



Nick Cherryman Quoted in *Financial Times* and *Law360* on UK Win in Award Enforcement Case Against Spain

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Coming amid uncertainty for renewable investors and a global legal debate in the wake of the Court of Justice of the European Union's (CJEU) *Achmea* and *Komstroy* decisions, the UK High Court rejected the European Commission's attempt to intervene in two renewable energy investors' US \$101 million arbitral award enforcement case against Spain in a win for the investors. The *Financial Times* and *Law360* quoted Kobre & Kim's Nick Cherryman, who represents the lead award in this dispute, on the development.

Mr. Cherryman said in the *Financial Times* that the ruling was "a positive step towards ensuring Spain complies with its international debt obligations, in particular towards renewable investors." Speaking to *Law360*, he said that it is his clients' "sincere hope" the Spanish government will voluntarily pay the award. "At a time when renewable energy investment is an essential EU energy and security imperative, Spain's failure to pay what is owed under renewable investment final awards is wholly inconsistent with that aim," Mr. Cherryman added.

The two investors, Antin Infrastructure Services Luxembourg and Antin Energia Termosolar (the Antin Award holders), are enforcing the 2018 award against Spain after the country withdrew an incentive scheme for renewable energy investments, in violation of the Energy Charter Treaty (ECT). The European Commission attempted to intervene in a March UK High Court hearing against the award, but the court ruled against the commission, explaining that allowing the intervention would "increase complication and costs" and that the commission was "demonstrably not neutral."

In the *Achmea* and *Komstroy* decisions, the CJEU ruled that investor-to-state arbitration – in the context of intra-EU bilateral investment treaties and the ECT – was contrary to EU law. The Antin Award holders' case re-examines questions on the validity and enforceability of treaty awards against EU countries under the International Centre for Settlement of Investment Disputes (ICSID) and New York Conventions, and has geopolitical importance in light of the EU's strategic security concern over renewable energy and renewable investments.

[Click here to read the *Financial Times* article](#), and [click here to read the *Law360* article](#).