

Singapore Court of Appeal rejects Spain's immunity challenge to ICSID renewable energy award

by *Practical Law Arbitration*, with *Baker Botts (Singapore) LLP*

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In *Kingdom of Spain v NextEra Energy Global Holdings BV and another* [2026] SGCA 43, the Singapore Court of Appeal dismissed Spain's appeal against an order registering an ICSID award in favour of Dutch renewable energy investors. The court held that Spain's accession to the ICSID Convention amounted to submission to its jurisdiction, confirming Singapore's pro-enforcement approach to ICSID awards, and limiting attempts to recast intra-EU jurisdictional objections as state immunity defences at the enforcement stage.

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The Singapore Court of Appeal has upheld the registration in Singapore of an ICSID award obtained by two Dutch renewable energy investors against Spain under the Energy Charter Treaty (ECT).

After an ad hoc ICSID committee dismissed Spain's annulment application, the investors registered the award and annulment decision as judgments of the Singapore High Court. Spain's application to set aside the registration, principally on state immunity grounds, failed in the High Court.

On appeal, the issue was whether an exception to immunity under the State Immunity Act 1979 (SIA 1979) applied. Spain advanced three arguments, that:

- Accession to the ICSID Convention did not, of itself, amount to submission to jurisdiction of the Singapore courts.
- The section 4 exception (submission to jurisdiction) could apply only if the section 11 exception (a written agreement to arbitrate) was also satisfied.
- There was no valid arbitration agreement because intra-EU investor-state arbitration under the ECT is invalid as a matter of EU law.

The Court of Appeal dismissed the appeal. Article 54(1) of the ICSID Convention obliges contracting states to recognise and enforce ICSID awards. By acceding, Spain had made a prior written agreement (in treaty form) submitting to the jurisdiction of the Singapore courts in ICSID recognition and enforcement proceedings. No express waiver language was required, consistent with the approach in other contracting states like the UK, Australia and the US.

The court also rejected Spain's co-dependency argument, holding that section 4 of the SIA 1979 operates independently of section 11. ICSID is a self-contained system, with the tribunal determining its own jurisdiction and challenges to awards proceeding through ICSID's internal review mechanisms. Providing its substantive views on the Arbitration (International Investment Disputes) Act 1968 (AIIA) for the first time, the court further held that the AIIA does not allow the Singapore court to revisit jurisdiction or the merits at the registration stage.

Finally, the court found nothing unjust in holding Spain to its voluntary treaty obligations, whereas setting aside registration would prejudice the investors and risk placing Singapore in breach of its ICSID Convention obligations.

The decision reinforces Singapore's position as a reliable forum for enforcing ICSID awards, including in politically sensitive energy-transition disputes. Sovereign respondents cannot readily use state immunity or intra-EU objections to reopen questions reserved for an ICSID tribunal and annulment committee. Award creditors can take comfort from the Singapore court's insistence on reciprocity, treaty coherency and finality.

Case: *Kingdom of Spain v NextEra Energy Global Holdings BV and another* [2026] SGCA 43 (19 October 2026) (Menon CJ, Ang JCA and Hri Kumar Nair JCA).

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