

ARTICLES

SYSTEMIC REFLECTIONS ON ARGENTINA'S NON-COMPLIANCE WITH ICSID ARBITRAL AWARDS: A NEW ROLE OF THE ANNULMENT COMMITTEE AT ENFORCEMENT?

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ABSTRACT

Argentina's non-compliance with arbitral awards has brought to the fore a question concerning compliance problems under the ICSID system. Argentina's ignorance of its ICSID obligations might potentially undermine ICSID arbitration as an efficient mechanism for the resolution of investment dispute. In this paper, drawing from recent decisions on Argentina's requests for stays of the award's enforcement in annulment proceedings, the author considers that the annulment committees can be expected to play a more active role to facilitate a better compliance at the post-award enforcement stage. That is, in the face of persistent non-compliance, the annulment committees should take into account the possible inducement effect when they decide whether there has been appropriate assurance of compliance or decide what should be done so as to secure the compliance in their decisions concerning the stays. This should have important implications for the overall ICSID enforcement system in the future.

KEYWORDS: *International Center for Settlement of Investment Dispute, ICSID, compliance, Argentina, the annulment committee.*

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