Statement by the Independent Expert on the promotion of a democratic and equitable international order, Alfred de Zayas on the European Court of Justice’s decision on the free trade agreement between the European Union and Singapore

The United Nations Independent Expert on the promotion of a democratic and equitable international order, Alfred de Zayas, today welcomed the decision of the European Court of Justice in Luxembourg that ruled that the EU-Singapore trade deal will only come into effect when parliaments in all EU-Member States approve it.

“This landmark decision of the European Court of Justice[[1]](#footnote-1) confirms that trade deals excluding affected individuals and peoples are fundamentally flawed and have no democratic legitimacy.

It provides a unique opportunity to make clear that the continued privileges given to foreign investors, the discrimination against domestic investors and the one-way investor-State-dispute settlement mechanism are incompatible with fundamental norms of human rights and EU-law.

As I explained in April 2016 before the Parliamentary Assembly of the Council of Europe,[[2]](#footnote-2) these treaties must be subject to proper consultation and debate by all stakeholders. As a result, this decision constitutes a milestone for the rule of law in the European Union and at the same time for the promotion of a democratic and equitable international order.

I now urge every Parliament of the European Union – and of Singapore – to test the compatibility of the trade deal again their obligations under international human rights law, to articulate the pros and cons of the treaty, in the short and long run, and to condition the ratification of the treaty on the clear understanding that it will not compromise the fulfillment of States’ human rights treaty obligations, especially in the fields of health, labour and environmental standards. In case of conflict between a commercial arrangement and human rights treaties, the latter must prevail.

As I made clear in my previous reports to the Human Rights Council and General Assembly on free trade and investment agreements,[[3]](#footnote-3) trade deals prepared and negotiated in secret, excluding individuals and peoples, especially civil society, trade unions and professional experts, from participation in decision-making not only put into question their validity but actually violate international human rights standards.

I trust this decision will also provide an opportunity for each Parliament to discuss the impact of Investor-State dispute settlement mechanisms that have been used to subvert the rule of law and violate numerous civil, political, economic, social and cultural rights. I also encourage each of the 28 Parliaments to carry out human rights, health and environmental impact assessments to make sure the deal will entail no retrogression in human rights protection.

Lastly, I would also call for all European Union countries – and Singapore – to consider putting the treaty to public referendum, as direct democracy is the best way to ensure public decisions correspond with the wishes of the electorate.”

*Alfred de Zayas
Independent Expert on the Promotion of a Democratic and Equitable International Order*

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1. <https://curia.europa.eu/jcms/upload/docs/application/pdf/2017-05/cp170052en.pdf> [↑](#footnote-ref-1)
2. [http://www.ohchr.org/EN/Issues/IntOrder/Pages/Articles.aspx](https://www.ohchr.org/EN/Issues/IntOrder/Pages/Articles.aspx) [↑](#footnote-ref-2)
3. See reports A/HRC/30/44 ; A/HRC/33/40 and A/70/285 [↑](#footnote-ref-3)