

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ACF RENEWABLE ENERGY LIMITED,

Plaintiff,

v.

Case No. 1:24-cv-01715-DLF

THE REPUBLIC OF BULGARIA,

Defendant.

**STATEMENT OF MATERIAL FACTS AS TO WHICH THERE IS NO GENUINE ISSUE
IN SUPPORT OF PLAINTIFF’S CROSS-MOTION FOR JUDGMENT ON THE
PLEADINGS OR, IN THE ALTERNATIVE, SUMMARY JUDGMENT**

Pursuant to Local Civil Rule 7(h), Plaintiff ACF Renewable Energy Limited (“ACF”) submits the following statement of material facts as to which there is no genuine issue and that entitles it to a judgment as a matter of law.

1. Plaintiff ACF is a corporation organized under the laws of the Republic of Malta, having its principal place of business at Vincenti Buildings, 28/19 (Suite 1174) Strait Street, Valletta VLT 1432, Malta. Declaration of Thomas C.C. Childs, dated December 23, 2024 (“Childs Decl.”) ¶ 2.

2. Defendant The Republic of Bulgaria (“Bulgaria”) is a foreign state within the meaning of the Foreign Sovereign Immunities Act, 28 U.S.C. §§ 1330, 1391(f), and 1602–1611. Childs Decl. ¶ 3.

3. Malta, Bulgaria, and the United States are contracting parties to the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the “ICSID Convention”). *ACF Renewable Energy Limited v. Republic of Bulgaria*, ICSID Case No. ARB/18/1, Award, ¶¶ 1225, 1227 (Jan. 5, 2024), ECF No. 1-1; *see also* ICSID, List of Contracting

States and Other Signatories of the Convention, <https://icsid.worldbank.org/en/Pages/about/Database-of-Member-States.aspx>.

4. Malta and Bulgaria are contracting parties to the Energy Charter Treaty (the “ECT”). Award, ¶¶ 1225, 1227. Article 26(4)(a)(i) of the ECT provides that disputes arising under the ECT may be submitted to the International Centre for Settlement of Investment Disputes for resolution under the rules of the ICSID Convention. ECT, art. 26(4)(a)(i), ECF No. 1-3.

5. The parties’ arbitration was conducted in accordance with the ICSID Convention and the ICSID Arbitration Rules and began on February 7, 2018, when ACF served its Request for Arbitration on Bulgaria, *ACF Renewable Energy Limited v. Republic of Bulgaria*, ICSID Case No. ARB/18/1, Request for Arbitration (Feb. 7, 2018), ECF No. 1-4; Childs Decl. ¶ 6, and ended on January 5, 2024, when the ICSID Award was issued by the ICSID tribunal (the “Tribunal”). *See* Award, cover page, ECF No. 1-1 at 2 (noting that Award was dispatched to parties on January 5, 2024).

6. On December 20, 2019, the Tribunal issued its Decision on the *Achmea* Preliminary Objection rejecting Bulgaria’s *intra*-EU jurisdictional objection. *ACF Renewable Energy Limited v. Republic of Bulgaria*, ICSID Case No. ARB/18/1, Decision on the *Achmea* Preliminary Objection, ¶ 236(1) (Dec. 20, 2019), ECF No. 1-5.

7. On January 5, 2024, the Tribunal issued its unanimous, 540-page Award. *See* Award, ECF No. 1-1. The Tribunal held that Bulgaria breached Article 10(1) of the ECT by failing to accord fair and equitable treatment to ACF’s investment in a photovoltaic facility located in Karadzhalovo village within the municipality of Parvomay. *Id.* ¶¶ 1660, 1697-1698, 1717, 1750-1757. The Tribunal also rejected Bulgaria’s renewed *intra*-EU jurisdiction objection. *Id.* ¶¶ 1512-1515.

8. The Tribunal held that ACF was entitled to damages and ordered Bulgaria to pay: (1) compensation in the amount of EUR 61,040,000; (2) pre-award interest on the amount of EUR 61,040,000 running from December 31, 2019 until the date of the Award (January 5, 2024) at the rate of “12m EURIBOR +2% as valid on 31 December 2019, to be compounded annually”; (3) post-award interest “over the awarded amount plus pre-award interest running from the date of the Award at the rate of 12m EURIBOR plus 2% as valid on the date of the Award, to be compounded annually”; (4) ACF’s legal costs incurred in connection with the arbitration in the amount of EUR 264,833.90 and USD 5,209,865.05; and (5) ACF’s share of the Tribunal’s and ICSID’s fees in the amount of USD 480,766.49. *Id.* ¶ 1843.

9. Bulgaria did not file any request for annulment of the Award before ICSID, and the deadline for doing so expired on May 6, 2024. Childs Decl. ¶ 10. Bulgaria has not satisfied any portion of the Award. *Id.* ¶ 11. The Award remains final and binding on the Parties. *See* ICSID Convention, art. 54, ECF No. 1-2.

Dated: December 23, 2024
New York, New York

Respectfully submitted,

/s/ Thomas C.C. Childs
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