

# Kluwer Arbitration Blog

## From the Editors of Kluwer Arbitration Blog: 2021

Crina Baltag (Managing Editor) (Stockholm University) and Roger Alford (General Editor) (Notre Dame Law School) · Saturday, December 25th, 2021

At Kluwer Arbitration Blog, December is the month to thank our readers, collaborators and editors for their tremendous support. We come at the end of a year of challenges and renewed hopes, for a 2022 where we can meet in person and celebrate our achievements. We would like to express our gratitude for your contributions and insightful comments, and for your active readership.

[Kluwer Arbitration Blog](#) is celebrating its 13<sup>th</sup> anniversary in 2022 and we hope that we continue to deliver meaningful content to your busy inboxes. This year, we have covered a range of topics and jurisdictions, from [economic sanctions and arbitration](#) to the new [Tonga arbitration law](#). As always, 2021 was a generous year for [Kluwer Arbitration Blog](#), with over 160,000 readers every month, from Sint Maarten to the US.

While we are still under covid-19's restrictions and consequences on arbitration proceedings, we are looking forward to new developments in 2022, including new arbitration rules and [laws](#). Specifically, all eyes will likely be on the UK Law Commission as the 1996 Arbitration Act revision will address the power to summarily dismiss unmeritorious claims or defences in arbitration proceedings; the courts' powers exercisable in support of arbitration proceedings; the procedure for challenging a jurisdiction award; the availability of appeals on points of law; the law concerning confidentiality and privacy in arbitration proceedings; and the electronic service of documents, electronic arbitration awards, and virtual hearings.

The ISDS reform under the auspices of [UNCITRAL Working Group III](#) will continue, with the regular sessions in Vienna and New York, as well as with the intersessional meetings and informal discussions, as the approved calendar suggests that reform will be concluded in 2026. The 41<sup>st</sup> [session](#) in Vienna was the first reading of the Draft Code of Conduct for Adjudicators in ISDS proceedings, and the first in-person session since the beginning of the pandemic. We expect that the 42<sup>nd</sup> session in New York will finalize the reading of the Code of Conduct, which will be ready for submission to the UNCITRAL Commission in 2022. The revision of the ICSID Arbitration Rules is now at the 6<sup>th</sup> [Working Paper](#) and, most probably, the adoption of the new Rules will happen in 2022.

We have continued to reflect the developments post-*Achmea* before the Court of Justice of the European Union ('CJEU') in 2021. The judgment in *Moldova v. Komstroy* was the opportunity for the CJEU to address the effects of *Achmea* on the Energy Charter Treaty ('ECT'), which is

currently undertaking a [modernisation](#) process, likely to be completed in June 2022. Although the Advocate General Szpunar, in his [opinion](#) in *Micula*, has highlighted that *Achmea* is irrelevant in the context of this case, the CJEU, in deciding on the appeal against the [judgment of the General Court of CJEU](#), might take this opportunity, as it did in *Komstroy*, to address any pending, unresolved post-*Achmea* issues. The judgment of the CJEU on appeal is likely to be issued before the end of January 2022. Concluding a very busy year for CJEU, *Poland v. PL Holdings* judgment of October 2021 confirmed that *Achmea* extends to ad-hoc arbitration agreements which are identical to the arbitration clauses in intra-EU BITs. It is likely that in 2022 we will see further developments on at least the following issues: (i) the prevalence of the EU order over the international legal order; (ii) the power of national and supra-national courts to interpret international treaties; (iii) intra-EU application of the ECT, irrespective of a future disconnection clause in the ECT. Some of these points will probably be addressed by the CJEU in the [opinion](#) requested by Belgium on the interaction between EU law and the future modernised ECT.

Further and in the context of intra-EU investment protection, we expect that the European Commission will reveal the proposal for the ‘[Intra-EU investment protection and facilitation](#)’, as the consultations have concluded in September 2020.

As usual, this is also the time to acknowledge and thank our [Editors](#). We are grateful to our Editors for their tremendous work behind each published post, for actively engaging with our arbitration community, and for maintaining the high standards of quality here at Kluwer Arbitration Blog. The Blog is also the result of the fruitful collaboration with its publisher, [Wolters Kluwer](#), and the Editorial Board is grateful to Vincent Verschoor, editor and content manager with Wolters Kluwer, for ensuring that we deliver the best final product to our readers.

We are also grateful to the permanent contributors and to the affiliates of the Blog, some being with us from the first days of Kluwer Arbitration Blog.

We are committed to delivering [diverse](#) arbitration. We believe that the arbitration community must actively pursue gender, age, racial etc. diversity in international arbitration and [Kluwer Arbitration Blog](#) is ensuring that this is reflected in its publications and in its editorial board.

We would like to thank you for all your support and we send our best wishes for the Festive Season. We wish you a better 2022, with health and joy!

Professor Roger Alford and Professor Dr Crina Baltag, on behalf of the Editorial Board


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The graphic features a black background with white text and a circular icon. The icon depicts a magnifying glass over a group of stylized human figures, representing a search or investigation process. The text is arranged in a clean, modern layout with horizontal lines above the main heading.

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