

SVEA COURT OF APPEAL  
Department 02  
Division 020104

**MINUTES**  
2019-04-25  
Reported in Stockholm

Doc No. 109  
Case No. T 4658-18

### **MEMBERS OF THE COURT**

Judge of Appeal UB, GS and AM, reporting judge

### **REPORTING AND RECORDING CLERK**

Reporting clerk HM

### **PARTIES**

#### **Claimant**

Kingdom of Spain  
Abogacía General de Estado  
Calle Ayala, 5  
28001 Madrid  
Spain

Counsel: Attorneys PE and MR

#### **RESPONDENT**

Novenergia II - Energy & Environment (SCA), SICAR, B 124550  
28, Boulevard Royale  
L-2449 Luxemburg  
Luxemburg

Counsel: Attorneys FA, JR and RR

### **MATTER**

Challenge and annulment of arbitral award; now question about request for a preliminary ruling from the Court of Justice of the European Union.

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The Kingdom of Spain has requested the Court of Appeal to request a preliminary ruling from the Court of Justice of the European Union in order to clarify whether Article 26 of the ECT is applicable between the member states of the European Union, and if that is the case, whether Article 26 of the ECT is compatible with the European Union's primary law.

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Novenergia II - Energy & Environment (SCA), SICAR has opposed to the request.

After presentation of reports, the Court of Appeal makes the following

**DECISION** (to be made 2019-04-25)

The Court of Appeal concludes that, based on what has been argued before the court, a request for a preliminary ruling from the Court of Justice of the European Union is currently not justified.

The decision may not be appealed separately.

HM

Minutes has been presented/