

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

Basket Renewable Investments LLC,

c/o Corporation Service  
Company  
251 Little Falls Drive  
Wilmington, Delaware 19808  
United States of America  
*Petitioner,*

Civil Action No. \_\_\_\_\_

v.

Kingdom of Spain,

Abogacia General del Estado  
Calle Ayala, 5  
28001 – Madrid  
Spain

*Respondent.*

**Petition to Enforce Arbitral Awards**

Petitioner Basket Renewable Investments LLC (“Basket”) brings this action to enforce three arbitral awards (collectively, the “Awards”) issued against Respondent, the Kingdom of Spain (“Spain”) following arbitration proceedings conducted in accordance with the Convention on the Settlement of Investment Disputes between States and Nationals of Other States (the “ICSID Convention”). The awards were issued, respectively, on September 6, 2019, in ICSID Case No. ARB/15/36 (the “OperaFund Award”), on August 17, 2021, in ICSID Case No. ARB/15/4 (the “Steag Award”), and on May 6, 2022, in ICSID Case No. ARB/14/18 (the “Renergy Award”). Pursuant to Article 54 of the ICSID Convention and 22 U.S.C. § 1650a, arbitral awards issued under the ICSID Convention are not subject to collateral attack and must be enforced and given the same full faith and credit as if the award were a final judgment of a court in the United States. Accordingly,

Blasket requests that this Court (1) enter an order enforcing the Awards in the same manner as a final judgment issued by a court of one of the several states, and (2) enter judgment in Blasket's favor in the amounts specified in the Awards, converted to U.S. dollars.

Certified copies of the Awards are attached as Exhibit A (OperaFund Award), Exhibit B (Steag Award), and Exhibit C (Renergy Award) to the Declaration of Matthew S. Rozen ("Rozen Declaration"), Exhibit 1 hereto. Further, pursuant to Article 53(2) of the ICSID Convention, "any decision interpreting, revising or annulling [an ICSID] award" is considered part of the award. Certified copies of the following documents that are considered part of the Awards are attached as additional exhibits to the Rozen Declaration: Exhibit D (OperaFund Decision on Rectification ("OperaFund Rect. Dec.")); Exhibit E (OperaFund Decision on Annulment ("OperaFund Annulment Dec.")); Exhibit F (Steag Decision on Annulment ("Steag Annulment Dec.")); Exhibit G (Renergy Decision on Annulment ("Renergy Annulment Dec.")). With respect to the Steag Award, the Tribunal's Decision on Jurisdiction, Liability and Instructions on Quantum ("Steag Jx. Dec.") is attached to the Steag Award and incorporated by reference therein. *See* Steag Award ¶ 117. A copy of the ICSID Convention is attached hereto as Exhibit 2.

### **Parties**

1. Petitioner Blasket is a company formed under the laws of Delaware.
2. The OperaFund Award was issued to Blasket's predecessors-in-interest OperaFund Eco-Invest SICAV PLC ("OperaFund"), a company incorporated under the laws of the Republic of Malta, and Schwab Holding AG ("Schwab"), a company incorporated under the laws of the Swiss Confederation.
3. The Steag Award was issued to Blasket's predecessor-in-interest STEAG GmbH ("Steag"), a company incorporated under the laws of Germany.

4. The Renergy Award was issued to Blasket’s predecessor-in-interest Renergy S.a.r.l. (“Renergy”), a company incorporated under the laws of Luxembourg.

5. OperaFund, Schwab, Steag, and Renergy thereafter assigned all rights, interests, and benefits under the Awards to Blasket.

6. Respondent, the Kingdom of Spain, is a foreign state within the meaning of the Foreign Sovereign Immunities Act (“FSIA”), 28 U.S.C. §§ 1330, 1332, 1391(f), 1602-1611.

### **Jurisdiction and Venue**

7. This Court has subject-matter jurisdiction over this action pursuant to the FSIA, 28 U.S.C. § 1330(a), because this is a “nonjury civil action against a foreign state” on a claim “with respect to which the foreign state is not entitled to immunity” under the FSIA.

8. Pursuant to Section 1605(a)(1) of the FSIA, Spain is not entitled to immunity from this Court’s jurisdiction in an action to enforce an ICSID Convention award because it has waived that immunity by agreeing to the ICSID Convention. *See Tatneft v. Ukraine*, 771 F. App’x 9, 9 (D.C. Cir. 2019) (per curiam); *Blue Ridge Invs., L.L.C. v. Republic of Argentina*, 735 F.3d 72, 84 (2d Cir. 2013).

9. Further, pursuant to Section 1605(a)(6) of the FSIA, Spain is not immune from suit because this is an action to enforce arbitral awards made pursuant to the arbitration provision of an investment treaty, *see infra* ¶¶ 13-35, and enforcement is governed by the ICSID Convention, which is a treaty in force in the United States for the recognition and enforcement of arbitral awards. *NextEra Energy Global Holdings B.V. v. Kingdom of Spain*, 112 F.4th 1088, 1094 (D.C. Cir. 2024).

10. This Court also has subject-matter jurisdiction pursuant to 22 U.S.C. § 1650a(b), which provides that “[t]he district courts of the United States . . . shall have exclusive jurisdiction over actions and proceedings” to enforce awards entered under the ICSID Convention.

11. This Court has personal jurisdiction over Spain pursuant to the FSIA, 28 U.S.C. § 1330(b). Venue is proper in this Court pursuant to 28 U.S.C. § 1391(f)(4).

12. The Federal Arbitration Act (“FAA”), 9 U.S.C. § 1, et seq., does “not apply to enforcement of awards rendered pursuant to the [ICSID] convention.” 22 U.S.C. § 1650a(a). Thus, the FAA’s jurisdictional requirements do not apply to this action.

### **The Underlying Disputes**

13. Beginning in 1997, Spain adopted legislation that liberalized its electricity market and sought to attract investment in renewable energies, including solar photovoltaic technology, concentrated solar powerplants, and wind farms, within its territory. OperaFund Award ¶¶ 124-71; Steag Jx. Dec. ¶¶ 110-43; Renergy Award ¶¶ 142-206. In reliance on the financial incentives and inducements provided by these legislative measures, Basket’s predecessors-in-interest each invested in Spanish companies that own and operate solar photovoltaic facilities, concentrated solar power plants, and wind farms in Spain’s territory. OperaFund Award ¶¶ 173, 484-90 (photovoltaic); Steag Jx. Dec. ¶¶ 2, 151, 509-32, 537 (concentrated solar); Renergy Award ¶¶ 118-34 (concentrated solar, wind farms). After a change in governmental leadership, Spain adopted a series of laws between 2012 and 2017 retrenching on, and eventually revoking, the economic incentives on which OperaFund and Schwab, Steag, and Renergy had relied in investing in renewable energies. OperaFund Award ¶¶ 250-89; Steag Jx. Dec. ¶¶ 152-63; Renergy Award ¶¶ 207-42.

14. The investments that Basket’s predecessors-in-interest made in renewable energy in Spain were protected by the Energy Charter Treaty (“ECT”) (Exhibit 3 hereto), which “establishes a legal framework [for] promot[ing] long-term cooperation in the energy field,” ECT, art. 2, and seeks to “create stable, equitable, favourable and transparent conditions for Investors . . . includ[ing] a commitment to accord . . . fair and equitable treatment,” *id.* art. 10(1). *See also* OperaFund Award ¶¶ 424-26; Steag Jx. Dec. ¶ 502; Renergy Award ¶ 597.

15. The ECT protects investments in the territory of a “Contracting Party” to the treaty by “Investors” located or incorporated in “other Contracting Parties.” ECT, arts. 1(7), 10(1), 26.

16. Spain, Malta, Switzerland, Germany, and Luxembourg are each Contracting Parties to the ECT, so the ECT protects investments in Spain by investors located or incorporated in Malta, Switzerland, Germany, and Luxembourg. OperaFund Award ¶ 1; Steag Jx. Dec. ¶ 1; Renergy Award ¶ 346.

17. Blasket’s predecessors-in-interest—OperaFund, Schwab, Steag, and Renergy—are investors that are incorporated, respectively, in Malta, OperaFund Award ¶ 1, Switzerland, *id.*, Germany, Steag Jx. Dec. ¶ 1, and Luxembourg, Renergy Award ¶ 1, so their investments are protected by the ECT.

18. Contracting Parties to the ECT consent to submit disputes arising under that treaty to arbitration. Article 26(3)(a) of the ECT provides that “each Contracting Party hereby gives its unconditional consent to the submission of a dispute to international arbitration . . . in accordance with the provisions of this Article.” Article 26(4)(a)(i) further provides that where “the Contracting Party of the Investor and the Contracting Party . . . to the dispute are both parties to the ICSID Convention,” the dispute will be submitted for arbitration under that convention. Accordingly, Spain consented to arbitrate the underlying dispute pursuant to the ICSID Convention.

### **The ICSID Arbitrations**

19. Between 2014 and 2015, Blasket’s predecessors-in-interest filed requests with the International Centre for Settlement of Investment Disputes (“ICSID”) for arbitration under the ICSID Convention, contending that Spain’s legislative and regulatory actions that retrenched on the incentives offered to their renewable energy investments constituted breaches of Spain’s obligations under the ECT. *See, e.g.*, OperaFund Award ¶¶ 1-2, 10, 427-49, 492-98, 514-20; Steag Jx. Dec. ¶¶ 2-

3, 8, 416-52; Renegy Award ¶¶ 3, 6, 613-18, 688-92, 709-11. Those arbitrations resulted in the three Awards that Blasket seeks to enforce here.

20. **OperaFund:** OperaFund and Schwab filed their request for arbitration on July 31, 2015. OperaFund Award ¶ 10. An ICSID arbitral tribunal (the “OperaFund Tribunal”) was constituted between October 2015 and March 2016. *Id.* ¶¶ 13-20.

21. The OperaFund Tribunal conducted a hearing in Paris, France from June 11, 2018, to June 15, 2018. OperaFund Award ¶ 81.

22. On September 6, 2019, the OperaFund Tribunal issued the 273-page OperaFund Award. In the decision, the Tribunal first determined that it had jurisdiction to resolve OperaFund and Schwab’s claim, OperaFund Award ¶¶ 378-88, except as to a narrow dispute regarding certain tax measures, *id.* ¶¶ 404-05. The OperaFund Tribunal further determined that Spain’s measures retrenching on its renewable energy incentives breached Spain’s obligation under Article 10(1) of the ECT to accord fair and equitable treatment to OperaFund’s and Schwab’s investments within Spain’s territory, because they violated OperaFund’s and Schwab’s “legitimate expectations” that the incentive scheme would remain “stabl[e].” *Id.* ¶¶ 481-85, 490, 508-13, 746(2).

23. The OperaFund Award initially ordered Spain to pay \$29.3 million as compensation, in addition to pre-Award simple interest at the Spanish 10-year bond yield rate, from June 20, 2014 to the date of the Award, and post-Award interest at the Spanish 10-year bond yield rate from the date of the Award, compounded monthly, until the time of payment. OperaFund Award ¶ 746(3), (5)-(6). The Tribunal also ordered Spain to pay arbitration costs in the amount of \$260,748.59 and expenses in the amount of \$2,206,586.56. *Id.* ¶ 746(7)-(8).

24. On October 8, 2019, OperaFund and Schwab submitted a request for rectification of the Award to correct a clerical error as to the currency of the Award. OperaFund Rect. Dec. ¶¶ 2, 7.

On October 28, 2019, the OperaFund Tribunal rectified the clerical error, amending the Award of \$29.3 million to €29.3 million. *Id.* ¶ 12.

25. On February 25, 2020, Spain submitted an application for annulment of the Award. OperaFund Annulment Dec. ¶ 9. On March 2, 2023, an *ad hoc* Committee constituted under the ICSID Convention denied Spain’s application for annulment, and ordered Spain to pay OperaFund and Schwab costs in the amount of €462,110.65. *Id.* ¶¶ 11, 620.

26. **Steag:** Steag filed its request for arbitration on January 9, 2015. Steag Jx. Dec. ¶ 8. An ICSID arbitral tribunal (the “Steag Tribunal”) was constituted on October 25, 2016. *Id.* ¶ 23.

27. The Steag Tribunal conducted hearings on merits, jurisdiction, and damages in Washington, D.C. from December 10, 2018, to December 15, 2018. Steag Jx. Dec. ¶¶ 46, 62.

28. On October 8, 2020, the Steag Tribunal issued the 228-page Decision on Jurisdiction, Liability, and Instructions on Quantum. As in the OperaFund Award, the Steag Tribunal first determined that it had jurisdiction to resolve Steag’s claim, Steag Jx. Dec. ¶¶ 229-98, 366-93, except as to a narrow dispute regarding certain tax measures, *id.* ¶¶ 316-34. The Steag Tribunal further determined that Spain’s measures retrenching on its renewable energy incentives breached Spain’s obligation under Article 10(1) of the ECT to accord fair and equitable treatment to Steag’s investment within Spain’s territory, because they frustrated Steag’s “legitimate expectation” that Spain’s incentive scheme would remain “stabl[e].” *Id.* ¶¶ 593-94, 638-39.

29. On August 17, 2021—following further proceedings on the amount of compensation due—the Steag Tribunal issued the Steag Award, which ordered Spain to pay €27,675,000 as compensation, in addition to pre- and post-Award interest at the rate of 1.5%, compounded quarterly, from June 20, 2014 until the date of payment. Steag Award ¶ 117(6)-(7). The Steag Award also ordered Spain to pay 70% of Steag’s €2,017,458.66 in legal representation costs. *Id.* ¶¶ 111, 117(10), which amounts to €1,412,221.06.

30. On December 15, 2021, Spain submitted an application for annulment of the Steag Award. Steag Annulment Dec. ¶ 8. On September 30, 2024, an *ad hoc* Committee constituted under the ICSID Convention denied Spain's application for annulment, and ordered Spain to pay Steag legal costs and expenses in the amount of €712,426.869, together with interest at the rate of 4% annually. *Id.*

31. **Reenergy**: Reenergy filed its request for arbitration on July 22, 2014. Reenergy Award ¶ 6. An ICSID arbitral tribunal (the "Reenergy Tribunal") was constituted on February 13, 2015. *Id.* ¶ 12.

32. The Reenergy Tribunal conducted hearings on jurisdiction, merits, and quantum in Madrid, Spain from November 26, 2018, to November 29, 2018. Reenergy Award ¶ 66.

33. On May 6, 2022, the Reenergy Tribunal issued the 264-page Reenergy Award. As in the OperaFund Award and the Steag Jurisdictional Decision, the Tribunal first determined that it had jurisdiction to resolve Reenergy's claim, Reenergy Award ¶¶ 325-418, 430-45, 506-10, 548-86, except as to a narrow dispute regarding certain tax measures, *id.* ¶ 495. The Reenergy Tribunal further determined that Spain's measures retrenching on its renewable energy incentives breached Spain's obligation under Article 10(1) of the ECT to "provide fair and equitable treatment" to Reenergy's investments within Spain's territory because they "violat[ed]" Reenergy's "legitimate expectation" that the incentive scheme would remain relatively stable. *Id.* ¶¶ 597-612, 636-87, 697-708, 715-912, 1011, 1072.

34. The Reenergy Award ordered Spain to pay €32,896,240 as compensation, in addition to pre- and post-Award interest at the Spanish 10-year bond yield rate, compounded monthly, from June 21, 2014 until the date of payment. Reenergy Award ¶ 1072(2)-(3).

35. On September 2, 2022, Spain submitted an application for annulment of the Reenergy Award. Reenergy Annulment Dec. ¶ 9. On August 14, 2024, an *ad hoc* Committee constituted under

the ICSID Convention denied Spain's application for annulment, and ordered Spain to pay Renergy costs in the amount of €498,568.61, together with interest at the Spanish 10-year bond yield rate, compounded monthly, until the date of payment. *Id.* ¶ 233.

### **Legal Basis for Relief**

36. The ICSID Convention provides that contracting parties must “recognize an award rendered pursuant to [the] Convention as binding and enforce the pecuniary obligations imposed by that award within its territories as if it were a final judgment of a court in that State.” ICSID Convention, art. 54(1). The ICSID Convention further provides that a contracting state “with a federal constitution may enforce such an award in or through its federal courts and may provide that such courts shall treat the award as if it were a final judgment of the courts of a constituent state.” *Id.*

37. The United States is a contracting party to the ICSID Convention and is therefore obligated to enforce the Award as if it were a final judgment of a court in the United States.<sup>1</sup> That obligation is fulfilled by 22 U.S.C. § 1650a, which provides:

(a) An award of an arbitral tribunal rendered pursuant to chapter IV of the convention shall create a right arising under a treaty of the United States. The pecuniary obligations imposed by such an award shall be enforced and shall be given the same full faith and credit as if the award were a final judgment of a court of general jurisdiction of one of the several States. The Federal Arbitration Act (9 U.S.C. 1 et seq.) shall not apply to enforcement of awards rendered pursuant to the convention.

38. Arbitral awards issued against a foreign state pursuant to the ICSID Convention may be enforced by bringing a plenary action in federal court in compliance with the requirements for commencing a civil action under the Federal Rules of Civil Procedure, and with the personal jurisdiction, service, and venue requirements of the FSIA. *See Micula v. Gov't of Romania*, 104 F.

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<sup>1</sup> ICSID, *List of Contracting States and Other Signatories of the Convention* (Aug. 25, 2024), <https://tinyurl.com/zjnenwnm>.

Supp. 3d 42, 49-50 (D.D.C. 2015); *Mobil Cerro Negro, Ltd. v. Bolivarian Republic of Venezuela*, 863 F.3d 96, 100, 117-20 (2d Cir. 2017).

39. Awards issued pursuant to the ICSID Convention are not subject to collateral attack in enforcement proceedings under 22 U.S.C. § 1650a. Contracting states' courts are “not permitted to examine an ICSID award's merits, its compliance with international law, or the ICSID tribunal's jurisdiction to render the award; under the Convention's terms, they may do no more than examine the judgment's authenticity and enforce the obligations imposed by the award.” *Valores Mundiales, S.L. v. Bolivarian Republic of Venezuela*, 87 F.4th 510, 515 (D.C. Cir. 2023).

40. The ICSID Convention therefore “reflects an expectation that the courts of a member nation will treat the award as final.” *Valores*, 87 F.4th at 518 (quoting *Mobil Cerro*, 863 F.3d at 102); *see also* ICSID Convention, arts. 53(1), 54(1). Consistent with this mandate, 22 U.S.C. § 1650a(a) provides that the FAA “shall not apply to enforcement of awards rendered pursuant to the convention,” thereby “mak[ing] [the FAA's defenses] unavailable to ICSID award-debtors in federal court enforcement proceedings.” *Mobil Cerro*, 863 F.3d at 120-21. District courts thus enforce ICSID awards without allowing substantive challenges to enforcement of the awards. *See, e.g., Blasket Renewable Invs., LLC v. Kingdom of Spain*, 2024 WL 4298808, at \*8 (D.D.C. Sept. 26, 2024); *Perenco Ecuador Ltd. v. Republic of Ecuador*, 2023 WL 2536368, at \*5 (D.D.C. Mar. 16, 2023); *Tethyan Copper Co. PTY Ltd. v. Islamic Republic of Pakistan*, 590 F. Supp. 3d 262 (D.D.C. Mar. 10, 2022); *Tidewater Inv. SRL v. Bolivarian Republic of Venezuela*, 2018 WL 6605633, at \*6 (D.D.C. Dec. 17, 2018); *Duke Energy Int'l Peru Invs. No. 1 Ltd. v. Republic of Peru*, 904 F. Supp. 2d 131, 132-34 (D.D.C. 2012); Order, *Republic of Panama v. Jurado*, No. 8:12-cv-1647, Doc. 18 (M.D. Fla. June 13, 2013).

**Cause of Action and Request for Relief**

41. Arbitral awards issued pursuant to the ICSID Convention are subject to mandatory enforcement in the courts of the United States, which must give those awards the same full faith and credit as a final judgment issued by a state court. 22 U.S.C. § 1650a(a).

42. The Awards were rendered in accordance with the ICSID Convention against Spain and in favor of Blasket's predecessors-in-interest. Those predecessors-in-interest then assigned their interest to Blasket. Blasket is therefore entitled to enforce the Awards' pecuniary obligations against Spain.

43. Accordingly, Blasket is entitled to an order (a) enforcing the Awards in the same manner as a final judgment issued by a court of one of the several states, and (b) entering judgment in Blasket favor in the amount specified in the Awards.

44. Blasket requests that the Court enter judgment in dollars and convert any other currency specified in the Awards to U.S. dollars. *See* OperaFund Award ¶ 746; Decision on Rectification ¶ 12; Steag Award ¶ 117; Renergy Award ¶ 1072.

WHEREFORE, Blasket requests that the Court enter an order:

(a) enforcing the Awards against Spain in the same manner as a final judgment issued by a court of one of the several states; and

(b) with respect to the OperaFund Award, entering judgment against Spain and in Blasket's favor in the following amounts, converted to U.S. dollars:

(i) €29,300,000 in principal;

(ii) Pre-Award interest on that principal at the Spanish 10-year bond rate, from June 20, 2014 until September 6, 2019;

(iii) Post-Award interest at the Spanish 10-year bond rate, compounded monthly, from September 6, 2019 until the date of entry of judgment;

(iv) \$260,748.59 in arbitration costs and \$2,206,586.56 in expenses; and

(v) €462,110.65 in annulment proceedings costs;

(c) with respect to Steag Award, entering judgment against Spain and in Blasket's favor in the following amounts, converted to U.S. dollars:

(i) €27,675,000 in principal;

(ii) interest on that principal at the rate of 1.5%, compounded quarterly, from June 20, 2014 until the date of entry of judgment;

(iii) €1,412,221.06 in arbitration legal representation costs; and

(iv) €712,426.869 in annulment proceeding legal costs, together with simple interest at a 4% rate until the date of entry of judgment;

(d) with respect to the Renegy Award, entering judgment against Spain and in Blasket's favor in the following amounts, converted to U.S. dollars:

(i) €32,896,240 in principal;

(ii) interest on that principal at the Spanish 10-year bond rate, compounded monthly, from June 21, 2014 until the date of entry of judgment; and

(iii) €498,568.61 in annulment proceeding costs, together with interest at the Spanish 10-year bond rate, compounded monthly, until the date of entry of judgment; and

(e) post-judgment interest on each of the above sums at the rate specified in 28 U.S.C. § 1961.

Dated: June 3, 2025

Respectfully submitted,

/s/Matthew D. McGill

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