

CUATRECASAS ADVISES INFRARED ON ICSID ANNULMENT PROCEEDINGS WITH €28M AWARDED

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Cuatrecasas has represented InfraRed on the ICSID annulment proceedings of the InfraRed v. Spain award. The final rejection of the annulment of the award is an important and decisive victory in a process in which Spain had already been ordered to pay InfraRed more than €28 million in compensation (plus interest and costs) as a result of its cuts to renewable incentives.

Spain submitted to ICSID numerous claims for annulment of the award grouped under the grounds of (i) manifest excess of powers, (ii) failure to state reasons and (iii) serious breach of fundamental procedural rules, all of which are provided for in Article 52 of the ICSID Convention. However, the ICSID ad hoc Commission has rejected all its claims.

Among other points, the objection raised by Spain that the Arbitral Tribunal had exceeded its powers by assuming jurisdiction over a dispute between companies of one EU member state and another was rejected. The "clean hands" objection, according to which InfraRed could not benefit from renewable incentives for allegedly having lied about the installed capacity of its plants, was also rejected. In addition, the Tribunal's findings on the installed capacity of InfraRed's plants, while debatable, were found to be well-reasoned. The objections submitted by Spain merely demonstrated its dissatisfaction with the Tribunal's decision, but not the existence of any flaw that could lead to the annulment of the award.

The Litigation and Arbitration team involved in the operation was composed of **Alberto Fortún** (pictured), **José Ángel Rueda**, **Miguel Gómez**, **Borja Álvarez**, **Gustavo Mata**, **José Ángel Sánchez**, **Lucía Pérez-Manglano**, **Ignacio Hernández** and **Elisa Salcedo**.