

ENERGY CHARTER SECRETARIAT

Brussels, November 2015

STATISTICS ON INVESTMENT DISPUTE SETTLEMENT UNDER THE ENERGY CHARTER TREATY

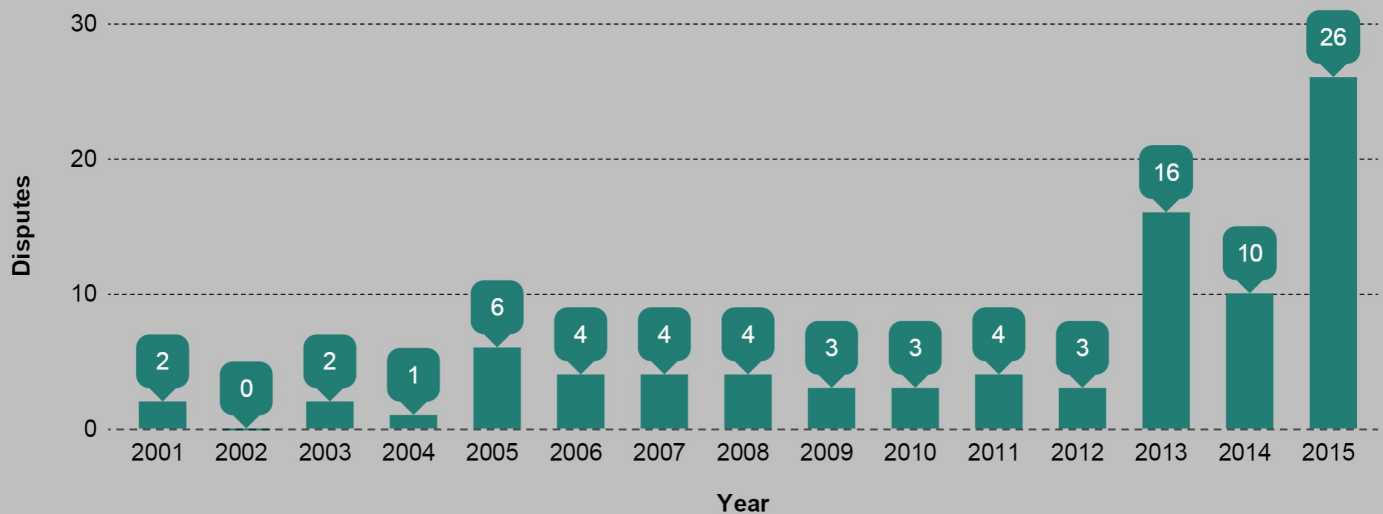
- 1) The Energy Charter Secretariat regularly monitors the implementation of the ECT, including the investor-state dispute settlement mechanism under Article 26 of the ECT.
- 2) The following infographics represent a statistical information based on publicly available information.
- 3) Investment arbitration under Article 26 of the Energy Charter Treaty has increased considerably since 2013 and has reached the number of 88 proceedings in November 2015.

Energy Charter Secretariat

Statistics on Investment Dispute Settlement under the ECT: Enforcing Regulatory Stability and Market Confidence in the Energy Sector

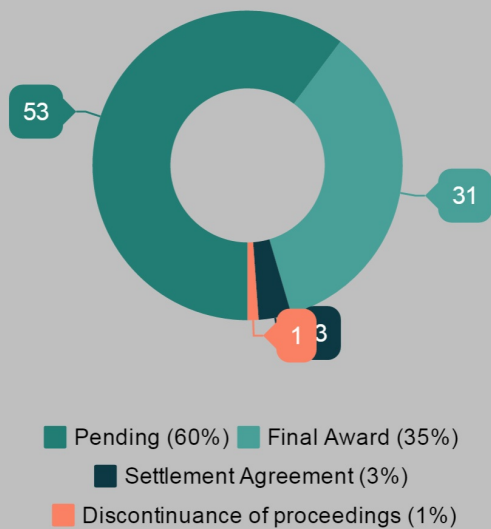
Brussels
November 2015

88
total number of
ECT disputes



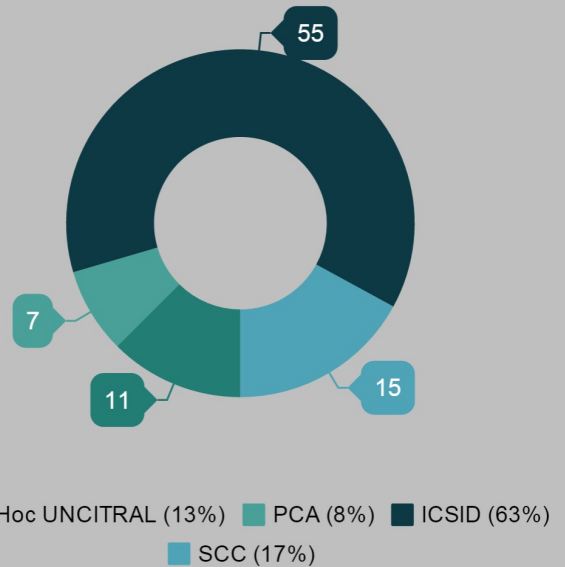
Number of investment disputes under the ECT

Between 2001 and 2015, the number of investment disputes under the Energy Charter Treaty has reached a total of 88 known cases. A peak in disputes has been registered in the years 2013, 2014 and 2015.



Status of Proceedings

Of all publicly known investment disputes under the ECT, 53 are pending, 31 have been concluded by arbitral award, while only 3 have been settled by the parties.



Arbitral institutions

Of all cases, 55 have been brought before ICSID, 15 before SCC, 11 before Ad Hoc UNCITRAL tribunals, and 7 before the PCA.

31 Final awards

23 Published awards

8 Not published

Number of Published Awards

Of all final arbitral awards, 23 are published.

8 Settled disputes

3 Settlement agreements

5 Settlement awards

Settlements

Among the 8 settled cases, 5 have been embodied in an award.

51 AWARDS of which

19 Unpublished

8 Final awards

**11 Interim/
procedural
awards**

32 Published



1 Interim/procedural award

8 Awards on jurisdiction

23 Final awards



5 Final awards denying jurisdiction

18 Final awards on merits

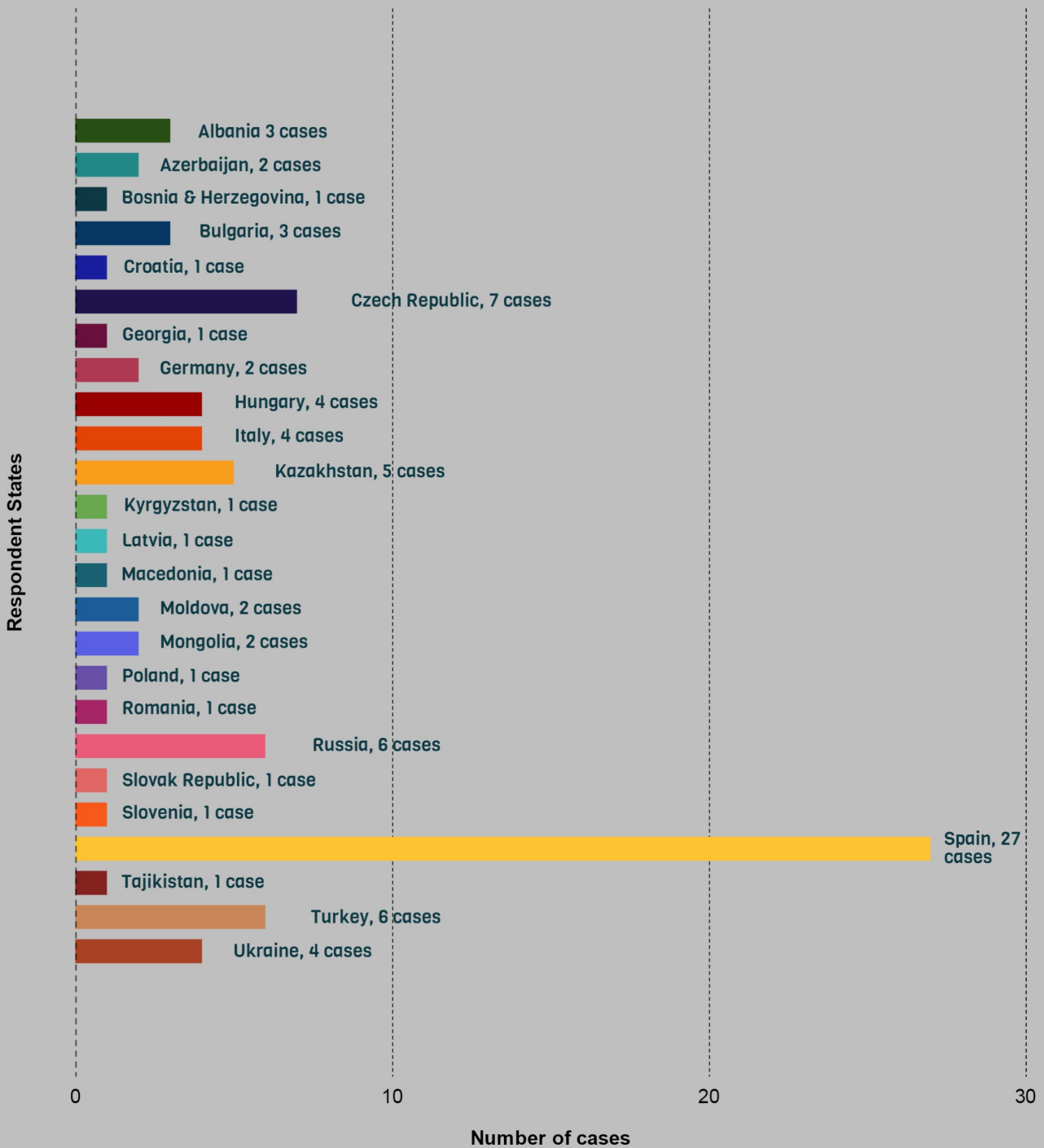


6 Final awards: no breach

1 Final awards: breach and no damages

11 Final awards: breach and damages

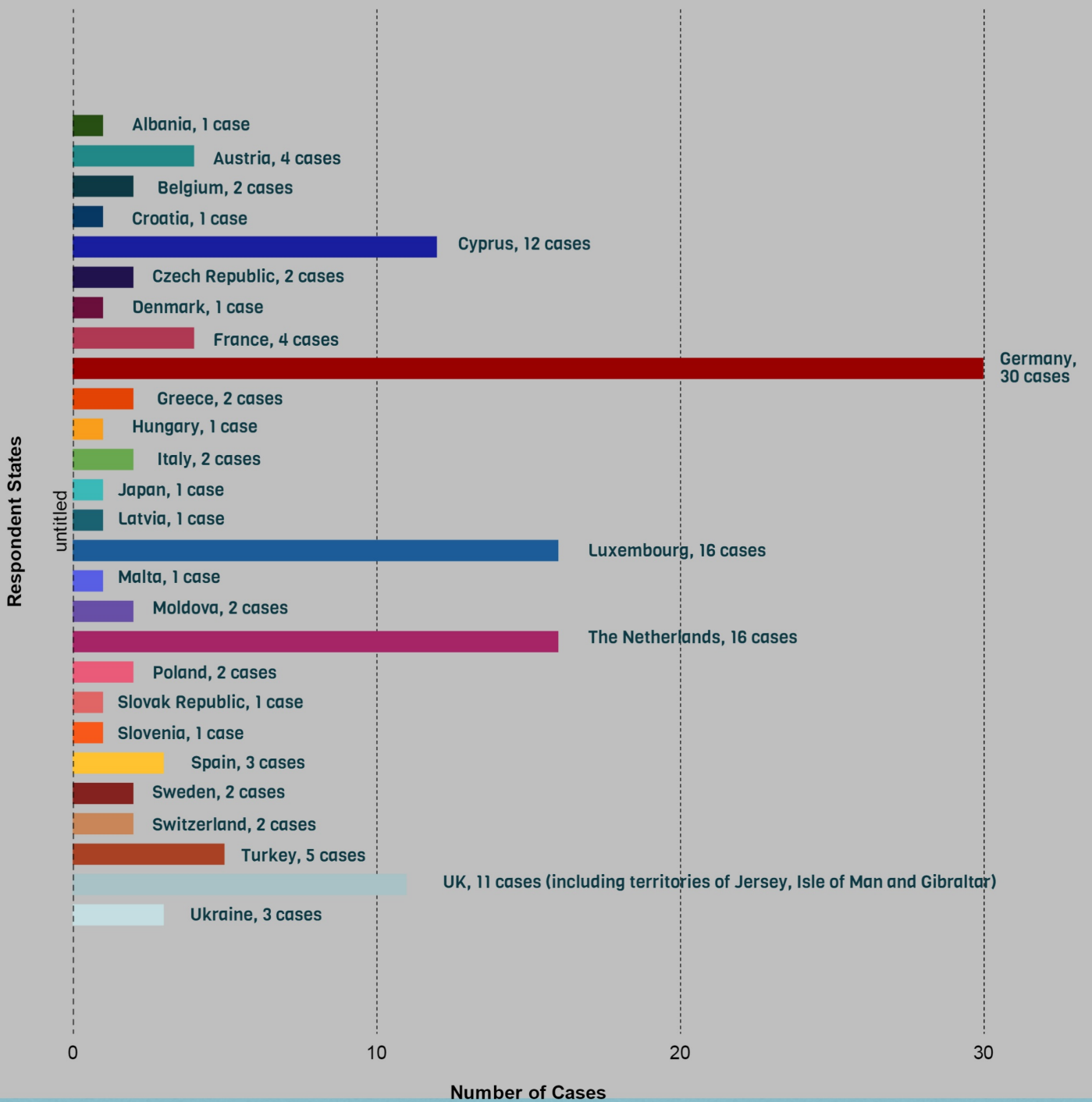
Respondent States



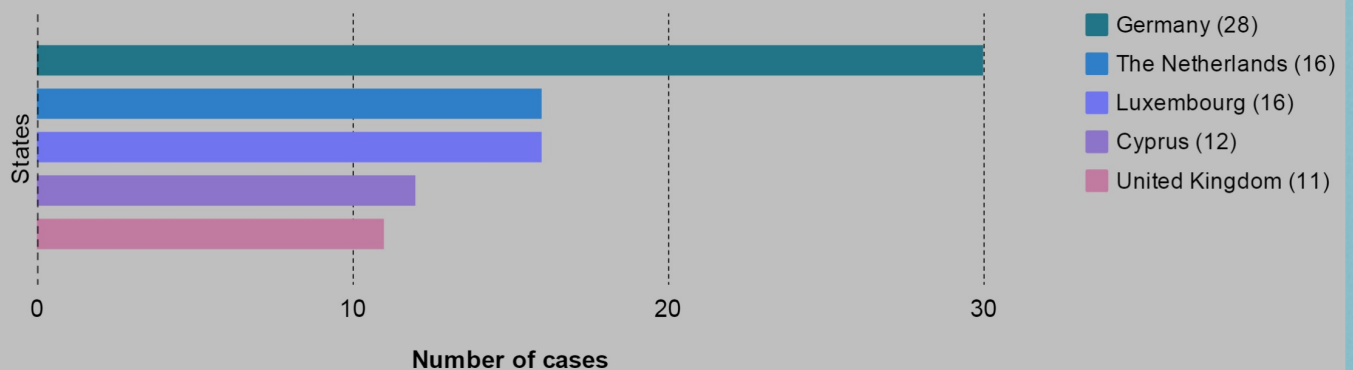
Top 5 Respondent States



Claimant: Country of incorporation or nationality

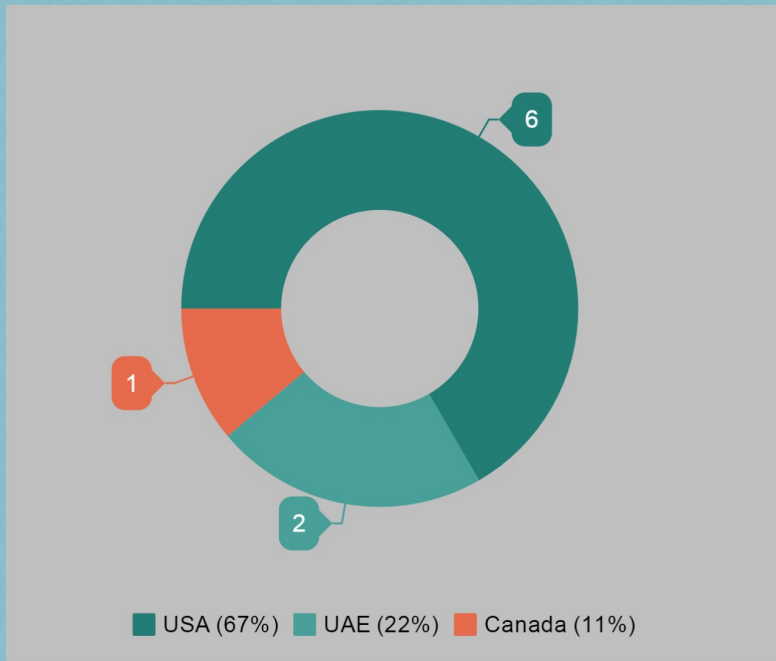


Top 5

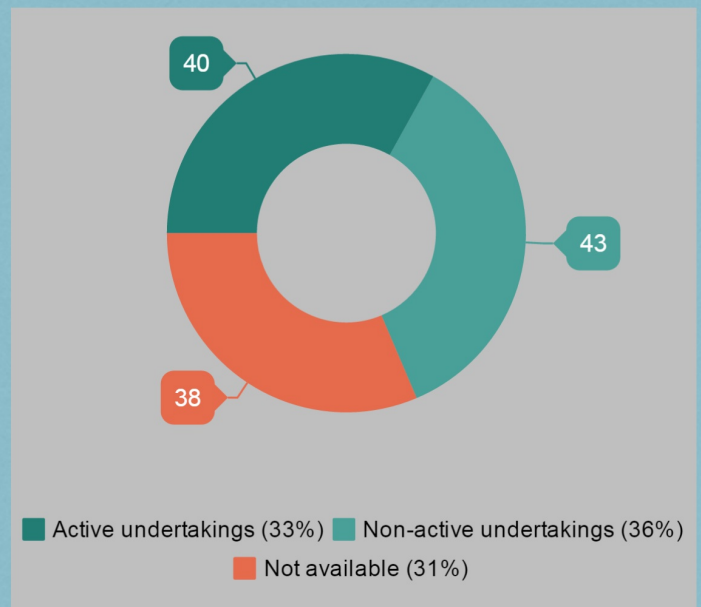
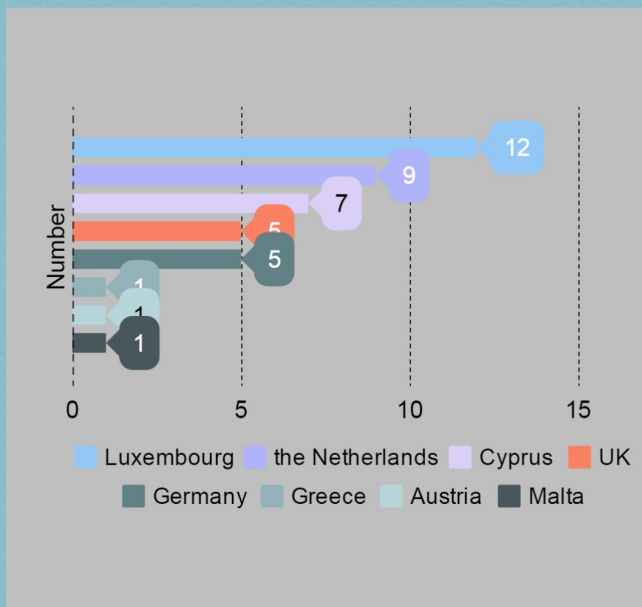


Treaty shopping*

Claimant is owned or controlled by non-ECT investor



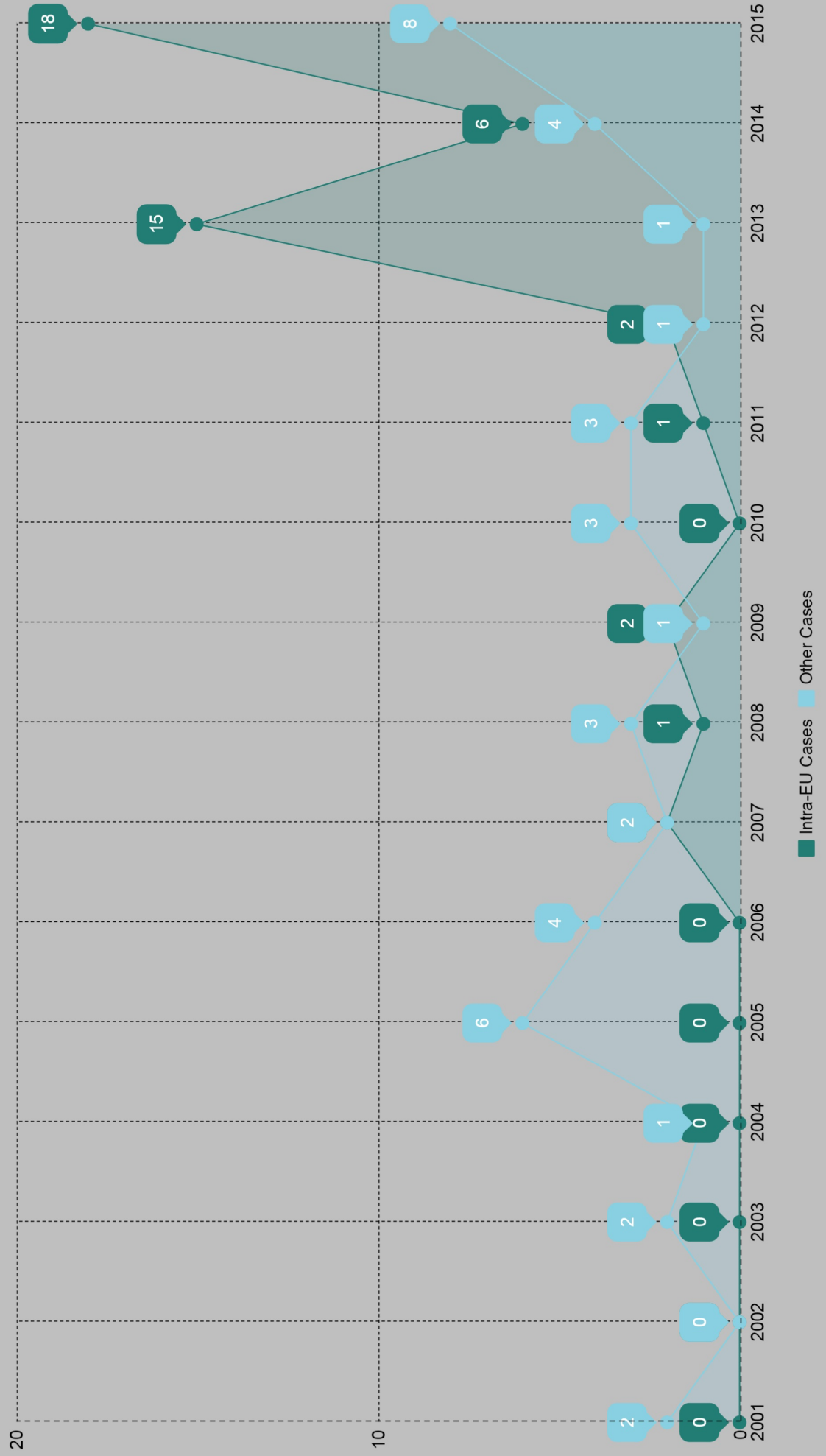
Claimant appears to have no substantial business in the country where it is incorporated



* DISCLAIMER: Data based on publicly available information

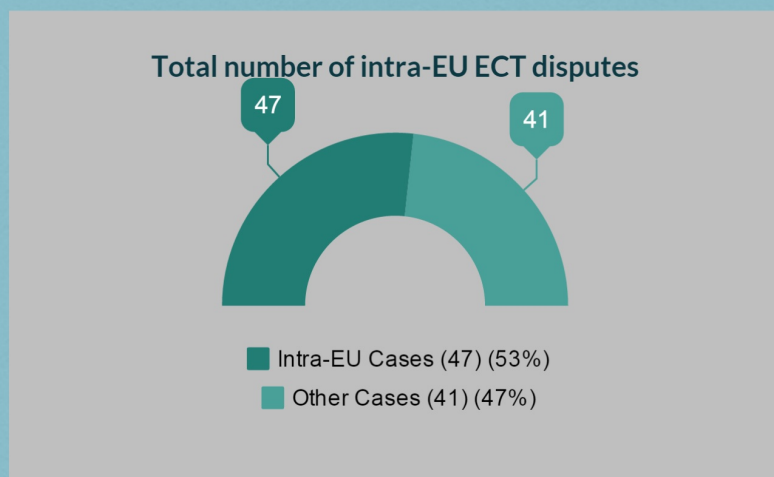
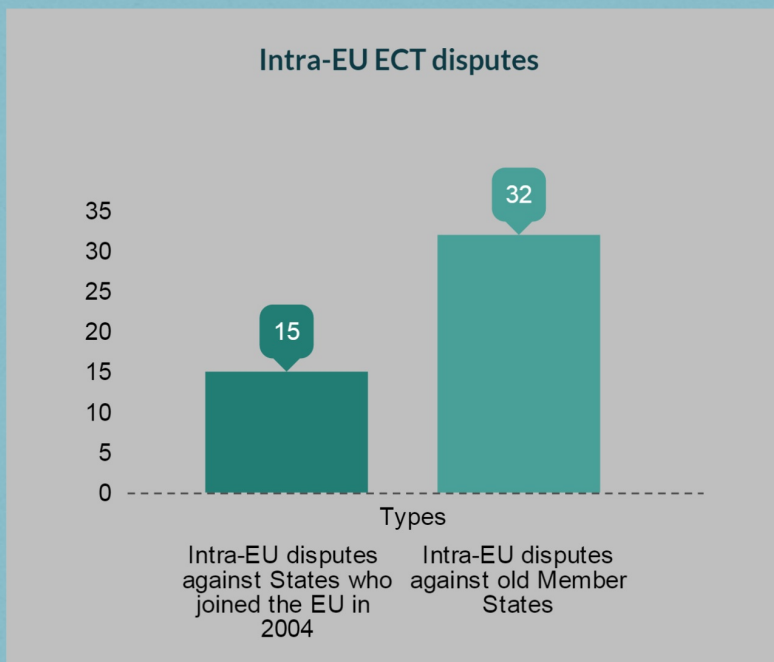
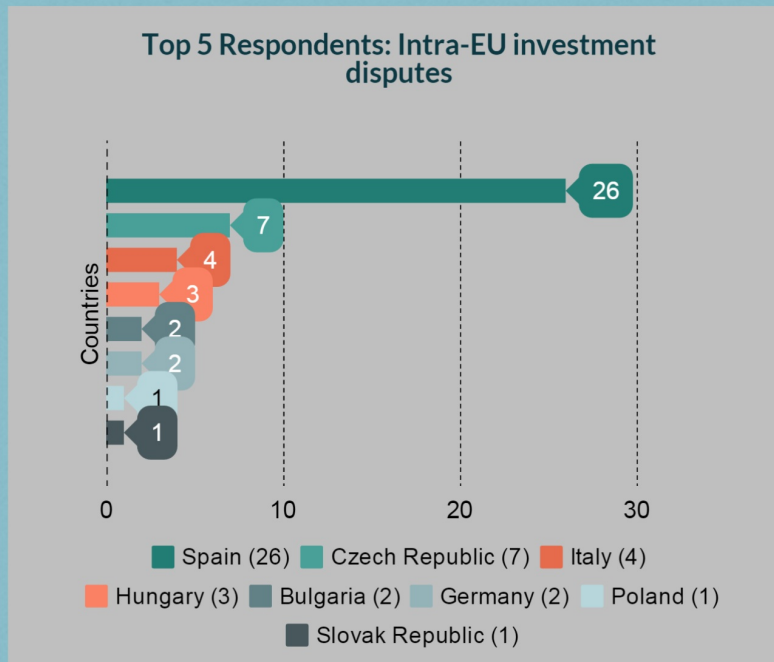


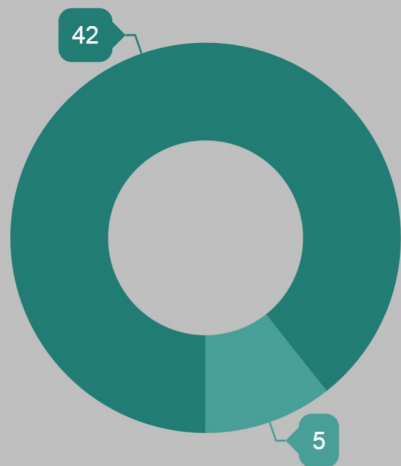
Focus: EU Investors against EU Member States





Focus: EU Investors against EU Member States (continued)

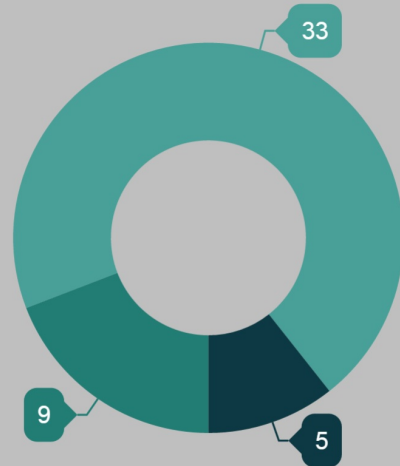




■ Pending (89%) ■ Final Award (11%)

Status of Proceedings

Of all publicly known intra-EU investment disputes under the ECT, 42 are pending.



■ Ad Hoc UNCITRAL (19%) ■ ICSID (70%) ■ SCC (11%)

Arbitral institutions

Of all intra-EU cases, 33 have been brought before ICSID, 5 before SCC, and 9 before Ad Hoc UNCITRAL tribunals.

16 intra-EU AWARDS of which

13 Unpublished

3 Published

1 Awards on jurisdiction

2 Final awards

3 Final awards

10 Interim/
procedural
awards



LIST OF ALL INVESTMENT DISPUTE SETTLEMENT CASES

| | CLAIMANT | RESPONDENT | Reg. | Arb. | Subject matter |
|----|---|-----------------------|------|-------------------|---|
| 1 | AES Summit Generation Ltd. | Hungary | 2001 | ICSID | Electricity sale agreement |
| 2 | Nykomb Synergetics Technology Holding AB | Latvia | 2001 | SCC | Electricity sale agreement |
| 3 | Plama Consortium Ltd | Bulgaria | 2003 | ICSID | Oil refinery investment |
| 4 | Petrobart | Kyrgyzstan | 2003 | SCC | Gas delivery contract |
| 5 | Alstom Power Italia SpA, Alstom SpA | Mongolia | 2004 | ICSID | Thermal energy project, boiler rehabilitation |
| 6 | Yukos Universal Ltd | Russian Federation | 2005 | UNCITRAL (PCA) | Discriminatory measures and expropriation of investments |
| 7 | Hulley Enterprises Ltd | Russian Federation | 2005 | UNCITRAL (PCA) | Discriminatory measures and expropriation of investments |
| 8 | Veteran Petroleum Trust | Russian Federation | 2005 | UNCITRAL (PCA) | Discriminatory measures and expropriation of investments |
| 9 | Ioannis Kardassopoulos | Georgia | 2005 | ICSID | Oil and Gas distribution enterprise |
| 10 | Amto | Ukraine | 2005 | SCC | Nuclear Power Plant |
| 11 | Hrvatska Elektroprivreda d.d. (HEP) | Slovenia | 2005 | ICSID | Nuclear Power Plant |
| 12 | Libananco Holdings Co. Limited | Turkey | 2006 | ICSID | Electricity generation and distribution concessions (expropriation) |
| 13 | Azpetrol International Holdings B.V., Azpetrol Group B.V. and Azpetrol Oil services Group B.V. | Azerbaijan | 2006 | ICSID | Oil and gas distribution, trade, storage and transportation enterprises |
| 14 | Barmek Holding A.S. | Azerbaijan | 2006 | ICSID | Electricity concession |
| 15 | Cementownia "Nowa Huta" S.A. | Turkey | 2006 | ICSID | Electricity concession |

| | | | | | |
|----|---|------------|------|----------|--|
| 16 | Europe Cement Investment and Trade | Turkey | 2007 | ICSID | Electricity concession |
| 17 | Liman Caspian Oil B.V/ NCL Dutch Investment B.V. | Kazakhstan | 2007 | ICSID | Exploration and extraction of hydrocarbons |
| 18 | Electrabel S.A. | Hungary | 2007 | ICSID | Electricity generation and distribution concessions (expropriation) |
| 19 | AES Summit Generation Ltd./ AES-Tisza Eromü Kft. | Hungary | 2007 | ICSID | Electricity generation |
| 20 | Mohammad Ammar Al-Bahloul | Tajikistan | 2008 | SCC | Hydrocarbon exploration licenses |
| 21 | Mercuria Energy Group Ltd | Poland | 2008 | SCC | Mandatory fuel reserves |
| 22 | Alapli Elektrik B.V. | Turkey | 2008 | ICSID | Electricity concession |
| 23 | Remington Worldwide Ltd | Ukraine | 2008 | SCC | Atomic energy |
| 24 | Vattenfall AB, Vattenfall Europe AG, Vattenfall Europe Generation AG & Co. KG | Germany | 2009 | ICSID | Construction of a coal-fired power plant and environmental protection measures (expropriation) |
| 25 | EDF International S.A. | Hungary | 2009 | UNCITRAL | Termination of long-term power purchases agreements |
| 26 | EVN AG | FYROM | 2009 | ICSID | Electricity distribution (expropriation) |
| 27 | AES Corporation and tau Power B.V | Kazakhstan | 2010 | ICSID | Power facilities and trading companies |
| 28 | Anatolie Stati, Gabriel Stati, Ascom S.A., Terra Raf Trans Traiding Ltd | Kazakhstan | 2010 | SCC | Oil Fields |
| 29 | Khan Resources B.V | Mongolia | 2011 | UNCITRAL | Uranium mining project |
| 30 | Türkiye Petrolleri Anonim Ortakligi | Kazakhstan | 2011 | ICSID | Oil exploration and production joint venture |
| 31 | The PV Investors | Spain | 2011 | UNCITRAL | Changes to the Solar |

| | | | | | |
|----|--|-----------------|------|-----------------|---|
| | | | | | Photovoltaic tariff regimes |
| 32 | Slovak Gas Holding BV | Slovak Republic | 2012 | ICSID | Natural Gas services |
| 33 | Vattenfall AB | Germany | 2012 | ICSID | Nuclear Power Plant |
| 34 | Charanne and Constructions Investments | Spain | 2013 | SCC | Changes to the Solar Photovoltaic tariff regimes |
| 35 | ČEZ | Albania | 2013 | UNCITRAL ad hoc | Albanian regulator's decision of 21 of January to revoke the license of CĚZ Shperndje |
| 36 | Antaris Solar GmbH et al | Czech Republic | 2013 | UNCITRAL ad hoc | Retroactive tax of 26 per cent on profits generated by solar plants that benefited from government incentives |
| 37 | EVN AG | Bulgaria | 2013 | ICSID | Changes to electricity pricing and compensation for public obligations in respect to renewable energy |
| 38 | Isolux Infrastructure Netherlands B.V. | Spain | 2013 | SCC | Legal reforms affecting the renewable energy sector |
| 39 | CSP Equity Investment S.a.r.l. | Spain | 2013 | SCC | Legal reforms affecting the renewable energy sector |
| 40 | RREEF Infrastructure (G.P.) Limited and RREEF Pan-European Infrastructure Two Lux S.à.r.l. | Spain | 2013 | ICSID | Legal reforms affecting the renewable energy sector |
| 41 | Antin Infrastructure Services Luxembourg S.à.r.l. and Antin Energia Termosolar B.V. | Spain | 2013 | ICSID | Legal reforms affecting the renewable energy sector |
| 42 | MOL Nyrt. | Croatia | 2013 | ICSID | Gas pricing and distribution |
| 43 | Eiser Infrastructure Limited and Energia Solar Luxembourg S.a.r.l. | Spain | 2013 | ICSID | Legal reforms affecting the renewable energy sector |

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|----|--|----------------------|------|-----------------|---|
| 44 | Natland Investment Group NV, Natland Group Limited, G.I.H.G. Limited, and Radiance Energy Holding S.A.R.L. | Czech Republic | 2013 | UNCITRAL | Regulation of the photovoltaic sector |
| 45 | Voltaic Network GmbH | Czech Republic | 2013 | UNCITRAL | Regulation of the photovoltaic sector |
| 46 | ICW Europe Investments Limited | Czech Republic | 2013 | UNCITRAL | Regulation of the photovoltaic sector |
| 47 | Photovoltaik Knopf Betriebs-GmbH | Czech Republic | 2013 | UNCITRAL | Regulation of the photovoltaic sector |
| 48 | WA Investments-Europa Nova Limited | Czech Republic | 2013 | UNCITRAL | Regulation of the photovoltaic sector |
| 49 | Mr. Jürgen Wirtgen, Mr. Stefan Wirtgen, and JSW Solar (zwei) | Czech Republic | 2013 | UNCITRAL | Regulation of the photovoltaic sector |
| 50 | Masdar Solar & Wind Cooperatief U.A. | Spain | 2014 | ICSID | Legal reforms affecting the renewable energy sector |
| 51 | Blusun S.A., Jean-Pierre Lecorcier and Michael Stein | Italy | 2014 | ICSID | Photovoltaic energy generation project |
| 52 | NextEra Energy Global Holdings B.V. and NextEra Energy Spain Holdings B.V. | Spain | 2014 | ICSID | Legal reforms affecting the renewable energy sector |
| 53 | Infrared UK | Spain | 2014 | ICSID | Legal reforms affecting the renewable energy sector |
| 54 | Elektrogospodarstvo Slovenije - razvoj inženiring d.o.o. | Bosnia & Herzegovina | 2014 | ICSID | Thermal power plant project |
| 55 | Energoaliance SARL | Moldova | 2010 | UNCITRAL ad hoc | Supply of Electricity |
| 56 | State Enterprise Energorynok (state company) | Moldova | 2012 | SCC | Supply of Electricity |

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|----|--|------------|------|-------|--|
| 57 | Cem Uzan | Turkey | 2014 | SCC | Electricity generation and distribution concessions |
| 58 | REENERGY S.à.r.l. | Spain | 2014 | ICSID | Legal reforms affecting the renewable energy sector |
| 59 | Albaniabeg Ambient Sh.p.k, M. Angelo Novelii and Construzioni S.r.l. | Albania | 2014 | ICSID | Waste management and renewable energy production project |
| 60 | ALPIQ | Romania | 2014 | ICSID | Termination of long-term energy delivery contracts |
| 61 | RWE Innogy GmbH and RWE Innogy Aersa S.A. U. | Spain | 2014 | ICSID | Legal reforms affecting the renewable energy sector |
| 62 | Stadtwerke Munchen GmbH, RWE Innogy GmbH et al. | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 63 | STEAG GmbH | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 64 | JKX Oil & Gas, <i>et.al.</i> | Ukraine | 2015 | SCC | Reimbursement of rental fees paid on oil and gas production in the country |
| 65 | Aktau Petrol Ticaret A.S. and Som Petrol Ticaret A.S. | Kazakhstan | 2015 | ICSID | Oil transportation and shipment |
| 66 | Mamidoil Jetoil Greek Petroleum Products Societe Anonyme S.A. | Albania | 2011 | ICSID | Oil storage and distribution project |
| 67 | 9REN Holding S.a.r.l | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 68 | BayWa r.e. Renewable Energy GmbH and BayWa r.e. Asset Holding GmbH | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 69 | Cube Infrastructure Fund SICAV and others | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| # | Matthias Kruck and others | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |

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|----|--|--------------------|------|-----------------|---|
| 71 | KS Invest GmbH and TLS Invest GmbH | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 72 | JGC Corporation | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 73 | Nabucco Gas Pipeline International GmbH in Liqu. | Turkey | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 74 | Financial Performance Holdings BV | Russian Federation | 2015 | UNCITRAL ad hoc | not available |
| 75 | Luxtona Limited | Russian Federation | 2015 | UNCITRAL ad hoc | not available |
| 76 | Yukos Capital SARL | Russian Federation | 2015 | UNCITRAL ad hoc | not available |
| # | Cavalum SGPS, S.A. | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 78 | E.ON SE, E.ON Finanzanlagen GmbH and E.ON Iberia Holding GmbH. | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 79 | Greentech Energy Systems and Novenergia | Italy | 2015 | SCC | Legal reforms affecting the renewable energy sector |
| 80 | OperaFund Eco-Invest SICAV PLC and Schwab Holding AG. | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 81 | Silver Ridge Power BV | Italy | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 82 | ENERGO-PRO a.s. | Bulgaria | 2015 | ICSID | Electricity distribution |
| 83 | SolEs Badajoz GmbH | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 84 | Belenergia S.A. | Italy | 2015 | ICSID | Legal reforms affecting the renewable energy sector |

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|----|---|---------|------|-------|---|
| 85 | Littop Enterprises Limited, Bridgemont Ventures Limited and Bordo Management Limited | Ukraine | 2015 | SCC | measures alleged to harm the claimants' interests in Ukrnafta as well as other measures that are alleged to constrain the ability of Ukrnafta to freely sell its natural gas on the open market |
| 86 | Hydro Energy 1 S.à r.l., Hydroxana Sweden AB | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 87 | Watkins Holdings S.à r.l. And others | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |
| 88 | Landesbank Baden- Württemberg and others | Spain | 2015 | ICSID | Legal reforms affecting the renewable energy sector |