IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

BLASKET RENEWABLE INVESTMENTS, LLC, Petitioner, v. KINGDOM OF SPAIN, Respondent.	Civil Action No. 23-cv-2701 (RC)

PETITIONER'S MOTION FOR RELIEF PURSUANT TO
28 U.S.C. § 1610(C) AND 28 U.S.C. § 1963

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Petitioner Blasket Renewable Investments LLC ("Blasket") hereby moves for a determination pursuant to 28 U.S.C. § 1610(c) that a reasonable period of time has elapsed since this Court entered judgment on November 15, 2024 against Respondent the Kingdom of Spain ("Spain"), such that Blasket may attach and execute on Spain's assets in satisfaction of this Court's judgment. Blasket also requests that the Court enter an order pursuant to 28 U.S.C. § 1963 granting Blasket permission to register the judgment in other judicial districts of the United States.

In the four months that have elapsed since this Court entered an approximately $36 million judgment against it, Spain has not paid a single dollar in satisfaction of the judgment. Nor has it posted a supersedeas bond or provided any assurances whatsoever that it will pay. To the contrary, Spain has brushed off Blasket's post-judgment discovery requests to identify assets available to satisfy the judgment, baselessly asserting that it has no obligation to comply with federal rules governing post-judgment discovery until this Court issues an order under § 1610(c) permitting attachment and execution. Because Spain has not taken a single step to satisfy this Court's judgment—despite its certain ability to do so—and instead has demonstrated its intent to defy its obligations under the judgment, Blasket requests that this Court determine that a reasonable time has elapsed after judgment to permit Blasket to begin seeking to attach and execute on assets to enforce its judgment. Furthermore, because Blasket has not been able to discover assets in the District of Columbia sufficient to satisfy its $36 million judgment but has reason to believe that substantial executable assets are located in other judicial districts—such as the Southern District of New York—Blasket also requests that this Court grant it leave to register the judgment for enforcement in other judicial districts.

BACKGROUND

Blasket and its predecessor in interest, JGC Holding Corporation ("JGC"), have been

waiting more than eight years for relief from Spain's mistreatment of JGC's investment in solar-power plants in Spain's territory. JGC made that investment in 2010 in reliance on financial incentives and inducements enacted by Spain to attract investment in its renewable-energy sector. Dkt. 1, ¶ 7. But Spain retrenched on and revoked those incentives through a series of laws enacted between 2012 and 2017, upsetting JGC's reasonable, investment-backed expectations. A three-member tribunal constituted pursuant to the Convention on the Settlement of Investment Disputes Between States and Nationals of Other States (the "ICSID Convention") determined that Spain's revocation of its renewable-energy financial incentives breached its obligations under the Energy Charter Treaty to protect foreign investors in its energy sector. Dkt. 24, at 5 & n.2. In November 2021, therefore, the tribunal awarded JGC €23.51 million in compensation, plus pre-award interest, costs, and fees (the "Award"). *Id.* at 5-6. And in February 2024, an *ad hoc* committee constituted pursuant to the ICSID Convention denied Spain's request to annul the Award, awarded JGC an additional €387,292.68 and ¥2,007,600 in fees, and required Spain to bear all the $382,153.09 costs of the proceedings. Dkt. 15-1, at 74.

After Spain refused to voluntarily pay the Award, JGC brought this action in September 2023 to confirm the Award and convert it to a U.S. judgment pursuant to the ICSID Convention and its implementing legislation, 22 U.S.C. § 1650a. Dkt. 1. JGC later assigned its Award to Blasket, who was substituted as Petitioner. Dkt. 19.

On September 26, 2024, this Court granted summary judgment to Blasket, rejecting Spain's purported defenses to enforcement of the Award. Dkt. 24. In particular, the Court rejected Spain's argument that the Award is unenforceable under the foreign sovereign compulsion doctrine because, according to Spain, EU law prohibits state aid and thus payment of the Award. *Id.* at 26-27. This Court concluded that this doctrine of international comity does not weigh against

enforcement of the Award because comity concerns are already "'baked in' to the ICSID Convention and its implementing statute"; refusing to enforce the Award would place the United States in conflict with its obligations under the ICSID Convention; and Spain failed to show with any certainty that it would be subject to penalties under EU law for paying the Award. *Id.* at 28-30. On November 15, 2024, this Court entered judgment for Blasket in the amount of $36,099,289.31, plus post-judgment interest. Dkt. 28.

Spain's appeal from the judgment, No. 24-7182 (D.C. Cir. 2024), remains pending in the D.C. Circuit. But Spain has not posted a bond or otherwise sought a stay of enforcement pending appeal. Fed. R. Civ. P. 62(b). Instead, Spain has made clear that it will not voluntarily comply with the judgment because it continues to insist that it "cannot pay the judgment because it enforces an arbitral award that violates E.U. law." Ex. C, at 2.[1]

Given Spain's open defiance, the only way the judgment can be satisfied is for Blasket to identify assets of Spain that can be attached in aid of execution of the judgment. In December 2024, therefore, Blasket served post-judgment discovery requests pursuant to Federal Rule of Civil Procedure 69(a)(2) on Spain and several financial institutions with knowledge of Spain's assets and financial activities in the United States—including the Federal Reserve Bank of New York and The Clearing House Payments Company L.L.C. Yet Spain has obstinately refused to comply with these discovery requests in their entirety. It moved to quash the subpoenas issued to the Federal Reserve and the Clearing House and served objections to the discovery requests Blasket served on it, in both cases raising the objection that Spain has no obligation to abide by the federal rules governing post-judgment discovery until this Court issues an order under 28 U.S.C. § 1610(c)

[1] All citations in the form "Ex. _" refer to exhibits attached to the Declaration of Matthew S. Rozen in Support of Petitioner's Motion for Relief Pursuant to 28 U.S.C. § 1610(c) and 28 U.S.C. § 1963 ("Rozen Decl.").

permitting attachment and execution because, as it argues, "Spain's assets are still protected by pre-judgment immunity under the FSIA." Ex. A, at 3; *see also* Ex. B, at 4-5; Ex. C, at 3-6. Spain has also stated its position that "Blasket currently has no right to enforce the award or the judgment in the United States," Ex. C, at 11, and that it opposes a § 1610(c) order because "a reasonable period of time has not yet elapsed because Spain is prohibited from paying a judgment on the award without the European Commission's authorization," *id.* at 6 n.1. Counsel for Blasket met and conferred with counsel for Spain in an attempt to resolve its objections, and counsel for Spain stated that until Blasket obtained a § 1610(c) order, Spain would not produce any information in response to Blasket's interrogatories and document requests, and would not discuss the substance of its other objections to those interrogatories and document requests. Rozen Decl. ¶ 6. Spain has thus made clear that it will not voluntarily comply with this Court's judgment and will not even comply with post-judgment discovery requests absent a § 1610(c) order from this Court, which it opposes.[2]

ARGUMENT

I. A Reasonable Period of Time Has Elapsed Under 28 U.S.C. § 1610(c)

Under the Foreign Sovereign Immunities Act, when a court enters judgment against a foreign state or instrumentality, the judgment creditor may not attach or execute on the foreign state's property located in the United States in satisfaction of that judgment "until the court has … determined that a reasonable period of time has elapsed following the entry of judgment." 28 U.S.C. § 1610(c). Though "[t]he statute does not specify how courts should assess a reasonable

[2] Pursuant to Local Civil Rule 7(m), Blasket notes that Spain has stated in prior court filings and in its meet and confer with Blasket that it opposes a § 1610(c) order and opposes any efforts of Blasket to enforce the Award in the United States in the absence of such an order. Rozen Decl. ¶¶ 5-6; Ex. C, at 6 n.1.

time," *Crystallex Int'l Corp. v. Bolivarian Republic of Venezuela*, 2017 WL 6349729, at *1 (D.D.C. June 9, 2017), courts generally consider three factors: (1) the "procedures … that may be necessary for payment of a judgment by a foreign state," (2) evidence of "steps being taken to satisfy the judgment," and (3) evidence the foreign state is attempting to "frustrate satisfaction of the judgment." *Gadsby & Hannah v. Socialist Republic of Romania*, 698 F. Supp. 483, 486 (S.D.N.Y. 1988) (quoting H.R. Rep. No. 1487, 94th Cong., 2d Sess. 1, 30 (1976)).

Applying these factors, courts have found that a "reasonable time" can be a "'period of a few months'" or even "as short as six weeks." *LLC SPC Stileks v. Republic of Moldova*, 2023 WL 2610501, at *2 (D.D.C. Mar. 23, 2023) (citing *Kapar v. Islamic Republic of Iran*, 105 F. Supp. 3d 99, 108 (D.D.C. 2015)); *see, e.g.*, *Crystallex*, 2017 WL 6349729, at *1 (60 days was reasonable given Venezuela's "failure to assert that it is attempting to pay the judgment or provide any evidence of such efforts"); *Owens v. Republic of Sudan*, 141 F. Supp. 3d 1, 9 (D.D.C. 2015) (three months was reasonable given the "absence of any evidence that defendants are making efforts to pay these judgments voluntarily"); *Ned Chartering & Trading, Inc. v. Republic of Pakistan*, 130 F. Supp. 2d 64, 67 (D.D.C. 2001) (six weeks was reasonable because "[s]uch a period of time is sufficient for most governments to pass the minor legislation necessary to appropriate funds, and to organize and transfer the appropriate assets," and because "there is no evidence that the defendant has taken any steps towards the payment of its debt," while "there is at least some evidence that the defendant is actually attempting to evade its obligation"); *Gadsby & Hannah*, 698 F. Supp. at 486 (two months was reasonable); *Ferrostaal Metals Corp. v. S.S. Lash Pacifico*, 652 F. Supp. 420, 423 (S.D.N.Y. 1987) (three months would be reasonable). As this Court has noted, "courts are more likely to find a reasonable time has elapsed where no evidence of an attempt to pay judgment is offered." *Saint Gobain Performance Plastics Eur. v. Bolivarian*

Republic of Venezuela, 2021 WL 6644369, at *2 (D.D.C. July 13, 2021) (finding that "four months fits well within what courts have determined constitutes a reasonable time under § 1610(c)").

Here, four months have elapsed since this Court's November 15, 2024 judgment, well within the time period courts typically consider reasonable. In that time, Spain has taken no steps toward satisfying the judgment and has made clear that it will not unless compelled to do so by Court order. *See supra*, at 3-4. The "reasonable period of time" is "meant to allow the foreign government sufficient time to work through its internal procedures to satisfy the judgment," but Spain has not pointed "to any mechanism or internal procedures through which it will satisfy the judgment." *OI Eur. Grp. B.V. v. Bolivarian Republic of Venezuela*, 419 F. Supp. 3d 51, 54-55 (D.D.C. 2019). To the contrary, Spain has steadfastly refused "to assert that it is attempting to pay the judgment or provide any evidence of such efforts." *Crystallex*, 2017 WL 6349729, at *1. Indeed, Spain's blanket refusal to identify *any* assets that may be available to satisfy the judgment in response to Blasket's discovery requests suggests that Spain is "keen to avoid [its] obligation to pay the judgment." *Wye Oak Tech., Inc. v. Republic of Iraq*, 2023 WL 7112801, at *6 (D.D.C. Oct. 27, 2023). The "absence of progress towards paying a judgment weighs against an extended pause prior to permitting attachment." *Crystallex*, 2017 WL 6349729, at *1. Because Spain is refusing to take any voluntary steps to pay the judgment, this Court should find that a sufficient period of time has elapsed after entry of judgment to permit Blasket to attach and execute on assets of Spain to satisfy its judgment.

The fact that Spain's D.C. Circuit appeal is pending is irrelevant to the determination of whether to issue a § 1610(c) order. It is a basic principle of U.S. law that the filing of an appeal does not stay a judgment. *BASF Corp. v. Old World Trading Co.*, 979 F.2d 615, 616 (7th Cir. 1992) ("An appeal by the loser does not eliminate the winner's entitlement to immediate payment.").

Instead, Rule 62(b) ordinarily allows a party to obtain a stay of the judgment pending appeal only by posting a supersedeas bond or other equivalent security. *Fed. Prescription Serv., Inc. v. Am. Pharm. Ass'n*, 636 F.2d 755, 760 (D.C. Cir. 1980) ("Because the stay operates for the appellant's benefit and deprives the appellee of the immediate benefits of his judgment, a full supersedeas bond should be the requirement in normal circumstances."); *see also BASF*, 979 F.2d at 616 (holding that although an appeal by the judgment debtor does not eliminate the creditor's entitlement to immediate payment, "it does create the opportunity to obtain a stay by posting a supersedeas bond"); *Wye Oak*, 2023 WL 7112801, at *3 ("As a general matter, the filing of an appeal does not stay a judgment.").

Accordingly, this Court has repeatedly held that § 1610(c) does not "limit[] relief only upon a final, non-appealable judgment" but "indicat[es] that any entry of judgment will suffice," regardless of whether an "appeal is pending." *Saint Gobain*, 2021 WL 6644369, at *3; *see Owens*, 141 F. Supp. 3d at 9-11 (rejecting Sudan's attempt to read "nonappealable finality" into § 1610(c), among other reasons because "§ 1610(c)'s reasonable-period requirement is to allow foreign states the opportunity to make arrangements for voluntary payment … not to give foreign states an automatic stay of execution pending the resolution of postjudgment motions" or the reaching of certain "procedural milestones"). Spain has never posted a bond nor sought any stay of the judgment pending appeal, so the pendency of its appeal does not excuse or justify its refusal to pay the judgment or provide any basis to resist entry of a § 1610(c) order.

Nor is it relevant under § 1610(c) whether Spain "is prohibited from paying a judgment on the award without the European Commission's authorization." Ex. C, at 6 n.1. This Court has determined in granting summary judgment that any conflict that may exist between EU law and the ICSID Convention provides no basis to deny enforcement of the Award, which would "place

both Spain *and* the United States in conflict with their obligations under the ICSID Convention." Dkt. 24, at 29. Spain, meanwhile, has offered no evidence that it is actively pursuing the Commission's authorization to pay this Court's judgment or that the Commission will *ever* grant that approval. Nothing in § 1610(c) requires Blasket to await indefinitely a Commission decision that may never come.

Because Spain has taken no steps to voluntarily satisfy the November 2024 judgment against it and has not demonstrated any intention to comply with the judgment, this Court should determine that a reasonable time has elapsed under § 1610(c).

II. Good Cause Exists to Register the Judgment in Other Judicial Districts

Blasket also respectfully requests that the Court enter an order pursuant to 28 U.S.C. § 1963 granting Blasket permission to register the judgment in other judicial districts of the United States where Spain may have assets, including the Southern District of New York. Section 1963 provides that a "judgment in an action for the recovery of money or property entered in any … district court … may be registered … in any other district … when the judgment has become final by appeal or expiration of the time for appeal or when ordered by the court that entered the judgment for good cause shown." 28 U.S.C. § 1963. "'[G]ood cause can be established by an absence of assets in the judgment forum, coupled with the presence of substantial assets in the registration forum.'" *Crystallex*, 2017 WL 6349729, at *2. Other factors "relevant to the good cause analysis [are] a defendant's failure to post a supersedeas bond" and its "post-judgment 'track record,'" and "these considerations could independently satisfy § 1963's good-cause requirement." *Wye Oak*, 2023 WL 7112801, at *7 n.7. Because Spain's appeal from the judgment is pending, Blasket respectfully requests an order from this Court determining that good cause exists for Blasket to register its judgment outside of this district.

Blasket easily meets its "minimal" burden to establish "good cause" for an order pursuant to § 1963. *Crystallex*, 2017 WL 6349729, at *2; *Bavelis v. Doukas*, 2021 WL 3508078, at *2 (S.D. Ohio Aug. 10, 2021). It is enough that, for the reasons stated herein and in the attached declaration of Matthew S. Rozen, undersigned counsel reasonably believe that Spain lacks readily attachable commercial "assets in the District of Columbia" sufficient to satisfy the judgment "but possesses assets elsewhere," specifically in the Southern District of New York. *Spray Drift Task Force v. Burlington Bio-Med. Corp.*, 429 F. Supp. 2d 49, 51-52 (D.D.C. 2006); *see also Non-Dietary Exposure Task Force v. Tagros Chems. India, Ltd.*, 309 F.R.D. 66, 69 (D.D.C. 2015) (§ 1963 order is warranted where attorney declaration states "belie[f]" that judgment debtor has "'substantial assets'" in other jurisdictions); *McCarthy v. Johnson*, 2022 WL 16834019, at *6 (D.D.C. Nov. 9, 2022) (same). To date, Blasket has been unable to identify and is thus unaware of any attachable assets in the District of Columbia sufficient to satisfy this Court's $36 million judgment. Rozen Decl. ¶ 7. But Blasket believes that Spain may have substantial attachable assets in the State of New York. *See* Rozen Decl. ¶ 8; *see also Mwila v. Islamic Republic of Iran*, 2019 WL 13134796, at *2 (D.D.C. May 15, 2019) (granting § 1963 motion against Sudanese defendants where plaintiffs' counsel believed that New York banks held Sudanese assets); *Wye Oak*, 2023 WL 7112801, at *7 (finding good cause to register the judgment where defendants did not "have sufficient assets in this district to satisfy [an] approximately $120 million judgment" and plaintiff's counsel demonstrated in a declaration that defendants "may have attachable assets in the Southern District of New York").

Permission to register the judgment is particularly warranted because Spain has "provided no assurance that it intends to pay," and "in fact, it appears to have done exactly the opposite." *Non-Dietary Exposure*, 309 F.R.D. at 69; *see also Spray Drift*, 429 F. Supp. 2d at 51 (granting

permission because the debtor had "offered no assurances that it will pay the Award or comply with a court-ordered bond"). In the four months that have elapsed since this Court entered its judgment, Spain has not paid a penny on the judgment, it has not proposed a payment plan or offered any other assurances that it intends to voluntarily comply with this Court's judgment, and it has not posted a supersedeas bond. It is stubbornly refusing to do any of these things despite the strength of its economy and sure ability to pay. Guy Hedgcoe, *How Spain's Economy Became the Envy of Europe*, BBC (Feb. 9, 2025), https://bit.ly/4gV0jqd. Thus, Spain's poor "post-judgment 'track record'" provides further good cause to register the judgment outside this district. *Wye Oak*, 2023 WL 7112801, at *7 n.7.

Finally, although Petitioner believes a substantial portion of Spain's assets are presently located in New York, these assets, in addition to others that may be revealed in post-judgment discovery, are "potentially mobile." *Chevron Corp. v. Republic of Ecuador*, 987 F. Supp. 2d 82, 85 (D.D.C. 2013). Blasket therefore requests that the Court grant permission to register the judgment in "any or all other districts" to prevent Spain from "mov[ing] assets from district to district to prevent their seizure." *Mwila*, 2019 WL 13134796, at *3.

CONCLUSION

For these reasons, Blasket respectfully requests that the Court enter an order pursuant to 28 U.S.C. § 1610(c) finding that a reasonable period of time has elapsed following this Court's entry of the judgment to permit attachment and execution and an order pursuant to 28 U.S.C. § 1963 granting Blasket leave to register this Court's judgment for enforcement in other judicial districts.

Dated: March 11, 2025

Respectfully submitted,

By: /s/ *Matthew D. McGill*

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CERTIFICATE OF SERVICE

I hereby certify that, on March 11, 2025, I caused a true and correct copy of the foregoing Motion for Relief Pursuant to 28 U.S.C. § 1610(c) and 28 U.S.C. § 1963 to be filed with the Clerk for the U.S. District Court for the District of Columbia through the ECF system. Participants in the case who are registered ECF users will be served through the ECF system, as identified by the Notice of Electronic Filing.

/s/ Matthew D. McGill
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