As of 15 September 2020, the Secretariat is aware of 132 investment arbitration cases instituted under the Energy Charter Treaty (sometimes invoked together with a bilateral investment treaty).

Since parties to investment arbitration under Article 26 ECT are not obliged to notify the Secretariat of the existence or substance of their dispute, some awards (and even the existence of some proceedings) remain confidential. The Secretariat compiles information (which cannot be considered as exhaustive) from delegates and public sources (including specialized reporting services). The Secretariat assumes no responsibility for eventual errors or omissions in these data and welcomes any additional information or clarification on specific cases (at legalaffairs@encharter.org).
Statistics of ECT Cases
(as of 15/9/2020)

Distribution of Arbitration Cases under the ECT by Energy Sources Involved: 132 cases*

<table>
<thead>
<tr>
<th>Fossil Fuels</th>
<th>Renewables</th>
<th>Nuclear</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Total Damages Claimed</td>
<td>Total Damages Awarded</td>
<td>Total Damages Claimed</td>
<td>Total Damages Awarded</td>
</tr>
<tr>
<td>approx. EUR 10 billion + the Yukos cases (EUR 84 billion)</td>
<td>approx. EUR 503 million + the Yukos cases (EUR 37 billion)</td>
<td>approx. EUR 21 billion</td>
<td>approx. EUR 980 million</td>
</tr>
</tbody>
</table>

* In seven of these cases, it has not been possible to identify particular energy sources.

55 cases are still pending and in some of the cases, there is no publicly available information on the exact amounts claimed and/or awarded.
Statistics of ECT Cases
(as of 15/9/2020)

Number of Arbitration Cases under the ECT:
132 cases
Statistics of ECT Cases
(as of 15/9/2020)

Intra-REIO Cases and Other Cases:
132 cases*

* Cases with mixed claimants (from a REIO and a third State) are included in both categories.
Statistics of ECT Cases
(as of 15/9/2020)

Respondents: 132 cases

Number of cases

- Albania: 3
- Azerbaijan: 3
- Bosnia & Herzegovina: 2
- Bulgaria: 2
- Croatia: 1
- Czech Republic: 1
- European Union: 1
- Georgia: 1
- Germany: 1
- Hungary: 1
- Italy: 1
- Kazakhstan: 1
- Kyrgyz Republic: 1
- Latvia: 1
- Moldova: 1
- Mongolia: 1
- North Macedonia: 1
- Poland: 1
- Romania: 4
- Russian Federation: 6
- Slovak Republic: 6
- Slovenia: 1
- Spain: 1
- Tajikistan: 1
- Turkey: 1
- Turkmenistan: 1
- Ukraine: 1
- Uzbekistan: 1

Number of cases
Statistics of ECT Cases
(as of 15/9/2020)

Nationality of Claimants: 132 cases*

* In case of double nationality of a claimant, both nationalities are taken into account;
A case may be instituted by more than one claimant.
Statistics of ECT Cases
(as of 15/9/2020)

Type of Claimants: 132 cases*

- Large corporations (7)**
- Holdings (101)
- Banks (6)
- Investment funds (16)
- SMEs (192)
- Individual investors (27)

* A case may be instituted by more than one claimant.

** Listed on Platts Top 250 Global Energy Company Rankings (2019) and/or UNCTAD’s World’s Top 100 Non-financial MNEs Ranked by Foreign Assets (2018).
Statistics of ECT Cases
(as of 15/9/2020)

Status of Arbitration Cases under the ECT:
132 cases

- Pending (55)
- Settled (9) of which (4) were embodied in an award
- Awards (61) of which (21) pending annulment proceedings
- Discontinued (6)
- ICSID award annulled (1)
### Statistics of ECT Cases
(as of 15/9/2020)

#### Outcome of Final Awards (65), including (4) Settlement Agreements Embodied in Awards

<table>
<thead>
<tr>
<th>Outcome Description</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>No jurisdiction</td>
<td>8%</td>
</tr>
<tr>
<td>No breach of the ECT</td>
<td>20%</td>
</tr>
<tr>
<td>Alternative ECT claim dismissed (1)*</td>
<td>1%</td>
</tr>
<tr>
<td>Manifest lack of legal merit - Rule 41(5) ICSID Arbitration Rules (1)</td>
<td>1%</td>
</tr>
<tr>
<td>Breach of the ECT but no damages awarded (2)</td>
<td>2%</td>
</tr>
<tr>
<td>Breach of the ECT and damages awarded (28)</td>
<td>31%</td>
</tr>
<tr>
<td>Settlement agreement embodied in an award (4)</td>
<td>6%</td>
</tr>
<tr>
<td>Outcome is unknown (1)</td>
<td>3%</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>65</strong></td>
</tr>
</tbody>
</table>

*Having found the State liable under another international agreement, the tribunal dismissed an alternative claim under the ECT.*
<table>
<thead>
<tr>
<th>Case Description</th>
<th>Damages Claimed</th>
<th>Damages Awarded</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nykomb Synergetics Technology Holding AB v. Latvia (16 December 2003)</td>
<td>LVL 7,097,680 + specific performance</td>
<td>LVL 1,600,000 + specific performance</td>
<td>23%</td>
</tr>
<tr>
<td>Petrobart Limited v. Kyrgyz Republic (29 March 2005)</td>
<td>USD 4,084,652</td>
<td>USD 1,130,859</td>
<td>27.7%</td>
</tr>
<tr>
<td>Ioannis Kardassopoulos v. Georgia (3 March 2010)</td>
<td>USD 15,850,137.901</td>
<td>USD 15.1 million</td>
<td>95.3%</td>
</tr>
<tr>
<td>Energoalians Ltd. v. Moldova (8 July 2010)</td>
<td>MDL 243,577,971.11</td>
<td>MDL 195,547,212</td>
<td>80%</td>
</tr>
<tr>
<td>Khan Resources Inc., Khan Resources B.V., and Cauc Holding Company Ltd. v. Mongolia (10 January 2011)</td>
<td>USD 326 million</td>
<td>USD 80 million</td>
<td>24.5%</td>
</tr>
<tr>
<td>Remington Worldwide Limited v. Ukraine (28 April 2011)</td>
<td>USD 36 million</td>
<td>USD 4.5 million</td>
<td>12.5%</td>
</tr>
<tr>
<td>Anatolie Stati, Gabriel Stati, Ascom Group S.A. and Terra Raf Trans Trading Ltd. v. Kazakhstan (19 December 2013)</td>
<td>USD 2.6 billion</td>
<td>USD 497,685,101</td>
<td>20%</td>
</tr>
<tr>
<td>EDF International S.A. v. Hungary (4 December 2014)</td>
<td>estim. EUR 300 million</td>
<td>EUR 107 million</td>
<td>33.3%</td>
</tr>
<tr>
<td>Aktau Petrol Ticaret A.Ş. v. Kazakhstan (13 November 2017)</td>
<td>USD 150 million</td>
<td>USD 22.7 million</td>
<td>15.1%</td>
</tr>
<tr>
<td>Novenergia II - Energy &amp; Environment (SCA) SICAR v. Spain (15 February 2018)</td>
<td>EUR 61.3 million</td>
<td>EUR 53.3 million</td>
<td>86.9%</td>
</tr>
<tr>
<td>Masdar Solar &amp; Wind Cooperatief U.A. v. Spain</td>
<td>EUR 260 million</td>
<td>EUR 64.5 million</td>
<td>24.8%</td>
</tr>
</tbody>
</table>
## Statistics of ECT Cases
(as of 15/9/2020)

<table>
<thead>
<tr>
<th>Case Description</th>
<th>Decision Date</th>
<th>Award Amount</th>
<th>Future Payment Amount</th>
<th>Award Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Antin Infrastructure Services Luxembourg S.à.r.l. and Antin Energia Termosolar B.V. v. Spain</td>
<td>(16 May 2018)</td>
<td>EUR 238 million</td>
<td>EUR 112 million</td>
<td>47%</td>
</tr>
<tr>
<td>Foresight Luxembourg Solar 1 S.à.r.l. and others v. Spain</td>
<td>(15 June 2018)</td>
<td>EUR 50 million</td>
<td>EUR 39 million</td>
<td>78%</td>
</tr>
<tr>
<td>Greentech Energy Systems A/S, NovEnergia II Energy &amp; Environment (SCA) SICAR, and NovEnergia II Italian Portfolio S.A. v. Italy</td>
<td>(23 December 2018)</td>
<td>EUR 25.06 million</td>
<td>EUR 11.9 million</td>
<td>47.5%</td>
</tr>
<tr>
<td>CEF Energia B.V. v. Italy</td>
<td>(16 January 2019)</td>
<td>EUR 10.3 million</td>
<td>EUR 9.6 million</td>
<td>93.2%</td>
</tr>
<tr>
<td>9REN Holding S.à.r.l. v. Spain</td>
<td>(31 May 2019)</td>
<td>EUR 52.2 million</td>
<td>EUR 41.76 million</td>
<td>80%</td>
</tr>
<tr>
<td>NextEra Energy Global Holdings B.V., NextEra Energy Spain Holdings B.V. v. Spain</td>
<td>(31 May 2019)</td>
<td>EUR 393.6 million</td>
<td>EUR 290.6 million</td>
<td>73.8%</td>
</tr>
<tr>
<td>Cube Energy S.C.A. and others v. Spain</td>
<td>(15 July 2019)</td>
<td>EUR 74.1 million</td>
<td>EUR 33.7 million</td>
<td>45.5%</td>
</tr>
<tr>
<td>SolEs Badajoz GmbH v. Spain</td>
<td>(31 July 2019)</td>
<td>EUR 97.7 million</td>
<td>EUR 41 million</td>
<td>42%</td>
</tr>
<tr>
<td>InfraRed Environmental Infrastructure GP Limited v. Spain</td>
<td></td>
<td>EUR 75.7 million</td>
<td>EUR 28.2 million</td>
<td>37.5%</td>
</tr>
<tr>
<td>OperaFund Eco-Invest SICAV PLC Schwab Holding v. Spain</td>
<td>(6 September 2019)</td>
<td>EUR 42.8 million</td>
<td>EUR 30 million</td>
<td>70%</td>
</tr>
<tr>
<td>RREEF Infrastructure (G.P.) Limited, RREEF Pan-European Infrastructure Two Lux S.à.r.l. v. Spain</td>
<td>(11 December 2019)</td>
<td>EUR 441 million</td>
<td>EUR 59.6 million</td>
<td>13.5%</td>
</tr>
<tr>
<td>Watkins Holdings S.à.r.l. and others v. Spain</td>
<td>(21 January 2020)</td>
<td>EUR 123.9 million</td>
<td>EUR 77 million</td>
<td>62.1%</td>
</tr>
<tr>
<td>The PV Investors v. Spain</td>
<td>(28 February 2020)</td>
<td>EUR 1.16 billion</td>
<td>EUR 91.1 million</td>
<td>12.7%</td>
</tr>
</tbody>
</table>
Statistics of ECT Cases
(as of 15/9/2020)

Breaches Alleged: 70 cases*

* The remaining 62 cases are not considered due to lack of public information.
Statistics of ECT Cases
(as of 15/9/2020)

Breaches Found: 33 cases*

- 62%: Direct expropriation
- 10%: Stable, equitable, favourable and transparent conditions
- 7%: Fair and equitable treatment
- 7%: Unreasonable or discriminatory measures
- 8%: Umbrella clause
- 3%: Effective means for assertion of claims and enforcement of rights
- 3%: Indirect expropriation
- 10(1): Stable, equitable, favourable and transparent conditions
- 10(1): Fair and equitable treatment
- 10(1): Unreasonable or discriminatory measures
- 10(1): Umbrella clause
- 10(12): Effective means for assertion of claims and enforcement of rights
- 13: Direct expropriation
- 13: Indirect expropriation
Statistics of ECT Cases
(as of 15/9/2020)

Allocation of Costs of Arbitration between Parties: 57 cases*

- Parties share costs in equal parts (20 cases)
- Loser pays (20 cases)
- Other, incl. relative success rate (17 cases)

Legal Costs: 57 cases*

- Each party bears its own legal costs (27 cases)
- Loser pays part of legal costs of winner (30 cases)

* Based on cases in which such information is publicly available.
Statistics of ECT Cases
(as of 15/9/2020)

Procedural Rules Applied: 132 cases

- ICSID Rules, incl. Additional Facility (85)
- SCC Rules (25)
- UNICTRAL Rules, PCA-administered (14)
- UNCITRAL Rules, ad hoc (7)
- Procedural rules applied are unknown (1)
**Statistics of ECT Cases**
(as of 15/9/2020)

*In case of double nationality of an arbitrator, both nationalities are taken into account.*
Statistics of ECT Cases
(as of 15/9/2020)

Arbitrators with Five or More Appointments

- Brigitte Stern – 12
- Gary Born – 10
- Vaughan Lowe – 9
- Pierre-Marie Dupuy – 8
- John Beechey – 7
- Yves Fortier – 7
- Albert Jan Van den Berg – 6
- Charles Poncet – 6
- Doak Bishop – 6
- Francisco Orrego Vicuña – 6
- Guido Tawil – 6
- Klaus Sachs – 6
- Bernard Hanotiau – 5
- Charles Brower – 5
- Christopher Thomas – 5
- David Haigh – 5
- James Crawford – 5
- Jan Paulsson – 5
- Kaj Hóber – 5
- Klaus Reichert – 5
- Stanimir Alexandrov – 5
- Toby Landau – 5
- V. V. Veeder – 5
- William Park – 5