



НАЦИОНАЛЬНЫЙ ИССЛЕДОВАТЕЛЬСКИЙ  
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# **PRELIMINARY RULING AS AN ACCESS TO JUSTICE TOOL: CASE OF THE EAEU COURT**

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Helsinki, 2018



# PRELIMINARY RULING IN THE EU

- Aim: “to ensure that [Union] law is applied uniformly by national courts” (Case 66/80, International Chemical Corporation)
- Aim of the EAEU Court: to ensure ‘uniform application by the Member States and Bodies of the Union of the Treaty, international agreements within the Union, international agreements of the Union with a third party and decisions of the Bodies of the Union
- ECJ on preliminary ruling:
  - indispensable for preserving the very nature of the law, created by the founding Treaties (Opinion 1/09)
  - keystone of the judicial system of the EU (Opinion 2/13)
  - guarantees that law has uniform effect in all circumstance in all member states (Case 166/73 Rheinmuhlen-Dusseldorf)



# PRELIMINARY RULING IN THE EU

- Developed all the major principles and doctrines of EU law
- Protection of individual rights
- Monitoring member states' compliance with EU legal obligations
- Unity of the judicial system
- Etc.





# MECHANISM AVAILABLE IN THE EAEU: ADVISORY OPINION?

(not to be confused with EU's advisory opinion)

Para. 46: At the request of a Member State or a Body of the Union, the Court shall provide clarifications to provisions of the Treaty, international treaties within the Union and decisions of the Bodies of the Union . . .

Para. 47: Providing clarifications by the Court shall mean providing an advisory opinion and shall not deprive the Member States of the right for joint interpretation of international treaties.

Para. 49: An appeal with a request to resolve a dispute or a request for clarification shall be lodged with the Court on behalf of a Member State by its authorised authorities and organisations, the list of which shall be compiled by each Member State and sent to the Court via diplomatic channels.

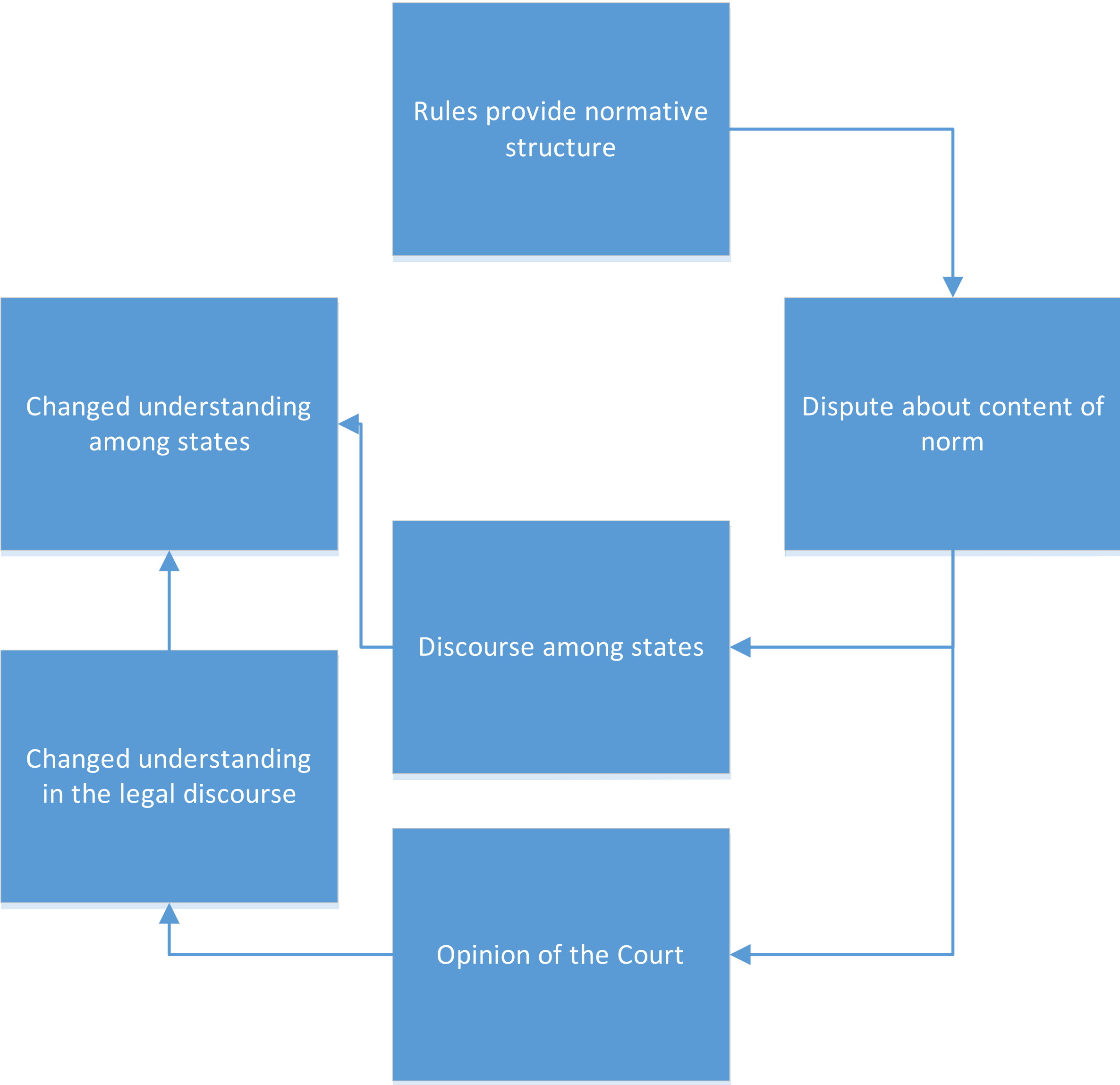
Para. 98: Advisory opinion issued following clarification requests shall be non-binding.



# MECHANISM AVAILABLE IN THE EAEU: ADVISORY OPINION?

3 problems:

1. Not obligatory
2. Priority of interpretation by member states
3. Absence of obligation to refer





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