
EU TOP COURT BACKS CANADA TRADE DEAL IN RULING

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The EU-Canada free-trade agreement's rules on protecting investors in case of a dispute with states do not breach EU law, the EU's top court ruled on Tuesday (30 April).

The judges of the European Court of Justice (ECJ) said in their ruling that the mechanism to resolve disputes between investors and states, which critics say unfairly favour multinationals, is in line with EU law.

The binding ruling of the Luxembourg-based ECJ means a sigh of relief for supporters of the deal.

It also means, the court backed the system agreed by Canada and the EU on protecting the rights of foreign investors, for situations where investors from either side claim they have been unfairly treated.

The judges said that the tribunals set up by the agreement cannot have the power to interpret or to apply EU law, other than those in the deal, in a way that could hinder the power of EU institutions.

The court also said the deal contains provisions which deprive the tribunals of questioning the choices of states when those states curb an investor's rights due to the protection of public order, public safety, food safety, the protection of public morals, consumer protection, protection of fundamental rights and human life and health.

The court said that while the deal offers remedy for foreign investors, their situation "is not comparable to that of investors of member states who invest within the EU".

The free trade deal was seven years in the making when in 2016 Belgium's Wallonia refused to give its blessing to the agreement due to concerns over the dispute settlement, and environmental standards.

In the end, Belgium struck a deal - attaching clarifications to the trade agreement, and taking the court system to the European Court of Justice to check if it was now in line with EU law.

A negative ruling could have derailed the use of such tribunal systems, which the EU had used in other trade negotiations.

The Canada deal entered into force on a provisional basis in September 2017, and full implementation requires the ratification of all EU national parliaments, and some regional assemblies, like in Belgium.

Belgium's foreign minister Didier Reynders welcomed Tuesday's court's ruling.

"With its opinion, the court dismisses the remaining legal concerns," he said in a statement, pointing out that due to the Canada trade deal Belgium's exports to Canada grew strongly in the first year, with an average increase of more than 30 percent compared to a European average of 6 percent.

Reynders said the court system is the first step towards establishing a multilateral court system that "will eventually become the competent legal forum for resolving the investor-state disputes".

The EU commission has been pushing since 2015 for the establishment of a permanent body to decide on investment disputes, to move away from the ad hoc arbitration.

The commission's ambitions have now been given a boost by the court's ruling.

Both the EU-Canada deal and the EU-Vietnam free trade agreement foresee setting up a permanent multilateral mechanism.

The EU has been working to convince Japan on setting up of an investment court system, but Japan favours the old-style investor-state dispute settlement (ISDS) system.

Kaynak/Source: