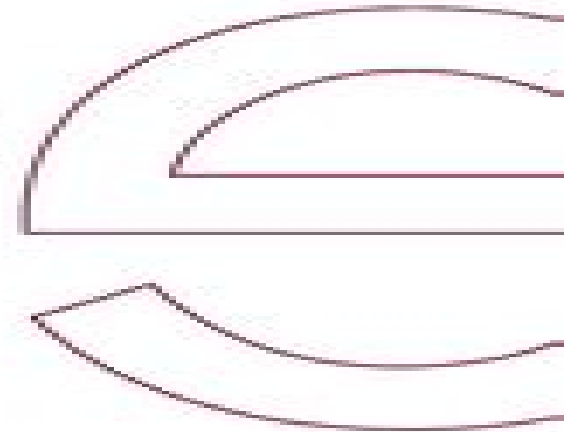


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**Monique Sasson**



## **Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes:**

Applicable Law in International Investment Disputes Taida Begic, 2005 This book gives a comprehensive overview of all relevant aspects of the issue of applicable substantive law in the context of investor State arbitration It is a comparative survey of both the International Center for Settlement of Investment Disputes ICSID and non ICSID arbitral practice The applicable substantive law represents an important issue in investment disputes as it determines the rules of law that should be applied to the merits of the dispute This study demonstrates the need for a discussion on the applicable law before examining the merits of the case as it appears to be non existent in most arbitral awards The author gives an extensive survey of choice of law clauses as found in direct agreements between parties and in multilateral or bilateral investment treaties Furthermore the author analyzes the following issues stabilization clauses in investment agreements the application of the residual rule if parties failed to agree on the applicable law the special position of the Iran US Claims Tribunal and various annulment decisions

International Investment Law and Arbitration Todd Weiler, 2005 Presents a collection of essays

Applicable Law in Investor-State Arbitration Hege Elisabeth Kjos, 2013-03-21 Investment arbitration has become the key forum to settle disputes between investors and the host state It is not clear from the arbitration agreements which body of law the arbitrators should apply national or international This book examines how the legal framework which the arbitral panels operate in influences which body of law they apply

**Litigating International Investment Disputes** Chiara Giorgetti, 2014-07-03 Each year a growing number of complex and distinctive cases are filed in diverse forums which specialize in international investment arbitration Until now however no single manual has guided practitioners through the many complexities involved in international investment arbitration proceedings from whether and how to initiate arbitral proceedings to the enforcement of the award and available post award remedies Litigating International Investment Disputes A Practitioner's Guide fills this lacuna by serving as a comprehensive resource for those who are new to international investment arbitration as well as for the seasoned practitioners The diverse group of contributors are highly experienced experts and practitioners who have acted as counsel and arbitrators and served in institutions which routinely administer international investment arbitration proceedings

*Building International Investment Law* Meg Kinnear, Geraldine R. Fischer, 2015-12-22 This volume celebrates the first fifty years of the International Centre for Settlement of Investment Disputes ICSID by presenting the landmark cases that have been decided under its auspices These cases have addressed every aspect of investment disputes jurisdictional thresholds the substantive obligations found in investment treaties contracts and legislation questions of general international law and a number of novel procedural issues Each chapter written by an expert on the chapter's particular focus looks at an international investment law topic through the lens of one or more of these leading cases analyzing what the case held how it has been applied and its overall significance to the development of international investment law These topics include applicable law res judicata in investor State arbitration

notion of investment investor nationality consent to arbitration substantive standards of treatment consequences of corruption in investor State arbitration State defenses counter claims assessment of damages and cost considerations ICSID Arbitration Rule 41 5 objections mass claims consolidation and parallel proceedings provisional measures arbitrator challenges transparency and amicus curiae and annulment Because the law of international investment continues to grow in importance in an ever globalizing world this book is more than a fitting way to mark the past fifty years and to welcome the next fifty years of development It will prove both educational for practitioners new to the field and informative for seasoned investment lawyers Moreover the book itself is a landmark that will be of great value to professionals scholars and students interested in international investment law     *Applicable Law in Investor-State Arbitration* Hege Elisabeth Kjos,2013-03-21 Investment arbitration has become the key forum to settle disputes between investors and the host state It is not clear from the arbitration agreements which body of law the arbitrators should apply national or international This book examines how the legal framework which the arbitral panels operate in influences which body of law they apply     International Investment Law Hélène Ruiz Fabri,Edoardo Stoppioni,2022-05-19 Written by leading experts in the field this collection offers a critical and comparative analysis of the existing case law on international investment law The book makes a topical contribution to the existing literature showing most notably that 1 international investment law has a longer history than that generally considered and that this history is fundamental to understanding its development 2 international investment law is crafted today by a large number of actors These include not only investment arbitrators but also a variety of international and national courts and tribunals and 3 the literature and case law in languages other than English and from different legal cultures is essential to grasp the essence of the development of the topic This book brings together more than 40 experts from different countries and legal traditions and combines conceptual analysis and archival investigation of landmark case law to provide the reader with a fresh and innovative understanding of the breadth of international investment law

**Substantive Law in Investment Treaty Arbitration** Monique Sasson,2016-04-24 This new edition of what has rapidly become the pre eminent work on the role of municipal law in investment treaty arbitration is justified not only by the accelerating appearance of investment treaty awards but also by the continuing serious flaws in the application of international law by investment treaty arbitral tribunals As a matter of international law arbitrators need to be attentive to the circumstances where municipal law supplies the necessary substantive legal rule They will find this book to be the best guide to this complex challenge The author has maintained the overall structure of the first edition and added a new chapter on Article 42 of the ICSID Convention Certain descriptions and arguments have been rethought and revised to clarify their significance and their applicability The treatment focuses on the role of municipal law in providing the substance for concepts such as contracts property rights and shareholders rights which are relevant in the international investment treaty context but are not regulated under international law Among the complex questions considered are the following If the

application of international law requires a renvoi to municipal law how should that renvoi be conducted In investment disputes what role if any should municipal law have in assessing State attribution under international law Should shareholders receive compensation for damages suffered by their company due to a violation of an international obligation vis vis the company Does a contractual right exist to foreign investment property Under what conditions may a violation of municipal law become internationally wrongful May foreign investors rely on expectations as an autonomous source of rights in investment treaty disputes Does an alleged breach of an umbrella clause transform a breach of contract claim covered by municipal law into an international law claim The chapters answer these and many other questions in extraordinary depth drawing on detailed analyses of the issues and implications posed by major relevant cases and arbitral decisions The author s analysis of the unavoidable interaction of municipal law and international law in investment treaty arbitration and the consequences stemming from rejecting the application of municipal law when relevant will continue to prove of

immeasurable value to arbitrators arbitration counsel corporate counsel and scholars of international law **Human Rights in International Investment Law and Arbitration** Pierre-Marie Dupuy, Francesco Francioni, Ernst-Ulrich Petersmann, 2009 This book offers a systematic analysis of the interaction between international investment law investment arbitration and human rights including the role of national and international courts investor state arbitral tribunals and alternative jurisdictions the risks of legal and jurisdictional fragmentation the human rights dimensions of investment law and arbitration and the relationships of substantive and procedural principles of justice to international investment law Part I summarizes the main conclusions of the 24 book chapters and places them into the broader context of the principles of justice global administrative law and multilevel constitutionalism that may be relevant for the administration of justice in international economic law and investor state arbitration Part II includes contributions clarifying the constitutional dimensions of transnational investment disputes and investor state arbitration as reflected in the increasing number of arbitral awards and amicus curiae submissions addressing human rights concerns Part III addresses the need for principle oriented ordering and the normative congruence of diverse national regional and worldwide legal regimes focusing on the pertinent dispute settlement practices and legal interpretation methods of regional economic courts and human rights courts which increasingly interpret international economic law with due regard to human rights obligations of the governments concerned Part IV includes twelve case studies on the potential human rights dimensions of specific protection standards e g fair and equitable treatment non discrimination applicable law e g national and international human rights law rules on corporate social accountability procedural law issues e g amicus curiae submissions and specific fundamental rights e g the protection of human health access to water and protection of the environment These case studies discuss not only the still limited examples of human rights discourse in investor state arbitral awards they also probe the potential legal relevance of investor state arbitration for the judicial recognition interpretation and balancing of primary rules such as of investment law

and human rights law in the light of the principles of justice as defined by national and international law      *The Foundations of International Investment Law* Zachary Douglas, Joost Pauwelyn, Jorge E. Viñuales, 2014-05-01 International investment law is one of the fastest growing areas of international law It has led to the signing of thousands of agreements mostly in the form of investment contracts and bilateral investment treaties Also in the last two decades there has been an exponential growth in the number of disputes being resolved by investment arbitration tribunals Yet the legal principles at the basis of international investment law and arbitration remain in a state of flux Perhaps the best illustration of this phenomenon is the wide disagreement among investment tribunals on some of the core concepts underpinning the regime such as investment property regulatory powers scope of jurisdiction applicable law or the interactions with other areas of international law The purpose of this book is to revisit these conceptual foundations in order to shed light on the practice of international investment law It is an attempt to bridge the growing gap between the theory and the practice of this thriving area of international law The first part of the book focuses on the infrastructure of the investment regime or more specifically on the structural arrangements that have been developed to manage foreign investment transactions and the potential disputes arising from them The second part of the book identifies the common conceptual bases of an array of seemingly unconnected practical problems in order to clarify the main stakes and offer balanced solutions The third part addresses the main sources of regime stress as well as the main legal mechanisms available to manage such challenges to the operation of the regime Overall the book offers a thorough investigation of the conflicting theoretical positions underlying international investment law testing their worth by reference to concrete issues that have arisen in the jurisprudence It demonstrates that many of the most important practical questions arising in practice can be addressed by a carefully dosed resort to theory

*International Investment Law* Hélène Ruiz Fabri, Edoardo Stoppioni, 2022-05-19 Written by leading experts in the field this collection offers a critical and comparative analysis of the existing case law on international investment law The book makes a topical contribution to the existing literature showing most notably that 1 international investment law has a longer history than that generally considered and that this history is fundamental to understanding its development 2 international investment law is crafted today by a large number of actors These include not only investment arbitrators but also a variety of international and national courts and tribunals and 3 the literature and case law in languages other than English and from different legal cultures is essential to grasp the essence of the development of the topic This book brings together more than 40 experts from different countries and legal traditions and combines conceptual analysis and archival investigation of landmark case law to provide the reader with a fresh and innovative understanding of the breadth of international investment law      **International Investment Law. The Sources of Rights and Obligations** Tarcisio Gazzini, Eric De Brabandere, 2012-08-22 Drawing on State practice arbitral awards and national decisions this book provides a systematic study of the sources of rights and obligations in the field of transnational investment and their coordination and interaction

**General Principles of Law and International Investment Arbitration** Andrea Gattini, Attila Tanzi, Filippo

Fontanelli, 2018-05-29 General Principles of Law in Investment Arbitration surveys the function of general principles in the field of international investment law particularly in investment arbitration The authors analysis provides a representative case study of how this informal source operates alongside and in the absence of other sources of applicable law The contributions are divided into two parts devoted respectively to substantive principles and procedural ones The principles discussed in the book are selected for their currency in the practice their contested nature and their relevance

**Investors, States, and Arbitrators in the Crosshairs of International Investment Law and Environmental Protection** Crina Baltag, Ylli Dautaj, 2020-07-27 In Investors States and Arbitrators in the Crosshairs of International Investment Law and Environmental Protection Dr Crina Baltag and Ylli Dautaj look at the investor State dispute settlement system and inquire whether this is the most suitable transnational venue for resolving investment disputes that have an environmental component This culminates essentially in whether arbitration is a legitimate forum and whether privately appointed arbitrators appropriately can resolve environmental related disputes These disputes are bound to increase in frequency because host States are also partaking in global efforts to respond to environmental challenges **International Investment Law and Investor-State Disputes in Central Asia** Kiran Nasir Gore, Elijah Putilin, Kabir Duggal, Crina Baltag, 2022-12-09 The five Central Asian States Kazakhstan the Kyrgyz Republic Tajikistan Turkmenistan and Uzbekistan collectively present a unique case study for the nexus between international investment frameworks investor State dispute settlement ISDS and the future of this field In this groundbreaking book the editors have curated contributions from globally renowned practitioners and scholars to provide the first comprehensive overview of experiences and lessons arising from the region This book draws upon the Central Asian experience with international investment law and ISDS to develop globally relevant insights and analyses on among other topics approaches to foreign direct investment and domestic investment legislation jurisdictional questions arising in investment treaty arbitration such as the notion of investor and the definition of investment the interpretation of investment treaties and the role of international and domestic law substantive and procedural rights of foreign investors with a focus on guarantees against expropriation and most favoured nation and fair and equitable treatment standards arbitral awards as well as grounds and procedures for their enforcement and annulment the state of play for allegations of corruption and fraud once a dispute has arisen and emerging challenges and opportunities in light of ongoing reform initiatives This book establishes that the Central Asian experience should be taken into consideration in any comprehensive and robust discussion on the future of international investment law and ISDS It provides useful analyses of how these frameworks may be improved reformed and remain fit for purpose This book is an essential tool that allows practitioners arbitrators policymakers and scholars to confidently engage with the substantive and procedural challenges and opportunities that are anticipated in the next generation of investor State disputes **Attribution in**

**International Investment Law** Csaba Kovács, 2018-08-20 The term attribution refers to the means by which it is ascertained whether the State is involved in a dispute governed by international law The notion of attribution is primarily used to determine if the State is responsible for the wrongful conduct of persons or entities with links to the State In the context of international investment law the exponentially growing arbitration jurisprudence arising from international investment agreements IIAs especially bilateral investment treaties BITs reflects the extent and risk of attribution determined in investment relationships that often involve State enterprises This book the first in depth study of the uses of attribution in international investment law provides a deeply informed analysis of the treatment of attribution in applicable legal instruments and investment arbitration jurisprudence worldwide The analysis responds to such questions as the following When is a conduct attributable to the State for the purposes of its responsibility under international investment law What legal instruments govern the question of attribution under international investment law In what circumstances is the State the proper party to a contract entered into by a State owned enterprise with an investor protected by an investment treaty How can State policymakers minimise their international law responsibility within the existing framework of attribution in international investment law How can investors maximise their protection within the existing framework of attribution in international investment law Also covered are the procedural treatment of attribution by investment tribunals explication of such broad brush wordings as elements of governmental authority and under the direction or control and the impact of the rise of State owned enterprises as investors Ongoing and future trends in the jurisprudence are also taken into account A one stop reference on the question of attribution in international investment law the analysis extracts identifiable commonalities among instruments and rulings turning them into useful practice tools This book will prove invaluable for practitioners advising States or investors in investment disputes More generally this book will be welcomed by arbitrators in house counsel for companies doing transnational business and international arbitration centres as well as by academics in international arbitration

*Domestic Law in International Investment Arbitration* Jarrod Hepburn, 2017 Although domestic law plays an important role in investment treaty arbitration this issue is little discussed or analysed When should investment treaty tribunals engage with domestic law How should investment treaty tribunals resolve matters of domestic law These questions have significant ramifications for both the legitimacy of the investment treaty system and the arbitral mandate of the tribunal members Drawing on case law international law principles and comparative analysis this book addresses these important issues Part I of the book examines three areas of investment law the fair and equitable treatment standard expropriation and remedies in which the role of domestic law has so far been under appreciated It argues that tribunals are justified in drawing on domestic law as a relevant factor in their rulings on these three issues Part II of the book examines how questions of domestic law should be resolved in investment arbitration It proposes a normative framework for use by tribunals in ascertaining the contents of the domestic law to be applied It then considers counter arguments exemptions and



exceptions to applying this framework and it evaluates how tribunals have ruled on questions of domestic law to date. Investment treaty arbitration has endured much criticism in recent times partly over fears of its encroachment on sovereignty. The book ultimately contends that closer attention by tribunals to one of the principal expressions of a state's sovereignty—the elaboration of its domestic law—will reduce criticism of the field.

*Appeals Mechanism in International Investment Disputes* Karl P. Sauvant, 2008-04-08. This volume brings together significant contributions from leading voices in academia, the legal profession, and government on the increasingly important topic of international investment and the legal system in which it operates. With the burgeoning size of international capital flows matched only by an explosion in international agreements intending to regulate the field, there is increasing potential for incoherence amongst and between treaties and arbitral decisions. *Appeals Mechanism in International Investment Disputes* compiles, compares, and contrasts the analysis and arguments of the leading scholars, practitioners, and government officials on the future of the international investment law regime. Its special emphasis is on the question of an appellate body for international investment disputes. The authors also seek ways to streamline and improve the system, channeling the benefits of free trade and investment flows to people in both the developing and emerging markets. The Appendices provide readers with extensive background material to place the chapters into context. Selected sections include concise commentaries to further illuminate the timely themes covered by the chapters. The volume is singular in its success at bringing together so many exceptional individuals on a question of growing import: how to improve the international law regime to increase prosperity and further global development. If a reader wants to know what the influential voices in international law are saying right now and in a concise and readable format, this is the publication to have.

*The Arbitration Mechanism of the International Centre for the Settlement of Investment Disputes* Moshe Hirsch, 1993-06-29. The arbitral process of the International Center for the Settlement of Investment Disputes (ICSID) contains a number of innovative features which were previously unknown to international arbitration. The present volume compares the ICSID system with other major transnational arbitral systems, mainly those of the International Chamber of Commerce (ICC), the American Arbitration Association (AAA), and the rules of the United Nations Committee on International Trade Law (UNCITRAL). The study focuses on the distinctive features of the Center with emphasis on its jurisdiction, the applicable law, and the annulment procedure. The major aim of the work is to examine the lessons which can be drawn from the experience of the Center.

*Investor-State Arbitration* Christopher Dugan, 2008-09-18. I. Introduction II. History and Limitations of the Traditional System for Resolving Investment Disputes III. The Modern System of Investor State Arbitration IV. Commonly Used Procedural Rules V. Procedural Law Applicable in Investor State Arbitration VI. National Court Interference: Anti-Arbitration Injunctions VII. The Course of an Investment Arbitration VIII. Consolidation under Relevant Arbitration Rules or Treaties IX. Governing Law in Investment Disputes X. Consent to Arbitral Jurisdiction XI. The Concept of Investment XII. The Nationality of the Investor XIII. Exhaustion of Local

Remedies XIV Election of Forum National Courts and Contract Arbitrations XV Discrimination XVI Expropriation XVII Fair and Equitable Treatment and Full Protection and Security XVIII Umbrella Clauses XIX Damages Compensation and Non Pecuniary Remedies XX Annulment and Set Aside XXI Enforcement of Awards XXII The Future of International Investment Arbitration Select Bibliography Index Table of Cases Index of Treaties Conventions and International Agreements

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## **Table of Contents Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes**

1. Understanding the eBook Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes
  - The Rise of Digital Reading Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes
  - Advantages of eBooks Over Traditional Books
2. Identifying Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes
  - Exploring Different Genres
  - Considering Fiction vs. Non-Fiction
  - Determining Your Reading Goals
3. Choosing the Right eBook Platform
  - Popular eBook Platforms
  - Features to Look for in an Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes
  - User-Friendly Interface
4. Exploring eBook Recommendations from Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes
  - Personalized Recommendations
  - Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes User

Reviews and Ratings

- Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes and Bestseller Lists

5. Accessing Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes Free and Paid eBooks

- Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes Public Domain eBooks
- Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes eBook Subscription Services
- Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes Budget-Friendly Options

6. Navigating Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes eBook Formats

- ePub, PDF, MOBI, and More
- Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes Compatibility with Devices
- Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes Enhanced eBook Features

7. Enhancing Your Reading Experience

- Adjustable Fonts and Text Sizes of Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes
- Highlighting and Note-Taking Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes
- Interactive Elements Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes

8. Staying Engaged with Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes

- Joining Online Reading Communities
- Participating in Virtual Book Clubs
- Following Authors and Publishers Applicable Law In International Investment Disputes Applicable Law In

International Investment Disputes

9. Balancing eBooks and Physical Books Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes
  - Benefits of a Digital Library
  - Creating a Diverse Reading Collection Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes
10. Overcoming Reading Challenges
  - Dealing with Digital Eye Strain
  - Minimizing Distractions
  - Managing Screen Time
11. Cultivating a Reading Routine Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes
  - Setting Reading Goals Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes
  - Carving Out Dedicated Reading Time
12. Sourcing Reliable Information of Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes
  - Fact-Checking eBook Content of Applicable Law In International Investment Disputes Applicable Law In International Investment Disputes
  - Distinguishing Credible Sources
13. Promoting Lifelong Learning
  - Utilizing eBooks for Skill Development
  - Exploring Educational eBooks
14. Embracing eBook Trends
  - Integration of Multimedia Elements
  - Interactive and Gamified eBooks

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