INTERNATIONAL CENTRE FOR SETTLEMENT OF INVESTMENT DISPUTES

In the arbitration proceeding between

ROCKHOPPER ITALIA S.P.A., ROCKHOPPER MEDITERRANEAN LTD, AND ROCKHOPPER EXPLORATION PLC

Claimants

and

ITALIAN REPUBLIC

Respondent

ICSID Case No. ARB/17/14

DECISION ON THE ITALIAN REPUBLIC'S REQUEST FOR RECONSIDERATION OF 29 SEPTEMBER 2021

Members of the Tribunal
Mr. Klaus Reichert SC, President of the Tribunal
Dr. Charles Poncet, Arbitrator
Prof. Pierre-Marie Dupuy, Arbitrator

Acting Secretary of the Tribunal
Mr. Paul Jean Le Cannu

Date of dispatch to the Parties: 20 December 2021

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I. PROCEDURAL HISTORY

1. On 13 September 2021, the Respondent sought the Tribunal's leave under paragraph 16.3 of Procedural Order No. 1 to file the judgment issued on 2 September 2021 by the Grand Chamber of the Court of Justice of the European Union ("**CJEU**") in Case C-741/19, *Republic of Moldova v. Komstroy LLC* ("***Komstroy***").

2. On 20 September 2021, further to the Tribunal's invitation, the Claimants submitted a response opposing the Respondent's request. The Claimants' response was accompanied by legal authorities CL-0236 through CL-0246.

3. On 23 September 2021, the Tribunal through its Secretary conveyed the following message to the Parties:

> *The Tribunal refers to the Respondent's application to add the CJEU judgment (and Opinion of the Advocate General) in C-741/19 to the file of this case, as well as to the Claimants' comments on the application. The Tribunal has decided to admit these materials, and invites the Parties to comment on them by filing consecutive submissions limited to five pages per Party. The Respondent's submission shall be received by Wednesday, September 29, 2021. The Claimants' submission shall be received by Wednesday, October 6, 2021.*

4. On 29 September 2021, the Respondent submitted its Considerations on *Republic of Moldova v. Komstroy* (C-741/19) and AG Szpunar's Opinion (the "**Considerations**").

5. On 6 October 2021, the Claimants submitted their Response to Respondent's Considerations on *Republic of Moldova v. Komstroy* (C-714/19) and AG Szpunar's Opinion, together with legal authorities CL-0247 to CL-0250 (the "**Response to Considerations**").[1]

II. THE RESPONDENT'S REQUEST

6. In its Considerations, the Respondent argues that according to *Komstroy*, "investment tribunals do not have jurisdiction over intra-EU disputes under the ECT, such as the present one."[2] The Respondent submits that the CJEU's judgment is relevant to these proceedings and "should convince the Tribunal to reconsider its position on jurisdiction

[1] *Komstroy* was filed by the Claimants as legal authority CL-247.
[2] Considerations, ¶ 4.

in the light of the conclusions reached by the [CJEU]"[3] (the "**Request for Reconsideration**"). Given the incompatibility of Article 26 of the ECT with EU law, the Respondent claims not to have given its consent to ICSID arbitration, as a result of which the Tribunal lacks jurisdiction to hear the case.[4]

7. In response, the Claimants request that the Tribunal "decline Italy's request to reconsider jurisdiction" and "if the Tribunal does undertake such a reconsideration, the conclusion should be the same: that it does have jurisdiction to decide this case."[5]

III. THE PARTIES' POSITIONS

A. The Respondent's Position

8. In support of its Request for Reconsideration, the Respondent relies on the *Achmea* judgment of the CJEU[6], in which it says investment arbitration clauses in intra-EU BITs were held to be incompatible with EU Law.[7] In the Respondent's view, intra-EU investment arbitration is incompatible with the principles of autonomy and primacy of EU Law, and the principle of mutual trust between EU Member States.[8]

9. While this Tribunal held in its Decision on the Intra-EU Jurisdictional Objection that the *Achmea* judgment was limited to the Netherlands-Slovakia BIT and not a "relevant consideration for the investor-State arbitration mechanism established in Article 26 of the ECT as regards intra-EU relations"[9], the Respondent contends that the CJEU did rule on the compatibility of ISDS with EU law in *Komstroy*.[10]

10. The CJEU's conclusion in *Komstroy*, which supports the Respondent's arguments on jurisdiction in this case, is that "Article 26(2)(c) ECT must be interpreted as not being

[3] Considerations, ¶ 3.
[4] Considerations, ¶¶ 18-19.
[5] Response to Considerations, ¶ 11.
[6] Judgment dated 6 March 2018 of the CJEU in Case C-284/16, *Slowakische Republik v. Achmea BV* ("***Achmea***") (RL-11 / CL-120).
[7] Considerations, ¶ 5.
[8] Considerations, ¶ 5.
[9] *Rockhopper Italia S.p.A., Rockhopper Mediterranean Ltd, and Rockhopper Exploration Plc v. Italian Republic*, ICSID Case No. ARB/17/14, Decision on the Intra-EU Jurisdictional Objection, 26 June 2019 (the "Decision on the Intra-EU Objection"), ¶ 173.
[10] Considerations, ¶ 8.

applicable to disputes between a Member State and an investor of another Member State concerning an in-vestment [*sic*] made by the latter in the first Member State."[11]

11. The Respondent identifies three reasons for the CJEU's conclusion in its judgment: first, "international agreements cannot infringe upon the principle of autonomy of the EU"[12]; second, since the EU is a Contracting Party to the ECT, the ECT is an act of EU law; as a result, the ISDS provisions of Article 26 of the ECT, which operate outside of the EU judicial system, are contrary to Article 344 of the Treaty on the Functioning on the European Union ("**TFEU**")[13]; third, the fact that the ECT is a multilateral treaty does not alter the above analysis on incompatibility with EU law.[14]

12. The Respondent concludes with the CJEU that all doubts as to the incompatibility between intra-EU investment arbitration under the ECT and EU law have been dispelled:

> *while the ECT "may require Member States to comply with the arbitral mechanism" in disputes between investors from third states and an EU member state, "preservation of the autonomy and of the particular nature of EU law precludes the same obligations under the ECT from being imposed on Member States as between themselves"* […]. *As a result, arbitration under Article 26(2)(c) is not applicable to intra-EU disputes."*[15]

B. The Claimant's Position

13. According to the Claimants, "the Tribunal's Decision on the Intra-EU Jurisdictional Objection dated 26 June 2019 has *res judicata* effect and the Tribunal should not reconsider or amend that Decision for this reason alone."[16]

14. In addition and in any event, *Komstroy* does not affect the jurisdiction of this Tribunal.[17]

[11] Considerations, ¶ 10, citing to *Komstroy*, ¶ 66.
[12] Considerations, ¶ 11.
[13] Considerations, ¶ 12. In the Respondent's view, AG Szpunar takes the same approach. *See* Considerations, ¶ 13.
[14] Considerations, ¶ 13.
[15] Considerations, ¶ 15.
[16] Response to Considerations, ¶ 1; Claimants' letter of 20 September 2021, Section II.B.
[17] Response to Considerations, Section II.

15. In the Claimants' view, the Tribunal did not dismiss the Respondent's intra-EU objection only on the basis that the *Achmea* was confined to the Netherlands-Slovakia BIT, but also for the reasons provided in *Blusun*[18] and adopted by this Tribunal, namely:

> *…(i) "the applicable law in determining this issue is international law, and specifically the relevant provisions of the VCLT"; (ii) the ECT – "as at the date of its conclusion (December 1994) in accordance with Articles 31-33 of the VCLT" – created inter se obligations between EU Member States and there is nothing in the text of the ECT that carves out or excludes those obligations, in particular there is no "disconnection clause"; and (iii) "the inter se obligations of EU Member States have not been subsequently modified or superseded by later European law."*[19]

16. Further, according to the Claimants, the Tribunal considered that *Achmea* was not relevant, not only because it was confined to a specific BIT, but also for the following reasons:

> *… the Tribunal also held that (i) "[t]he Tribunal […] is called, in this dispute, to resolve the alleged breaches by the Respondent of the ECT on the basis of principles of public international law relevant to the interpretation and application in the present case of the ECT"; (ii) "[t]he application of EU law to this dispute does not, in the Tribunal's appreciation of the position, arise for consideration"; (iii) "[…] EU law […] constitutes, in the Tribunal's view, international law as a lex specialis, the application of which is restricted to those cases which fall into its particular scope"; and (iv) "there is no ground of incompatibility between the ECT and EU law for the purposes of this type of cases [sic]."*[20]

17. Because *Komstroy* relies on the same reasoning as in *Achmea* – the incompatibility of intra-EU investment arbitration with the principle of autonomy of EU law – the Tribunal's approach in its Decision on the Intra-EU Objection remains fully valid: "the Tribunal is required to determine its jurisdiction by reference to the ECT itself (in particular, Article 26) and public international law. The application of EU law is not a

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[18] *Blusun S.A., Jean-Pierre Lecorcier and Michael Stein v. Italian Republic*, ICSID Case No. ARB/14/3, Award, 27 December 2016 (CL-125).
[19] Response to Considerations, ¶ 2, citing to Decision on the Intra-EU Jurisdictional Objection, ¶¶144-149. Footnotes omitted.
[20] Response to Considerations, ¶ 3, citing to Decision on the Intra-EU Jurisdictional Objection, ¶ 174. Footnotes omitted.

consideration."[21] This means, as already held by this Tribunal, that "even where there is a conflict between the ECT and EU law, Article 16 of the ECT provides the *lex specialis* conflict rule and confirms that in the event of a conflict between the ECT and EU law (expressly including matters of jurisdiction), the more favourable provision to the investor prevails."[22] In the Claimants' view, even if *Komstroy* were relevant to this case, the Tribunal would have to apply Article 16 of the ECT and conclude that it has jurisdiction.[23]

18. In addition, *Komstroy* cannot have any retroactive effect on the Respondent's consent, jurisdiction being determined as at the date the arbitration proceeding was instituted (i.e. 14 April 2017).[24] The Claimants note that *Komstroy* "says nothing about the temporal scope of its application, even under EU law."[25]

19. Finally, the Claimants argue that *Komstroy* is at best *obiter dicta* because it did not deal with an intra-EU dispute.[26] In addition, the CJEU raised the issue of incompatibility with EU law *ex officio*, without giving an opportunity to the parties to brief the issue and contrary to the position taken by several Member States and the European Council.[27]

IV. THE TRIBUNAL'S ANALYSIS

20. In its Decision on the intra-EU Objection, the Tribunal decided in relevant part that:

> *(1) The Respondent's Intra-EU Jurisdictional Objection is hereby denied;*
>
> *(2) The Tribunal will address separately in its Award the remaining jurisdictional and/or merits issues in this case; […].*[28]

21. The Tribunal arranges its analysis in this Decision as follows: (a) it will describe in detail that which was decided, and why, by the CJEU in *Komstroy*; and (b) whether *Komstroy*

[21] Response to Considerations, ¶ 4.
[22] Response to Considerations, ¶ 5.
[23] Response to Considerations, ¶ 5.
[24] Response to Considerations, ¶ 6.
[25] Response to Considerations, ¶ 7.
[26] Response to Considerations, ¶ 8.
[27] Response to Considerations, ¶¶ 9-10.
[28] Decision on the Intra-EU Objection, ¶ 211.

requires a change of the Tribunal's prior jurisdictional decision. In the latter regard, the Tribunal will approach the present matter as if it had not already made its prior jurisdictional decision in order to give the fullest possible consideration to *Komstroy*. This approach is influenced by the particular weight, significance and overarching consequence attached by the Respondent to the judgment.

A. What did the CJEU decide in *Komstroy*, and why?

22. First as to the background facts, Komstroy LLC, the successor in law to the Ukrainian electricity distributor Energoalians, has been attempting to obtain payment of an outstanding debt which arose from two three-way contracts concluded in the late 1990s between Energoalians and Moldtranselectro, a Moldovan State-owned company, via Derimen, a company registered in the British Virgin Islands. Pursuant to the contract between Ukrenergo, the ultimate (Ukrainian) electricity producer, and Moldtranselectro, between whom volumes were agreed on a monthly basis, electricity was supplied to the border between Ukraine and Moldova, on the Ukrainian side. Moldtranselectro defaulted on the contract for sale of electricity, and Derimen assigned the contractual claim against Moldtranselectro to Energoalians. Energoalians contended that certain actions taken by the Republic of Moldova constituted breaches of the State's obligations under the ECT.

23. In accordance with Art. 26(4)(b), Komstroy pursued its claim against the Republic of Moldova for alleged breach of the ECT via an *ad hoc* UNCITRAL arbitration with its seat in Paris.

24. In October 2013, that tribunal held that it had the jurisdiction to resolve the dispute, and ordered the Republic of Moldova to pay an award to Energoalians for breaching the ECT.

25. In April 2016, the Paris *Cour d'appel* annulled the award, finding that that tribunal had wrongly held that it had jurisdiction. Specifically, Energoalians' claim against the Republic of Moldova could not be considered an "investment" within the ECT's meaning, in the absence of an economic contribution from Ergoalians in Moldova.

26. In March 2018, the *Cour de cassation* set aside the lower court's judgment, finding its interpretation of "investment" too narrow, and referred the parties back to the *Cour d'appel*.

27. The *Cour d'appel* chose to stay the proceedings and refer three overarching questions to the CJEU for preliminary ruling:

> *[(1)] Must [Article 1(6) ECT] be interpreted as meaning that a claim which arose from a contract for the sale of electricity and which did not involve any economic contribution on the part of the investor in the host State can constitute an "investment" within the meaning of that article?*
>
> *[(2)] Must [Article 26(1) ECT] be interpreted as meaning that the acquisition, by an investor of a Contracting Party, of a claim established by an economic operator which is not from one of the States that are Contracting Parties to that treaty constitutes an investment?*
>
> *[(3)] Must [Article 26(1) ECT] be interpreted as meaning that a claim held by an investor, which arose from a contract for the sale of electricity supplied at the border of the host State, can constitute an investment made in the area of another Contracting Party, in the case where the investor does not carry out any economic activity in the territory of that latter Contracting Party?*[29]

28. As regards its jurisdiction, the CJEU noted that Council of the EU, the Hungarian, Finnish and Swedish Governments and Komstroy, all submitted that that Court did not have jurisdiction to provide answers to the questions referred because EU law is inapplicable to the dispute at issue in the main proceedings as the parties to that dispute are external to the EU. That position was not accepted by the CJEU for the reasons which now follow.

29. According to Art. 267 TFEU, the CJEU has jurisdiction to interpret the acts of the institutions, bodies, offices or agencies of the EU. The CJEU's view of its own case-law is that an agreement concluded by the Council, pursuant to Arts. 217 and 218 TFEU constitutes, as regards the EU, an act of one of its institutions, that the provisions of such

[29] *Komstroy* (CL-247), ¶ 20.

an agreement form an integral part of the legal order of the EU from the time it enters into force and that, in the context of that legal order the CJEU has jurisdiction to give a preliminary ruling on the interpretation of that agreement.

30. Further, in the view of the CJEU the fact that the agreement concerned is a mixed agreement, concluded by the EU as well as a large number of Member States, cannot, as such, exclude its jurisdiction to give a ruling in the present case. Since the entry into force of the Treaty of Lisbon, the CJEU is of the view that the EU has exclusive competence, as regards foreign direct investment, pursuant to Art. 207 TFEU and, as regards investments that are not direct, it has shared competence (the latter view is based on Opinion 2/15 (EU-Singapore Free Trade Agreement), of 16 May 2017, EU:C:2017:376, paragraphs 82, 238 and 243).

31. The CJEU did concede that it does not, in principle, have jurisdiction to interpret an international agreement as regards its application in the context of a dispute not covered by EU law. That is the case in particular where such a dispute is between an investor of a non-member State and another non-member State. However, due to its own earlier finding that, where a provision of an international agreement can apply both to situations falling within the scope of EU law and to situations not covered by that law, the CJEU considered it to be clearly in the interest of the EU that, in order to forestall future differences of interpretation, that provision should be interpreted uniformly, whatever the circumstances in which it is to apply.

32. The CJEU noted that the *Cour d'appel* could find it necessary, in a case falling directly within the scope of EU law, such as an action concerning a dispute between an operator of a third country and a Member State, to rule on the interpretation of those same provisions of the ECT. That would be possible not only, as in the present case, in the context of an application to set aside an arbitral award made by an arbitral tribunal which has its seat in the territory of a Member State, but also where proceedings have been brought before the courts of the defendant Member State in accordance with Art. 26(2)(a) ECT.

33. Secondly on this point, the CJEU noted the parties to the dispute in the main proceedings chose, in accordance with Art. 26(4)(b) ECT, to submit that dispute to an *ad hoc* arbitral tribunal established on the basis of the UNCITRAL Rules and agreed, in accordance with those arbitration rules, that the seat of the arbitration should be Paris. That choice has the effect of denoting French law as the *lex fori* (*i.e.* the French courts have jurisdiction to hear actions to set aside an arbitral award made in France for lack of jurisdiction of the arbitral tribunal) and EU law forms part of the law in force in every Member State (relying upon *Achmea*). Consequently, the establishment of the seat of arbitration on the territory of a Member State entails the application of EU law, with the concomitant compliance with which the court hearing the case is obliged to ensure in accordance with Art. 19 of the Treaty on European Union ("**TEU**").

34. Turning to the decision on the substance of the questions put to it by the *Cour d'appel* The CJEU held that there was no need to deal with questions 2 and 3, as the answer to question 1 was 'no'.

35. Komstroy's acquisition of a claim arising from an electricity supply contract did not constitute an "investment" within the ECT's meaning, as it failed the first of two necessary questions. These are: first, whether the contract involves an 'investment' as defined by Art. 1(6) ECT, as: "every kind of asset, owned or controlled directly or indirectly by an investor", including one of the elements listed in paragraphs (a)-(f) of that provision; and secondly, whether the contract is associated with an economic activity in the energy sector.

36. The first question could not be answered in the affirmative, as whilst the contract did involve an investor, the asset at issue was not an investment listed at Art. 1(6) paras (a)-(f). This was taken to be an exhaustive, not indicative, list.

37. For one, the contract could not be regarded as aiming at undertaking an economic activity in the energy sector, as per Art. 1(6)(f) ECT.

38. Additionally, the claim did not arise from a contract connected with an investment under Art. 1(6)(c), because the contractual relationship concerned a commercial transaction

(electricity supply), which is not an investment. The effect of this is that the ECT's dispute settlement mechanism is not applicable.

39. The answer of the CJEU to the question (1) posed to it was, therefore:

> *Article 1(6) and Article 26(1) of the Energy Charter Treaty, signed at Lisbon on 17 December 1994, approved on behalf of the European Communities by Council and Commission Decision 98/181/EC, ECSC, Euratom of 23 September 1997, must be interpreted as meaning that the acquisition, by an undertaking of a Contracting Party to that treaty, of a claim arising from a contract for the supply of electricity, which is not connected with an investment, held by an undertaking of a third State against a public undertaking of another Contracting Party to that treaty, does not constitute an 'investment' within the meaning of those provisions.*[30]

40. However, the CJEU went further and noted that:

> *... it cannot be inferred that that provision of the ECT also applies to a dispute* between *an operator from one Member State and another Member State.*[31]

41. The CJEU's view was that the ECT was an act of EU law due to the fact that the EU Council had itself concluded that treaty (or put another way, the EU, through the action of the EU Council, was a party to the ECT). Thus, an arbitral tribunal established pursuant to Art. 26(6) ECT would necessarily have to interpret and apply EU law. In such circumstances, and based on the CJEU's prior ruling in *Achmea*:

    a. Such an arbitral tribunal is not a court or tribunal of a Member State, and thus not entitled to make a reference to the CJEU for a preliminary ruling;

    b. The full effectiveness of EU law would, therefore, be excluded; and

    c. The exercise of the EU's competence in international matters cannot extend to permitting, in an international agreement, a provision according to which a dispute between an investor of one Member State and another Member State

[30] *Komstroy* (CL-247), ¶ 87. *See also ibid*., ¶ 85.
[31] *Komstroy* (CL-247), ¶ 41.

concerning EU law may be removed from the judicial system of the EU such that the full effectiveness of that law is not guaranteed.

42. The CJEU concluded, on this part of *Komstroy* that:

> *... Article 26(2)(c) ECT must be interpreted as not being applicable to disputes between a Member State and an investor of another Member State concerning an investment made by the latter in the first Member State.*[32]

B. The Tribunal's analysis

43. The Tribunal is not persuaded that *Komstroy*, even if it had been rendered by the CJEU prior to the jurisdictional decision, provides support for the Respondent's argument that ECT jurisdiction in this matter was somehow dissolved or non-existent due to EU law. In short, the Tribunal denies the Respondent's application to reconsider its prior jurisdictional decision for the reasons which now follow.

44. First, the *ratio* of *Komstroy* has no bearing whatsoever on the matters in play in this arbitration. The present case revolves around the Claimants' investment in a putative offshore oilfield *Ombrina Mare*, and the Tribunal's appreciation of the matter is that the fact of such investment (as opposed to the extent and/or consequences, if any, thereof) is not an issue in dispute between the Parties. In *Komstroy* the "investment" was very much an issue in dispute, was of an entirely different nature to the present case, and the CJEU decided what it decided in that regard. It was for the *Cour d'appel* to decide whether it saw fit to refer a matter to the CJEU, and it is for the French court to then to apply the answer it was given in the manner consistent with its own procedures and law. Insofar as *Komstroy* decided, or indeed purported to decide, a live ECT issue, the Tribunal perceives such decision to have no bearing or relevance to its own ICSID jurisdiction in this case.

45. Secondly, insofar as the CJEU engaged in what appears to be an anticipatory or advisory discussion about a hypothetical dispute between an EU Member State investor and an EU Member State respondent, its analysis does not persuade. However, even if the

[32] *Komstroy* (CL-247), ¶ 66.

CJEU's hypothetical scenario was, in fact, the live matter for decision in *Komstroy* it would not persuade.

46. The Tribunal does not understand how the fact that the EU (in addition to or in parallel to the sovereign states who also happen to be EU Member States) is a signatory to the ECT can, in and of itself, operate to turn the ECT in "an act of EU law". At most, the act of signature or ratification by the EU is something it, as an entity created and maintained by a number of sovereign states in Europe, is permitted to do and regulated by its foundational documents. It is a bridge too far, as a matter of public international law, for such an act of signature/ratification to subsume the treaty into the delineated boundaries of EU law. The ECT's text does not, on any view, admit of such a reading or consequence. While the international agreement referenced by the CJEU (EU/Singapore) may well prescribe a role for it, that does not engage a wider principle for all treaties to which the EU itself might be a party where, as with the ECT, the parties thereto chose the dispute resolution mechanisms and applicable law clause they did.

47. Further, the ECT is a multilateral treaty with many sovereign signatories beyond those sovereign states who also happen to be EU Member States. Indeed, the logical destination of the CJEU's approach in *Komstroy* would be, in essence, to have a version of the ECT for the EU and the sovereign states comprising its membership, and another version of the ECT for other sovereign states. If such an outcome is desired, then that lies in the hands of the sovereign parties to the ECT, as well as the EU as a signatory, to conduct such treaty negotiations and agreed changes as they might collectively wish to implement.

48. While the Tribunal can accept, for present purposes, that the ECT may be "**part**" of EU law, it is not, as discussed above, an "**act of EU law**".[33] Being part of EU law does not entail the ECT losing its character as an international agreement subject to and applicable as part of public international law, or that the text and meaning of the ECT must be interpreted and/or applied through the prism of EU law solely by the national courts of

[33] *Komstroy* (CL-247), ¶¶ 23, 49. Emphasis added.

the sovereign states which make up the EU Member States, or the CJEU (itself a body created and maintained by acts of those sovereigns for specific and delineated purposes).

49. While EU law is (like the domestic laws of sovereign States) a source of international law, that does not make it a part of international law, much less a part of international law that has primacy over all other rules of international law, which is the body of law governing relations between all States and jurisdictions in the world.

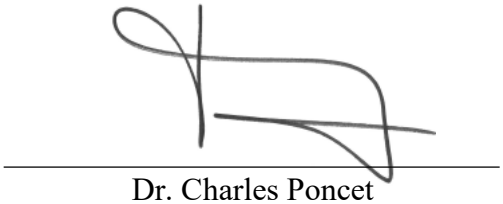
50. Finally, insofar as the CJEU relies on its own judgment in *Achmea* to arrive at the conclusion it does in *Komstroy*, the Tribunal notes that *Achmea* has (both in the Tribunal's prior jurisdiction decision and every international arbitral award or decision of which it is aware) uniformly been found to be unavailing insofar as public international law is concerned.

51. In summary, even putting to one side the advisory or hypothetical comments of the CJEU on an issue which was not before it in *Komstroy*, the Tribunal does not see how that judgment could dissolve its ECT jurisdiction as a matter of the ICSID Convention. The Request for Reconsideration is denied.

V. DECISION

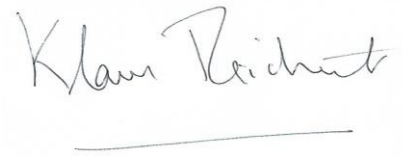
52. For these reasons, the Tribunal **DECIDES** and **ORDERS** that:

a) The Respondent's Request for Reconsideration is denied.



Dr. Charles Poncet
Arbitrator

Prof. Pierre-Marie Dupuy
Arbitrator



Mr. Klaus Reichert SC
President of the Tribunal