



Recent Developments in EU external relations law

Josephine Norris

Member of the Legal Service (European Commission) - WTO and International Trade

Parameters

- ▶ 'recent' developments: July 2025 to June 2026
- ▶ External relations - 'broad sense'
- ▶ Case law focus
- ▶ Commission perspective



Commission Perspective



Institutional roles defined in the Treaties

Commission as guardian of the treaties
External representation - Art 17 TFEU I(except CFSP)
Coordination of positions
Negotiations



Organisation of the Commission Legal Service

Horizontal service mandated to advise the President
Legislation (advice and legal revisers)
Legal representation in Court/judicial for a
Comparatively flat hierarchy



Significant degree of cooperation and coordination (formal and informal)



Recent Case law

Case C-271/23 - HU (Grand Chamber)

**AG Opinion in Case C-802/24
Reibel**

Horizon scanning - what lies ahead?



Case C-271/23

- ▶ What is it about?
 - ▶ Unity of representation
 - ▶ EU coordination in the UN
- ▶ Facts
 - ▶ Hungary's vote on World Health Organization recommendations on cannabis and cannabis-related substances at the United Nations Commission on Narcotic Drugs.
 - ▶ In December 2020, HU voted against the EU position as expressed in an Art 218 (9) TFEU decision.
 - ▶ The EU is not itself a member but the objectives of the two UN drug-control conventions are reflected in the EU legal framework via Framework Decision 2004/757/JHA

Admissibility

- ▶ Enduring effects : voting against a Union position goes beyond the specific vote: the effects manifest as regards both the unity and consistency of the EU's external action within that international body.
- ▶ Irrelevant that it cannot be “rectified”
- ▶ No need for a risk of repetition

Violation of Article 3 (2) TFEU

- ▶ The Union shall also have exclusive competence for the conclusion of an international agreement when its conclusion is provided for in a legislative act of the Union or is necessary to enable the Union to exercise its internal competence, or in so far as its conclusion may affect common rules or alter their scope.
- ▶ CJEU:
 - ▶ applies to exclusive and to shared competence
 - ▶ the “risk of common EU rules being affected” may be established where the international commitments have an effect on their meaning, scope and effectiveness

Sincere cooperation (Art 4 (2))

- ▶ Positive obligation on MS precludes unilateral conduct in IOs
- ▶ Role of collective deliberation using the institutional structures in place

Takeaways

- ▶ Why does unity of representation (still) matter?
 - ▶ Not the first occasion where certain MS do not follow a coordinated line
 - ▶ Undermines the EU as the interlocutor on the international plane
 - ▶ Concerns over the butterfly effects e.g. voting rights
- ▶ What is the role of Art 4 (2) more generally and is it effective/ sufficient?
- ▶ Firm rejection of the self-help route
- ▶ Practical questions
 - ▶ Is there always sufficient time?
 - ▶ What is the role of an abstention?

EU restrictive measures and investment arbitration

- ▶ Advocate General's Opinion in Case C-802/24 | Reibel
 - ▶ February 2026
- ▶ What is the case about?
 - ▶ a Belgian company concluded a contract with a Russian company for the sale and supply of goods, for which the Russian buyer paid an advance. The Belgian authorities then refused to grant an export licence because of restrictive measures. As a result, the goods were never supplied, and the advance payment made by the Russian company was not refunded = >>> arbitration in Sweden. BE ordered to pay.
 - ▶ Article 11(1) of EU Regulation No 833/2014 = no claims clause
 - ▶ = >>> BE brings an action before a Swedish Court in which it asked that the arbitration award be set aside = >>> request for a preliminary ruling

The questions

- ▶ ‘(1) Must Regulation [No 833/2014] be interpreted as meaning that parties to an agreement are precluded from reaching an agreement out of court on claims which, under Article 11(1) of that regulation, are not to be satisfied and that amicable settlements reached by the parties to an agreement on claims covered by Article 11(1) are null and void in civil law?
- ▶ (2) Must Article 11 of [Regulation No 33/2014] be interpreted as meaning that a national court hearing an application for setting aside or annulment of an arbitration award in which that article has been applied must determine of its own motion whether the arbitration tribunal’s application of the law is compatible with [Regulation No 833/2014] and, in such a case, must the national court annul or set aside the arbitration award in whole or in part if the arbitration tribunal’s application of the law was contrary to the regulation?
- ▶ (3) Must Article 11(1) of [Regulation No 833/2014] be interpreted as not precluding satisfaction of a claim if the claim concerns
 - ▶ (a) repayment of an advance payment in respect of goods which were never supplied on account of measures under [Regulation No 833/2014]?
 - ▶ (b) interest on a claim mentioned in (a)?’



What is the effect of the ‘no claims’ clause?

- ▶ no prohibition on submitting to arbitration claims that may not be satisfied within the meaning of the regulation
- ▶ Importance of preventing circumvention
- ▶ Prohibition is part of public policy - “If the arbitration tribunal chosen has its seat in the European Union, it will be required to comply with the public policy of the Member State of its seat, which is expanded by EU public policy ”

Reflections on the AG Opinion

- ▶ Description of the relationship between EU law and international arbitration:

“This reference for a preliminary ruling offers the Court the opportunity to write a new chapter in the relationship, sometimes perceived as tortuous, between EU law and out-of-court dispute resolution mechanisms.”

- ▶ MS retain the right to determine arbitrability
- ▶ Public policy - ex officio review

What lies ahead?

- ▶ Opinion 1/25: ECHR Accession
- ▶ Opinion 1/26: Request for an opinion on the compatibility with the Treaties of the envisaged Partnership Agreement between the European Union and the Member States of the European Union, of the one part, and the Common Market of the South, the Argentine Republic, the Federative Republic of Brazil, the Republic of Paraguay and the Oriental Republic of Uruguay, of the other part;
- ▶ Case T-150/26, Bank of Russia v Council.

Any questions?

Josephine.norris@ec.europa.eu



[Josephine Norris](#)