EU/Vietnam Investment Protection Agreement

2018/0358M(NLE) - 12/02/2020 - Text adopted by Parliament, single reading

The European Parliament adopted by 406 votes to 184, with 58 abstentions, a non-legislative resolution on the draft Council decision on the conclusion, on behalf of the Union, of the Investment Protection Agreement between the Union and its Member States, of the one part, and the Socialist Republic of Vietnam, of the other part.

Investment protection

The agreement replaces and supersedes the existing bilateral investment treaties between 21 EU Member States and Vietnam, which did not include the EU's new approach to investment protection and its enforcement mechanism, the public Investment Court System (ICS). ;

In particular, the agreement shall:

- ensure a high level of investment protection and legal certainty while preserving the right of the parties to regulate and pursue legitimate public policy objectives in areas such as health, public services and the environment;

- ensure transparency and accountability;

- ensure that European investors in Vietnam receive fair treatment, which corresponds to a higher standard of protection than that applied at national level, and protect EU investors from illegitimate expropriations;

- strengthen economic, trade and investment relations with Vietnam in line with the objective of sustainable development and promote trade and investment in full compliance with internationally recognised standards and agreements in the field of human rights, environment and labour law.

Parliament called on the Commission to take further account of the fight against climate change and respect for the Paris Agreement in safeguarding the Parties' right to regulate. It stressed the need for regular monitoring and reporting to the European Parliament on the use of this provision by European investors.

Members also insisted on investors' duty of due diligence with regard to sustainable business practices, in line with human rights, international labour conventions and environmental standards. Investments should promote the creation of quality jobs, support the local economy and fully comply with national regulations, including tax obligations.

Investor-State Dispute Settlement (ISDS)

Parliament welcomed the EU's new approach to investment protection and its enforcement mechanism (ICS), which constitutes a revised, modern and innovative dispute resolution mechanism compared to the ISDS, significantly changing the level of substantive protection afforded to investors and the way in which investor-state disputes are resolved.

Members recalled that the ICS provides for the establishment of a permanent investment tribunal of first instance and an appeal tribunal, whose members must have qualifications comparable to those of the

judges of the International Court of Justice and comply with strict rules of independence, integrity and ethics. They welcomed the transparency rules applicable to proceedings before the tribunals, which include provisions ensuring that case documents will be publicly accessible.

Concerned that the scope of application extends slightly beyond mere non-discrimination between foreign and domestic investors, Members recalled that the establishment of an independent multilateral investment court would give greater legal certainty to all parties.

Sustainable development and human rights

Although the Investment Protection Agreement does not contain a separate chapter on trade and sustainable development, the preamble contains specific references to the values and principles of trade and sustainable development enshrined in the EU-Vietnam Free Trade Agreement and to the Universal Declaration of Human Rights, thus ensuring that human rights are placed at the heart of EU-Vietnam relations.

Parliament called on the Vietnamese authorities to present concrete measures and called on the parties to use the agreements to improve the human rights situation in Vietnam, while stressing the importance of an in-depth dialogue on human rights between the EU and Vietnam.

Members called for an independent monitoring and complaints mechanism to provide citizens and stakeholders with an effective means of redress and an instrument against the possible negative impact of the agreement on human rights.

The Vietnamese authorities were urged to:

- take concrete measures regarding the implementation of the new cyber security law, in particular with regard to online surveillance and personal data protection measures, which are not compatible with the EU's values-based trade liberalisation agenda;

- ensure that the situation of women is improved so that they can benefit from this agreement;

- work with the European Union to define a plan to combat child labour, including the necessary framework for business.

The Commission was invited to make this agreement transparent and accessible through accompanying measures in favour of small and medium-sized enterprises (SMEs) and to continue its efforts to make the ICS more accessible to SMEs.