

Question for written answer E-006396/2018
to the Commission
Rule 130
Franck Proust (PPE)

Subject: Implications of the Achmea judgment

On 19 July 2018, the Commission issued a statement on the Achmea judgment handed down by the Court of Justice of the European Union on 6 March 2018. In that statement, it recommends the immediate termination of all intra-EU bilateral investment treaties (BITs), to apply retroactively to ongoing arbitration proceedings, and that Member States should refuse to recognise prior arbitration awards, including those granted under the Energy Charter Treaty.

The Commission has not carried out an impact assessment on the retroactive application of the judgment to investments already carried out, even though it could produce a very significant number of different outcomes.

1. If the Member States terminate the BITs between them, can the Commission ensure a level of protection for EU investments which matches the protection afforded by BITs, given that investors in third countries will still be protected under BITs?
2. What new system will the Commission bring in to ensure that disputes relating to intra-EU investments are resolved quickly and impartially?
3. As regards prior and ongoing arbitration cases, will the Commission provide legal safeguards and legal certainty for Member States and investors?