

# Exploring the interaction between arbitration and EU (competition law): Achmea and Micula

GCLC

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T-624/14, T-694/15 and T-704/15, European food e.a./Commission

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*All views expressed are personal*

# Introduction

- Factual background
- Bilateral investment treaty between Sweden and Romania/Arbitration procedure (ICSID)
- Compensation/Damages granted by the arbitrator due to a breach of the BIT
- Decisions of the Commission to suspend the implementation of the arbitral award and to order the recovery of an illegal aid

# Main legal issues

- Conflict of system/International law vs EU law
- Application of EU State aid rules/Competence of the Commission
- Article 107 TFEU: imputability to the state/selective advantage
- Article 351 TFEU

# Solution

- Incompetence of the Commission to apply state aid rules to facts prior to Romania accession to the EU
- No advantage, under state aid rules, at least for the period 2005-2007

# Conclusive remarks/Open questions

- New decision of the Commission?
- Article 351 TFEU/Validity of the BIT?
- Imputability to the state of an arbitral award