

Preface

In the last two decades, there has been an influx of international investment arbitrations cases. The increased use of arbitration to resolve investor-state disputes is a direct consequence of overwhelming foreign direct investments and the exponential growth of bilateral investment treaties and free trade agreements. This dispute resolution mechanism was designed to depoliticize investment disputes and offers a specialised and neutral forum to hear disputes arising between foreign investors and the host state of their investments. The increased number of cases under ICSID^[1] and use of ISDS mechanisms to challenge public policy measures have induced countless academic publishing in the area. However, at the date of writing of this Handbook, little had been written on the practical aspect of investment arbitration. Any existing texts provided little guidance or adopted too much of a ‘textbook style’ approach.

Generally an investment treaty provides the possibility to conduct investment arbitration. In our globalized economy, an increased number of investors are willing to benefit from the protection of investment arbitration but they are often faced with its numerous technicalities. This book aims to provide practical information to both investors and practitioners. It defines key terms, identifies key actors, and sets out today’s legal context, procedures and practice in relation to investment arbitration.

It examines particular features of the ICSID arbitration procedure, such as:

- *A neutral and self-contained system*: the law of the seat has no impact whatsoever on the proceedings. It also has its internal mechanism for rectification, interpretation, revision and annulments. ICSID awards are final and not subject to any appeal or review by national courts.
- *Increasing transparency*: ICSID offers the possibility for non-disputes parties to attend the oral hearings giving the opportunity to Member States to show themselves as friendly investment States and capable to make public their legal duties and rights on a legal proceeding.

[1] As of 30 June 2015, ICSID had registered 525 cases under the *ICSID Convention* and Additional Facility Rules, see further, The ICSID Caseload – Statistics, Issue 2015-2, available at: [https://icsid.worldbank.org/apps/ICSIDWEB/resources/Documents/ICSID%20Web%20Stats%202015-2%20\(English\).pdf](https://icsid.worldbank.org/apps/ICSIDWEB/resources/Documents/ICSID%20Web%20Stats%202015-2%20(English).pdf)

- *Clear and reasonable costs schedules*: ICSID provides a transparent cost structure.

This book was created with the help of the Association for International Arbitration (AIA) IVZW and the input of the leading experts from Billiet&Co, a law firm known for its expertise in international arbitration. The book follows the four chapters of the course on international investment arbitration as given by Johan Billiet at the Vrije Universiteit Brussels:

- General principles to investor state arbitration;
- Standards of protection in international investment agreements;
- Jurisdiction and admissibility in investor state arbitrations and types of juridical objections; and
- Annulment and enforcement of awards.

As there has been significant activity in this field, the authors of this book found it important to put together a handbook that provides an up-to-date manual on investment arbitration. New cases have been considered and analysed. The handbook describes and evaluates recent developments in ICSID and non-ICSID arbitrations.

The present volume is written to provide concise and practical guidance on the fundamental principles and aspects of international investment arbitration. The aim is not to present an academic textbook but to set out clearly and in a straightforward language the main features of investment arbitration important for investors and practitioners. Ultimately, the objective is to give readers the ability to participate effectively and understand this dynamic and controversial area of international arbitration.

The authors of this book would like to address a special thank you note to Ms Polina Gryganska. Polina Gryganska completed her Bachelor and Master of International Law at the Institute of International Relations of the Kyiv National Taras-Shevchenko University, as well as her Bachelor and Master of Ukrainian Law. She holds an LL.M. from the University of Konstanz, Germany. Polina Gryganska has worked for the Association for International Arbitration (AIA) in Brussels. During her stay at AIA she helped reviewing and editing this handbook.