

CJEU finds Belgium's request for an Opinion on the compatibility with EU law of the draft modernized ECT inadmissible



The Court of Justice of the European Union (the **CJEU**) delivered today (16 June 2022), its Opinion on the issue put forward by the Belgian government on whether the draft modernized Energy Charter Treaty (the **ECT**) (and the investor-State arbitration (ISDS) clause contained in Article 26 of the ECT) was compatible with EU law (check our former [article](#)).

The CJEU found this request for an Opinion to be inadmissible.

According to the CJEU, it *“does not have sufficient information on the content and, more particularly, on the scope of Article 26 which will appear in the modernised ECT, even though that scope is the subject of the present request for an Opinion”*.

The CJEU also reminded that it has already ruled on the question of the compatibility of Article 26 of the ECT with the EU Treaties and that it is clear from the judgment in

[Komstroy](#) that “compliance with the principle of autonomy of EU law, enshrined in Article 344 TFEU, requires Article 26(2)(c) of the ECT to be interpreted as meaning that it is not applicable to disputes between a Member State and an investor of another Member State concerning an investment made by the latter in the first Member State”.

The Opinion of the CJEU is available [here](#).

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