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“Can the ECT be applied to EU Member States?"
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I. Introduction

• EU Member States are Contracting Parties to the ECT
• What relevance, if any, has EU law in proceedings between an EU Investor and another EU Member State?

II. Factual Background

• Considerable intra-EU investments of energy companies from other EU Member States
• Increased political risk, e.g. due to market liberalization and climate change politics

III. Legal Issues

1. Applicability of the ECT

   • Is it relevant that the ECT is a ‘mixed agreement’?
   • Is the intra-EU application of the ECT explicitly excluded?
   • Is the intra-EU application of the ECT impliedly excluded?

2. Substantive Conflicts

   • EU law as part of Member States’ law
   • Article 26 (6) ECT
   • Factual relevance of EU law / renvoi?

IV. Concluding Thoughts