

Statistics of ECT Cases

(as of 1/6/2020)

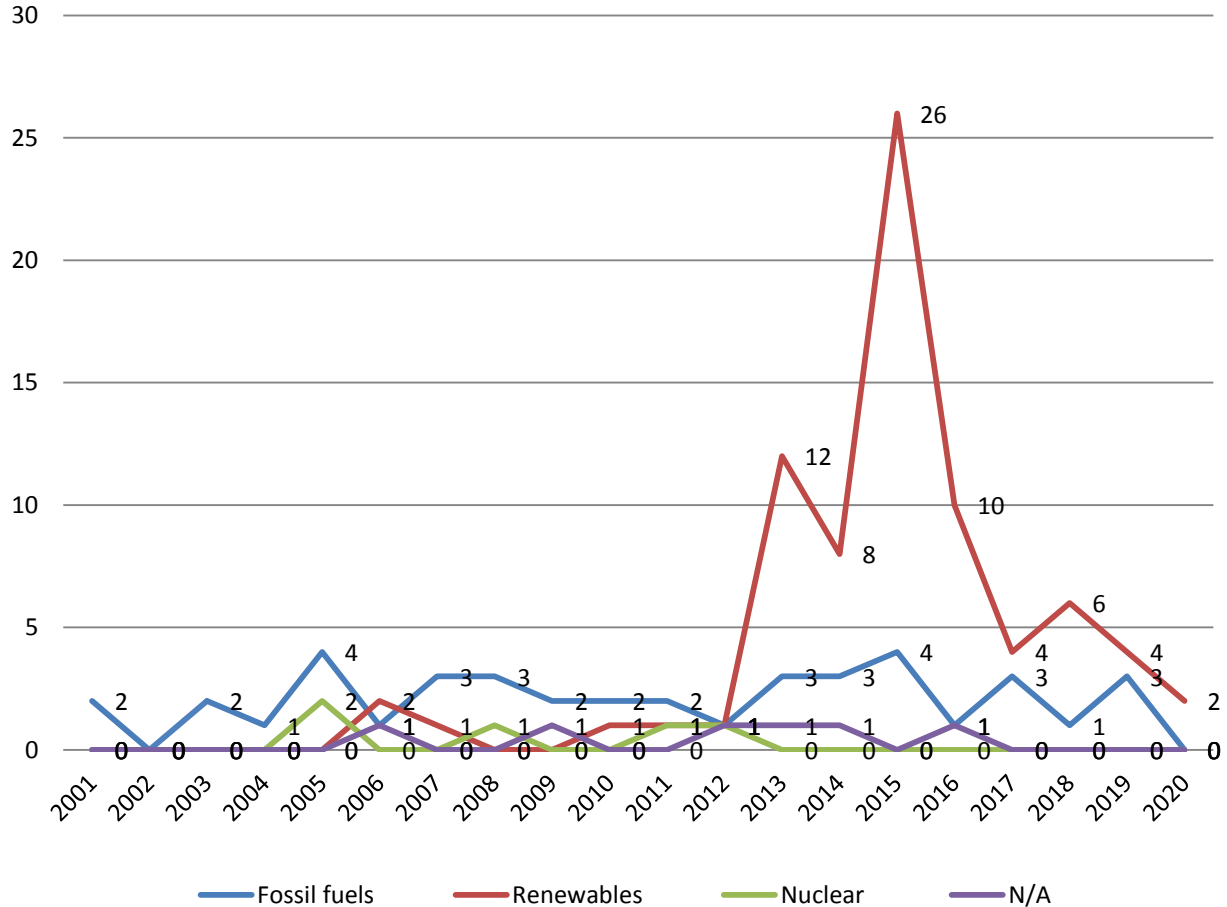
As of 1 June 2020, the Secretariat is aware of 130 investment arbitration cases instituted under the Energy Charter Treaty (sometimes invoked together with a bilateral investment treaty).

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 1/6/2020)

Distribution of Arbitration Cases under the ECT by Energy Sources Involved: 130 cases*



| Fossil Fuels | | Renewables | | Nuclear | | N/A | |
|--|--|------------------------|-----------------------|-----------------------|------------------------|-------------------------|------------------------|
| Total Damages Claimed | Total Damages Awarded | Total Damages Claimed | Total Damages Awarded | Total Damages Claimed | Total Damages Awarded | Total Damages Claimed | Total Damages Awarded |
| approx. EUR 9 billion + the Yukos cases (EUR 84 billion) | approx. EUR 503 million + the Yukos cases (EUR 37 billion) | approx. EUR 21 billion | approx. EUR 1 billion | approx. EUR 5 billion | approx. EUR 74 million | approx. EUR 543 million | approx. EUR 11 million |

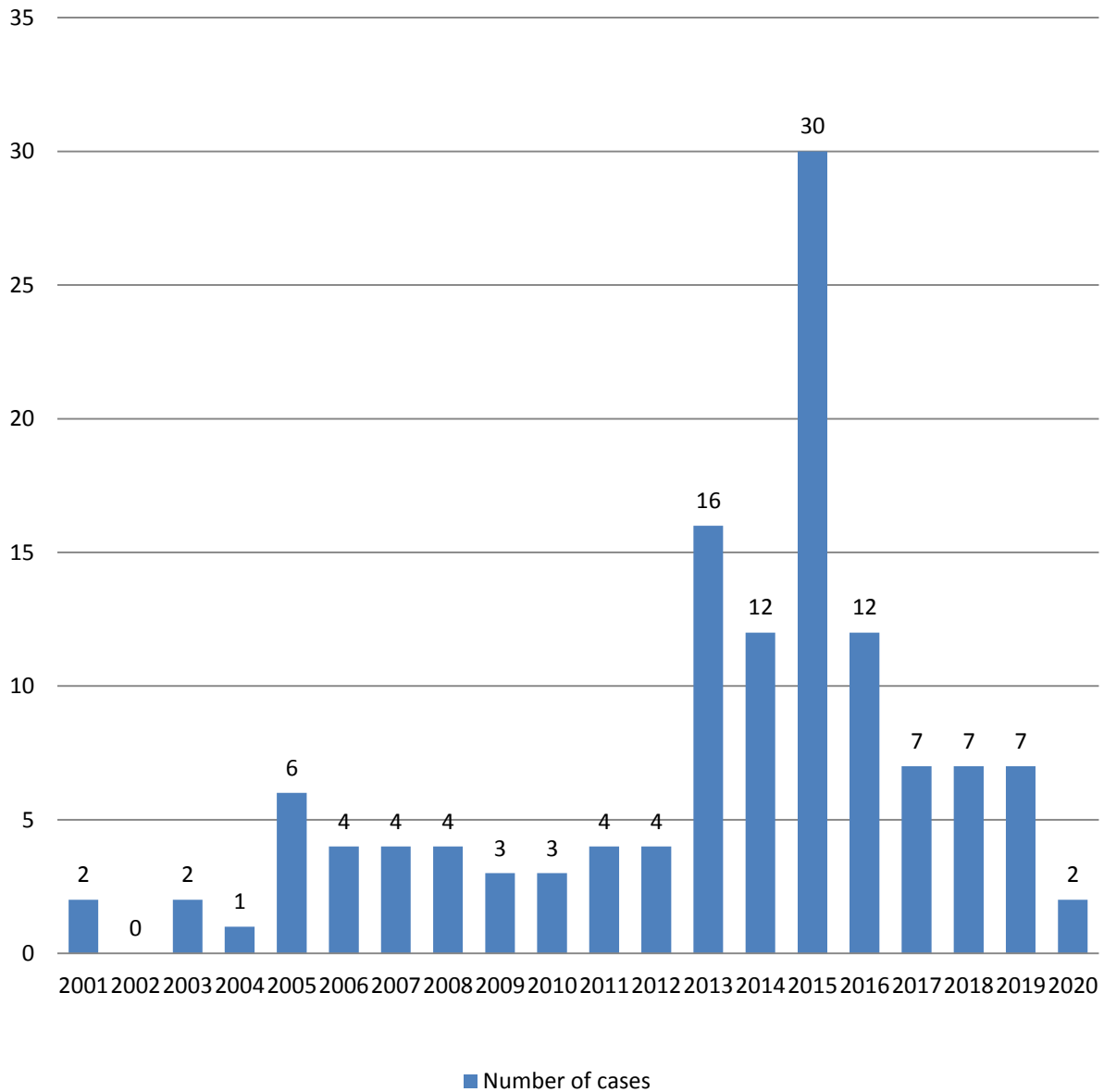
** In seven of these cases, it has not been possible to identify particular energy sources.*

54 cases are still pending and in some of the cases, there is no publicly available information on the exact amounts claimed and/or awarded.

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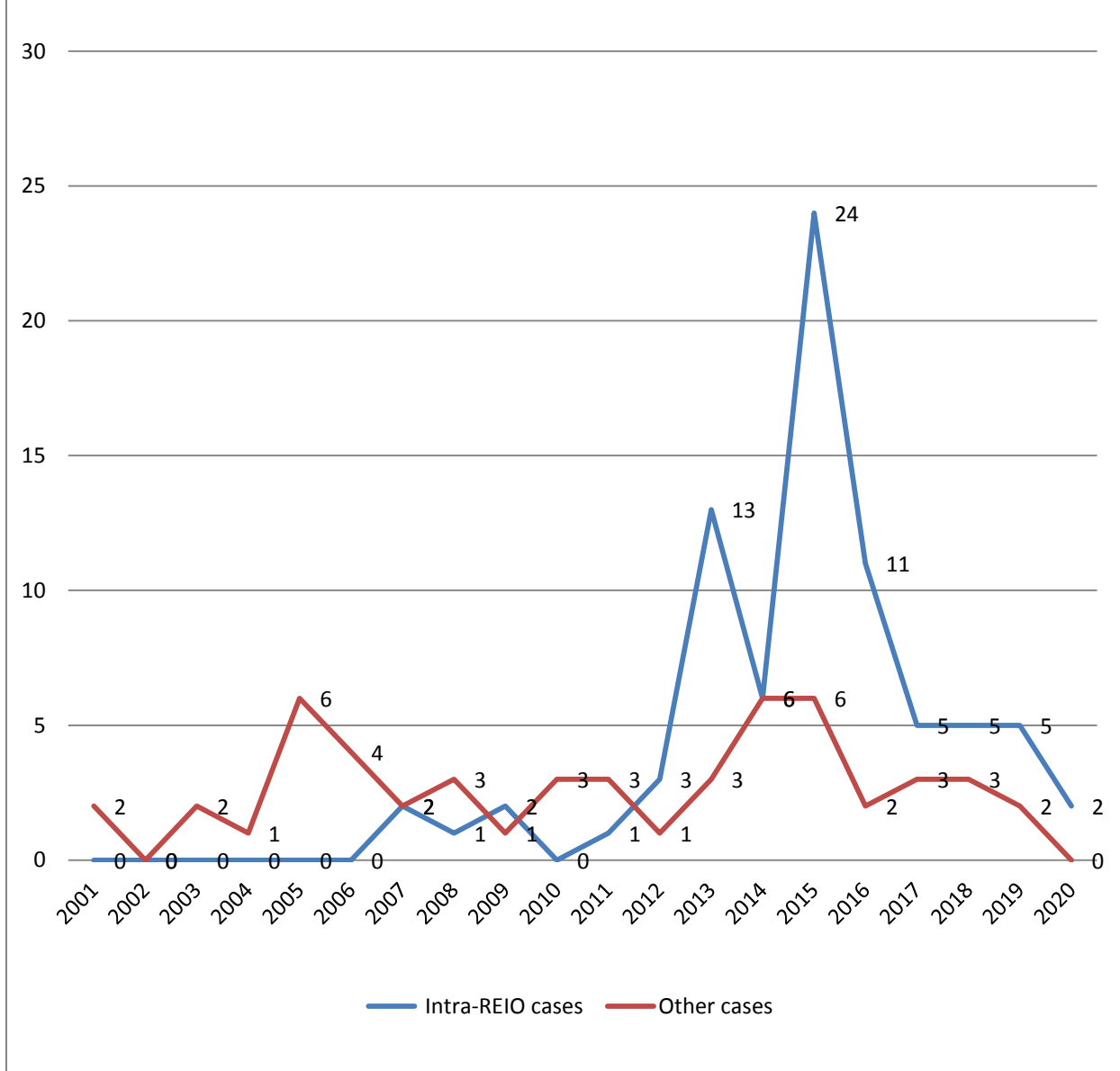
Number of Arbitration Cases under the ECT: 130 cases



Statistics of ECT Cases

(as of 1/6/2020)

Intra-REIO Cases and Other Cases: 130 cases*

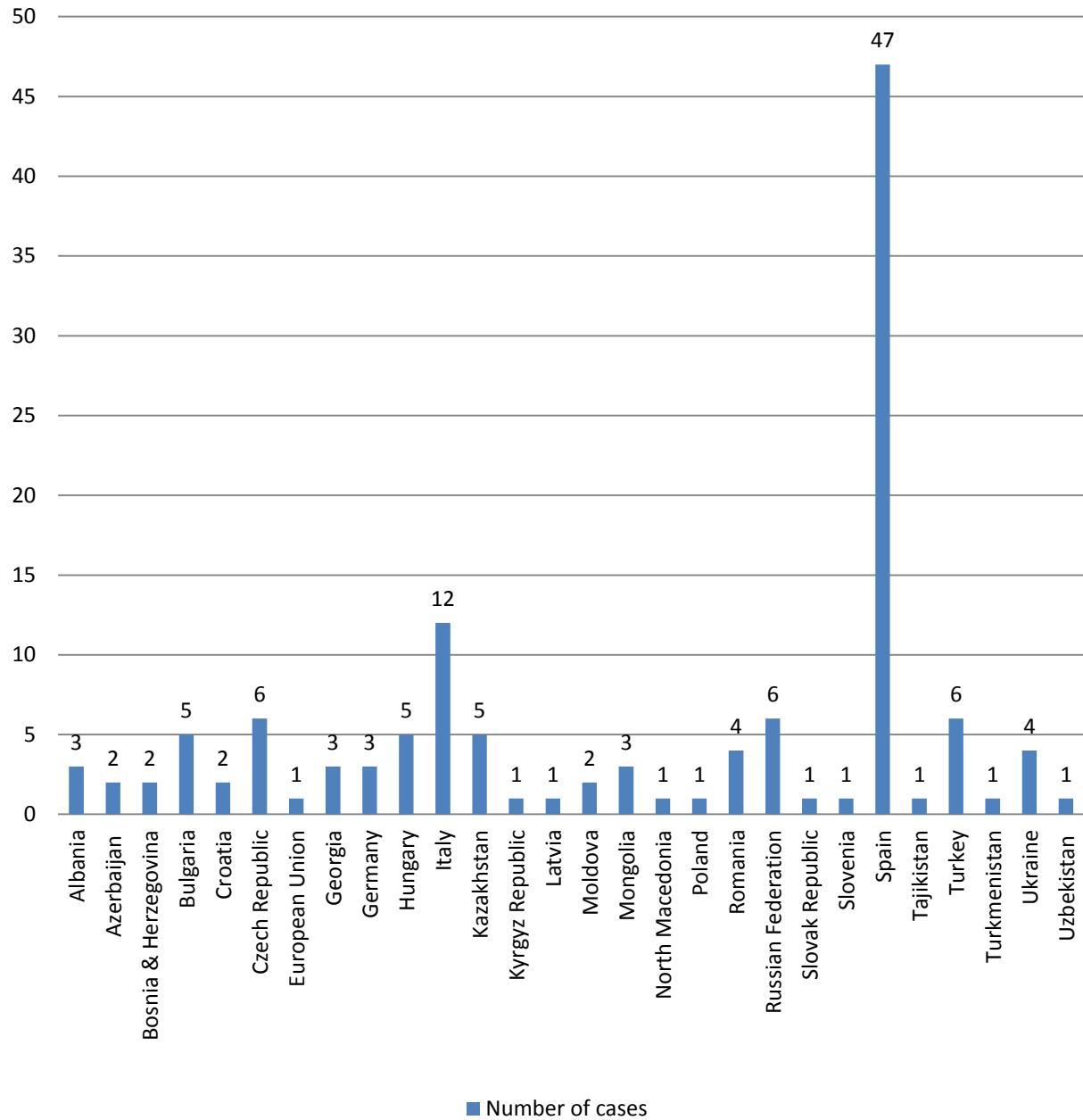


*Cases with mixed claimants (from a REIO and a third State) are included in both categories.

Statistics of ECT Cases

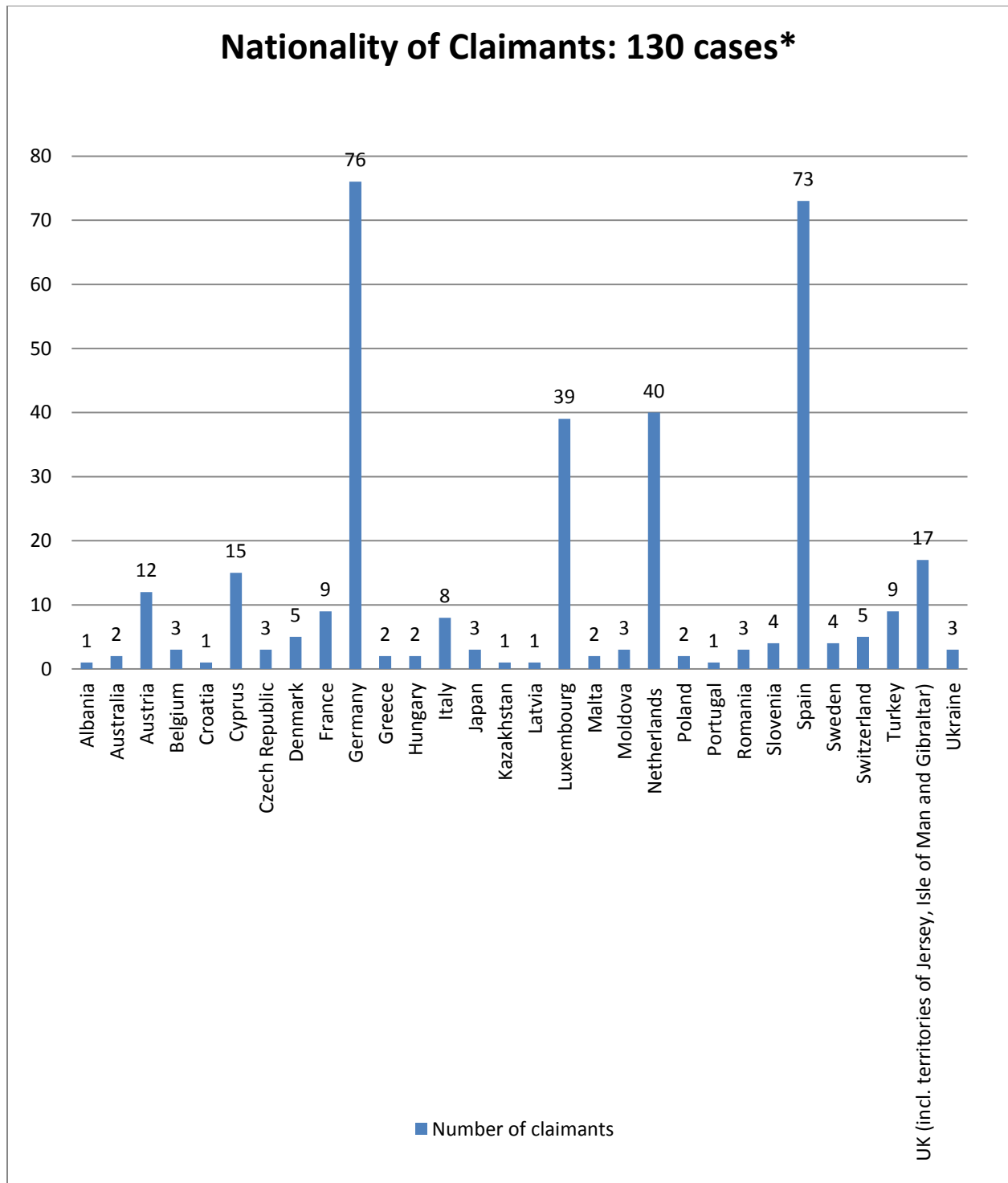
(as of 1/6/2020)

Respondents: 130 cases



Statistics of ECT Cases

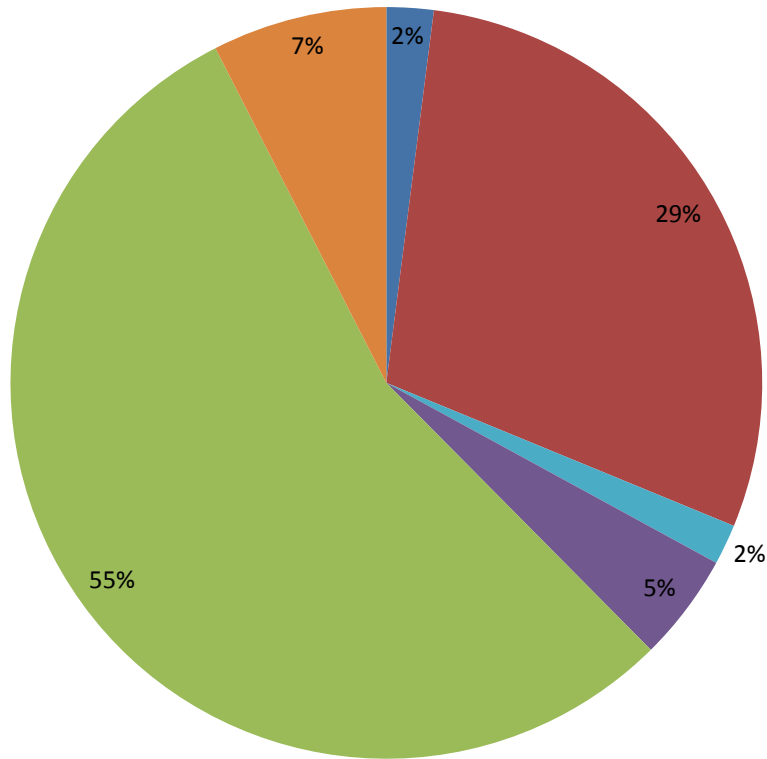
(as of 1/6/2020)



** 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 1/6/2020)

Type of Claimants: 130 cases*



- Large corporations (7)**
- Banks (6)
- SMEs (190)
- Holdings (101)
- Investment funds (16)
- Individual investors (26)

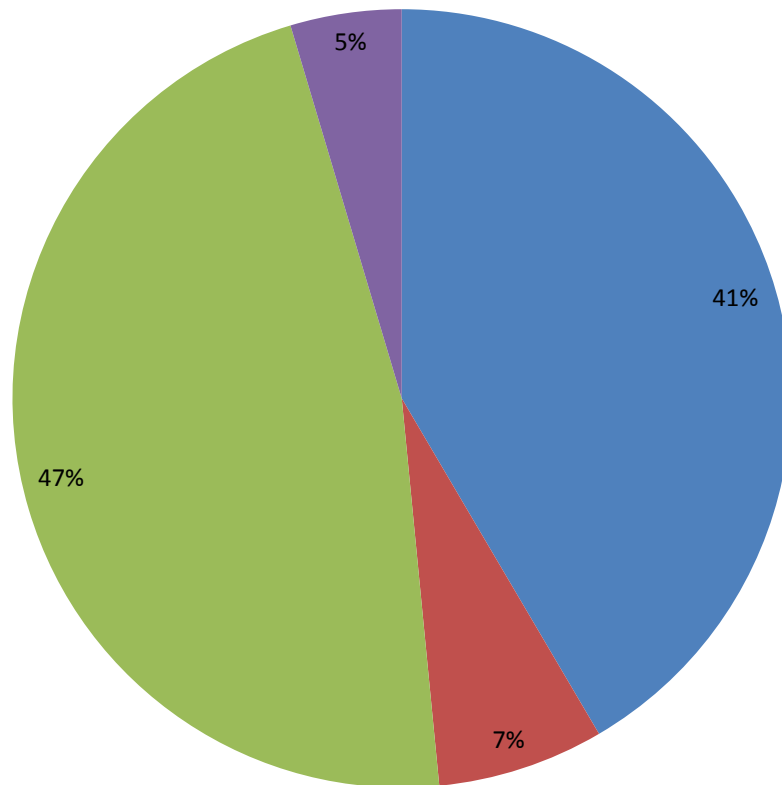
** A case may be instituted by more than one claimant.*

****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 1/6/2020)

Status of Arbitration Cases under the ECT: 130 cases

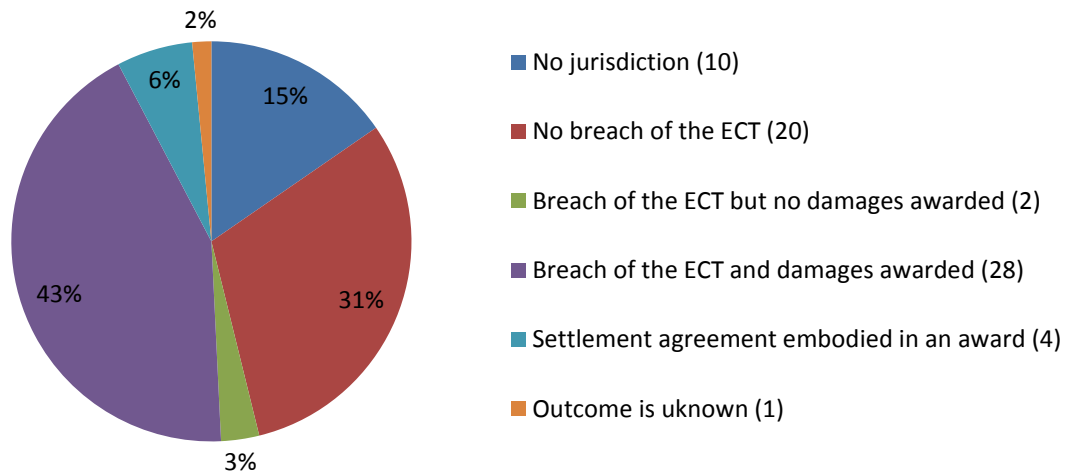


- Pending (54)
- Settled (9) of which (4) were embodied in an award
- Awards (61) of which (19) pending annulment proceedings
- Discontinued (6)

Statistics of ECT Cases

(as of 1/6/2020)

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



| | Damages Claimed | Damages Awarded | Ratio |
|---|--|--|--------------|
| <i>Nykomb Synergetics Technology Holding A.B. v. Latvia</i> (16 December 2003) | LVL 7,097,680 million + specific performance | LVL 1,600,000 million + specific performance | 23% |
| <i>Petrobart Limited v. Kyrgyz Republic</i> (29 March 2005) | USD 4,084,652 million | USD 1,130,859 million | 27.7% |
| <i>Ioannis Kardassopoulos v. Georgia</i> (3 March 2010) | USD 15,850,137.901 | USD 15.1 million | 95.3% |
| <i>Energoalians Ltd. v. Moldova</i> (8 July 2010) | MDL 243,577,971.11 | MDL 195,547,212 | 80% |
| <i>Khan Resources Inc., Khan Resources B.V., and Cauc Holding Company Ltd. v. Mongolia</i> (10 January 2011) | USD 326 million | USD 80 million | 24.5% |
| <i>Remington Worldwide Limited v. Ukraine</i> (28 April 2011) | USD 36 million | USD 4.5 million | 12.5% |
| <i>Anatolie Stati, Gabriel Stati, Ascom Group S.A. and Terra Raf</i> | USD 2.6 billion | USD 497,685,101 | 20% |

Statistics of ECT Cases

(as of 1/6/2020)

| | | | |
|---|------------------------|-------------------|---------------------|
| <i>Trans Traiding Ltd. v. Kazakhstan (19 December 2013)</i> | | | |
| <i>Yukos Universal Limited v. Russian Federation; Hulley Enterprises Limited v. Russian Federation; Veteran Petroleum Limited v. Russian Federation (18 July 2014)</i> | USD 114,174 billion | USD 50.02 billion | 43.8% |
| <i>EDF International S.A. v. Hungary (4 December 2014)</i> | estim. EUR 300 million | EUR 107 million | estim. 33.3% |
| <i>Eiser Infrastructure Limited and Energía Solar Luxembourg S.à.r.l. v. Spain (4 May 2017)</i> | EUR 298 million | EUR 128 million | 43% |
| <i>Aktau Petrol Ticaret A.Ş. v. Kazakhstan (13 November 2017)</i> | USD 150 million | USD 22.7 million | 15.1% |
| <i>Novenergia II - Energy & Environment (SCA) SICAR v. Spain (15 February 2018)</i> | EUR 61.3 million | EUR 53.3 million | 86.9% |
| <i>Masdar Solar & Wind Cooperatief U.A. v. Spain (16 May 2018)</i> | EUR 260 million | EUR 64.5 million | 24.8% |
| <i>Antin Infrastructure Services Luxembourg S.à.r.l. and Antin Energia Termosolar B.V. v. Spain (15 June 2018)</i> | EUR 238 million | EUR 112 million | 47% |
| <i>Greentech Energy System A/S, Foresight Luxembourg Solar 1 S.à.r.l., Foresight Luxembourg Solar 2 S.à.r.l., GWM Renewable Energy I S.P.A, GWM Renewable Energy II S.P.A v. Spain (14 November 2018)</i> | EUR 50 million | EUR 9 million | 78% |
| <i>Greentech Energy Systems A/S, NovEnergia II Energy & Environment (SCA) SICAR, and NovEnergia II Italian Portfolio S.A. v. Italy (23 December 2018)</i> | EUR 25.06 million | EUR 11.9 million | 47.5% |

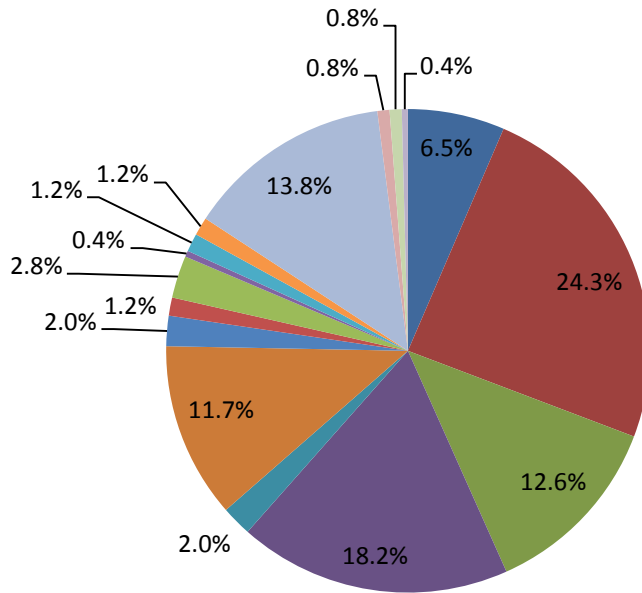
Statistics of ECT Cases

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| | | | |
|---|-------------------|-------------------|--------------|
| <i>CEF Energia B.V. v. Italy</i> (16 January 2019) | EUR 10.3 million | EUR 9.6 million | 93.2% |
| <i>9REN Holding S.à.r.l. v. Spain</i> (31 May 2019) | EUR 52.2 million | EUR 41.76 million | 80% |
| <i>NextEra Energy Global Holdings B.V., NextEra Energy Spain Holdings B.V. v. Spain</i> (31 May 2019) | EUR 393.6 million | EUR 290.6 million | 73.8% |
| <i>Cube Energy S.C.A. and others v. Spain</i> (15 July 2019) | EUR 74.1 million | EUR 33.7 million | 45.5% |
| <i>SolEs Badajoz GmbH v. Spain</i> (31 July 2019) | EUR 97.7 million | 41 million EUR | 42% |
| <i>OperaFund Eco-Invest SICAV PLC Schwab Holding v. Spain</i> (6 September 2019) | EUR 42.8 million | EUR 30 million | 70% |
| <i>RREEF Infrastructure (G.P.) Limited, RREEF Pan-European Infrastructure Two Lux S.à r.l. v. Spain</i> (11 December 2019) | EUR 441 million | EUR 59.6 million | 13.5% |
| <i>Watkins Holdings S.à r.l. and others v. Spain</i> (21 January 2020) | EUR 123.9 million | EUR 77 million | 62.1% |
| <i>The PV Investors v. Spain</i> (28 February 2020) | EUR 1.16 billion | EUR 91.1 million | 12.7% |

Statistics of ECT Cases
(as of 1/6/2020)

Breaches Alleged: 64 cases*



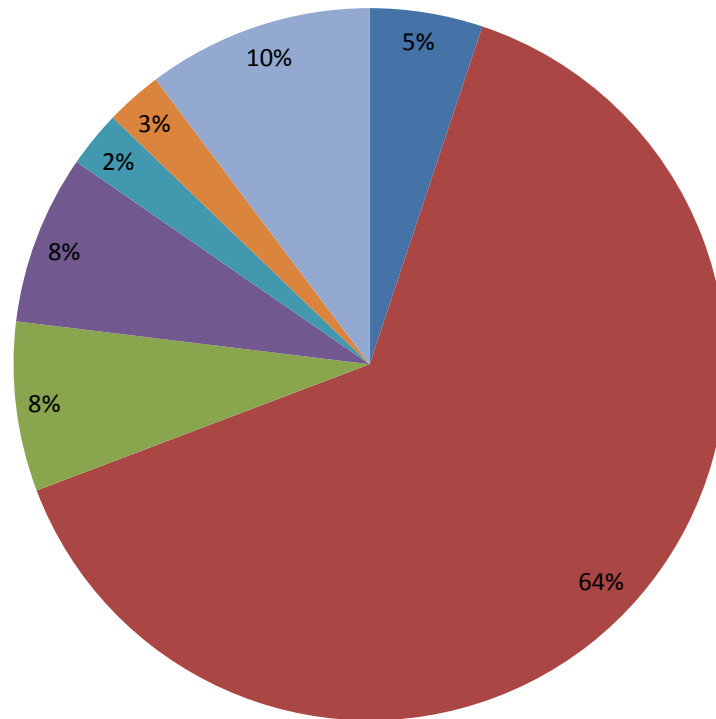
- 10(1). Stable, equitable, favourable and transparent conditions
- 10(1). Fair and equitable treatment
- 10(1). Most constant protection and security
- 10(1). Unreasonable or discriminatory measures
- 10(1). Treatment less favourable than that required by international law
- 10(1). Umbrella clause
- 10(7). National Treatment
- 10(7). Most-favoured-nation treatment
- 10(12). Effective means for assertion of 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

*** The remaining 66 cases are not considered due to lack of public information.**

Statistics of ECT Cases

(as of 1/6/2020)

Breaches Found: 32 cases

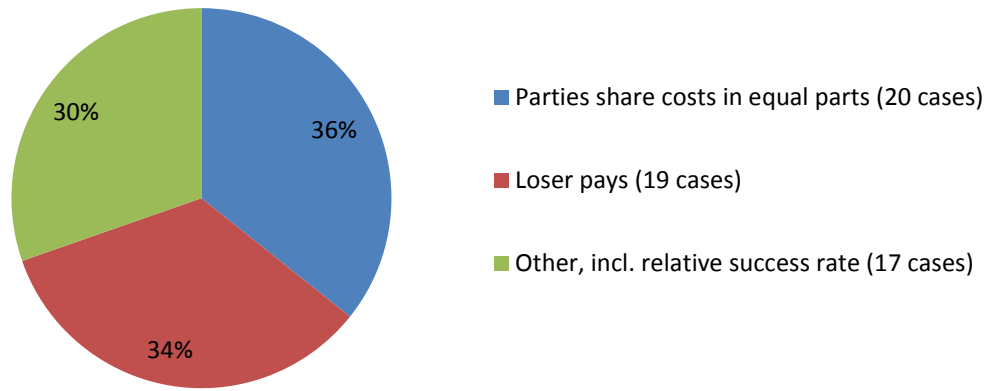


- 10(1). Stable, equitable, favourable and transparent conditions
- 10(1). Fair and equitable treatment
- 10(1). Unreasonable or discriminatory measures
- 10(1). Umbrella clause
- 10(12). Effective means for assertion of of claims and enforcement of rights
- 13. Direct expropriation
- 13. Indirect expropriation

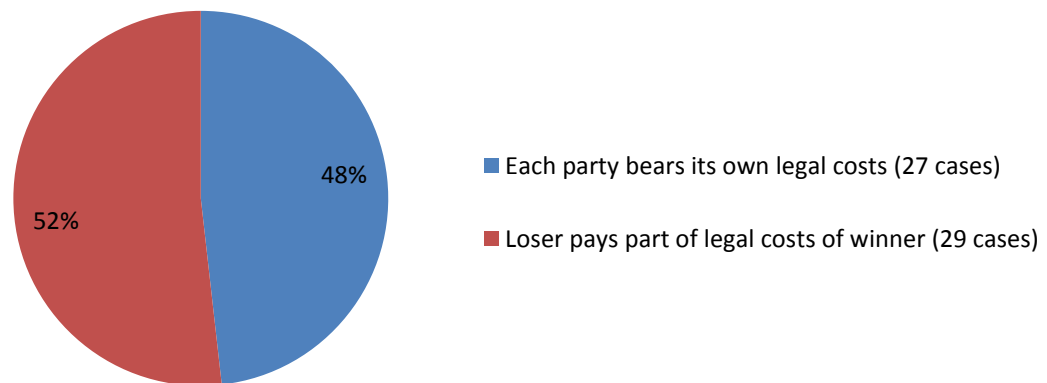
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Allocation of Costs of Arbitration between Parties: 56 cases*



Legal Costs: 56 cases*

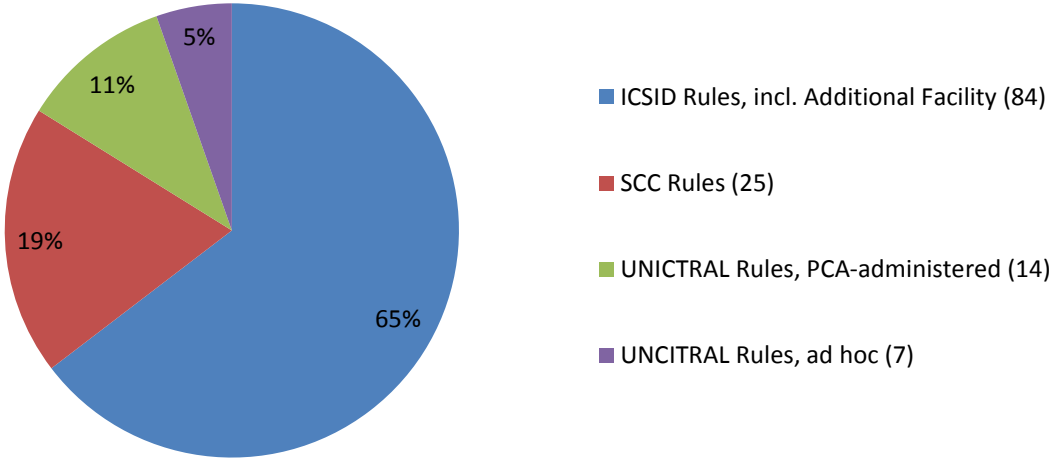


**Based on cases in which such information is publicly available.*

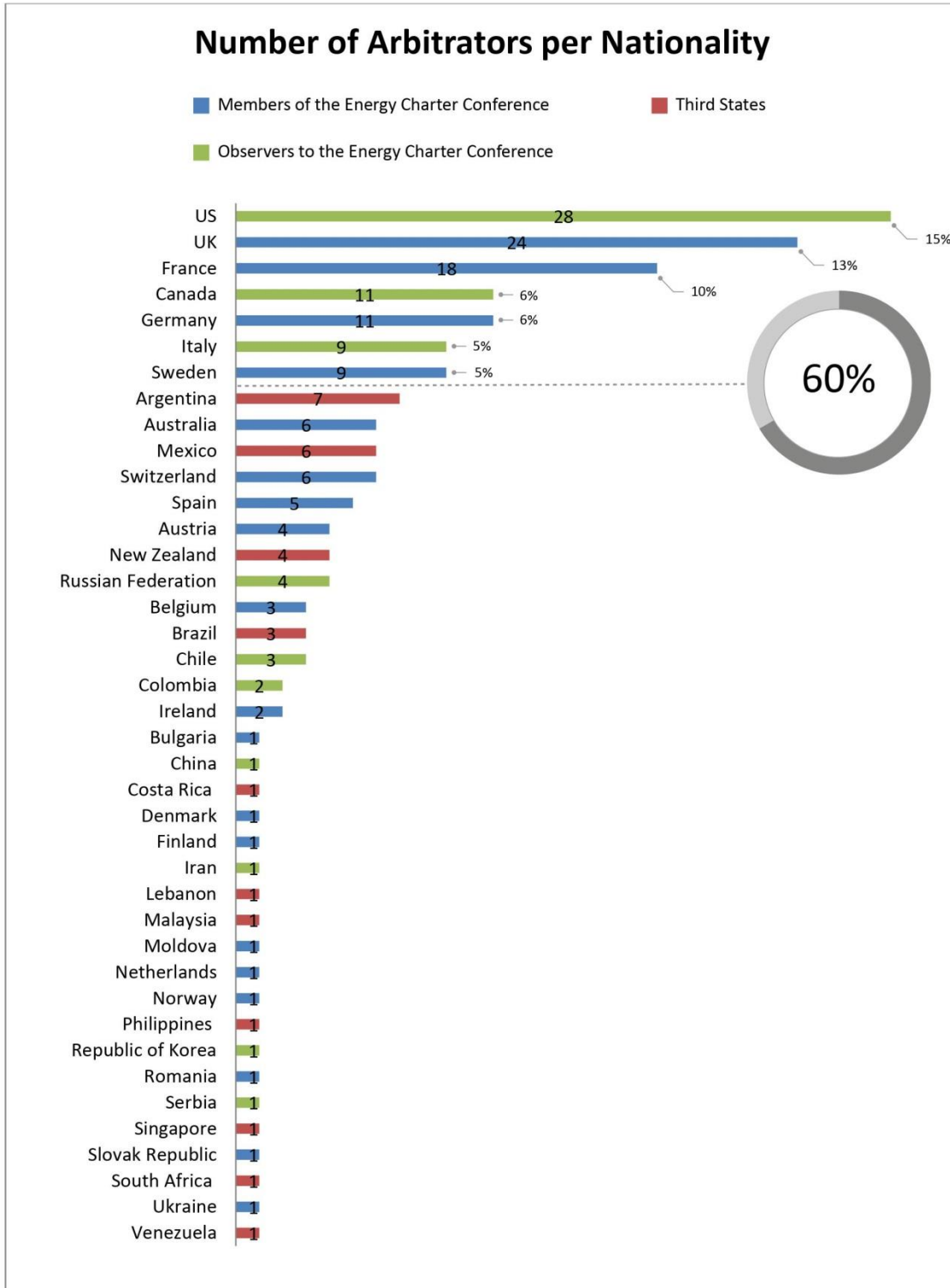
Statistics of ECT Cases

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Procedural Rules Applied: 130 cases



Statistics of ECT Cases (as of 1/6/2020)



**In case of double nationality of an arbitrator, both nationalities are taken into account.*

Statistics of ECT Cases

Arbitrators with Five or More Appointments

■ Number of Appointments as a Chair
 ■ Number of Appointments by Respondents
■ Number of Appointments by Claimants

