

Alan Uzelac on the current challenges to investor-state arbitration in Europe

Prof. Uzelac has published recently an article on the current challenges to investor-state arbitration in Europe. The article comes almost as a birthday present, to celebrate one year after the CJEU published its famous *Achmea* ruling. The summary of the article reads as follows:

This paper addresses the current challenges to investor-state arbitration in Europe. Two parallel developments are outlined: the current change in the EU policy towards arbitration provisions in multilateral and bilateral investment treaties, and the consequences of the Achmea case decided by the Court of Justice of the European Union in March 2018. The author analyses the critical arguments behind the current European anti-arbitration stance and concludes that while some of them (but not all) may have some foundation, a sufficient number of reasons speak against the radical dismantling of the system of international investment arbitration. An analysis of the proposed alternatives shows that they fail to deliver viable solutions for diagnosed problems. In particular, the replacement of ad hoc tribunals by a multilateral investment court (MIC) seems to be a step in the wrong direction. The ISDS has played an important role in the global fostering of international investment by securing a basically fair system of dispute resolution in a very specific field. Its deficiencies are not beyond repair; on the other hand, the alternatives offered suffer from flaws that are the same or much more troubling. The author concludes that the consequences of the 'change of tide' in the approach to investor-state dispute resolution are likely to be detrimental to the very goals of those who advocate the abandoning of investment arbitration.

The article was published in the journal *Access to Justice in Eastern Europe* (AJEE), and is available in full text [here](#).