

International Investment Law and Dispute Settlement: Current Developments

ECTS: 3

KSL Root Number: 446639

This course will examine the latest trends in the negotiation and implementation of international investment agreements (IIAs), placing them into their political economy and public policy context, and with respect to investment dispute settlement, non-litigious investor-State conflict management, devoting particular attention to the most recent jurisprudence in investor-state arbitration and proposals for ISDS reform, including the use of non-litigious means for addressing investor-State conflicts, developments of standing or multilateral investment courts, following developments in the EU, Canada and UNCITRAL, as well as proposals for improving ISDS or replacing it with alternative means.

In addition to the recently developed concept and practice on non-litigious investor-State conflict management, key features of investor-state arbitration procedures will be explored, exploring the main phases of the investor-state arbitration process, such as consent and jurisdiction, the implications of the choice of different procedural rules (with particular focus on ICSID and UNCITRAL), available remedies and post-award remedies. It will also introduce and highlight the current developments of ISDS alternative means of dispute resolution (ADR) different to arbitration.

This course will also analyse the latest trends in the negotiation and implementation of IIAs, devoting particular attention to investment promotion and facilitation, as well as the most recent jurisprudence on investment protection. Key differences in the substance of investment protection between bilateral investment treaties (BITs) and the investment chapters of preferential trade agreements, particularly recent mega-regional agreements such as CETA, the CPTPP, and the USMCA, are explored.

Alternatives to regulatory fragmentation in investment law are also addressed, including the relationship between investment and trade, as well as and economic development and prospects for multilateral rule-making in the investment field.

At the end of this week, participants will:

- Have a clear understanding of the conceptual differentiation between investor-State conflict management and investor-State dispute resolution and the practical implications of such distinction
- Have a clear understanding of the network and architecture of rules governing the settlement of investment disputes at the domestic, bilateral, regional and multilateral levels.
- Know the key trends, main features and effects of dispute settlement procedures in international investment law.
- Understand specific topics on investor-State arbitration, such as the implications of the choice of different procedural rules.
- Know recent developments on investment law treaty making, including the relationship with trade agreements as well as economic development.
- Understand the most important reforms to policy and regulations regarding investor-State dispute settlement that have been implemented or proposed as alternatives to investor-State arbitration or to improve that system.