



ICSID

**International Centre for
Settlement of Investment Disputes**
WORLD BANK GROUP

Global Trends and Lessons of the Resolution of Investment Disputes

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Vice President, World Bank Group**

May 27, 2021

Overview of ICSID

- Part of the World Bank Group
- Established in 1966 under the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the ICSID Convention)
- Offers facilities and procedural rules to resolve investment disputes between States and foreign investors



Over 706 cases
administered

Mandate of ICSID

- Availability of ICSID contributes to:
 - attracting and retaining private investment
 - creating stable investment climates
 - rules-based international trade and investment
 - depoliticization of investment disputes

Unique and innovative features of the ICSID system

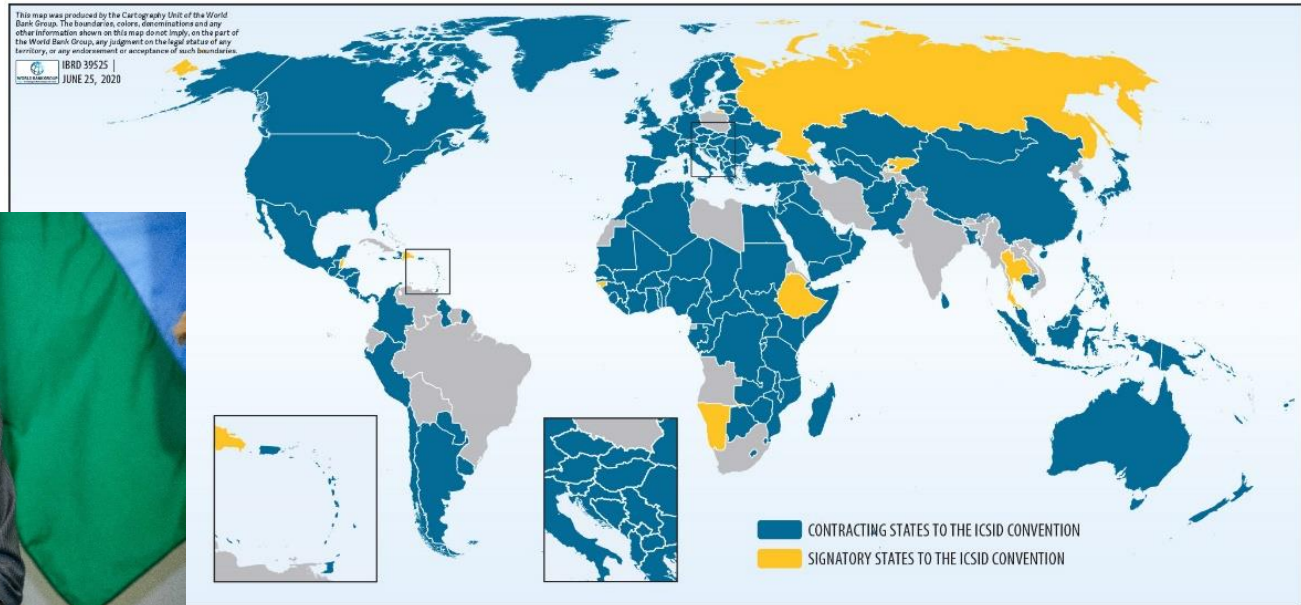
1. Allows individuals and legal persons to have **direct recourse to arbitration** against a State
2. Designed to maintain a careful **balance** between investors and host States
3. An autonomous and **self-contained system**
 - No issue of seat of arbitration in unfamiliar jurisdiction
 - Post-award remedies (interpretation, revision and annulment) all administered by ICSID
4. Enforcement mechanism
 - Specialized and **simplified enforcement** mechanism
 - High rate of voluntary compliance
 - Saves time, money and ensures predictability

Other Special Features of ICSID

- Cost-effective fee structure
- Only institution that can administer ISDS under the three main set of rules (ICSID Convention, ICSID Additional Facility and UNCITRAL)
- Full-time Secretariat with experienced legal counsel and support team
- Access to hearing facilities internationally

Membership of ICSID

- ICSID has 155 Contracting States
- Djibouti is the most recent State to join ICSID, having ratified the ICSID Convention in June 2020



Structure of ICSID

ADMINISTRATIVE COUNCIL

- One representative of each Member State
- One vote per State
- Chairman is President of the World Bank (no vote)

FUNCTIONS

- Adopt ICSID arbitration and conciliation rules
- Adopt annual budget and approve annual report
- Select SG and DSG(s)
- Designate persons to Panels of Arbitrators and Conciliators

SECRETARIAT

- Secretary-General
- Deputy Secretaries-General
- Staff (70 people)

FUNCTIONS

- Support proceedings
- Training and technical assistance
- Publications

ICSID Secretariat

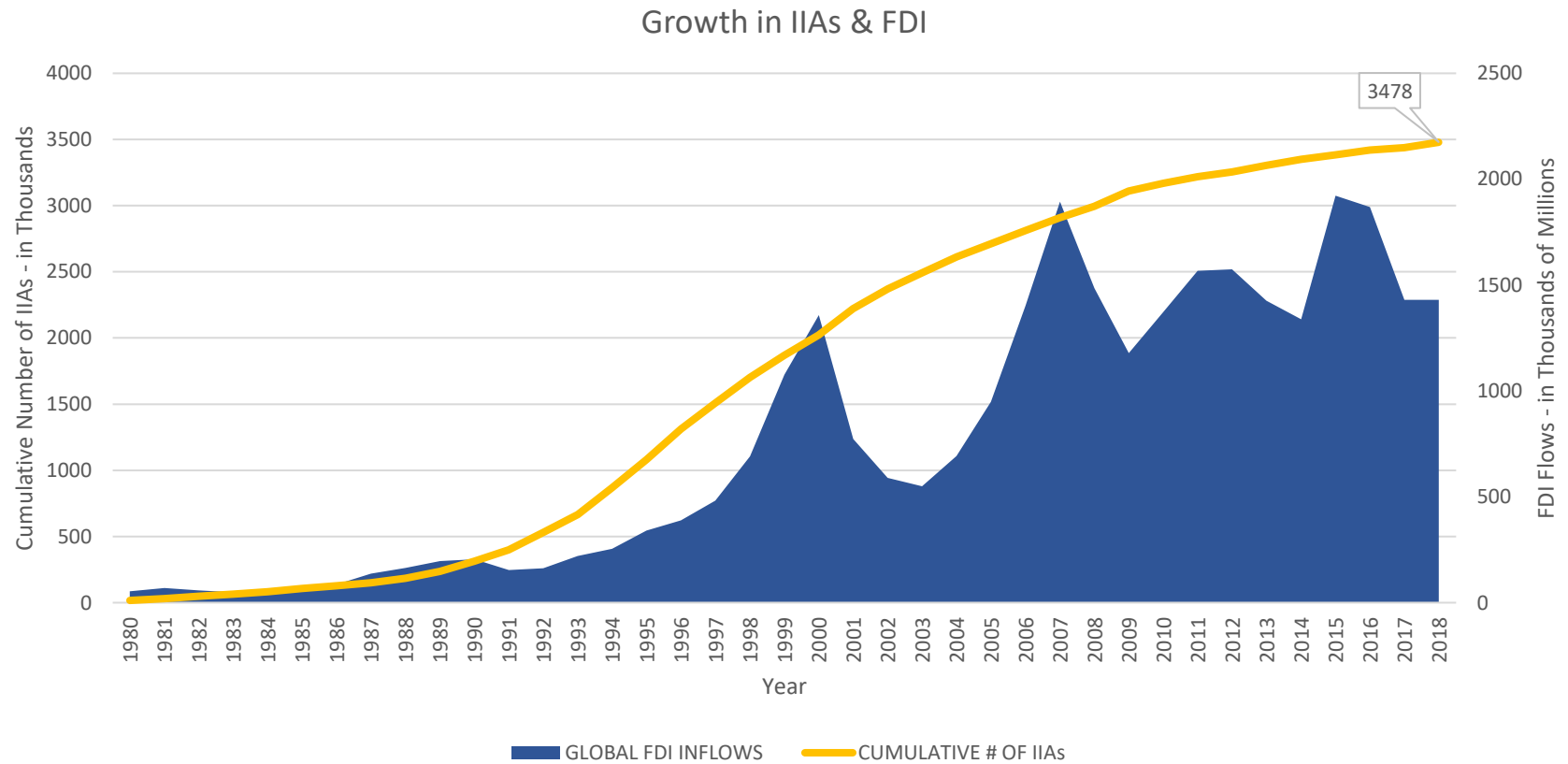


Areas of Work: Case Administration





Global Context - Increase in IIAs & FDI



Sources: UNCTAD, FDI database (www.unctad.org/fdistatistics)
& IIA database (<http://investmentpolicyhub.unctad.org/IIA>)



Which Cases Come to ICSID?

Convention

**Both disputing parties from
ICSID Member States**

Conciliation

Arbitration

Additional Facility

**One disputing party from
Member States**

Conciliation

Arbitration

Fact-finding

Other

**Need not be from Member
State**

**Case administration under
other Rules or Treaties** (*e.g.*:
UNCITRAL or other investment
cases; FTA & State-to-State
cases)

**Other functions on consent of
parties**
(*e.g.*: Appointing Authority,
Mediation, Registry)

**Acting as Secretariat for
Regional Trade Agreements**
(*e.g.*: CETA, EU-Singapore; EU-
Vietnam; EU-Mexico)

ICSID Caseload Trends for FY 2020

RECORD
68
proceedings
concluded



165
sessions / hearings
held

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES
(ADDITIONAL FACILITY)

In the arbitration proceeding between

STRABAG SE
Claimant

and

LIBYA
Respondent

ICSID Case No. ARB(AF)/15/1

AWARD

Members of the Tribunal
Professor John B. Corbett, President
Professor Antonio Crevillén, Arbitrator
Professor Norberto G. Zúñiga, Arbitrator

Secretary of the Tribunal
Ms. Tereza Nishikie

Date of dispatch to the Parties: 29 June 2020

35
awards rendered

INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

**NEXTERA ENERGY GLOBAL HOLDINGS B.V. AND
NEXTERA ENERGY SPAIN HOLDINGS B.V.**
Claimants

and

KINGDOM OF SPAIN
Applicant

(ICSID Case No. ARB/14/11)
Annulment Proceeding

DECISION ON STAY OF ENFORCEMENT OF THE AWARD

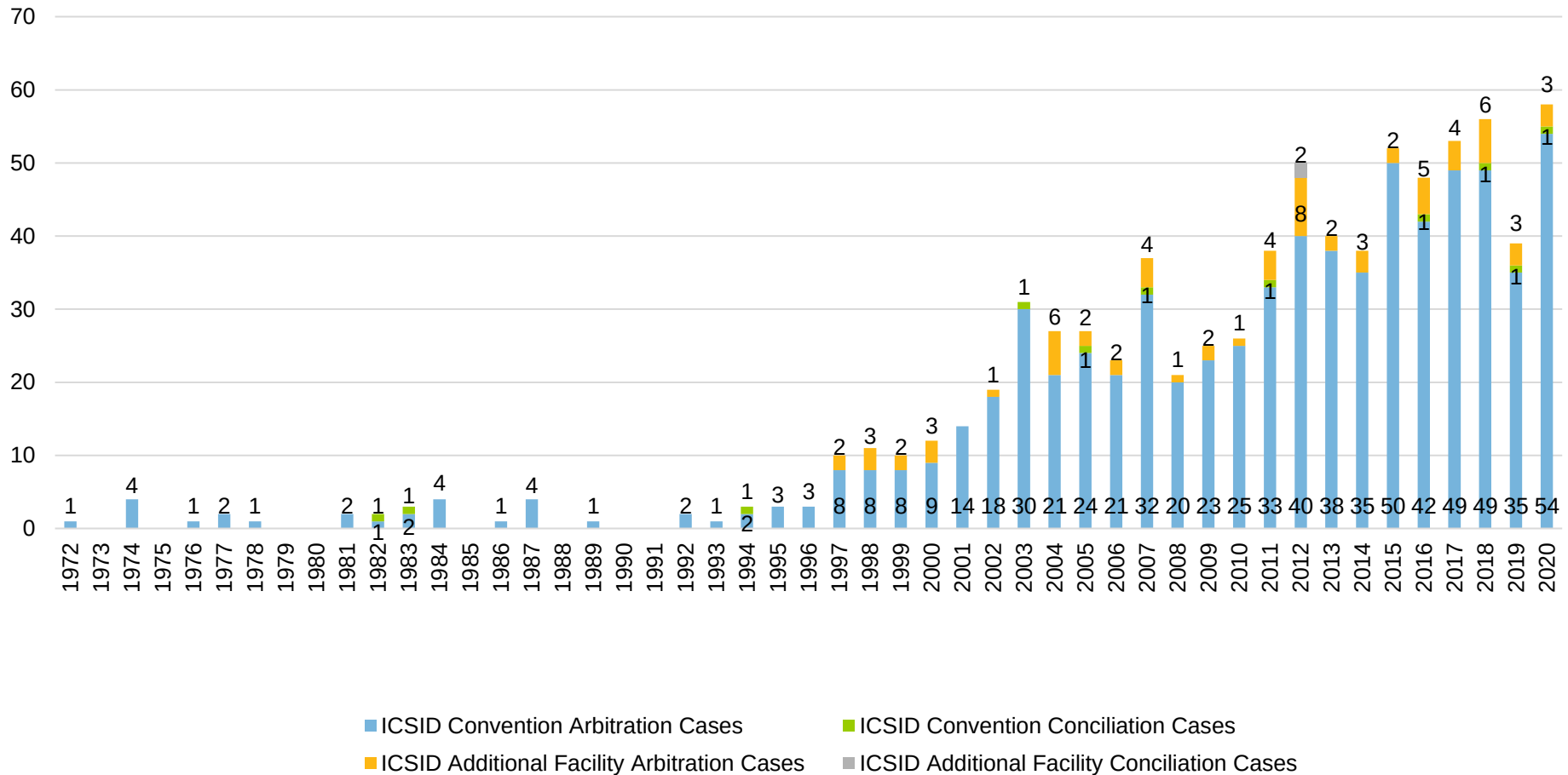
Members of the ad hoc Committee
Prof. Joseph Kim, President of the ad hoc Committee
Prof. Lawrence Boon, Member of the ad hoc Committee
Mr. Humberto Sierra-Munoz, Member of the ad hoc Committee

Secretary of the ad hoc Committee
Ms. Natali Segura

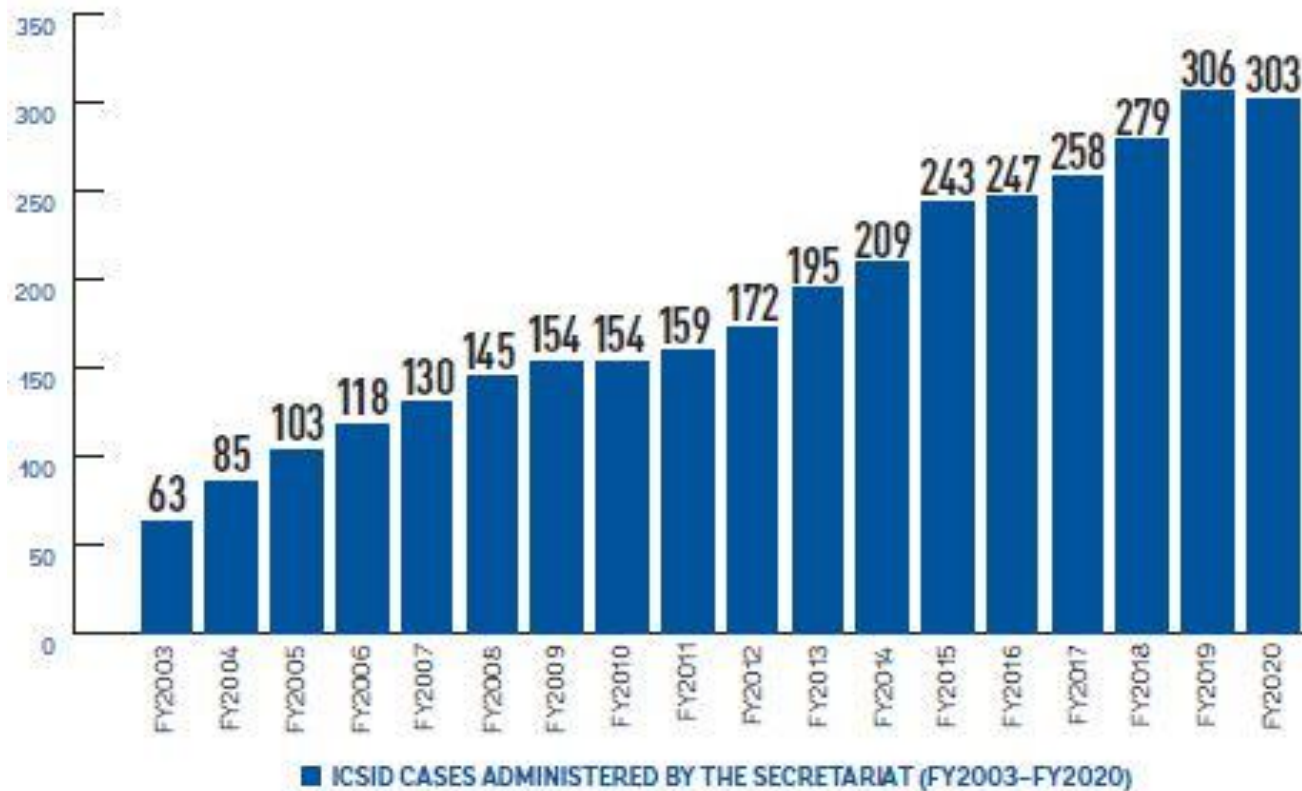
6 April 2020

455
decisions and
procedural orders
issued

Number of ICSID Cases Registered, by Calendar Year

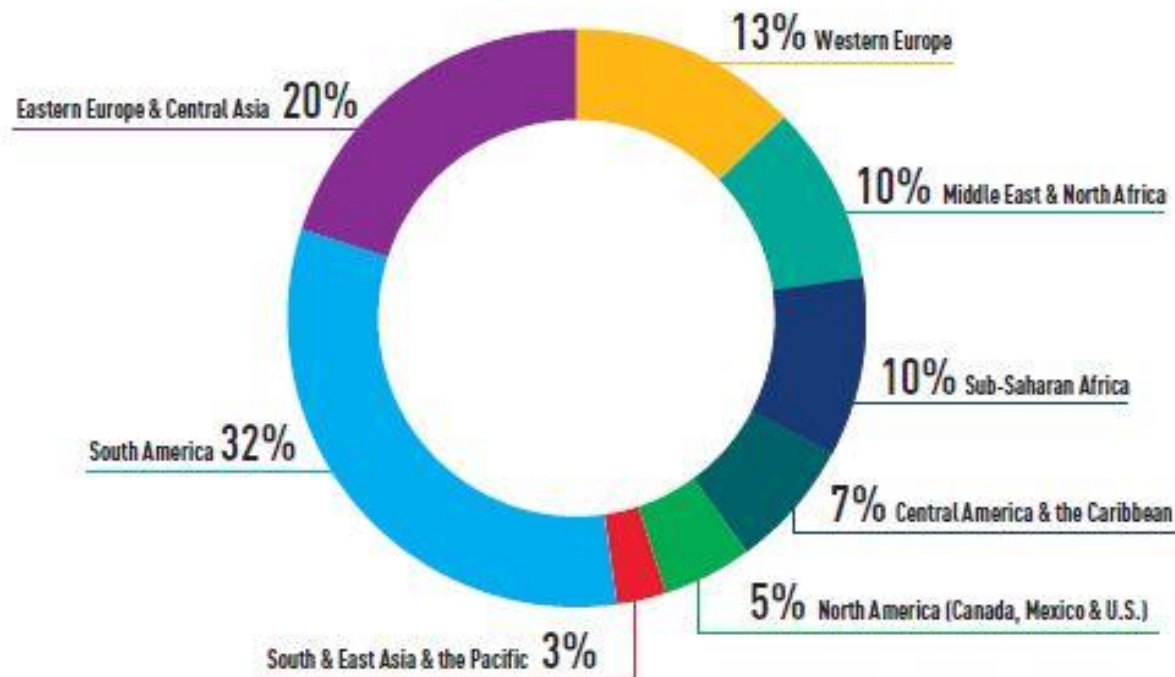


ICSID Administered Cases – June 30, 2020



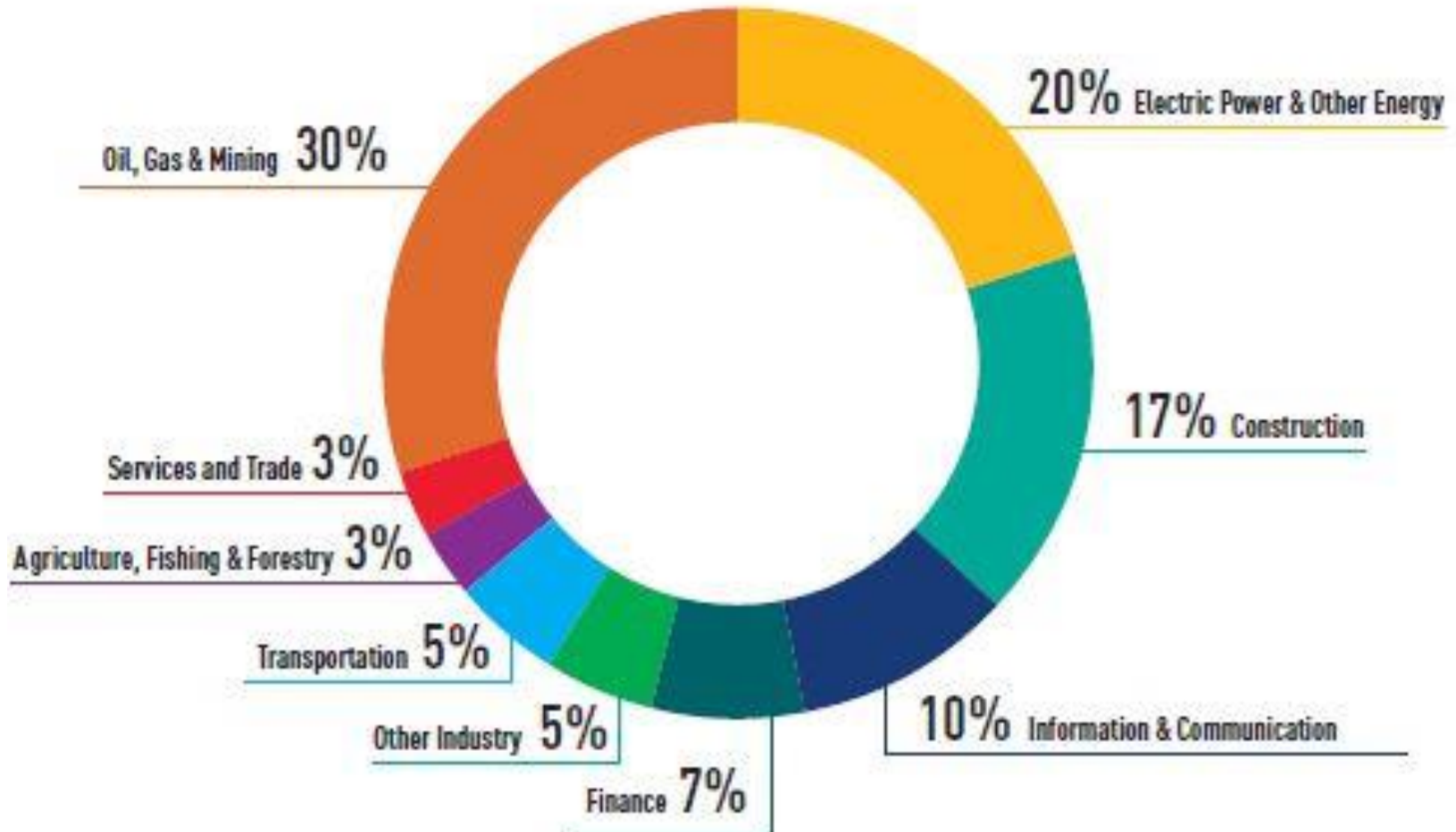


Cases by Region in Fiscal Year 2020



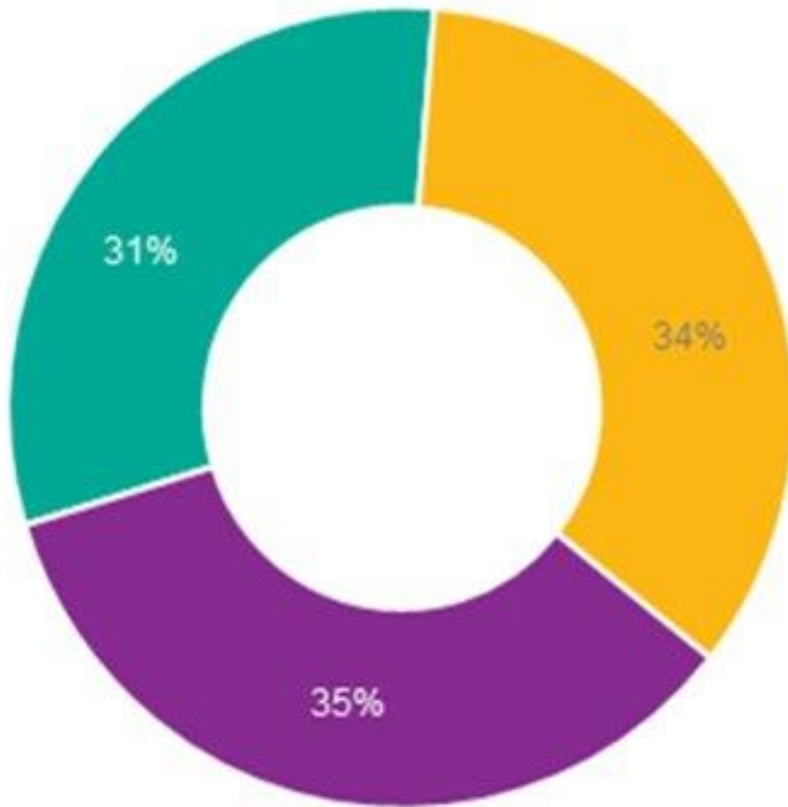


Cases by Economic Sector in Fiscal Year 2020





Case Outcomes



- Award upholding claims in part or in full
- Award dismissing all claims
- Claims settled or discontinued before award

Kazakhstan and ICSID

Signed ICSID Convention:

Jul 23, 1992

Deposit of Ratification:

Sep 21, 2000

Entry into Force:

Oct 21, 2000



World Bank Governor and Alternate:

- H.E. Ruslan Dalenov, Minister of National Economy (Governor)
- H.E. Mr. Aset Irgaliyev, First Vice-Minister of National Economy (Alternate)



Pending cases v Kazakhstan

	Case	Industry Sector	Status
1	AS Windoor v. Republic of Kazakhstan (ICSID Case No. ARB/18/32)	Construction	Original Proceeding – Pending
2	Big Sky Energy Corporation v. Republic of Kazakhstan (ICSID Case No. ARB/17/22)	Oil, Gas & Mining	Original Proceeding – Pending
3	Alhambra Resources Ltd. and Alhambra Coöperatief U.A. v. Republic of Kazakhstan (ICSID Case No. ARB/16/12)	Oil, Gas & Mining	Annulment Proceeding – Pending (Cross-applications)

Past cases v Kazakhstan

	Case	Industry Sector	Outcome – Original Proceeding	Outcome – Annulment
1	AIG Capital Partners, Inc. and CJSC Tema Real Estate Company v. Republic of Kazakhstan (ICSID Case No. ARB/01/6)	Construction	Award upholding claims in part	N/A
2	Enrho St Limited v. Republic of Kazakhstan (ICSID Case No. ARB/02/11)	Electric Power & Other Energy	Disc. 43(1)	N/A
3	Rumeli Telekom A.S. and Telsim Mobil Telekomunikasyon Hizmetleri A.S. v. Republic of Kazakhstan (ICSID Case No. ARB/05/16)	Information & Communication	Award upholding claims in part	N/A
4	Liman Caspian Oil BV and NCL Dutch Investment BV v. Republic of Kazakhstan (ICSID Case No. ARB/07/14)	Oil, Gas & Mining	Award dismissing all claims	N/A
5	Caratube International Oil Company LLP v. Republic of Kazakhstan (ICSID Case No. ARB/08/12)	Oil, Gas & Mining	Award declining jurisdiction	N/A
6	KT Asia Investment Group B.V. v. Republic of Kazakhstan (ICSID Case No. ARB/09/8)	Finance	Award declining jurisdiction	Disc. 14(3)(d)
7	AES Corporation and Tau Power B.V. v. Republic of Kazakhstan (ICSID Case No. ARB/10/16)	Electric Power & Other Energy	Award dismissing all claims	N/A
8	Türkiye Petrolleri Anonim Ortaklığı v. Republic of Kazakhstan (ICSID Case No. ARB/11/2)	Oil, Gas & Mining	Settlement agreement embodied in an award at parties' request	N/A
9	Caratube International Oil Company LLP and Devincci Salah Hourani v. Republic of Kazakhstan (ICSID Case No. ARB/13/13)	Oil, Gas & Mining	Award upholding claims in part	Disc. 43(1)
10	Aktau Petrol Ticaret A.Ş. v. Republic of Kazakhstan (ICSID Case No. ARB/15/8)	Oil, Gas & Mining	Award upholding claims in part	Decisions rejecting the application for annulment
11	Devincci Salah Hourani and Issam Salah Hourani v. Republic of Kazakhstan (ICSID Case No. ARB/15/13)	Other Industry (Pharmaceutical enterprise)	Disc. 43(1)	N/A

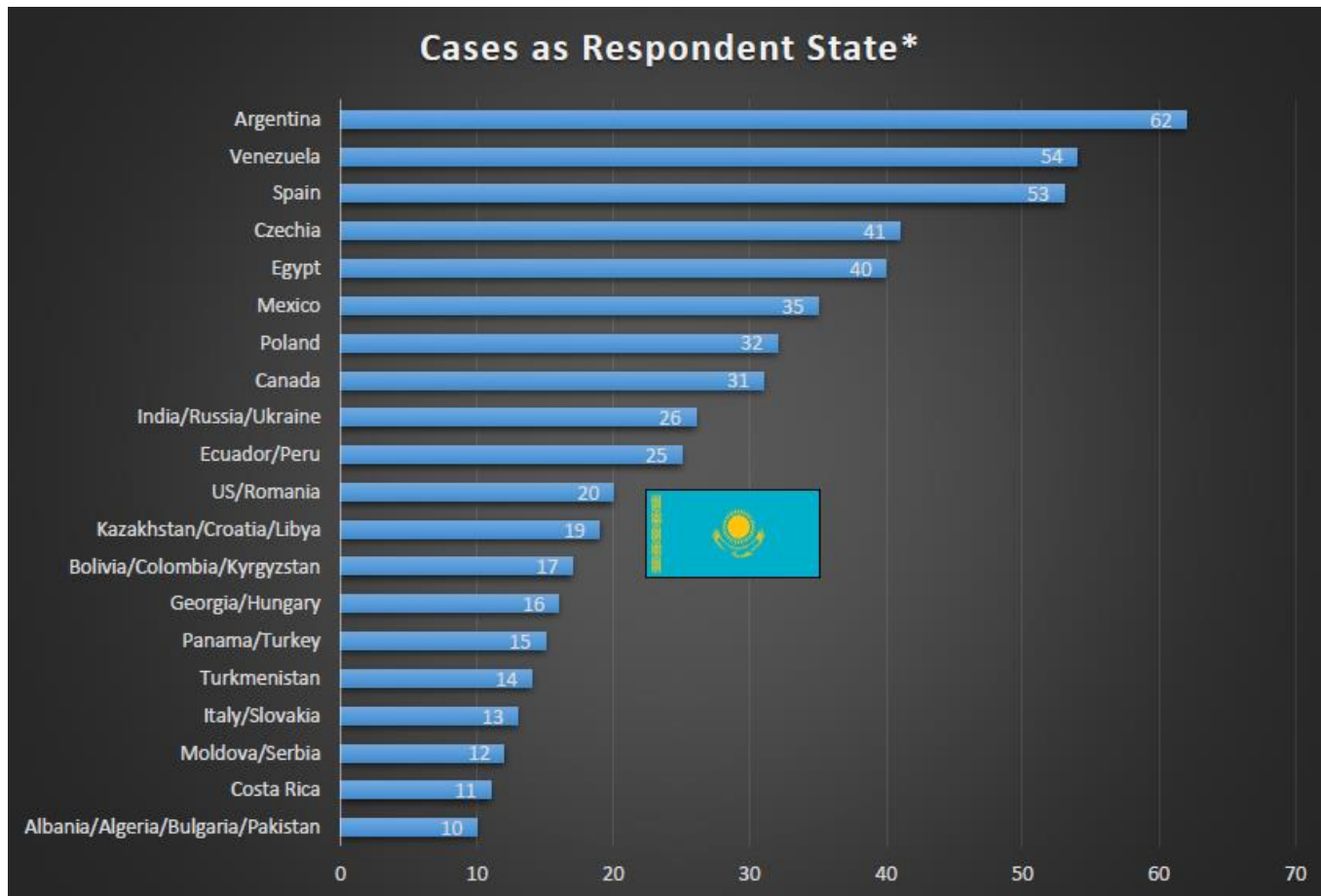


Past cases by Kazak investors

	Case	Industry Sector	Claimant – Company/ Individual	Actual Nationality of Investor
1	AIG Capital Partners, Inc. and CJSC Tema Real Estate Company v. Republic of Kazakhstan (ICSID Case No. ARB/01/6)	Construction	Companies	U.S./Kazakh
2	Consolidated Exploration Holdings Ltd. and others v. Kyrgyz Republic (ICSID Case No. ARB(AF)/13/1)	Oil, Gas & Mining	Individuals and Company	Kazakh (x12) /Seychellois /Danish
3	Vladislav Kim and others v. Republic of Uzbekistan (ICSID Case No. ARB/13/6)	Construction	Individuals	Kazakh
4	Caratube International Oil Company LLP and Devincci Salah Hourani v. Republic of Kazakhstan (ICSID Case No. ARB/13/13)	Oil, Gas & Mining	Individual and Company	Kazakh/U.S.



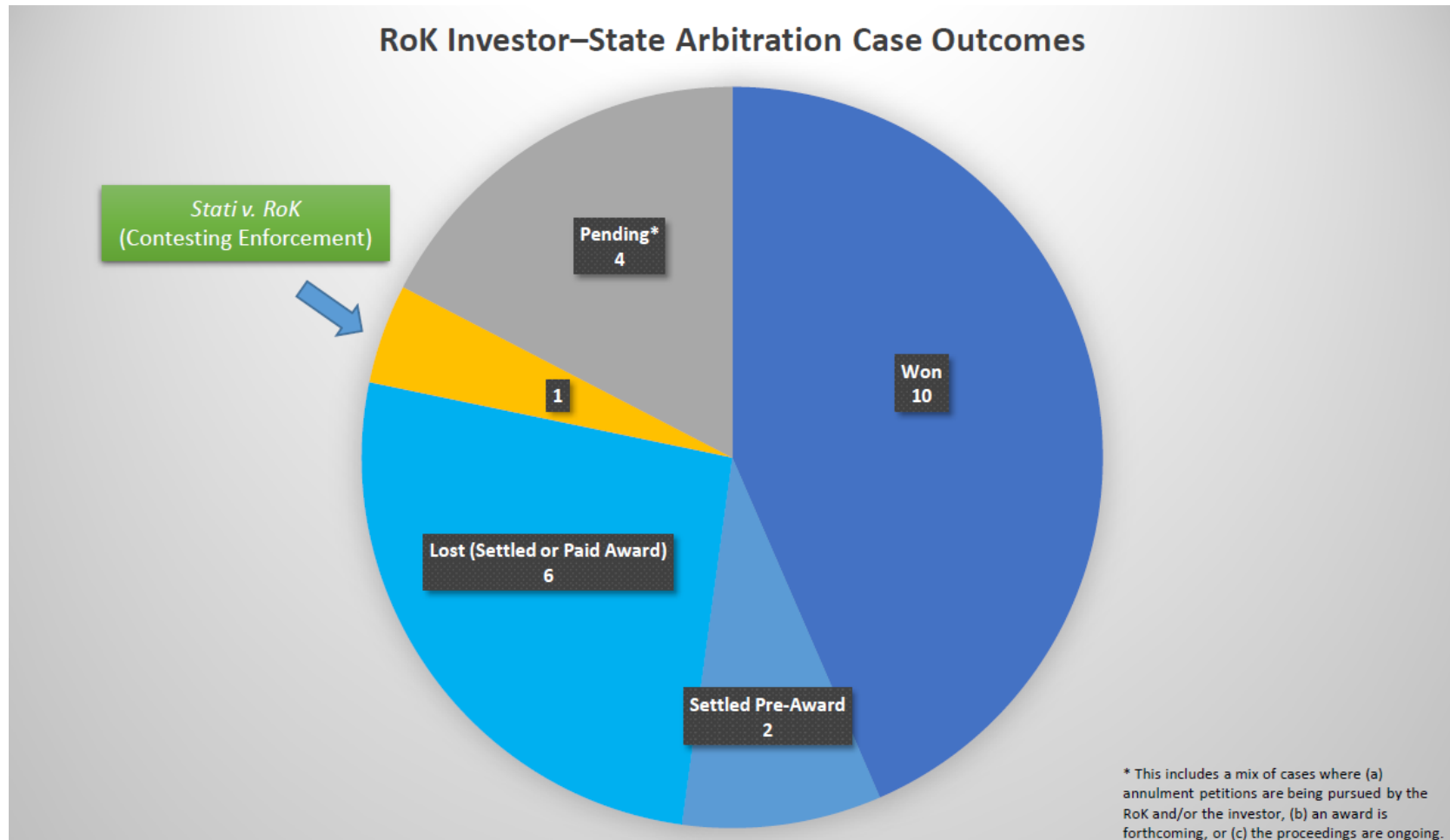
Countries with Ten or More Cases as Respondent State



*<https://investmentpolicy.unctad.org/investment-dispute-settlement/>

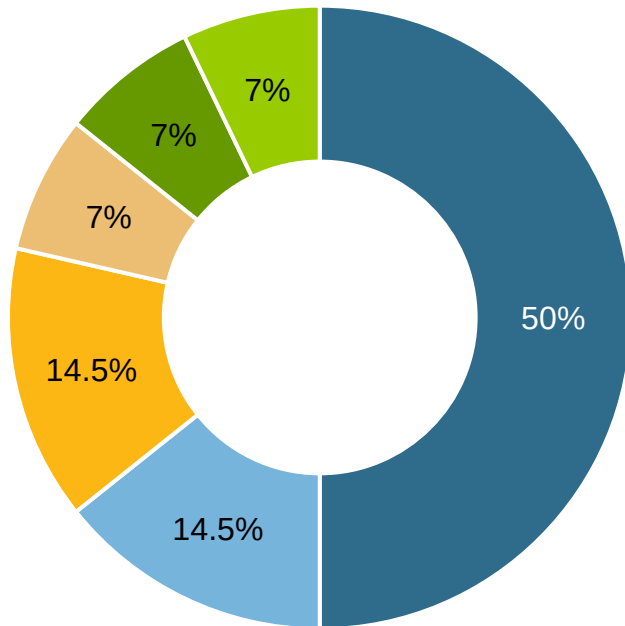


RoK Investor–State Arbitration Case Outcomes





Analysis of sectors in cases v Kazakhstan



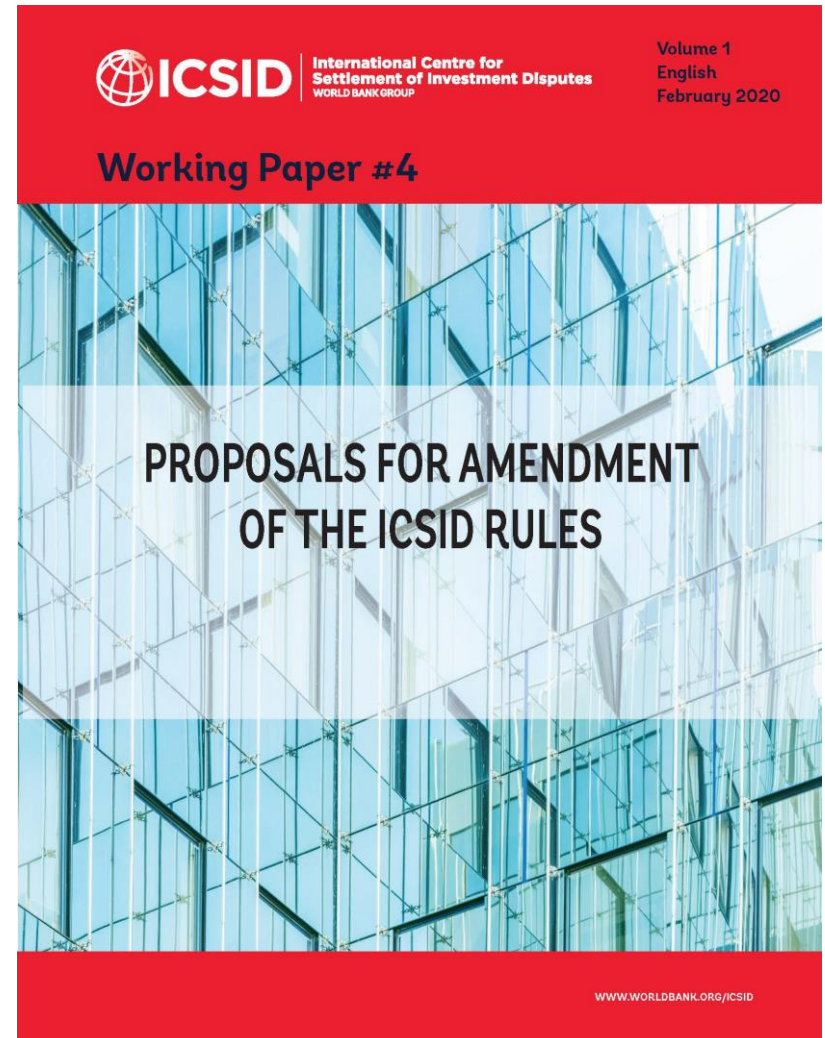
- Oil, Gas & Mining
- Electric Power & Other Energy
- Construction
- Other Industry
- Finance
- Information & Communication

Industry Sector	Number of Cases
Oil, Gas & Mining	7 (50%)
Electric Power & Other Energy	2 (14.5%)
Construction	2 (14.5%)
Other Industry	1 (7%)
Finance	1 (7%)
Information & Communication	1 (7%)

Breakdown of cases v Eastern Europe/Central Asia

Respondent	#	Respondent	#
Romania	17	Latvia	4
Ukraine	17	Slovak Republic	4
Hungary	15	Bosnia and Herzegovina	3
Croatia	15	Czech Republic	3
Kazakhstan	14	Kyrgyz Republic	3
Turkey (include Boru Hatları ile Petrol Taşıma Anonim Şirketi)	14	Montenegro	3
Turkmenistan	13	Belarus	3
Georgia	12	Cyprus	3
Albania	11	Kosovo	3
Serbia	10	Lithuania	3
Bulgaria	9	Poland	3
Uzbekistan	8	Slovenia	3
Azerbaijan	5	Moldova	2
North Macedonia	5	Romania	1
Armenia	4	Tajikistan	1
Estonia	4		
Total cases involving Eastern Europe & Central Asia respondents		215	

ICSID's Rule Amendment Project



Main Issues on Amendment at ICSID

- Address time & cost of arbitration
- Third-party funding (TPF)
- Security for Costs (SFC)
- Increased transparency
- Expedited arbitration
- New mechanisms – stand-alone mediation rules

Draft Code of Conduct for Adjudicators in ISDS

- Jointly drafted by ICSID and UNCITRAL Secretariats
- Would be generally applicable Code of Conduct for ISDS cases
- Covers issues including conflict of interest, double hatting, repeat appointment and enforcement
- Based on a comparative review of the standards found in codes of conduct in investment treaties, arbitration rules applicable to ISDS, and codes of conduct of international courts, as well as case law

THANK YOU!

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