

# PETERKA PARTNERS

THE CEE LAW FIRM

PETERKA & PARTNERS invites you to the business breakfast:

## „Protection of investment in the EU - Implications of the judgment of the Court of Justice of the EU in Slovak Republic v Achmea BV”

- Date:** 17 April 2018
- Time:** 09:00 – 11:00
- Address:** PETERKA & PARTNERS advokátní kancelář s.r.o., Karlovo náměstí 24, Prague 1
- Schedule:** 8:45 – 9:00 Registration  
9:00 – 10:00 Presentation  
10:00 – 10:30 Open discussion

### Speakers:



**Jiří Černý**

Partner, Leader of Litigation and Insolvency at PETERKA & PARTNERS



**Dan Loukota**

Senior Associate at PETERKA & PARTNERS

### Registration and organizational matters:

For registration, please contact Tereza Lacmanová +420 225 396 381, [lacmanova@peterkapartners.cz](mailto:lacmanova@peterkapartners.cz). The presentation will be in Czech (but English version is available too). **Registration is free of charge. Please register by 3 April.**

## Main issues

- In *Slovak Republic v. Achmea BV (C-284/16)*, the Court of Justice of the EU held that the arbitration clauses of bilateral investment treaties concluded between EU Member States (intra-Union BITs), are inconsistent with Articles 267 and 344 TFEU (in the aforementioned case, Article 8 BIT between the Czech and Slovak Federal Republic and the Kingdom of the Netherlands).
- The judgement is based on the fundamental argument that the Member States are not allowed to establish a dispute settlement mechanism between them and the investor, which may cause these disputes concerning, inter alia, interpretation or application of EU law to be decided by an authority outside the ordinary judicial system of the EU, i.e. an authority which cannot refer a question for a preliminary ruling to the Court of Justice of the EU.
- Given the situation above, what is the level of protection of foreign investment in the Union?
- Are arbitral awards issued on the basis of the intra-Union BITs enforceable?
- What impact does the decision have on the applicability of the arbitration clauses negotiated in other BITs?