

Council adopts framework for investor-to-state dispute settlement

The Council today¹ approved a framework for managing financial responsibility linked to investor-to-state dispute settlement proceedings ([PE-CONS 92/14](#) + [11731/14](#) + [ADD 1](#) + [ADD 2](#)).

The regulation, part of a broader EU framework for investment protection policy, establishes rules for managing the financial consequences of investor-to-state disputes, specifying how cooperation between the Commission and the member states should be structured in specific cases.

International agreements may include the possibility for an investor from a third country to bring a claim against the EU or a member state where the EU or the member state is alleged to have acted in a manner that is inconsistent with the agreement. The regulation provides clarity as to whether the Union or the member state concerned conducts the defence of a case and pays the final award or settlement amount where investor-to-state arbitration proceedings take place. So far, the Union is party to only one agreement with the possibility for investor-to-state dispute settlement (the Energy Charter Treaty²).

The regulation was proposed by the Commission in June 2012 after the Treaty of Lisbon³ brought foreign direct investment within the scope of the EU's common commercial policy, making it also a Union exclusive competence.

Adoption of the regulation follows an agreement with the European Parliament on 2 April this year. The Parliament adopted its position at first reading on 16 April, in accordance with the agreement reached.

The regulation is a key element of the EU's investment policy. This new policy involves, on the one hand, the negotiation of new rules on investment with key trading partners and, on the other hand, the continued application of existing bilateral investment treaties between member states and third countries.

¹ At a meeting of the General Affairs Council, without discussion.

² [Official Journal L 380 of 31.12.1994, p.1.](#)

³ The Treaty of Lisbon entered into force on 1 December 2009.