

Executive Summary of the 2024 REPORT on Compliance with Investment Treaty Arbitration Awards

Highlights:

- The third edition of the Report on Compliance with Investment Treaty Arbitration Awards 2024 confirms again the **general trend of the increasing refusal by States to pay adverse ISDS Awards**, thereby failing to comply with their international law obligations.
- **Spain stands out again: the total amount of Awards unpaid by Spain** has further increased to least **USD 1.6 billion / EUR 1.5 billion** (excluding interest rates, lawyers' fees and arbitration costs that Spain has been ordered to pay as well).
- In addition, Spain has incurred interest rates and legal fees totalling **USD 350 million / EUR 320 million, plus at least EUR 73 million** for own legal fees.
- Spain is facing **52 Energy Charter Treaty (ECT) claims** all of them concerning the **renewable energy sector**.
- The damages claimed total more than **USD 10 billion**, with interest rates continuing to be added to that number.
- No less than **6 EU Member States are in the top 20**, which includes Spain, Poland, Czech Republic, Croatia, Italy and Romania, all refusing to pay adverse Awards rendered against them.
- Indeed, **Spain ranks number 1 of the most delinquent Respondents in the world** when it comes to the refusal to pay adverse Awards – well ahead of Venezuela and of Russia.
- Our analysis illustrates that **most unpaid ISDS Awards relate to disputes arising out of the renewable energy sector and rendered under the ECT**.
- The **withdrawal of the EU and its Member States from the ECT will not make final ECT Awards and pending disputes “simply go away”**. These Awards will have to be paid as a matter of international law.
- The meltdown of the ECT casts serious doubt on the EU's stated goals of leading the global energy transition as per Paris Agreement and EU Green Deal.
- It is also noteworthy that awards resulting from disputes in the traditional, or **“unclean,” energy sector are settled significantly more often than renewable energy awards**.
- Given the anti-arbitration attitude within the EU, the **enforcement of Awards is increasingly successful outside the EU, in particular, in the UK, Australia, the US and Switzerland**.
- In sum, by refusing to pay adverse ISDS Awards, **Spain and the other EU Member States undermine the international legal order** and effectively **throw into doubt the whole system of international investment treaties and arbitration – at least within the EU**.
- **This inevitably will backfire to the detriment of the EU, its Member States and European investors**.
- The **full 2024 Compliance Report**, containing a detailed analysis of the top 20 countries is available at:
WWW.INTERNATIONALLAWCOMPLIANCE.COM