

# [The eu law in a binding fashion.](https://assignbuster.com/the-eu-law-in-a-binding-fashion/)

The autonomy of the EU legal orderalso prevents an international agreement from conferring on an extra-EU courtor other adjudicative body the power to interpret EU law in a binding fashion. The ECJ has reserved itself the monopoly to provide interpretations of EU lawthat are binding on the EU and its institutions1. As a fundamental purpose of ICS is to enable investors to challenge EU decisions, it is unavoidable that an Investment Court would have to consider questions of EUlaw, and could declare an EU measure to conflict with the TTIP or other tradeagreements in a way that would significantly undermine the Court’s competences. However, safeguardingthis prerogative of the ECJ is not a straight forward matter. The maindifficulty for the drafters of the ICS Proposal lies in understanding how the ECJacts in order to safeguard the homogenous interpretation and application of EUlaw, and when the possibility arises for the ECJ to be bound by the interpretationof EU law made by an extra-EU tribunal or body. According to theECJ, a central aspect of the principle of autonomy is its own judicial prerogativeover the interpretation of EU law.

In other words, Art. 19 TEU, identifying theECJ as the only institution to authoritatively determine the meaning of primaryand secondary EU law, must be safeguarded also in EU agreements. For the ICS, this poses two challenges. First, does the Investment Court have jurisdictionto interpret EU law? And if so, second, are interpretations rendered by the InvestmentCourt binding on the ECJ? 1 Tobias Lock, sura note 200, p. 77. The autonomy of the EU legal orderalso prevents an international agreement from conferring on an extra-EU courtor other adjudicative body the power to interpret EU law in a binding fashion. The ECJ has reserved itself the monopoly to provide interpretations of EU lawthat are binding on the EU and its institutions1. As a fundamental purpose of ICS is to enable investors to challenge EU decisions, it is unavoidable that an Investment Court would have to consider questions of EUlaw, and could declare an EU measure to conflict with the TTIP or other tradeagreements in a way that would significantly undermine the Court’s competences.

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