

COLLOQUIUM

International Investment Law & Competition Law

27-28 September 2018
Zaragoza, Spain



Universidad
Zaragoza



Facultad de Derecho
Universidad Zaragoza



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Presidency of the Scientific Committee for the Conference

Anastasios Gourgourinis, National and Kapodistrian University of Athens

Catharine Titi, French National Centre for Scientific Research (CNRS)-CERSA, University Paris II Panthéon-Assas

Katia Fach Gómez, University of Zaragoza



Scientific Committee

Alejandro Garro - Columbia University (USA).

Alfredo Mario Soto - Universidad Nacional de Rosario (Argentina).

Anastasios Gourgourinis, National and Kapodistrian University of Athens.

Catharine Titi, French National Centre for Scientific Research (CNRS)-CERSA, University Paris II Panthéon-Assas.

José Manuel Álvarez Zárate - Externado University (Colombia).

Katia Fach Gómez, University of Zaragoza.

Laura Carballo Piñeiro, Umeå University (Sweden).

S. I. Strong, University of Missouri (USA).

THURSDAY
27
SEPTEMBER
2018



Location: Law School of Zaragoza - Aula Magna
Campus Plaza San Francisco
Calle de Pedro Cerbuna, 12, Zaragoza

8.15 - 8.50 > Registration

8.50 - 9.15 > Introduction

Jose Antonio Mayoral, Rector of the University of Zaragoza (TBC).

Javier López Sánchez, Dean of the Law School of Zaragoza.

Angel Luis Monge Gil, President of the Aragonese Court of Defense of the Competition (TDCA).

Anastasios Gourgourinis, National and Kapodistrian University of Athens (co-organiser).

Catharine Titi, French National Centre for Scientific Research (CNRS)-CERSA, University Paris II Panthéon-Assas (co-organiser).

Katia Fach Gómez, University of Zaragoza (co-organiser).

9.15 - 10.15 > Opening Keynote

Friedl Weiss, University of Vienna.

**Quest for a Sustainable International Investment Regime:
Leveling Up through Competition Rules?**

10.15 - 11.30 > PANEL 1

Competition Considerations and FDI Policies

Chair: Marc Bungenberg, Saarland University.

Karsten Nowrot & Emily Sipiorski, University of Hamburg.

Stipulating Investors' Obligations in Investment Agreements as a Suitable Regulatory Approach to Prevent and Remedy Anti-Competitive Behaviour?

Mary Footer, University of Nottingham.

Comparative Analysis of US and EU Approaches to the Screening of Strategic FDI on National Security and Market-Distorting Grounds

Makane Moïse Mbengue, University of Geneva.

Competition Law in African IIAs

Andrew Mitchell, University of Melbourne & **James Munro**, University of Melbourne.

Beggar Thy Neighbour in International Investment Law: How Modern IIAs Seek to Regulate Unfair Competition in FDI flows

11.30 - 11.45 > Coffee Break (Sponsored by Cámaras Aragón)

11.45 - 13.15 > PANEL 2

International Investment Arbitration, the State and Market Competition

Chair: Reyes Palá, University of Zaragoza.

Marc Bungenberg, Saarland University.

Overview: How do Public Procurement and International Investment Law Interrelate?

Réka Papp, Office of Prof. Pierre Tercier, CIDS (Geneva).

Awards as Illegal State Aid Under EU Law: Is there a Way out of the Impasse?

Sébastien Manciaux, University of Burgundy.

Rethinking the Relationship Between Current Methods of Dispute Resolution within WTO Law and Investment Law (with a Focus on Competition Issues)

Lukas Vanhonnaeker, McGill University.

Local Equity Requirements as an Anti-Competition Tool in International Investment Law: The Hidden Justification of a Decontextualized Concept

13.15 - 14.45 > Lunch Break (Sponsored by Gracia Carabantes)

14.45 - 16.15 > PANEL 3

SOEs, Competitive Neutrality and International Investment Arbitration

Chair: Friedl Weiss, University of Vienna.

Dai Tamada, Kobe University.

Legal Status of SOEs in Investor-State Arbitration

Rodrigo Polanco, World Trade Institute (University of Bern) & University of Luzern.

Is Investor-State Arbitration for State-Owned Enterprises against Competitive Neutrality?

Mo Manman, China University of Political Science and Law.

Beyond State Owned Enterprises: How Home State Measures Distort Competitive Neutrality

Dominik Moskvan, University of Antwerp.

Out Of (State) Control: Imputability To EU Member States for State-Owned Enterprises' Investment Claims

Phil Baumann, University of Lucerne & Zurich University of Applied Sciences.

When State Enterprises Have Deeper Pockets – Ensuring Competitive Neutrality in Cross-Border Acquisitions

16.15 - 16.30 > Coffee Break (Sponsored by Cámaras Aragón)

16.30 - 18.00 > PANEL 4

**Competition Enforcement and
International Investment Arbitration**

Chair: Stelios Stavridis, Senior Research Fellow, Fundación Agencia Aragonesa para la Investigación y el Desarrollo, University of Zaragoza.

Anastasios Gourgourinis, National and Kapodistrian University of Athens.

Antitrust Enforcement/Non-Enforcement and Foreign Investors' Rights

Gustavo Prieto, University of Turin.

Finding Limits to 'Economic Lawfare' in the 21st Century: The Review of National Competition Authorities' Acts in Investment Arbitration

Elena Belova, University of Lille.

Investors' Anti-Competitive Behaviour and Illegal Investments in Investment Treaty Arbitration

Krystle Baptista Serna & Bianca McDonnell, Armesto & Asociados.

The Use of Evidence Obtained through a State's Special Anti-Trust Powers in Investment Arbitration Proceedings

Belit Polat Dagdeviren, Legal Compliance, Competition and M&A freelance expert & **Özge Varış**, Duman Law Office.

A Threatening Challenge to Legitimate Expectations: Revoking an Acquisition Without Notice to The Parties

Conference Dinner (Wine sponsored by Bodegas Frontonio)

Location: La Bella Lola, Plaza de los Sitios, 9, Zaragoza

FRIDAY
28
SEPTEMBER
2018



Location: Paraninfo de la Universidad de Zaragoza
Sala Joaquín Costa
Plaza Basilio Paraíso 4, Zaragoza

9.15 - 10.45 > PANEL 5

Competition Law and International Investment Arbitration

Chair: **Pedro Bueso**, University of Zaragoza.

Johan van de Gronden, Radboud University Nijmegen.

The Freedom to Provide Services of General Interest in EU law

Olga Puigdemont, Uría Menéndez.

Investment Tribunals and Violations of Competition Law, with a Focus on the Interaction between the Spheres of National and International Law

Guillaume Areou, Reed Smith LLP.

Arbitration FRAND(ly)?

Michael de Boeck, Max Planck Institute Luxembourg for International, European and Regulatory Procedural Law.

Arbitral Awards as Illegal Conduct Attributable to the Parties

Jose Ángel Rueda García, Cuatrecasas.

The Problems Stemming from Compliance with Awards Relating to Illegal/Incompatible State Aid

10.45 - 11.00 > Coffee Break (Sponsored by Cámaras Aragón)

11.00 - 12.30 > PANEL 6

Roundtable: State Aid Schemes and International Investment Law

Chair: Catharine Titi, French National Centre for Scientific Research (CNRS)-CERSA, University Paris II Panthéon-Assas.

Millán Requena Casanova, University of Alicante.

Conflict of Jurisdiction between the CJEU and Arbitral Tribunals under the ECT? The Recent Arbitral Decisions on Renewable Energy and the Achmea Judgment

Yulia Levashova, Utrecht University.

State Aid Schemes and Foreign Investors' Legitimate Expectations

Jose Luis Buendía, Member of the Aragonese Court of Defense of the Competition (TDCA) & Garrigues.

Investment Arbitration and EU State Aid Control: An Unavoidable Conflict?

Helmut Brokelmann, Martínez Lage, Allendesalazar & Brokelmann Abogados (MLAB).

EU Limits to Investment Awards: State Aid Law

12.30 - 14.00 > Lunch Break

Location: Restaurante Paraninfo Trufé, Plaza Basilio Paraíso 4

14.00 - 15.30 > PANEL 7

Roundtable: The [In]Compatibility of EU Law and International Investment Law

Chair: Katia Fach Gómez, University of Zaragoza.

Belen Olmos, Kingston University London.

Are Market Competition and Investment Protection Incompatible in the EU Energy Sector?

Vittorio Di Bucci, Legal Service of the European Commission.

Consequences of the Achmea judgment for intra-EU BITs and for the intra-EU application of the Energy Charter Treaty

Paschalis Paschalidis, Chambers of First Advocate General Melchior Wathelet, Court of Justice of the European Union.

The (In)Compatibility of International Investment Law and Arbitration with EU State Aid Law

Ana Mercedes López Rodríguez, Loyola University Seville.

EU Competition Law: A Serious Pitfall to the Enforcement of Investment Awards in the EU?

Juan Arpio Santacruz, University of Zaragoza.

Investment and Distorsions of Competition caused by General Measures in the European Union

15.30 - 15.45 > Coffee Break (Sponsored by Cámaras Aragón)

15.45 - 17.15 > PANEL 8

Interplay Between Competition and Investment Policies

Chair: Anastasios Gourgourinis, National and Kapodistrian University of Athens.

Maria Pilar Canedo Arrillaga, CNMC.

Competitive Neutrality and Competition. Trying to Increase Efficiency to Protect Foreign Investment and The Public Interest

Luca Arnaudo, Italian Competition Authority and LUISS University.

FDI and Merger Control in the New Age of Protectionism

René Planck, European Commission, DG Competition.

The Impact of EU Antitrust Enforcement and Advocacy on Investment

Andrea Gattini, University of Padua.

An Emerging Consensus? Competition Issues from TRIMS to Mega-Regionals

Ioannis Lianos & Andrew McLean, University College London.

Competition Law and International Investment Law: Reassessing the Interaction in an Era of Global Financial Capitalism

17.15 - 17.30 > Coffee Break (Sponsored by Cámaras Aragón)

17.30 - 18.30 > Closing Keynote

Thomas Cottier, World Trade Institute.

The Changing Structure of International Economic Law

18.30 - 18.45 > Concluding Remarks by the Organisers

Anastasios Gourgourinis, National and Kapodistrian University of Athens.

Catharine Titi, French National Centre for Scientific Research (CNRS)-CERSA, University Paris II Panthéon-Assas.

Katia Fach Gómez, University of Zaragoza.





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Claudio Coello, 37
Madrid 28001
T +34 91 426 44 70
www.mlab-abogados.com



Rödl & Partner

Contact Spain: Jochen Beckmann
Head of Arbitration
Tel.: + 34 93 238 93 70
jochen.beckmann@roedl.com

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