

PUBLIC INTERNATIONAL LAW: ALTERNATIVE SEMINAR ZDENĚK NOVÝ

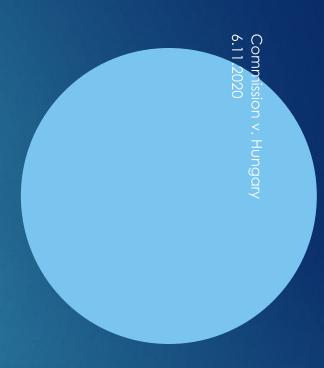
The central issue

Does the Hungarian statute on higher education comply with its WTO (i.e. international-law) obligations?

But: where is the infringement of EU law?

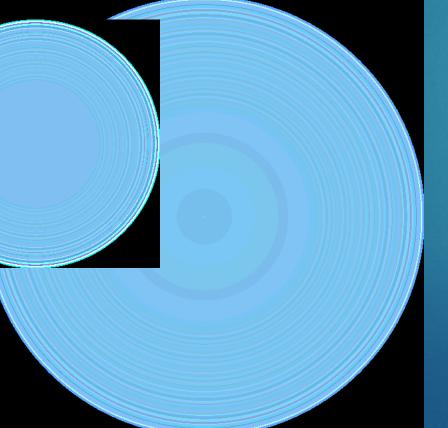
Context

- ► Art. 258 TFEU the infringement procedure
- Subjects involved:
 - Commission
 - ► CJEU
 - Member state (s)



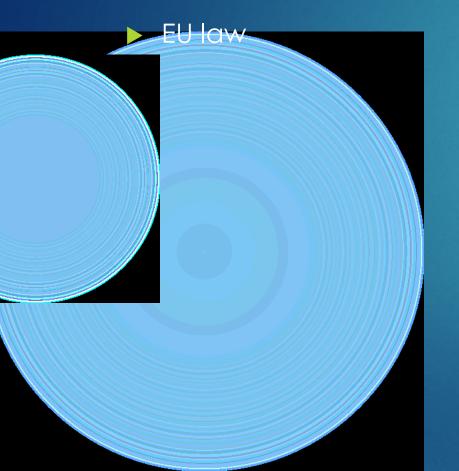
An argument by Hungary

 CJEU lacks jurisdiction over MS' compliance with its obligations arising from WTO treaties



International treaties concluded by EU are a source of EU law

International law





What is the relationship between domestic law and international law in the eyes of CJEU?

of WTO (GATS) obligations (?)

Key references to international law

- Observance of international treaties (pacta sunt servanda) VCLT (para 92)
- State responsibility under international law DARSIWA embodying customary international law:
- The relationship between domestic and international law:
- Characterization (para 88)
- Non-invocation (para 90)

6.11/2020

The result

- Hungary has breached EU law by discrimination of higher education institutions from third states in establishing in this country
- Strictly speaking, Hungary has violated no provision of law adopted by the EU itself, but rather an international treaty the latter has entered into (an internat enforcement of international treaty within the EU)

An interesting argument

 "Consequently, that characterisation cannot be affected by any characterisation of the same act that might be made under EU law." (Judgment, para 88) ► Thank you.

