Under Article 25(1) the investor must be a national of a Contracting State to the ICSID Convention.
- Under Article 25(2)(a) the investor must not be a national of the host State.
- If consent to arbitration is offered by way of a treaty, that offer applies only in relation to nationals of a State that is the host State’s treaty partner.
- Standards of treatment guaranteed in a treaty apply in relation to nationals of States that are parties to the treaty.
- Some standards of treatment prohibit differential treatment on the basis of nationality.

II. THE CASE

A. *Soufraki v. UAE*⁶

In *Soufraki v. UAE*, the Claimant presented himself as an Italian national and hence as a national of a Contracting State to the ICSID Convention in order to meet the requirement of Article 25(2)(a). He also invoked Italian nationality to rely on the Italy-United Arab Emirates (“UAE”) BIT. The UAE challenged his assertion that he qualified as an Italian national on grounds that his dominant or effective nationality was not Italian. The *Soufraki* Tribunal concluded that Soufraki had lost his Italian nationality by operation of the applicable Italian law when he voluntarily acquired Canadian citizenship in 1991.⁷ The issue of genuine and effective nationality was therefore moot. The key question became whether Soufraki had reacquired Italian nationality. The facts, as found by the Tribunal, led it to conclude that at no point after 1991 had Soufraki taken steps to reacquire Italian nationality as provided for by Italian law.⁸

The *Soufraki* Tribunal confirmed that the question of Soufraki’s Italian nationality was determined by Italian law. It also pointed out that under Article 41 of the ICSID Convention the Tribunal was “the judge of its own competence” and hence had the power to decide whether the Claimant possessed the requisite nationality:

4. *Ibid.*, vol. I, at 122.

5. *Ibid.*, vol. II, at 259, 323, 325, 396, 397, 400, 503, 507/8, 538, 539, 582.

6. *Soufraki v. UAE*, Award, *supra* n.1.

7. *Ibid.*, ¶¶ 66-68.

8. *Ibid.*, ¶ 81.

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It is accepted in international law that nationality is within the domestic jurisdiction of the State, which settles, by its own legislation, the rules relating to the acquisition (and loss) of its nationality. Article 1(3) of the BIT reflects this rule. But it is no less accepted that when, in international arbitral or judicial proceedings, the nationality of a person is challenged, the international tribunal is competent to pass upon that challenge. It will accord great weight to the nationality law of the State in question and to the interpretation and application of that law by its authorities. But it will in the end decide for itself whether, on the facts and law before it, the person whose nationality is at issue was or was not a national of the State in question and when, and what follows from that finding. Where, as in the instant case, the jurisdiction of an international tribunal turns on an issue of nationality, the international tribunal is empowered, indeed bound, to decide that issue.⁹

Soufraki insisted that Italian officials continued to treat him as an Italian. In support of his claim, Soufraki produced copies of his Italian passports, five Certificates of Italian Nationality and a letter from the Italian Ministry of Foreign Affairs.¹⁰ The UAE disputed the relevance and reliability of these documents.

The *Soufraki* Tribunal accepted the Claimant's certificates of nationality as *prima facie* evidence. While such certificates were to be given appropriate weight, this did not preclude a decision at variance with their contents.¹¹ It agreed with the UAE that the passports and certificates were not reliable evidence since they had been issued by Italian authorities who were not aware of the relevant details by which they could have determined whether Soufraki was an Italian national.¹² Therefore, the Tribunal issued an Award declining jurisdiction.

The Tribunal added an interesting *obiter dictum* in relation to nationality planning. It said:

[H]ad Mr. Soufraki contracted with the United Arab Emirates through a corporate vehicle incorporated in Italy, rather than contracting in his personal capacity, no problem of jurisdiction would now arise.¹³

Soufraki applied to annul the Award,¹⁴ arguing that the Tribunal had committed a manifest excess of powers in making its own determination of nationality.¹⁵ The *Soufraki ad hoc* Committee found that:

It is a general principle of international law that international tribunals have *compétence-compétence* (*Kompetenz/kompetenz*), i.e. that they are competent to determine whether they have jurisdiction over a dispute. This is reflected in Article 41 of the ICSID Convention. ...¹⁶

9. *Ibid.*, ¶ 55.

10. *Ibid.*, ¶ 14.

11. *Ibid.*, ¶ 63.

12. *Ibid.*, ¶ 68.

13. *Ibid.*, ¶ 83.

14. *Hussein Nuaman Soufraki v. The United Arab Emirates*, ICSID Case No. ARB/02/7, Decision of the *ad hoc* Committee on the Application for Annulment of Mr. Soufraki (5 June 2007) (Feliciano, Nabulsi, Stern) [hereinafter *Soufraki v. UAE*, Decision on Annulment].

15. *Ibid.*, ¶ 46.

16. *Ibid.*, ¶ 50.

The *ad hoc* Committee is convinced that the Tribunal did not exceed its powers in stating that it had to verify Mr. Soufraki's nationality in order to ascertain its competence over the case.¹⁷

Another argument in favor of annulment was based on the Tribunal's statement that it would "accord great weight to the nationality law of the State in question." Soufraki argued that the Tribunal was required to apply Italian law, not merely to give it "great weight."¹⁸ The *Soufraki ad hoc* Committee dismissed this complaint, explaining that whatever ambiguity may have existed in the Award, it was clear "that the Tribunal did *in reality* apply Italian law."¹⁹ The *ad hoc* Committee explained that the Tribunal's statement should have been that the Tribunal "will apply the nationality law of the State in question and accord great weight to the interpretation and application of that law by its authorities."²⁰ It stated that "when applying national law, an international tribunal must strive to apply the legal provisions as interpreted by the competent judicial authorities and as informed by the State's 'interpretative authorities.'"²¹

Another ground for annulment put forth by Soufraki was that the Tribunal exceeded its powers by not accepting the certificates of nationality at face value, as determinative of the question of his nationality. Soufraki argued that an ICSID tribunal's power to scrutinize official certificates was limited only to cases of alleged fraud. The UAE argued that inquiry was also called for where there was evidence of error or mistake.²² The *Soufraki ad hoc* Committee agreed with the UAE. The *ad hoc* Committee insisted that the power of ICSID tribunals to scrutinize certificates of nationality or passports is "well established" in international law generally.²³ It observed that "[i]t is only in exceptional cases – like the case under scrutiny – that ICSID tribunals have to review nationality documentation issued by state officials."²⁴

The *Soufraki ad hoc* Committee rejected the application for annulment and said:

[T]he principle is in fact well established that international tribunals are empowered to determine whether a party has the alleged nationality in order to ascertain their own jurisdiction, and are not bound by national certificates of nationality or passports or other documentation in making that determination and ascertainment.²⁵

B. *Soufraki v. UAE* in Context

The *Soufraki v. UAE* case has confirmed and clarified three main principles:

17. *Ibid.*, ¶ 52.

18. *Ibid.*, ¶ 80.

19. *Ibid.*, ¶¶ 89-93 (emphasis in original).

20. *Ibid.*, ¶¶ 93-97.

21. *Ibid.*, ¶ 96 (citing *Case Concerning the Payment of Various Serbian Loans Issued in France*, Permanent Court of International Justice, Judgment, 12 July 1929, *P.C.I.J. Reports*, Ser. A.–No. 20 (1929), p. 36).

22. *Soufraki v. UAE*, Decision on Annulment, *supra* n.14, ¶¶ 49, 70-71.

23. *Ibid.*, ¶ 64.

24. *Ibid.*, ¶ 28.

25. *Ibid.*, ¶ 64.

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- The nationality of natural persons is governed by the law of the country whose nationality is at issue. In *Soufraki v. UAE* that was Italian law. That law is to be applied in the way it is applied by the domestic courts and other authorities.
- The decision on the existence of a nationality is with the tribunal in pursuance of its power to determine its jurisdiction (Article 41 of the ICSID Convention).
- Documents issued by the country in question, such as passports and certificates of nationality, are to be given their appropriate weight. But they are not conclusive and do not bind the tribunal.

III. SOUFRAKI V. UAE'S IMPACT AND CONTRIBUTION TO THE DEVELOPMENT OF INVESTMENT LAW

The three main findings in *Soufraki v. UAE* set out above (*see supra* section II.B.) have been endorsed in subsequent decisions.

A. Governing Law on Nationality

The principle that the law of the country whose nationality is at issue governs has been endorsed by a number of tribunals.²⁶

In *Siag v. Egypt*,²⁷ the claimants, relying on the Award in *Soufraki v. UAE*, argued that “the determination of a person’s nationality was controlled by the laws of the State whose nationality was in question.”²⁸ Egypt agreed on this point.²⁹ The *Siag* tribunal said:

It is well established that the domestic laws of each Contracting State determine nationality. This has been accepted in ICSID practice. [Citing *Soufraki v. UAE*] Both parties accepted and followed this general principle of international law in their submissions and at the hearing.³⁰

In *Victor Pey Casado v. Chile*,³¹ the tribunal relied on *Soufraki v. UAE* to endorse the same principle:

[E]n droit international, le droit applicable à la nationalité d’un Etat donné est en principe le droit de cet Etat, le juge ou l’arbitre international détient cependant le pouvoir d’en apprécier le contenu et les effets, comme indiqué par exemple dans

26. *See also Nations Energy Inc. et al. v. The Republic of Panama*, ICSID Case No. ARB/06/19, Award (24 November 2010) (Mourre, Chillón Medina, von Wobeser), ¶ 378 [hereinafter *Nations Energy v. Panama*].

27. *Waguih Elie George Siag and Clorinda Vecchi v. The Arab Republic of Egypt*, ICSID Case No. ARB/05/15, Decision on Jurisdiction (11 April 2007) (Williams, Pyles, Orrego Vicuña) [hereinafter *Siag v. Egypt*, Decision on Jurisdiction].

28. *Ibid.*, ¶¶ 46, 48, 90, 124.

29. *Ibid.*, ¶ 46.

30. *Ibid.*, ¶ 143 (footnotes omitted).

31. *Victor Pey Casado and President Allende Foundation v. Republic of Chile*, ICSID Case No. ARB/98/2, Award (8 May 2008) (Lalive, Chemloul, Gaillard) [hereinafter *Victor Pey Casado v. Chile*, Award].

la sentence rendue par un Tribunal CIRDI dans l'affaire *Soufraki c. Emirats Arabes Unis* du 7 juillet 2004.³²

The *ad hoc* committee in that case agreed,³³ adding that the national law had to be applied as interpreted by the competent national authorities:

The Respondent also submits that the proper application of a national law requires a tribunal to interpret that law as it is interpreted by the nation's courts, as well as its legal scholars, and authorities. In this respect, the Committee agrees with the nuance introduced by the *ad hoc* Committee in *Soufraki*:

It is the view of the Committee that the Tribunal had to strive to apply the law as interpreted by the State's highest court, and in harmony with its interpretative (that is, its executive and administrative) authorities. This does not mean that, if an ICSID tribunal commits errors in the interpretation or application of the law, while in the process of striving to apply the relevant law in good faith, those errors would necessarily constitute a ground for annulment.³⁴

Finally, the tribunal in *Micula v. Romania*³⁵ also relied on *Soufraki v. UAE* confirming that:

[A]s a general principle it is for each State to decide in accordance with its law who is its national. ... It is also well established in ICSID jurisprudence that the domestic laws of each Contracting State determine nationality.³⁶

B. The Tribunal's Power to Decide

The tribunal's power to decide questions of nationality as part of its competence to determine its jurisdiction has also been accepted in subsequent decisions.³⁷

In *Siag v. Egypt*, the tribunal quoted in full the key paragraph from the Award in *Soufraki v. UAE*.³⁸

In *Victor Pey Casado v. Chile*,³⁹ the tribunal adopted the same technique. Before quoting extensively from the same key paragraph in *Soufraki v. UAE* it said:

32. *Ibid.*, ¶ 319 (footnote omitted).

33. *Victor Pey Casado and President Allende Foundation v. Republic of Chile*, ICSID Case No. ARB/98/2, Decision on the Application for Annulment of the Republic of Chile (18 December 2012) (Fortier, Bernardini, El-Kosheri) [hereinafter *Victor Pey Casado v. Chile*, Decision on Annulment].

34. *Ibid.*, ¶ 68 (quoting *Soufraki v. UAE*, Decision on Annulment, *supra* n.14, ¶ 97) (footnotes omitted).

35. *Ioan Micula et al. v. Romania*, ICSID Case No. ARB/05/20, Decision on Jurisdiction and Admissibility (24 September 2008) (Lévy, Alexandrov, Ehlermann) [hereinafter *Micula v. Romania*].

36. *Ibid.*, ¶ 86 (referring to *Soufraki v. UAE*, Decision on Annulment, *supra* n.14 and *Siag v. Egypt*, Decision on Jurisdiction, *supra* n.27).

37. See also *Nations Energy v. Panama*, *supra* n.26, ¶ 399.

38. *Siag v. Egypt*, Decision on Jurisdiction, *supra* n.27, ¶ 150 (quoting *Soufraki v. UAE*, Award, *supra* n.1, ¶ 55 quoted at *supra* s.II.A).

39. *Victor Pey Casado v. Chile*, Award, *supra* n.31.

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Dans la sentence *Soufraki*, le Tribunal arbitral, appelé à trancher comme en l'espèce la question de sa compétence au regard de la nationalité du demandeur, après avoir rappelé que, en droit international, la nationalité relevait du domaine réservé et que la législation de chaque Etat décidait de son acquisition ou de sa perte, a déclaré ce qui suit: "... when, in international arbitral or judicial proceedings, the nationality of a person is challenged, the international tribunal is competent to pass upon that challenge. It will accord great weight to the nationality law of the State in question and to the interpretation and application of that law by its authorities. But it will in the end decide for itself whether, on the facts and law before it, the person whose nationality is at issue was not a national of the State in question and when, and what follows from that finding. Where, as in the instant case, the jurisdiction of the international tribunal turns on an issue of nationality, the international tribunal is empowered, indeed bound, to decide that issue."⁴⁰

The tribunal in *Tza Yap Shum v. Peru*⁴¹ also quoted and endorsed that key paragraph from *Soufraki v. UAE* and said:

En opinión del Tribunal, la nacionalidad que le confiere un Estado a una persona en aplicación de sus leyes goza de una fuerte presunción de validez. El Tribunal arbitral puede atender razones que desvirtúen esta presunción.⁴²

In *Micula v. Romania*,⁴³ Romania cast doubt on the propriety of the decision of the Swedish authorities when they naturalized one of the claimants. The *Micula* tribunal relied heavily on the analysis in *Soufraki v. UAE*. While reserving its ultimate power to decide matters of nationality, the *Micula* tribunal found that there were no convincing reasons to doubt the accuracy of the decision of the Swedish authorities. The tribunal said:

94. ... The Tribunal is mindful of the analysis and conclusions of the tribunal and the *ad hoc* committee in the *Soufraki* case and of the authorities quoted by the *ad hoc* committee in *Soufraki* to the effect that it has the power and the duty to examine the existence of the treaty-required nationality. In doing so, it might be that the Tribunal would not necessarily defer to the views of national authorities at least if there has been fraud or an error (as alleged in the *Soufraki* case). This said, it is also clear that the State conferring nationality must be given a "margin of appreciation" in deciding upon the factors that it considers necessary for the granting of nationality. ... The Tribunal underlines at this juncture that there are no reasons of real importance to doubt the accuracy and thoroughness of the inquiry that was made by the Swedish authorities at the time. This case differs clearly from the *Soufraki* case where the Italian authorities that delivered a certificate of nationality were not aware of the loss of the Italian nationality by Mr. *Soufraki*. ...⁴⁴

40. *Víctor Pey Casado v. Chile*, Award, *supra* n.31, ¶ 319 (italics in original). See also *Víctor Pey Casado v. Chile*, Decision on Annulment, *supra* n.33, ¶ 116.

41. *Tza Yap Shum v. The Republic of Peru*, ICSID Case No. ARB/07/6, Decision on Jurisdiction and Competence (19 June 2009) (Kessler, Otero, Fernández-Armesto) [hereinafter *Tza Yap Shum v. Peru*].

42. *Ibid.*, ¶ 63 (footnotes omitted).

43. *Micula v. Romania*, *supra* n.35.

44. *Ibid.*, ¶ 94 (footnotes omitted).

95. In these conditions, the Tribunal would only be inclined to disregard the decision of the Swedish authorities if there was convincing and decisive evidence that Viorel Micula's acquisition of Swedish nationality was fraudulent or at least resulted from a material error. It is for Respondent to make such a showing. For this purpose, casting doubt is not sufficient. ...

96. ... the Tribunal considers that, contrary to the situation in the *Soufraki* case, Respondent has not met the burden of proof to establish grounds for the Tribunal to question Mr. Viorel Micula's nationality, and that, rather, Mr. Viorel Micula has established a strong and convincing case that he has been a national of Sweden during the period relevant to this dispute.⁴⁵

C. Probative Value of Documents

Tribunals have held consistently that certificates of nationality and other official documents constituted *prima facie* evidence of nationality but had no binding effect upon them.⁴⁶

In *Stag v. Egypt*,⁴⁷ the tribunal found authority in the holding of the *Soufraki* Tribunal that certificates of nationality and other official documents were only *prima facie* evidence of nationality.⁴⁸ Similarly, in *Micula v. Romania*,⁴⁹ the tribunal accepted the probative value of a certificate of naturalization as *prima facie* evidence.⁵⁰ In *Ambiente Ufficio v. Argentina*,⁵¹ the tribunal described the evidentiary value of certificates of nationality in the following terms:

[T]he question of the appropriate way for Claimants to meet the substantiation requirement for their having Italian nationality must be drawn from the general evidentiary regime of the ICSID Convention. The Tribunal will therefore have to decide whether an investor meets the Convention's nationality requirements in the same manner as with the other objective requirements for ICSID jurisdiction. A certificate of nationality will therefore be treated as part of the "documents or other evidence" to be examined by the Tribunal in accordance with Art. 43 of the ICSID Convention. ICSID arbitration is not governed by formal rules nor by national laws on evidence. ICSID tribunals have full discretion in assessing the probative value of any piece of evidence introduced before them. In general, the finding of the

45. *Ibid.*, ¶¶ 95-96.

46. See also *Tza Yap Shum v. Peru*, *supra* n.41, ¶ 43; *Mohammad Ammar Al-Bahloul v. The Republic of Tajikistan*, SCC Case No. V. (064/2008), Partial Award on Jurisdiction and Liability (2 September 2009) (Happ, Zykin, Hertzfeld), ¶¶ 129-132; *Caratube International Oil Company LLP v. The Republic of Kazakhstan*, ICSID Case No. ARB/08/12, Award (5 June 2012) (Böckstiegel, Griffith, Hossain), ¶¶ 377-379.

47. *Stag v. Egypt*, Decision on Jurisdiction, *supra* n.27.

48. *Ibid.*, ¶ 151. See also parties' arguments at *ibid.*, ¶¶ 83 and 90 and *Waguih Elie George Stag and Clorinda Vecchi v. The Arab Republic of Egypt*, ICSID Case No. ARB/05/15, Award (1 June 2009) (Williams, Pryles, Orrego Vicuña), ¶ 261 [hereinafter *Stag v. Egypt*, Award].

49. *Micula v. Romania*, *supra* n.35.

50. *Ibid.*, ¶ 94. See also claimant's argument to this effect at *ibid.*, ¶ 76.

51. *Ambiente Ufficio S.p.A. et al. v. Argentine Republic*, ICSID Case No. ARB/08/9 (formerly *Giordano Alpi et al. v. Argentine Republic*), Decision on Jurisdiction and Admissibility (8 February 2013) (Simma, Böckstiegel, Torres Bernárdez) [hereinafter *Ambiente Ufficio v. Argentina*].

Annulment Committee in *Soufraki v. United Arab Emirates* that “[i]t is only in exceptional cases [...] that ICSID tribunals have to review nationality documentation issued by state officials”, may be taken as a guidance in that regard.⁵²

IV. CONCLUSION

The basic findings articulated in the *Soufraki v. UAE* case and its progeny show a high degree of acceptance. There are no major differences of opinion concerning these principles. The issue of the law applicable to nationality as well as the tribunal’s power to decide all matters affecting its jurisdiction and competence, including the claimant’s nationality, are uncontested.

With respect to the probative value of certificates of nationality, questions of burden and standard of proof and their suitability as *prima facie* proof of nationality, it may be possible to detect nuances of difference in the approach of tribunals. But the basic principle formulated in *Soufraki v. UAE* remains uncontroversial.

The *Soufraki v. UAE* case did not deal with all questions relating to the nationality of natural persons. In particular, questions of genuine link or effective nationality as well as issues of dual nationality are discussed in other cases.⁵³ Nevertheless, it may be regarded as the leading case in matters of nationality.

52. *Ambiente Ufficio v. Argentina*, *supra* n.51, ¶ 318 (quoting from *Soufraki v. UAE*, Decision on Annulment, *supra* n.14, ¶ 28) (footnotes omitted).

53. See especially *Nottebohm Case (Liechtenstein v. Guatemala)*, *ICJ Reports 1955*, pp. 4, 23; *Marvin Roy Feldman Karpa v. United Mexican States*, ICSID Case No. ARB(AF)/99/1, Interim Decision on Preliminary Jurisdictional Issues (6 December 2000) (Covarrubias Bravo, Gantz, Kerameus), ¶¶ 24-37; *Oliguín v. Paraguay*, *supra* n.2, ¶¶ 60-62; *Champion Trading Company, Ameritrade International, Inc. v. Arab Republic of Egypt*, ICSID Case No. ARB/02/9, Decision on Jurisdiction (21 October 2003) (Briner, Fortier, Aynes), § 3.4.1; *Siag v. Egypt*, Decision on Jurisdiction, *supra* n.27, ¶¶ 142-201; *Siag v. Egypt*, Award, *supra* n.48, ¶¶ 468-480, 487, 497-503; *Micula v. Romania*, *supra* n.35, ¶¶ 98-103; *Tza Yap Shum v. Peru*, *supra* n.41, ¶¶ 42-77; *Jan Oostergetel and Theodora Laurentius v. The Slovak Republic*, UNCITRAL, Decision on Jurisdiction (30 April 2010) (Kaufmann-Kohler, Wladimiroff, Trapl), ¶¶ 117-135; *Saba Fakes v. Republic of Turkey*, ICSID Case No. ARB/07/20, Award (14 July 2010) (van Houtte, Lévy, Gaillard), ¶¶ 54-81; *Ambiente Ufficio v. Argentina*, *supra* n.51, ¶¶ 279-326; *Mr. Franck Charles Arif v. Republic of Moldova*, ICSID Case No. ARB/11/23, Award (8 April 2013) (Cremades, Hanotiau, Knieper), ¶¶ 352-360; *Burimi SRL and Eagle Games S.H.A v. Republic of Albania*, ICSID Case No. ARB/11/18, Award (29 May 2013) (Price, Cremades, Fadlallah), ¶¶ 44, 118-122; *Renée Rose Levy de Levi v. Republic of Peru*, ICSID Case No. ARB/10/17, Award (26 February 2014) (Oreamuno, Hanotiau, Godoy), ¶ 143.

