

ECJ Rules ISDS / ICS Illegal in Intra-EU Trade Deals

In this 2018 ruling, the Court of Justice of the European Union (CJEU) stated that EU member states cannot have an investor versus state dispute settlement (ISDS) mechanism in a trade agreement between them. The ruling also covers the 'reformed' ISDS known as an Investor Court System (ICS).

Read this analysis of the European Union's highest court's judgement illegalising ISDS (ICS) between EU member states from Norton Rose Fulbright, the global law firm: 'EU Court rejects ISDS provisions in intra-EU BITs — Once BITten, twice shy': <https://www.nortonrosefulbright.com/en/knowledge/publications/3c7c5dbc/eu-court-rejects-isds-provisions-in-intra-eu-bits-mdashbronce-bitten-twice-shy>.

These ISDS agreements between EU member states were left over from trade and investment agreements which these country made with each other *prior* to one or both of them joining the EU. The analysis shows that the CJEU [also often referred to as, the European Court of Justice (ECJ)] says that if these investment courts were allowed to stand, then an investor from member state A, while investing in member state B, would have more rights operating there, than a similar investor from member state C.

Reasonably, this could be viewed through the lens of the European and German associations of judges statements rejecting CETA's ICS.