

International Investment Law

Background, History, Challenges and Reforms

<u>Title of course in Hungarian:</u>	A beruházások nemzetközi jogi védelme: elmélet, fejlődéstörténet, kihívások és reformok
<u>Language of instruction:</u>	English
<u>Department:</u>	International Law
<u>Type of course:</u>	optional course/ for Law students
<u>Form of course:</u>	full time
<u>Number of lessons:</u>	2 hours/week
<u>Semester:</u>	autumn
<u>Credit point value:</u>	6 kredit
<u>Code of course:</u>	
<u>Prior course(s) required:</u>	
<u>Course supervisor:</u>	Dr. Lénárd Sándor, associate professor
<u>Lecturer(s):</u>	Dr. Lénárd Sándor, associate professor

Course description, purpose of the course

Today most people agree that no business is purely domestic any more. Not only states and national economies are increasingly interdependent but business operations have also become transnational. The economic realities of the modern world make almost all business international as global competition and increasingly complex supply chains have evolved. At the same time transnational corporations loom large on the horizon of international economic life and this type of business operation has major impacts on various aspects of societal life as well as on the regulatory choices of states diminishing their regulatory options. International business relations can take various forms from trade relations to different methods of licensing to the actual establishment of production lines or other operations in a foreign country. The latter form of business relation is called foreign direct investment.

The main objective of this course is to give students a basic introduction to the international regulation of foreign direct investments as well as to the backlash against this area of international law and its current reform process. In doing so the course explores the different economic theories of foreign direct investments along with the historical path, the basic treaty structure and the institutional framework of dispute settlement. By assessing actual investment disputes, the course will give students detailed insights into the various standard of protections the international investment regime currently offers. The historical roots and main characteristics of investor-state dispute settlement mechanisms will also be highlighted.

The current international investment regime has attracted a lot of criticism throughout the past several decades. Therefore, the course will explore the reasons of such criticism by providing an overview of the investment regime's modern-day challenges. In doing so, great emphasis will be put on assessing the areas of international and EU law that interrelate with investment law. Hence its relations with the human rights regime, environmental law and the protection of cultural heritage will be discussed by assessing actual investment cases.

Course outline, description of acquired knowledge, skills and competences

1. The international legal foundation, the basic legal concepts and economic theories of foreign investments
2. The historical path and development of international investment regulation
3. The standard of protection in investment law: direct and indirect expropriations, fair and equitable standard national treatment and the most-favored nation treatment
4. The institutional framework of dispute settlement: Investor - State Dispute Settlement (ISDS)
5. Midterm Exam
6. Modern challenges I.: Investment Law & Human Rights: Is investment law part of or constrained by human rights?
7. Modern challenges II.: The question of business and human rights
8. Modern challenges III.: Cultural heritage in investment law
9. Modern challenges IV.: Sovereign Debt Restructuring in the traps of investment law?
10. Modern challenges V.: Investment law and the European Union
11. The potential reform avenues of international investment law

12. Final Exam

Interim course requirement(s):

The final grade is influenced by the result of the midterm and final exams as well as the class participation. The midterm exam consists of two parts. One of them is a multiple choice examination, while the second part is an essay. The material for the midterm exam is the previous class material covering both the substantive and procedural basis of the international investment law. The final exam is an essay which is on one of the modern challenges of investment law. The midterm and final exams have equal weight in the course of the grade evaluation.

Also, student participation during class and discussion are required. Each student is expected to participate fully in these discussions and the intensity of their participation influences the final grade. Cases may be distributed to pair of students throughout the semester. Case presentation also influences the final grade.

Absenteeism Policy: A student should not have more than 3 unexcused absences. Excused absence must be validated with the instructor. To assist in keeping track of excused absences, please submit a note (or email) documenting your validated absences.

Cell Phone Policy: Cell phones should be silenced during class out of respect for classmates. If you need to take a call due to an emergency, please excuse yourself from the class. Please do not text either as it is disturbing to your fellow classmates.

Outcome: Upon completion of this course, the student will be able to comprehend the philosophy and operation of investment regimes and capable of understand how to build arguments before investment courts as well as how to apply the pertinent international legal tools.

Type of evaluation: exam evaluation / course performance evaluation

Method of evaluation: written / oral exam

Obligatory course materials:

M. SORNARAJAH: The International Law on Foreign Investment (Cambridge University Press 2010)

Recommended additional sources:

Andrew NEWCOMBE and Lluís PARADELL: Law and Practice of Investment Treaties (WOLTERS KLUWER 2009) &

Gus Van HARTEN: Investment Treaty Arbitration and Public Law (Oxford University Press, 2008)

Valentina VADI: Cultural Heritage in International Investment Law and Arbitration (Cambridge University Press, 2014)