

Statistics of ECT Cases

(as of 1/11/2023)

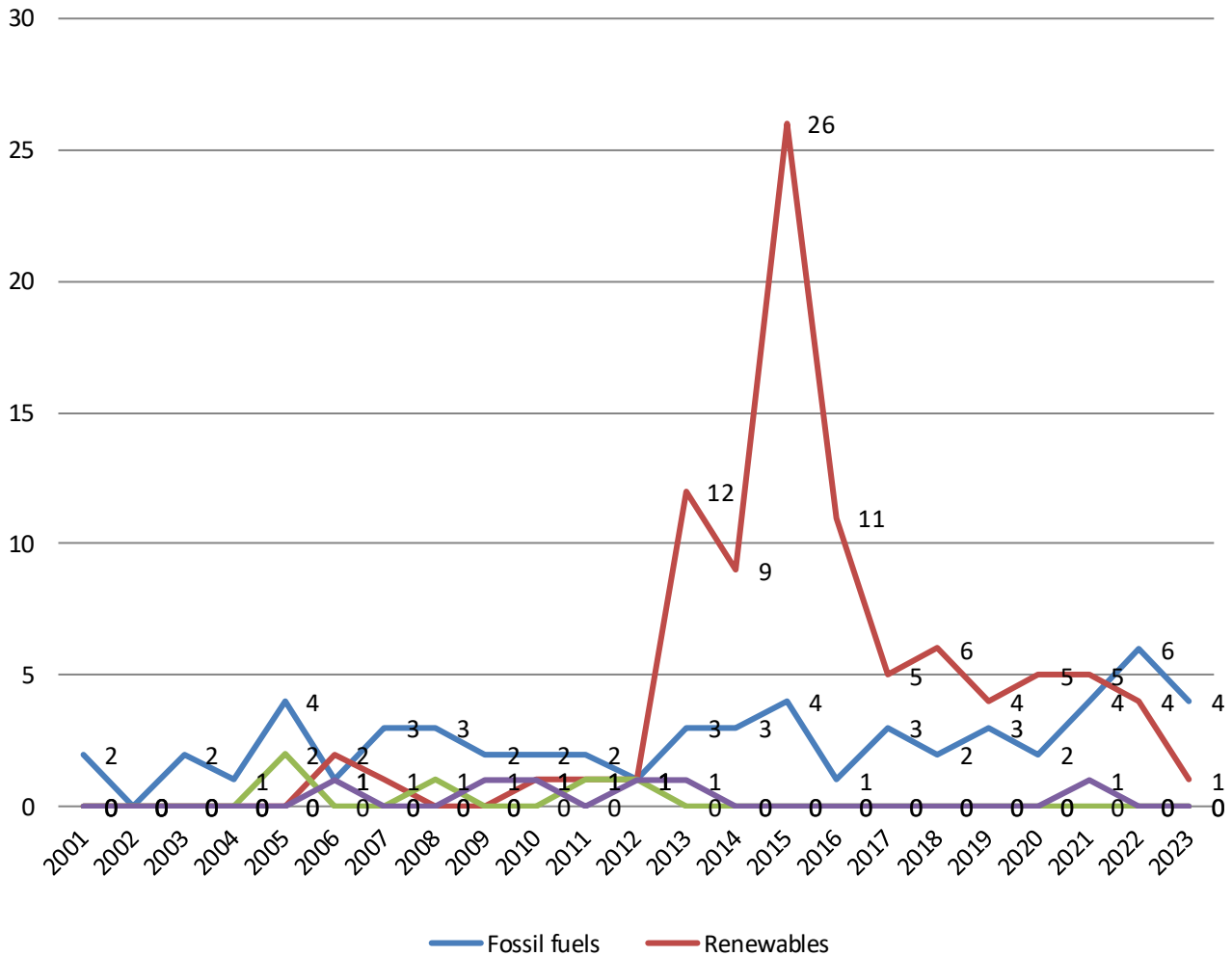
As of 1 December 2023, the Secretariat is aware of 162 investment arbitration cases instituted under the Energy Charter Treaty (sometimes invoked together with a bilateral investment treaty).

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 specialised 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 1/11/2023)

Distribution of Arbitration Cases under the ECT by Energy Sources Involved: 162 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 13 billion + the Yukos cases (EUR 87 billion)	approx. EUR 1 billion + the Yukos cases (EUR 40 billion)	approx. EUR 23 billion	approx. EUR 1.3 billion	approx. EUR 4.5 billion	approx. EUR 74 million	approx. EUR 550 million	0

*** 51 cases are still pending and in some of the cases, there is no publicly available information on the exact amounts claimed and/or awarded; one case involves more than one form of energy sources.**

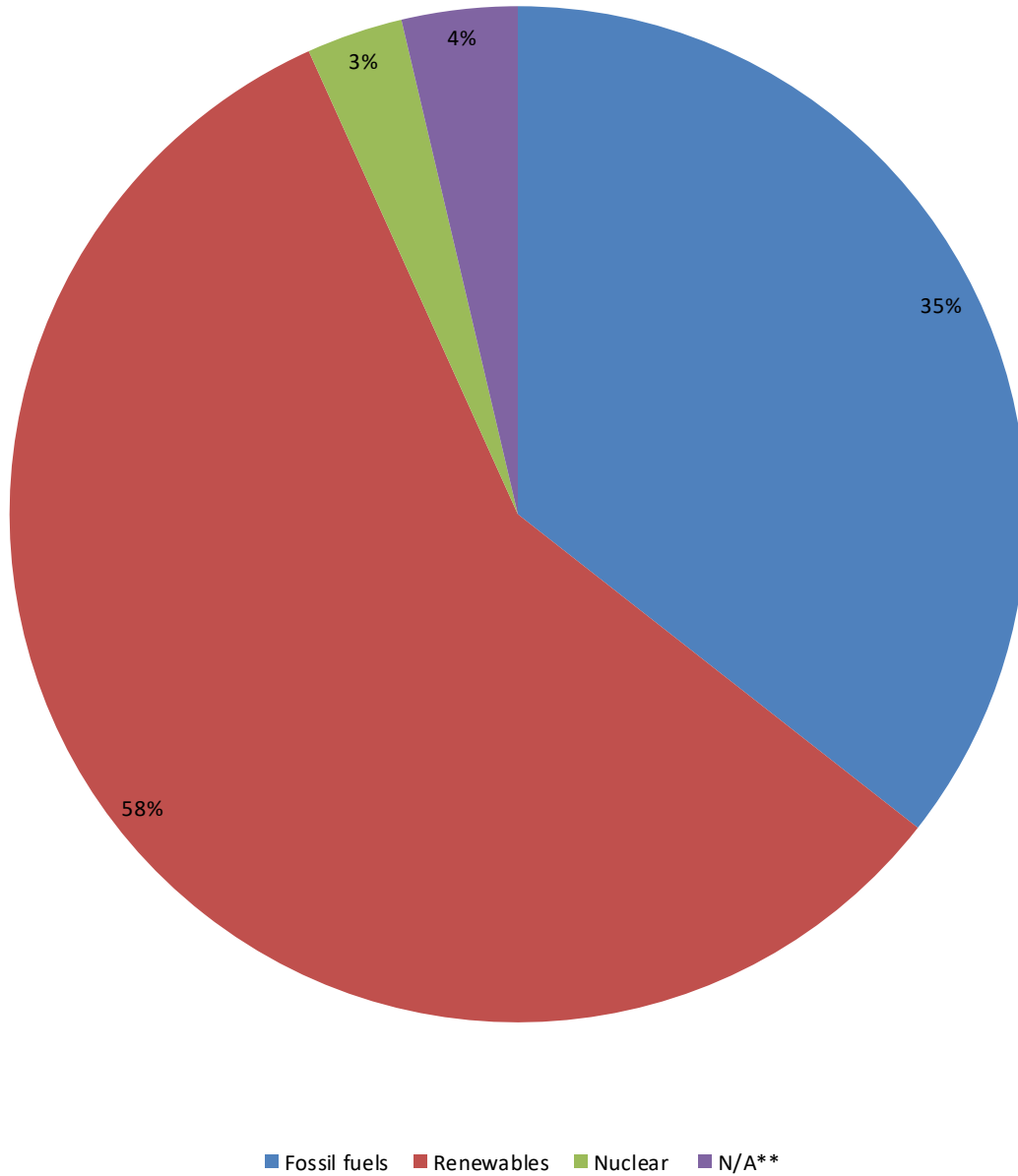
**** In six cases, it has not been possible to identify particular energy sources.**

***** Excluding tax gross-up and interest on damages claimed and awarded.**

Statistics of ECT Cases

(as of 1/11/2023)

Distribution of Arbitration Cases under the ECT by Energy Sources Involved: 162 cases*



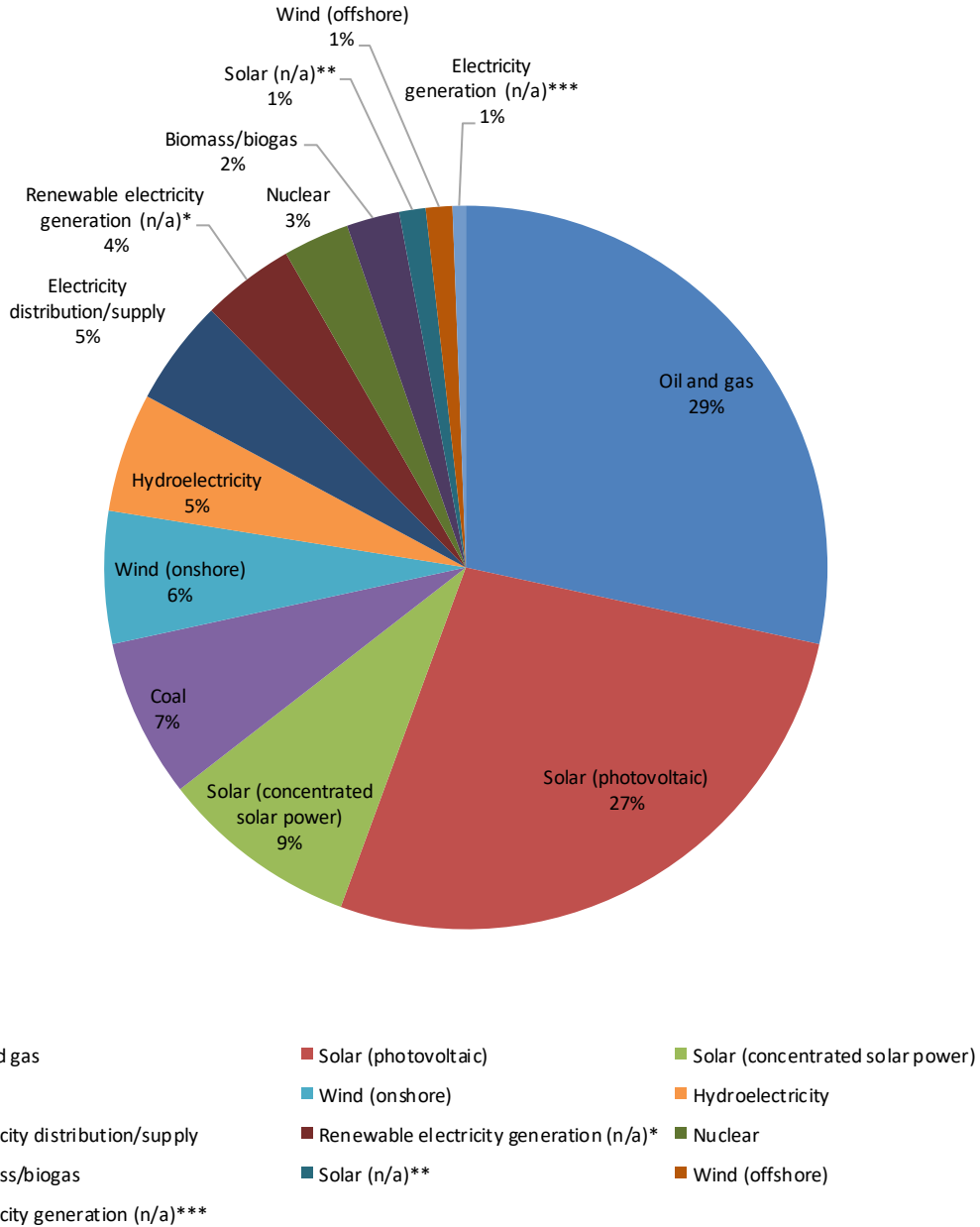
** One case involves more than one form of energy sources.*

*** In six cases, it has not been possible to identify particular energy sources.*

Statistics of ECT Cases

(as of 1/11/2023)

Distribution of Arbitration Cases under the ECT by Sub-Sector: 162 cases



* In seven cases, it has not been possible to identify particular renewable electricity generation technology employed.

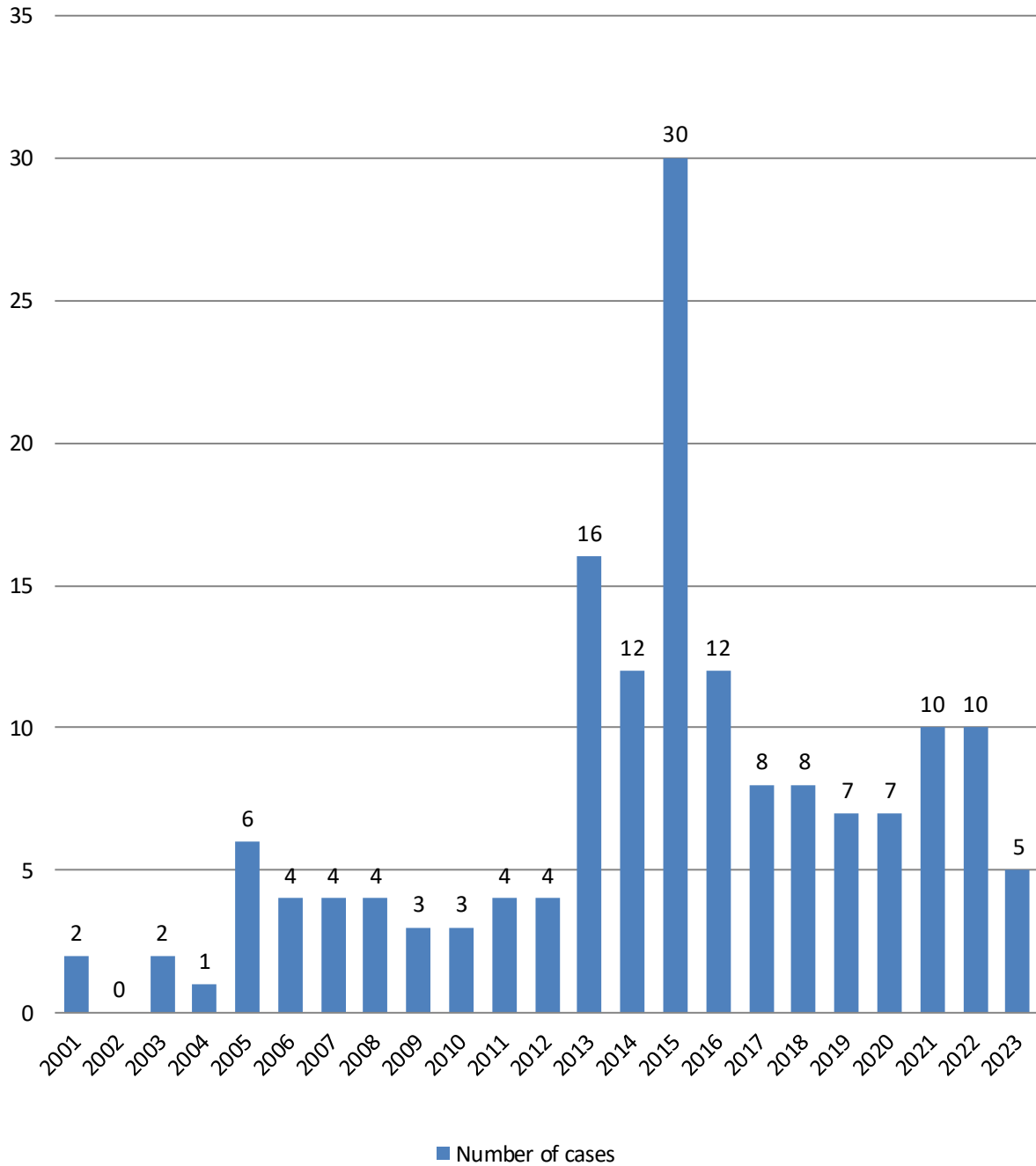
** In two cases, it has not been possible to identify particular solar electricity generation technology employed.

*** In one case, it has not been possible to identify particular sub-sector.

Statistics of ECT Cases

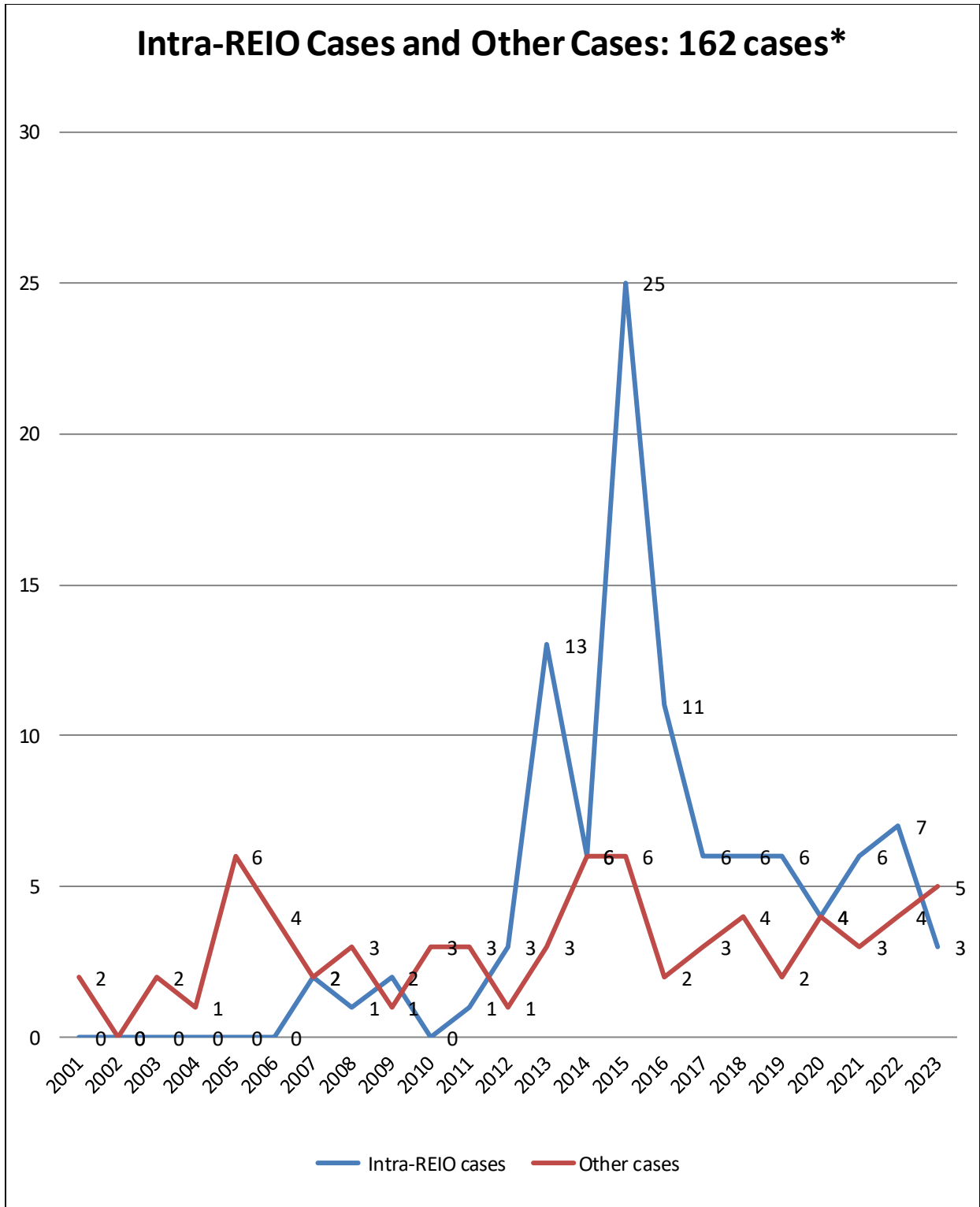
(as of 1/11/2023)

Number of Arbitration Cases under the ECT: 162 cases



Statistics of ECT Cases

(as of 1/11/2023)

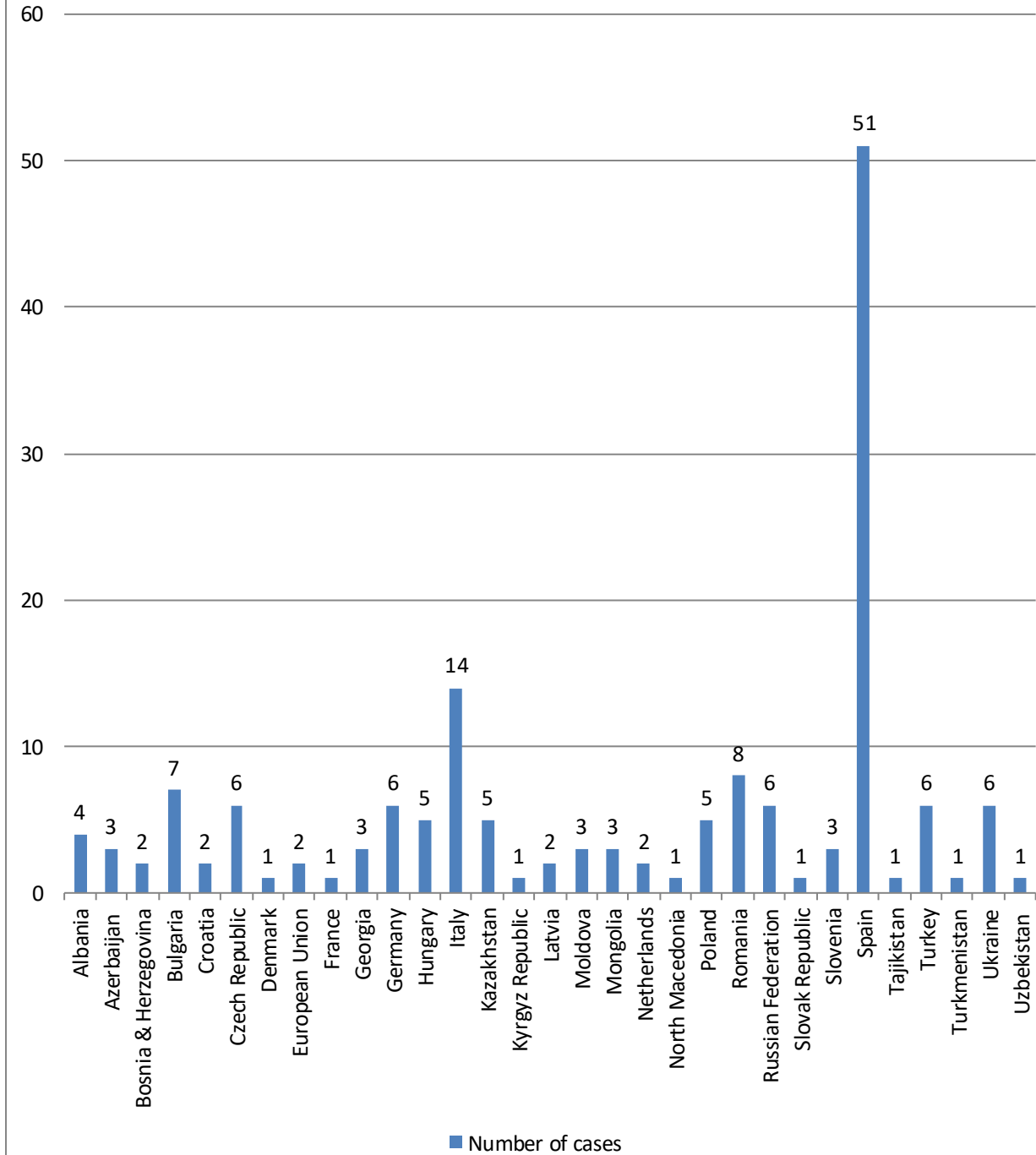


* Cases with mixed claimants are included in both categories. Therefore, the numbers indicated may be higher than the actual number of cases instituted in a given year.

Statistics of ECT Cases

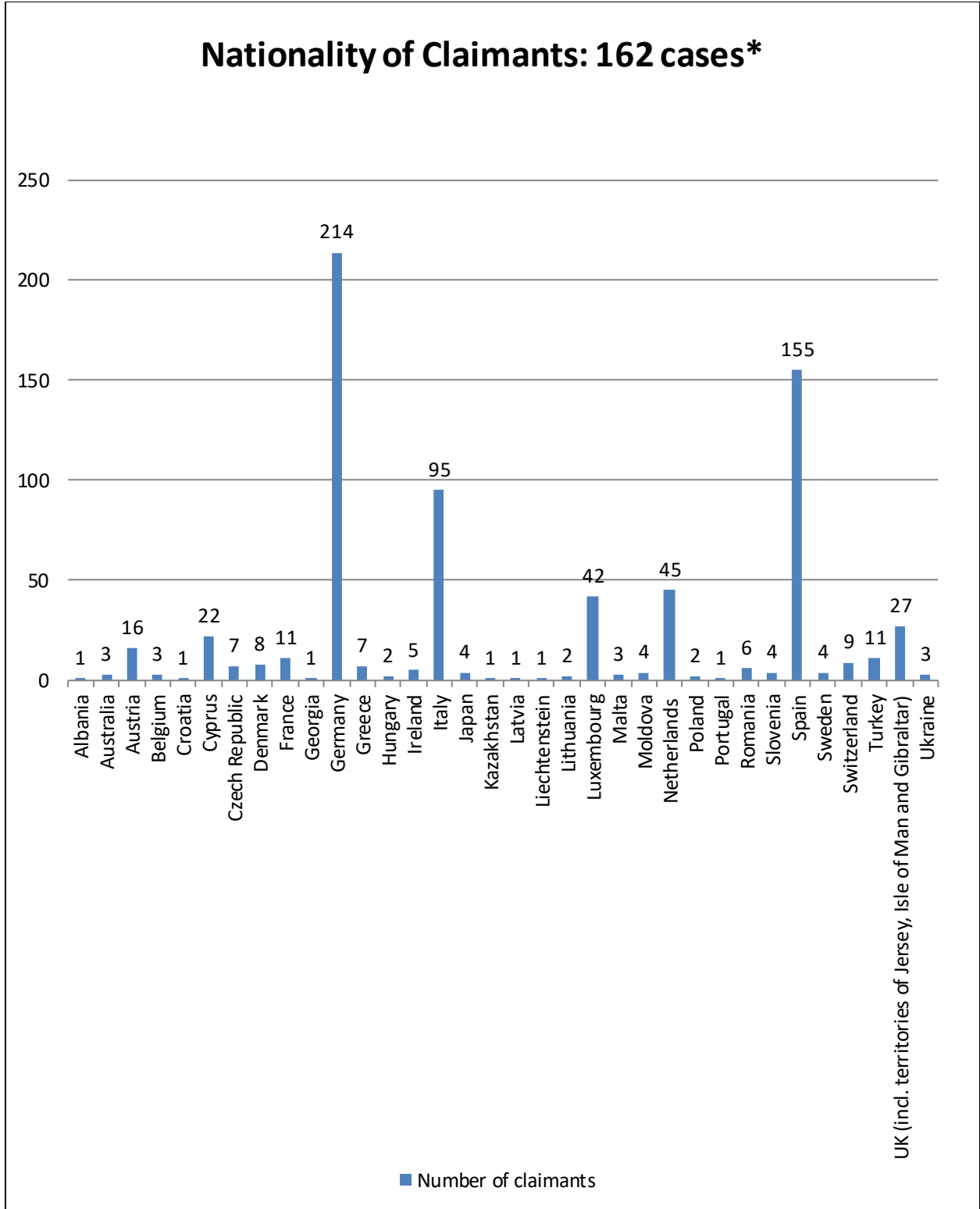
(as of 1/11/2023)

Respondents: 162 cases



Statistics of ECT Cases

(as of 1/11/2023)

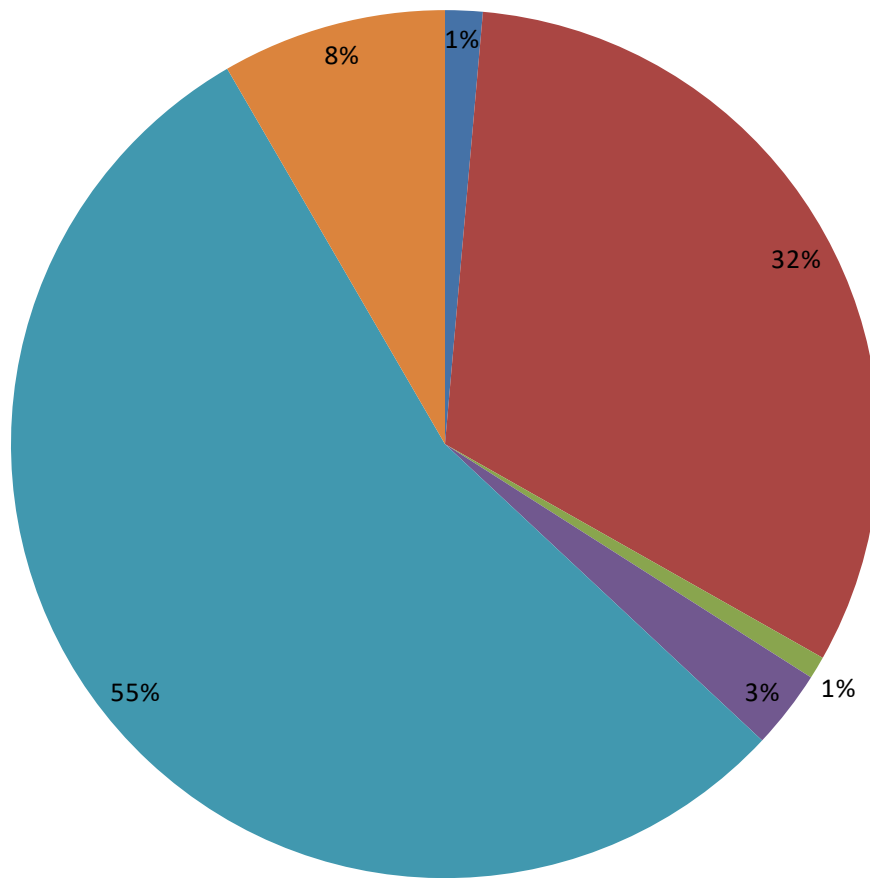


** In case of double nationality of a claimant, both nationalities are taken into account.
A case may be instituted by more than one claimant.*

Statistics of ECT Cases

(as of 1/11/2023)

Type of Claimants: 162 cases



■ Large corporations (10)**

■ Holdings (228)

■ Banks (6)

■ Investment funds (21)

■ SMEs (392)

■ Individual investors (60)

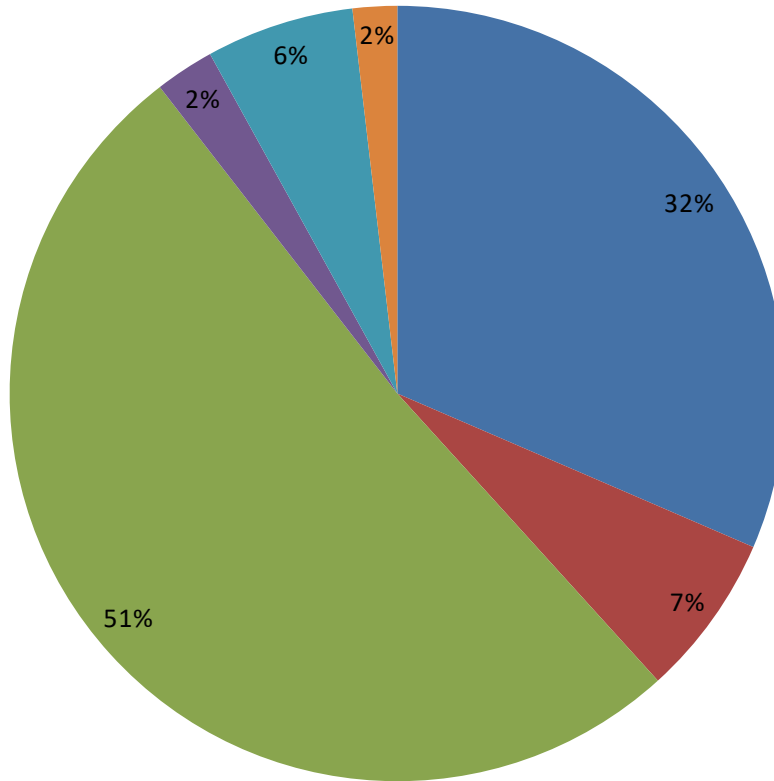
* A case may be instituted by more than one claimant.

** Listed on Platts Top 250 Global Energy Company Rankings (2022) and/or UNCTAD's World's Top 100 Non-financial MNEs Ranked by Foreign Assets (2021).

Statistics of ECT Cases

(as of 1/11/2023)

Status of Arbitration Cases under the ECT: 162 cases



■ Pending (51)

■ Settled (11) of which (4) were embodied in an award

■ Awards (83) of which (19) pending annulment proceedings

■ Awards rendered (4) but investors renounced their right to collect damages (3) or pursue annulment actions (1)

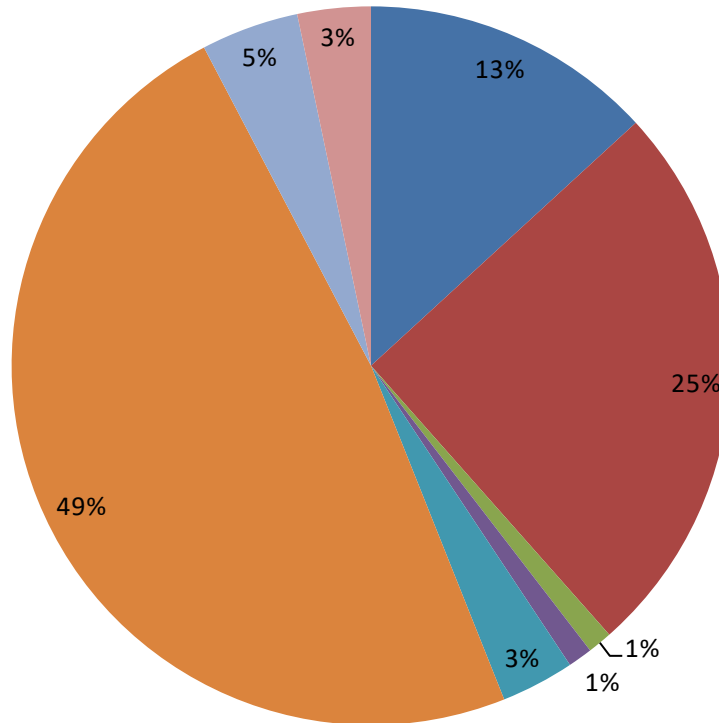
■ Discontinued (10)

■ Awards annulled (3) of which (1) pending resubmission proceedings

Statistics of ECT Cases

(as of 1/11/2023)

Outcome of Final Awards (91), including (4) Settlement Agreements Embodied in Awards*



- No jurisdiction (12)
- No breach of the ECT (23)
- Alternative ECT claim dismissed (1)**
- Manifest lack of legal merit - Rule 41(5) ICSID Arbitration Rules (1)
- Breach of the ECT but no damages awarded (3)
- Breach of the ECT and damages awarded (44)
- Settlement agreement embodied in an award (4)
- Outcome unknown (3)

* Excluding annulled awards.

** Having found the State liable under another international agreement, the tribunal dismissed an alternative claim under the ECT.

Statistics of ECT Cases

(as of 1/11/2023)

	Damages Claimed*	Damages Awarded*	Ratio
<i>Nykomb Synergetics Technology Holding AB v. Latvia</i> (16 December 2003)	LVL 7,097,680 + specific performance	LVL 1,600,000 + specific performance	23%
<i>Petrobart Limited v. Kyrgyz Republic</i> (29 March 2005)	USD 4,084,652	USD 1,130,859	27.7%
<i>Ioannis Kardassopoulos v. Georgia</i> (3 March 2010)	USD 15,8 million	USD 15.1 million	95.5%
<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 Trans Traiding Ltd. v. Kazakhstan</i> (19 December 2013)	USD 2.6 billion	USD 500 million	19.2%
<i>Yukos Universal Limited v. Russian Federation; Hulley Enterprises Limited v. Russian Federation; Veteran Petroleum Limited v. Russian Federation</i> (18 July 2014)	USD 114,174 billion	USD 50.02 billion	43.8%
<i>EDF International S.A. v. Hungary</i> (4 December 2014)	estim. EUR 300 million	EUR 107 million	33.3%
<i>Aktau Petrol Ticaret A.Ş. v. Kazakhstan</i> (13 November 2017)	USD 150 million	USD 22.7 million	15.1%
<i>Masdar Solar & Wind Cooperatief U.A. v. Spain</i> (16 May 2018)	EUR 260 million	EUR 64.5 million**	24.8%

* Excluding tax gross-up and interest on damages claimed and awarded.

** According to the Ministry for Ecological Transition and Demographic Challenge of Spain, the investors have submitted a waiver under Royal Decree-Law 17/2019, renouncing their right to collect damages in exchange for a new incentive scheme.

Statistics of ECT Cases

(as of 1/11/2023)

<i>Antin Infrastructure Services Luxembourg S.à.r.l. and Antin Energia Termosolar B.V. v. Spain</i> (15 June 2018)	EUR 238 million	EUR 101 million	42.4%
<i>Foresight Luxembourg Solar 1 S.à.r.l. and others v. Spain</i> (14 November 2018)	EUR 50 million	EUR 39 million	78%
<i>Greentech Energy Systems A/S, NovEnergia II Energy & Environment (SCA) SICAR, and NovEnergia II Italian Portfolio S.A. v. Italy</i> (23 December 2018)	EUR 25.06 million	EUR 11.9 million	47.5%
<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 521.4 million	EUR 290.6 million	55.7%
<i>Cube Energy SCA 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 82 million	EUR 40.5 million	49.4%
<i>InfraRed Environmental Infrastructure GP Limited v. Spain</i> (2 August 2019)	EUR 75.7 million	EUR 28.2 million	37.5%
<i>OperaFundEco-Invest SICAV PLC Schwab Holding v. Spain</i> (6 September 2019)	EUR 42 million	USD 29.3 million	69.8%
<i>RREEF Infrastructure (GP) Limited and 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%

** According to the Ministry for Ecological Transition and Demographic Challenge of Spain, the investors have submitted a waiver under Royal Decree-Law 17/2019, renouncing their right to collect damages in exchange for a new incentive scheme.

Statistics of ECT Cases

(as of 1/11/2023)

<i>The PV Investors v. Spain</i> (28 February 2020)	EUR 1.16 billion	EUR 91.1 million**	12.7%
<i>Hydro Energy 1 S.à.r.l. and Hydroxana Sweden AB v. Spain</i> (5 August 2020)	EUR 132.1 million	EUR 30.9 million	23.4%
<i>ESPF Beteiligungs GmbH, ESPF Nr. 2 Austria Beteiligungs GmbH and InfraClass Energie 5 GmbH & Co. KG v. Italy</i> (14 September 2020)	EUR 28.6 million	EUR 16 million	56%
<i>RWE Innogy GmbH and RWE Innogy Aersa S.A.U. v. Spain</i> (18 December 2020)	EUR 267.7 million	EUR 28 million	10.5%
<i>BayWa r.e. Renewable Energy GmbH and BayWa r.e. Asset Holding GmbH v. Spain</i> (25 January 2021)	EUR 61.9 million	EUR 22 million	35.5%
<i>Sun-Flower Olmeda GmbH & Co KG and others v. Spain</i> (22 June 2021)	EUR 69 million	EUR 47.3 million	68.5%
<i>Yukos Capital S.à.r.l. v. Russian Federation</i> (23 July 2021)	USD 2,697,000,000 (loan principal) + contractual interest under loan agreement	USD 2,630,706,272.17 + contractual interest under loan agreement	97.5%
<i>STEAG GmbH v. Spain</i> (17 August 2021)	EUR 79 million	EUR 27.7 million	35%
<i>JGC Holdings Corporation v. Spain</i> (9 November 2021)	EUR 161 million	EUR 23.5 million	14.6%
<i>RENERGY S.à.r.l. v. Spain</i> (6 May 2022)	EUR 141 million	EUR 32.9 million	23.3%
<i>MOL Hungarian Oil and Gas Company Plc v. Croatia</i> (5 July 2022)	USD 1.1 billion	USD 184 million	16.7%
<i>Rockhopper Italia S.p.A., Rockhopper Mediterranean Ltd., and Rockhopper Exploration Plc v. Italy</i> (22 August 2022)	EUR 281.7 million	EUR 190.7 million	67.7%
<i>Cavalum SGPS S.A. v. Spain</i> (29 September 2022)	EUR 59.2 million	EUR 7.4 million	12.5%

** According to the Ministry for Ecological Transition and Demographic Challenge of Spain, the investors have submitted a waiver under Royal Decree-Law 17/2019, renouncing their right to collect damages in exchange for a new incentive scheme.

Statistics of ECT Cases

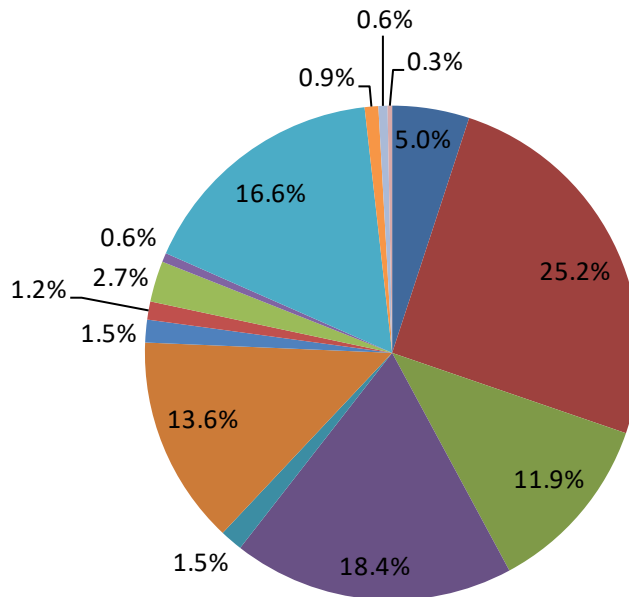
(as of 1/11/2023)

<i>Triodos SICAV II v. Spain</i> (24 October 2022)	N/A	EUR 10.4 million	N/A
<i>Eurus Energy Holdings Corporation v. Spain</i> (14 November 2022)	EUR 173 million	EUR 106.2 million	61.4%
<i>Mercuria Energy Group Ltd. v. Poland</i> (29 December 2022)	PLN 152,862,917.25 + contractual interest under loan agreement	PLN 145,094,420.2 + contractual interest under loan agreement	95%
<i>EDF Energies Nouvelles S.A. v. Spain</i> (1 April 2023)	EUR 52.8 million	EUR 29.6 million	56%
<i>Infracapital F1 S.à.r.l. and Infracapital Solar B.V. v. Spain</i> (2 May 2023)	EUR 50.7 million	EUR 24.9 million	49.1%
<i>Sevilla Beheer B.V. and others v. Spain</i> (22 May 2023)	EUR 38.5 million	EUR 6.8 million	17.6%
<i>Mathias Kruck and others v. Spain</i> (6 October 2023)	EUR 60.5 million	EUR 15 million	24.8%

Statistics of ECT Cases

(as of 1/11/2023)

Breaches Alleged: 91 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

■ 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

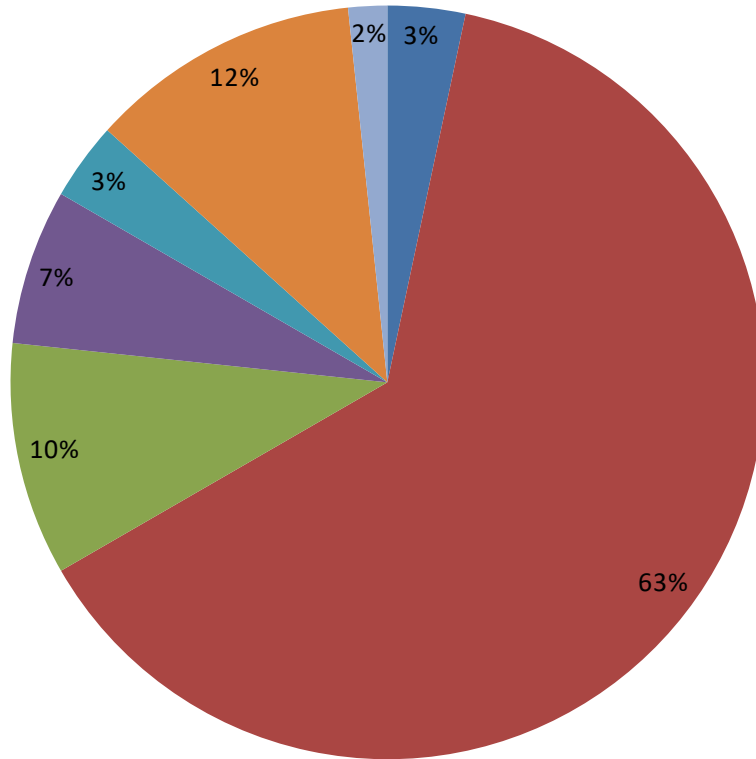
■ 10(2)-(3). Discrimination

* *The remaining 71 cases are not considered due to lack of public information.*

Statistics of ECT Cases

(as of 1/11/2023)

Breaches Found: 47 cases*



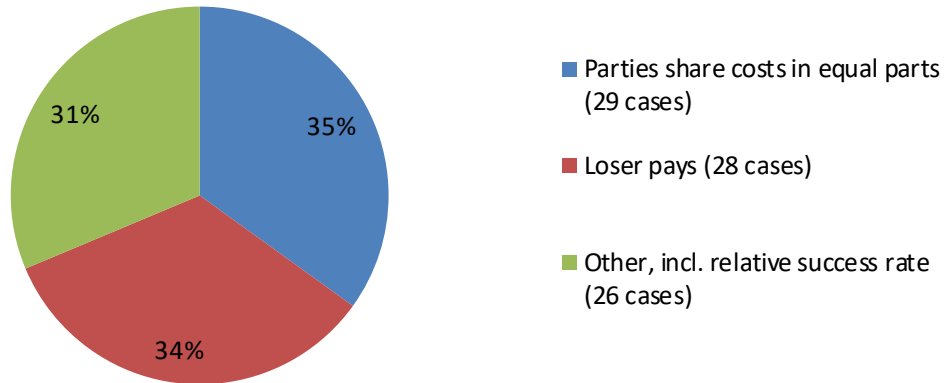
- 10(1). Stable, equitable, favourable and transparent conditions
- 10(1). Fair and equitable treatment
- 10(1). Unreasonable or discriminatory measures
- 10(1). Umbrella clause
- 10(12). Effective means for assertion of of claims and enforcement of rights
- 13. Expropriation
- Breach unknown

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

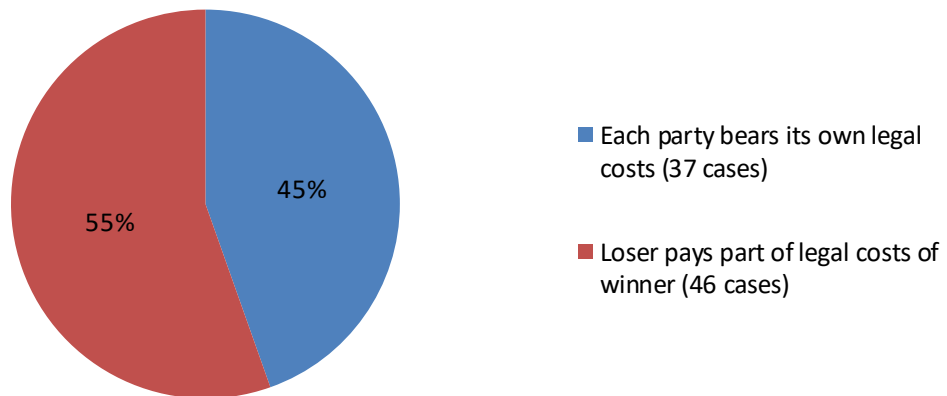
Statistics of ECT Cases

(as of 1/11/2023)

Allocation of Costs of Arbitration between Parties: 83 cases*



Legal Costs: 83 cases*

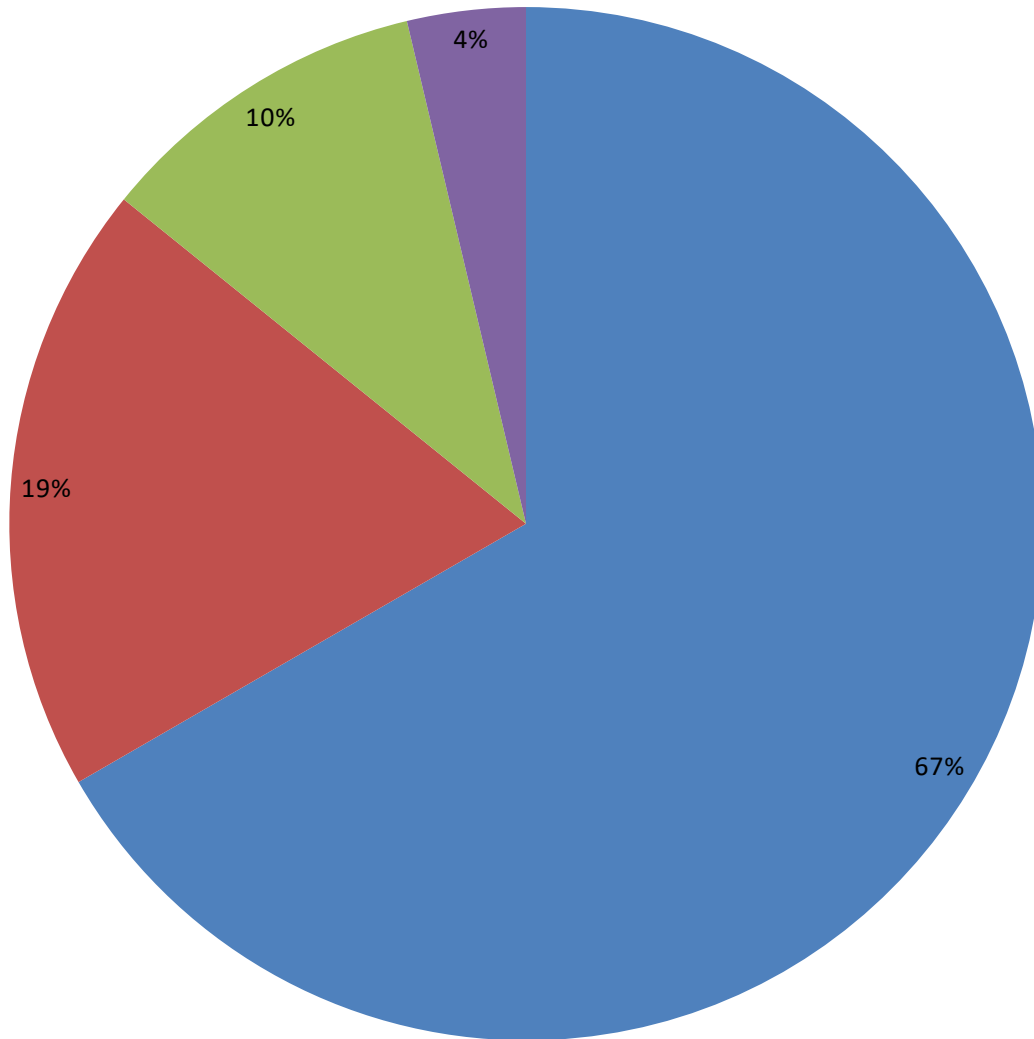


* Based on cases in which such information is publicly available.

Statistics of ECT Cases

(as of 1/11/2023)

Procedural Rules Applied: 162 cases

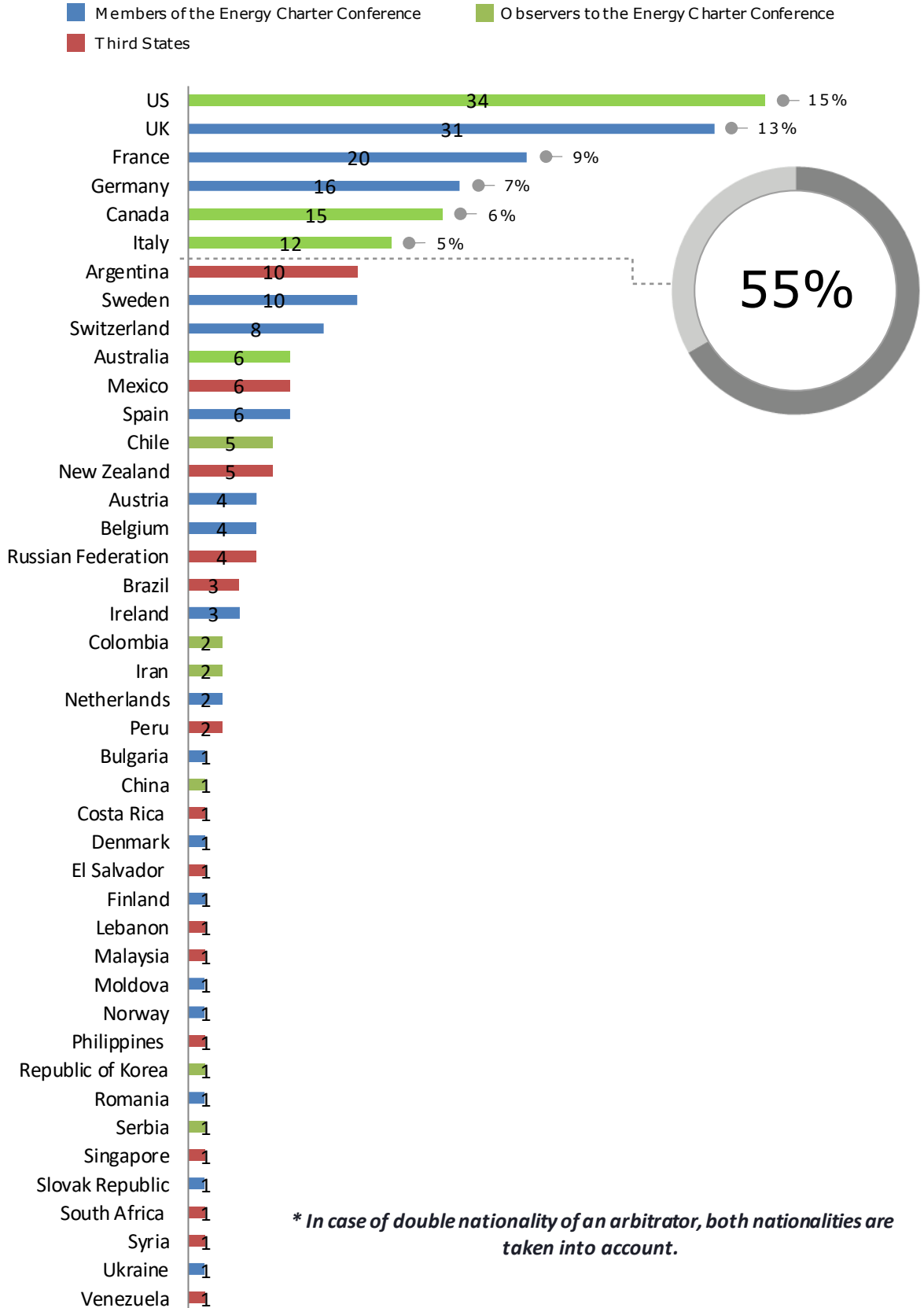


- ICSID Rules, incl. Additional Facility (108 cases)
- SCC Rules (31 cases)
- UNCITRAL Rules, PCA-administered (17 cases)
- UNCITRAL Rules, ad hoc (6 cases)

Statistics of ECT Cases

(as of 1/11/2023)

Number of Arbitrators per Nationality*

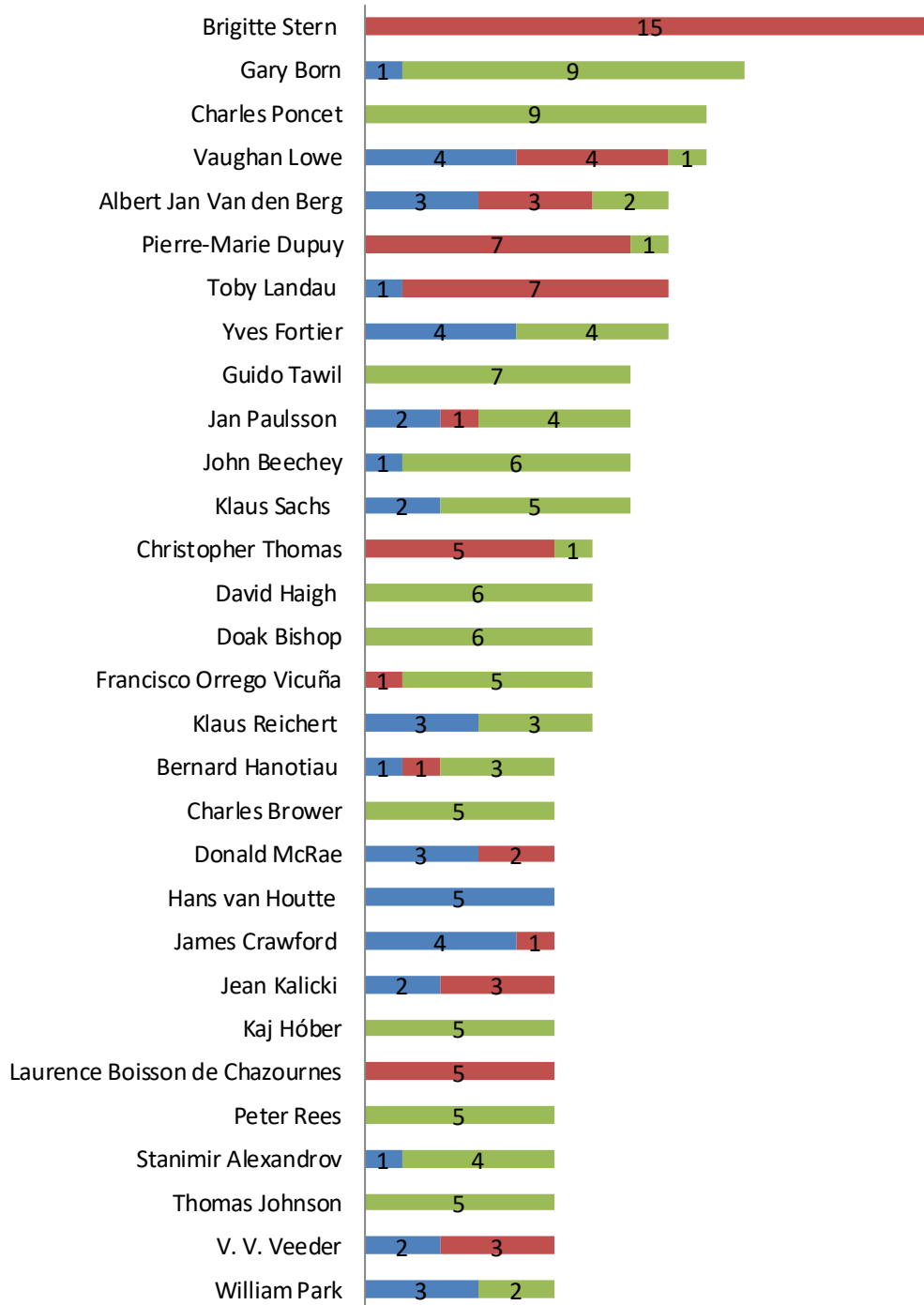


Statistics of ECT Cases

(as of 1/11/2023)

Arbitrators with Five or More Appointments

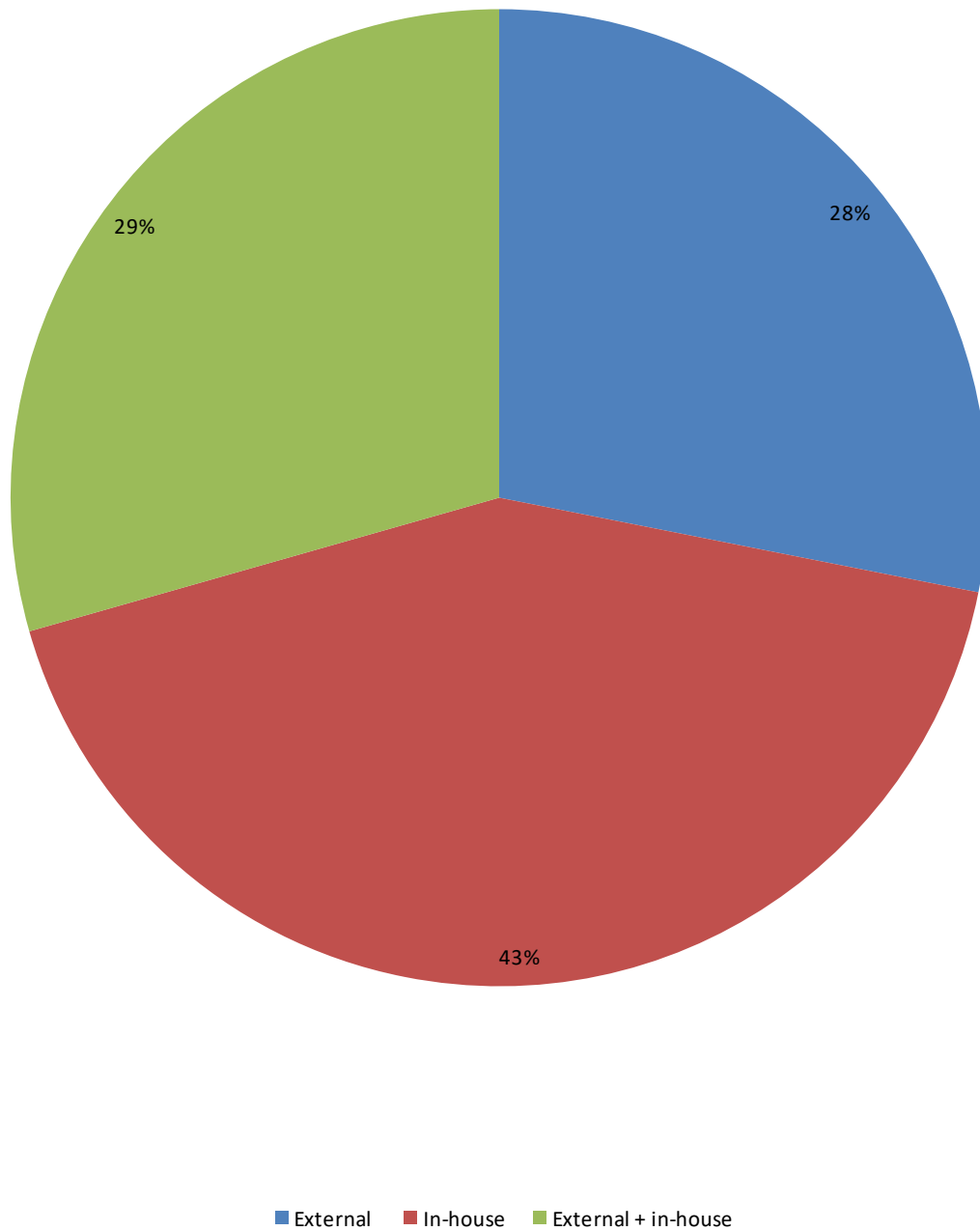
■ Number of Appointments as a Chair
 ■ Number of Appointments by Respondents
■ Number of Appointments by Claimants



Statistics of ECT Cases

(as of 1/11/2023)

Choice of Counsel among Respondents*

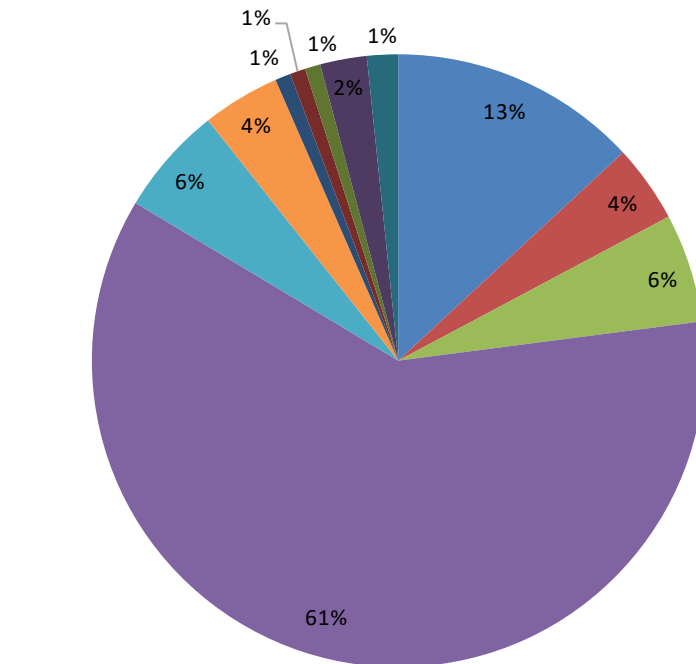


* Based on 153 cases in which information on respondents' counsel is publicly available.

Statistics of ECT Cases

(as of 1/11/2023)

State Agency Representing Respondent*



- Ministry of Finance
- Ministry of Justice
- Ministry of Economy
- State Attorney General's Office
- Ministry of Energy
- Ministry of Foreign Affairs
- State Public Prosecutor's Office
- State Chancellery
- Ministry of Infrastructure and Regional Development
- Office of Prime Minister
- Legal Services of the European Commission

*** Based on 110 cases in which respondents were represented by in-house counsel or in-house counsel together with external co-counsel.**

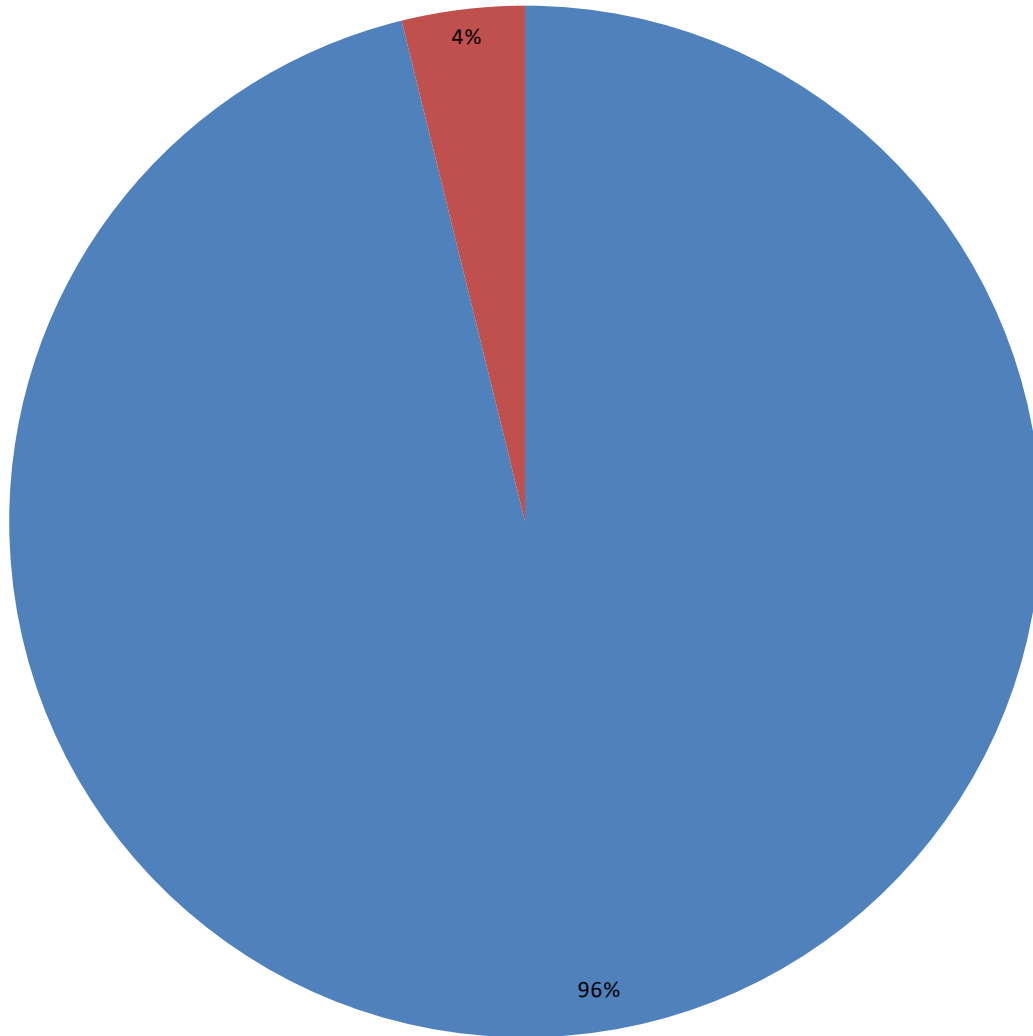
A respondent may be represented by more than one agency in the same case.

The names of the ministries may vary in different states.

Statistics of ECT Cases

(as of 1/11/2023)

Choice of Counsel among Claimants*



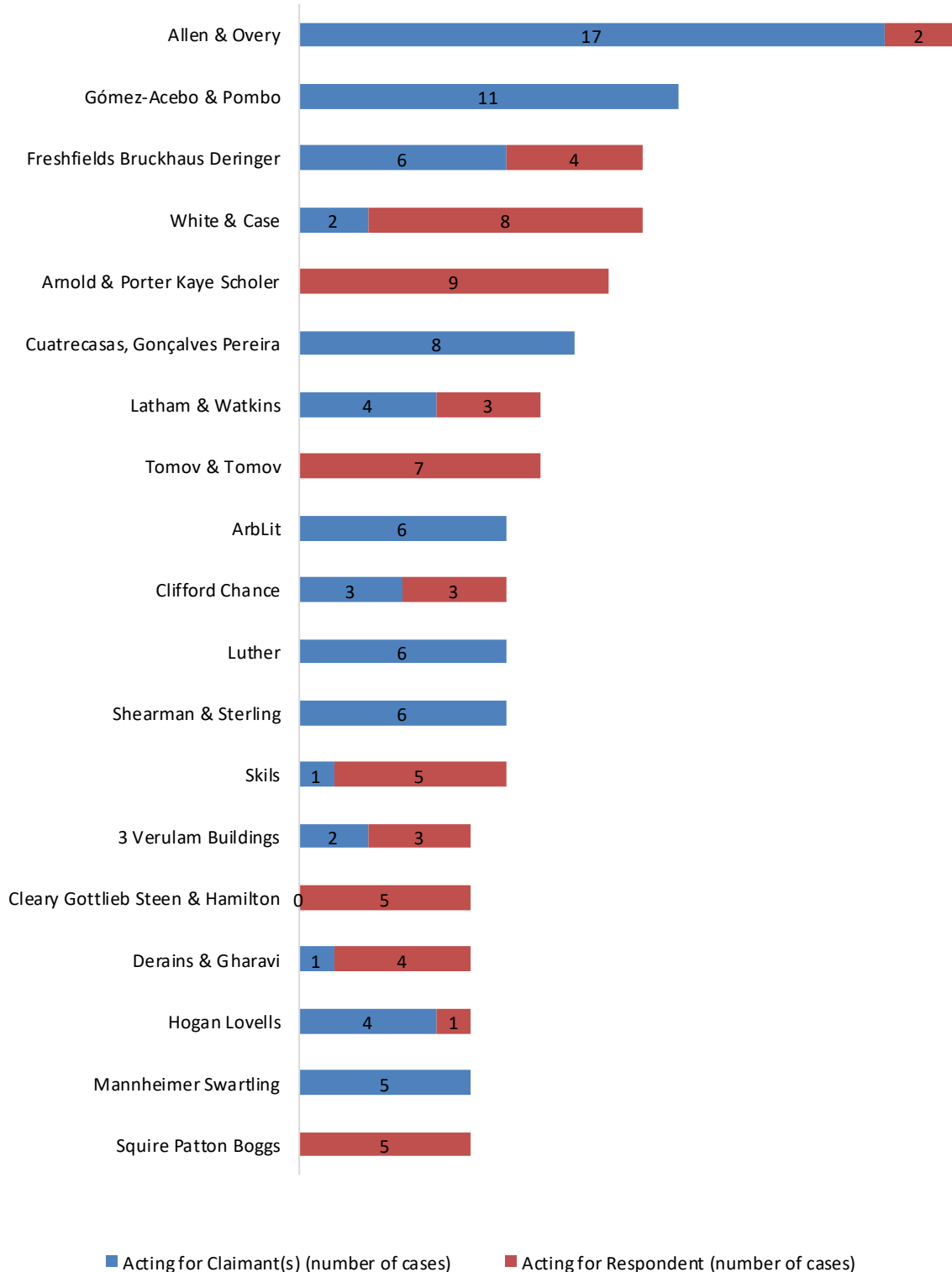
■ External ■ External + in-house

** Based on 156 cases in which information on claimants' counsel is publicly available.*

Statistics of ECT Cases

(as of 1/11/2023)

Law Firms and Barristers' Chambers Representing Disputing Parties in Five or More Cases*



Statistics of ECT Cases

(as of 1/11/2023)

Law Firms and Barristers' Chambers Representing Disputing Parties in Two or More ICSID Annulment Proceedings

