Statistics of ECT Cases
(as of 18/12/2019)

As of 18 December 2019, the Secretariat is aware of 128 investment arbitration cases instituted under the Energy Charter Treaty (sometimes invoked together with a Bilateral Investment Treaty).

Since parties to an 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 18/12/2019)

Distribution of ECT Arbitration Cases by Energy Sources
Involved: 128 cases*

- Fossil fuels
- Renewables
- Nuclear
- N/A

* In seven of these cases, it has not been possible to identify the particular energy sources.
Statistics of ECT Cases
(as of 18/12/2019)

Number of ECT Arbitration Cases: 128 cases
Statistics of ECT Cases
(as of 18/12/2019)

Intra-EU and Cases with Third Countries*

![Graph showing Intra-EU and Cases with Third Countries](image)

*Cases with mixed claimants (from the EU and third States) are included in both categories.

Procedural Rules Applied: 128 Cases

- ICSID rules (82): 64%
- SCC rules (24): 19%
- Ad hoc UNCITRAL rules (10): 8%
- PCA (UNCITRAL rules) (12): 9%
Statistics of ECT Cases
(as of 18/12/2019)

Respondents: 128 Cases

Number of cases
Statistics of ECT Cases
(as of 18/12/2019)

*In one case, nationalities of 15 claimants are unknown; 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 18/12/2019)

Classification of Claimants According to Size:  
128 cases*

Classification of Claimant According to Ownership and Control: 128 cases

*Based on Platts Top 250 Global Energy Rankings: assets greater than USD 5 billion.
Statistics of ECT Cases
(as of 18/12/2019)

Classification of Claimants According to Company Type: 128 cases

- Company (174) - 64%
- Holding (34) - 13%
- Individual investor (25) - 9%
- Investment fund (32) - 12%
- Bank (6) - 2%

Status of Arbitration Cases under the ECT: 128 cases

- Pending (58) - 45%
- Settled (9) of which (4) were embodied in an award - 7%
- Awards (56) of which (17) pending annulment proceedings - 44%
- Discontinued (5) - 4%
### Statistics of ECT Cases
(as of 18/12/2019)

#### Outcome of final awards (60), including (4) settlement agreements embodied in award

<table>
<thead>
<tr>
<th>Case</th>
<th>Claim</th>
<th>Award</th>
<th>Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nykomb v. Latvia (16 December 2003)</td>
<td>7,097,680 LVL + specific performance</td>
<td>1,600,000 LVL + Specific performance</td>
<td>23%</td>
</tr>
<tr>
<td>Petrobart v. Kyrgyzstan (29 March 2005)</td>
<td>USD 4,084,652</td>
<td>USD 1,130,859</td>
<td>27.7%</td>
</tr>
<tr>
<td>EDF International S.A. v. Hungary (4 December 2014)</td>
<td>estim. USD 100 million</td>
<td>EUR 107 million</td>
<td>estim. 100%</td>
</tr>
<tr>
<td>Kardassopoulos v. Georgia (3 March 2010)</td>
<td>USD 350 million</td>
<td>USD 30.2 million</td>
<td>8.63%</td>
</tr>
<tr>
<td>Energoalians 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 v. Mongolia (10 January 2011)</td>
<td>USD 326 million</td>
<td>USD 80 million</td>
<td>24.5%</td>
</tr>
<tr>
<td>Remington v. Ukraine (28 April 2011)</td>
<td>USD 36 million</td>
<td>USD 4.5 million</td>
<td>12.5%</td>
</tr>
</tbody>
</table>
## Statistics of ECT Cases
(as of 18/12/2019)

<table>
<thead>
<tr>
<th>Case</th>
<th>Claimant Currency</th>
<th>Respondent Currency</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Ascom v. Kazakhstan</strong> (19 December 2013)</td>
<td>USD 2.6 billion</td>
<td>USD 497,685,101</td>
<td>20%</td>
</tr>
<tr>
<td><strong>Yukos Universal Limited v. Russian Federation; Hulley Enterprises Limited v. Russian Federation; Veteran Petroleum Limited v. Russian Federation</strong> (18 July 2014)</td>
<td>USD 114,174 billion</td>
<td>USD 50.02 billion</td>
<td>43.8%</td>
</tr>
<tr>
<td><strong>Eiser v. Spain</strong> (4 May 2017)</td>
<td>EUR 298 million</td>
<td>EUR 128 million</td>
<td>43%</td>
</tr>
<tr>
<td><strong>Aktau Petrol Ticaret A.S. v. Kazakhstan</strong> (13 November 2017)</td>
<td>USD 80 million</td>
<td>USD 22.7 million</td>
<td>28.4%</td>
</tr>
<tr>
<td><strong>Novenergia v. Spain</strong> (15 February 2018)</td>
<td>EUR 61.3 million</td>
<td>EUR 53.3 million</td>
<td>86.9%</td>
</tr>
<tr>
<td><strong>Masdar Solar &amp; Wind Cooperatief U.A. v. Spain</strong> (16 May 2018)</td>
<td>EUR 260 million</td>
<td>EUR 64.5 million</td>
<td>24.8%</td>
</tr>
<tr>
<td><strong>Antin Infrastructure Services Luxembourg S.à.r.l. and Antin Energia Termosolar B.V. v. Spain</strong> (15 June 2018)</td>
<td>EUR 238 million</td>
<td>EUR 112 million</td>
<td>47%</td>
</tr>
<tr>
<td><strong>Greentech Energy Systems, Novenergia v. Italy</strong> (23 December 2018)</td>
<td>EUR 25.06 million</td>
<td>EUR 11.9 million</td>
<td>47.5%</td>
</tr>
<tr>
<td><strong>CEF Energia BV v. Italy</strong> (16 January 2019)</td>
<td>EUR 10.3 million</td>
<td>EUR 9.6 million</td>
<td>93.2%</td>
</tr>
<tr>
<td><strong>9REN Holding S.a.r.l v. Spain</strong> (31 May 2019)</td>
<td>EUR 52.2 million</td>
<td>EUR 41.76 million</td>
<td>80%</td>
</tr>
<tr>
<td><strong>NextEra Energy Global Holdings B.V., NextEra Energy Spain Holdings B.V. v. Spain</strong> (31 May 2019)</td>
<td>EUR 393.6 million</td>
<td>EUR 290.6 million</td>
<td>73.8%</td>
</tr>
</tbody>
</table>
### Statistics of ECT Cases
(as of 18/12/2019)

<table>
<thead>
<tr>
<th>Case Description</th>
<th>Claimed Amount</th>
<th>Awarded Amount</th>
<th>Recovery Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cube Energy S.C.A. and others v. Spain (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 (July 31, 2019)</td>
<td>97.7 million EUR</td>
<td>41 million EUR</td>
<td>42%</td>
</tr>
<tr>
<td>OperaFund Eco-Invest SICAV PLC Schwab Holding v. Spain (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 (11 December 2019)</td>
<td>441 million EUR</td>
<td>59.6 million EUR</td>
<td>13.5%</td>
</tr>
</tbody>
</table>
Statistics of ECT Cases
(as of 18/12/2019)

Breaches alleged*

- 10(1). Stable, equitable, favourable and transparent conditions
- 10(1). Fair and equitable treatment
- 10(1). Most constant protection and security
- 10(1). Unreasonable or discriminatory measures
- 10(1). Treatment less favourable than that required by international law
- 10(1). Umbrella clause
- 10(7). National Treatment
- 10(7). Most-favoured-nation treatment
- 10(12). Effective means for assertion of of claims and enforcement of rights
- 11. Key personnel
- 13. Expropriation
- 13. Direct expropriation
- 13. Indirect expropriation
- 14. Transfer of funds
- 22(1). Ensure a state enterprise conducts activities in a manner consistent with a Contracting Party's obligations under Part III of the ECT
- 10(2)-(3). Discrimination

* Based on 57 cases (some of them still pending). The remaining 71 cases are not considered due to lack of public information.
Statistics of ECT Cases
(as of 18/12/2019)

Breaches found

- 10(1). Stable, equitable, favourable and transparent conditions: 61%
- 10(1). Fair and equitable treatment: 12%
- 10(1). Unreasonable or discriminatory measures: 6%
- 10(1). Umbrella clause: 6%
- 10(12). Effective means for assertion of claims and enforcement of rights: 3%
- 13. Direct expropriation: 3%
- 13. Indirect expropriation: 9%

* Based on 28 cases.
Statistics of ECT Cases
(as of 18/12/2019)

Allocation of Costs of Arbitration Proceedings between Parties*

- Parties share costs in equal parts (19 cases)
- Loser pays (17 cases)
- Other, incl. relative success rate (16 cases)

Legal costs*

- Each party bears its own legal costs (26 cases)
- Loser pays part of legal costs of winner (26 cases)

*Based on 52 cases in which such information is publicly available.
Statistics of ECT Cases
(as of 18/12/2019)

Number of Arbitrators per Nationality

*In case of double nationality of an arbitrator, both nationalities are taken into account.*
Statistics of ECT Cases
(as of 18/12/2019)

Top 21 Arbitrators by the Number of Appointments

- Brigitte Stern - 12
- Gary Born - 10
- Vaughan Lowe - 9
- Francisco Orrego Vicuña - 8
- Pierre-Marie Dupuy - 8
- Yves Fortier - 7
- Albert Jan Van den Berg - 6
- Charles Poncet - 6
- Doak Bishop - 6
- Guido Tawil - 6
- John Beechey - 6
- Piero Bernardini - 6
- Charles Brower - 5
- Christopher Thomas - 5
- David Haigh - 5
- James Crawford - 5
- Kaj Höber - 5
- Stanimir Alexandrov - 5
- Toby Landau - 5
- V. V. Veeber - 5
- William Park - 5