


The background of the slide is a light gray gradient, decorated with several realistic water droplets of various sizes. The droplets are rendered with soft shadows and highlights, giving them a three-dimensional appearance. They are scattered across the page, with a cluster in the top left, a few in the top center, and a larger group in the bottom right.

# **THE ENERGY CHARTER TREATY: A EUROPEAN PERSPECTIVE**

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# OVERVIEW

- WHAT IS THE ENERGY CHARTER TREATY?
  - HOW DOES IT FIT INTO THE EU'S ENERGY POLICY?
  - IS IT COMPATIBLE WITH EU LAW?
  
  - WHAT CAN WE DO ABOUT THE ENERGY CHARTER TREATY?
- 

# WHAT IS THE ECT?

- 53 SIGNATORIES AND CONTRACTING PARTIES, CONSISTING OF 51 MEMBER COUNTRIES PLUS THE EU AND EURATOM
- SIGNED IN DECEMBER 1994 AND ENTERED INTO LEGAL FORCE FROM APRIL 1998
- COVERS THE FULL PROCESS OF ENERGY INVESTMENT, PRODUCTION, SUPPLY AND CONSUMPTION
- FOCUS ON THE PROTECTION OF FOREIGN INVESTMENTS; NON-DISCRIMINATORY TREATMENT IN ENERGY TRADE; RESOLUTION OF DISPUTES BETWEEN MEMBER COUNTRIES; **RESOLUTION OF DISPUTES BETWEEN MEMBER COUNTRIES AND FOREIGN INVESTORS**; AND THE PROMOTION OF ENERGY EFFICIENCY AND ENVIRONMENTAL PROTECTION

# ECT IN LIGHT OF EU ENERGY POLICY

- ECT PROTECTS STATUS QUO
  - SET UP TO PROTECT FOSSIL FUEL BASED ENERGY SUPPLY
  - MILLIONS AND BILLIONS (RWE & UNIPER)
- EUROPEAN GREEN DEAL
  - TRANSFORMATION OF THE EU ENERGY MARKETS
  - EFFORT SHARING, EMISSION TRADING, EMISSION PERFORMANCE STANDARDS FOR CARS, EU CLIMATE LAW

# COMPATIBILITY WITH EU LAW

- KOMSTROY (SEPTEMBER 2021)
  - INTRA-EU
  - EXTRA-EU
- OPINION 1/20
- AUTONOMY OF EU LAW
  - 267 TFEU
  - INTRA-EU ARBITRATION LEGALLY AND FACTUALLY POSSIBLE UNDER INTERNATIONAL LAW
- MUTUAL RECOGNITION & MUTUAL TRUST
- NON-DISCRIMINATION
- REGULATORY AUTONOMY

# WHAT CAN WE DO ABOUT THE ENERGY CHARTER TREATY?

- MODERNISATION
  - 15 ROUNDS; AGREEMENT IN PRINCIPLE
  - FLEXIBILITY CLAUSE
  - REIO CLAUSE
- WITHDRAWAL
  - SUNSET CLAUSE
- INTER-SE MODIFICATION
  - EXCLUSION OF SUNSET CLAUSE POSSIBLE?