

Executive Summary of the REPORT on Compliance with Investment Treaty Arbitration Awards 2023

Highlights:

- The second edition of the Report on Compliance with Investment Treaty Arbitration Awards 2023 confirms the **general trend of the increasing refusal by States to pay adverse Awards**, thereby failing to comply with their international law obligations.
- **Spain stands out again: the total amount of Awards unpaid by Spain** has almost doubled to at least **USD 1.3 billion / EUR 1.2 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 270 million / EUR 250 million, plus about EUR 70 million** for own legal fees.
- Spain is facing **51 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 **5 EU Member States are in the top 20**, which includes Spain, Italy, Czech Republic, Croatia and Poland, all refusing to pay the 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 these Awards – equal to Venezuela and ahead 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 announced common **withdrawal of the EU and its Member States from the ECT will not make the final awards and pending disputes “simply go away”**.
- 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 and the US.
- In sum, by refusing to pay the 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**.
- The **full 2023 Report**, containing a detailed analysis of the top 20 countries is available at:

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