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## 21 KEY ARBITRATION DEVELOPMENTS FROM 2020

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# 4. Intra-EU ECT claims to be reviewed by CJEU

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In March 2018, the Court of Justice of the European Union (CJEU) ruled in Achmea that arbitration claims under intra-EU BITs are incompatible with EU law.

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Most EU Member States terminated their intra-EU BITs as a result.

However, this left open the question of whether intra-EU claims brought under the Energy Charter Treaty were still permitted.

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This question has now been referred to the CJEU to consider.

In the case of *Moldova v Komstroy*, a number of Member States have intervened, requesting the CJEU to determine this question.

On 3 December 2020, Belgium submitted a request to the CJEU for an opinion on whether intra-EU arbitration claims under proposed revisions to the ECT are compatible with EU law.

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