

## Albania threatens ICSID withdrawal as German investor brings new claim

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Albania prime minister Edi Rama (Shutterstock, Alexandros Michailidis)

A German shipping company has brought an ICSID claim against Albania, as the state threatens to withdraw from the centre's jurisdiction after it failed to revise a €110 million award in a separate case.

ICSID registered the claim by EMS Shipping, part of the EMS-Fehn group, on 7 April.

EMS is represented by Wagner Arbitration in the case, which has been filed under the Germany-Albania bilateral investment treaty. Albania is using government lawyers.

EMS has since 2013 held a concession to operate the 430-metre-long east terminal in the port of Durrës on Albania's Adriatic coast, which has direct access to the state's road and railway network.

According to [reports](#), the German company is opposed to a proposed plan to move the commercial port from Durrës to the Porto Romano area. The €380 million project will be jointly financed by the government and the private sector.

As the new port has not yet been built, EMS reportedly says the move creates uncertainty over the future of its business activities.

The parties appear to have had a fractious relationship. In a 2015 [post](#) on Facebook, EMS's local affiliate, EMS APO, accused the Durrës Port Authority and the Albanian Ministry of Transport of trying to force it out of business. It said the port authority had on several occasions ordered EMS to cease all activities at the site and initiated several actions against the company.

EMS APO also said that the Albanian police refused to remove staff members from rival companies who were occupying the east terminal to stop EMS from carrying out its work.

The latest claim was registered on the same day Albania prime minister Edi Rama announced the state was "analysing the possibility" of withdrawing from the ICSID convention.

[Speaking to journalists](#), Rama chastised a "scandalous" decision last month by an ICSID tribunal that [refused to revise](#) a €110 million award against the state over the expropriation of a television station.

Albania sought to revise the award after the Balkan state's courts last year convicted businessman Francesco Becchetti and two other claimants – as well as their defunct Albanian television station Agonset – of fraud, forgery, money laundering, tax evasion and smuggling. The individuals were each sentenced to between eight and 17 years in prison in their absence. They have denied wrongdoing and are pursuing an appeal. Opposition politicians have reportedly also denounced the convictions as unlawful.

Last month, a tribunal consisting of US national **Grant Hanessian** as chair, the UK's **Robert Anderson KC** and Switzerland's **Charles Poncet** ordered the expedited dismissal of Albania's revision request as manifestly without legal merit. It found the state had not established that it had become aware of any new facts since the award was issued in 2019.

Rama complained that "a criminal who has been sentenced to 17 years in jail for fraud against the Albanian state managed to succeed with a court with which we will start to cause problems, starting from the next week," [according to](#) European publication *Balkan Insight*.

Albania opposition leader Sali Berisha has reportedly condemned Rama's statement "in the strongest terms."

Italian-Albanian academic **Blerina Xheraj** of the University of Leicester says it is "not clear whether the idea of denouncing the ICSID Convention has been thoroughly analysed by specialists" within the government or whether it is simply a reaction to the *Becchetti* tribunal's refusal to revise the award.

Albania's ministry of finance has earmarked €156 million in pay-outs to be made on ICSID awards, according to *Balkan Insight*, including to Becchetti who has said that he expects Italian prime minister Giorgia Meloni to intervene on his behalf to ensure Albania honours the award.

The Balkan state is facing a further two claims at ICSID. The first, brought in 2016 by a Greek investor concerning a cement terminal construction project, has entered conciliation proceedings.

The second was brought last year by four investors in a container terminal at the port of Durrës seeking [€100 million](#). Albania has instructed Freshfields Bruckhaus Deringer to defend it against the claim.

On 11 April, Albania's state advocacy office also [requested](#) applications from firms to act as external counsel in an unspecified ad hoc UNCITRAL arbitration.

*EMS Shipping & Trading GmbH v. Republic of Albania (ICSID Case No. ARB/23/9)*

#### Counsel to Albania

- Wagner Arbitration

Partner **Phillip Wagner** and of counsel **Florian Dupuy** in Berlin

#### Counsel to Albania

Yet to appear

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