

Representation of State

Published: 15.12.2020.

Updated: 10.01.2023.

Pursuant to Sub-paragraph 3.12 of the Regulation of Cabinet of Ministers of the Republic of Latvia No. 263 "Rules of the State Chancellery" of 20 May 2003, the State Chancellery ensures the representation of the Republic of Latvia in international investment disputes.

The Regulation of Cabinet of Ministers of the Republic of Latvia No. 288 "Procedure for Ensuring Representation in International Investment Dispute Settlement" became effective on 10 May 2017. Pursuant to Paragraph 15 of the above Regulation, the State Chancellery publishes information on the international arbitration proceedings initiated against the State where the composition of the arbitration panel is specified, unless otherwise provided by the applicable international treaty on investment promotion and protection, rules of the international court of arbitration or the agreement between the parties involved.

Up-to-date information is available here:

 [Up-to-date information](#) 

What are international investment agreements? 

International investment agreements (IIAs) is a term used to encompass bilateral investment treaties (BITs), sector – specific investment treaties (e.g., the Energy Charter Treaty) and other international treaties with investment protection provisions (e.g., the EU-Korea Free Trade Agreement).

IIAs contain investment protection standards like protection against non-compensated direct or indirect expropriation of investments, prohibition of discrimination, the most-favoured-nation treatment and fair and equitable treatment, and usually provide for investor's direct access to a dispute settlement mechanism if those standards are allegedly violated by a contracting party, which has received the foreign investment (host State).

Around 3,300 IIAs have thus far been concluded worldwide.

What is investor-to-state arbitration? 

The IIA based investor-to-state arbitration mechanism confers on the foreign investor, whose investment is located in the territory of another host State, the right to bring a host State to international arbitration in the event of an alleged violation of investment protection standards.

Foreign investors may thus invoke State's responsibility before international ad hoc arbitration tribunals, which usually consist of three arbitrators appointed by the disputing parties. The arbitrators' task is to decide on whether IIA has been violated and, consequently, if the State has to bear international responsibility.

What are the possible remedies in the event of violation of investment protection standards? [🔗](#) ▼

IAs traditionally provide for compensation of financial losses that may be ordered by the arbitration tribunal if a violation of host State's obligations towards the foreign investor is established by the tribunal.

Under what rules are investment disputes arbitrated? [🔗](#) ▼

IAs usually leave an investor with a choice between different arbitral rules and venues (e.g., the 1965 Convention on the Settlement of Investment Disputes between States and Nationals of other States and the International Centre for Settlement of Investment Disputes (ICSID), ICSID Additional Facility (ICSID has been the most frequent forum for a settlement of investor-to-state disputes), the Arbitration Rules of the United Nations Commission on International Trade Law (UNCTRAL), the Dispute Resolution Rules of the International Chamber of Commerce (ICC), the London Court of International Arbitration (LCIA) or the Arbitration Institute of the Stockholm Chamber of Commerce.

Why IAs and international investor-to-state arbitration exist? [🔗](#) ▼

Investor-to-state dispute settlement mechanism was first introduced in the BIT between Indonesia and the Netherlands (1968) (*Andrew Newcombe and Luís Paradell, Law and Practice of Investment Treaties: Standards of Treatment. The Netherlands: Wolters Kluwer Law & Business, 2009, 44-46.). Investment protection standards contained in IAs and investor's direct access to a dispute settlement mechanism (usually international investor-to-state arbitration) are meant and believed to be tools for encouraging in-flows of foreign investment in States, and thus, contributing to their development (*Report of the Executive Directors on the Convention on the Settlement of Investment Disputes between States and Nationals of other States, International Bank for Reconstruction and Development, March 18, 1965, part III, recitals 10,13.).

The investor-to-state arbitration mechanism was established with the intention to depoliticize foreign investment disputes, since the objectivity and effectiveness of domestic courts was subject to doubt when ruling against foreigners. Similarly, the previously used diplomatic protection mechanism could rise political tension between the home State of an investor and the investment-receiving host State (*Shihata, Towards a Greater Depoliticization of Investment Disputes: The Roles of ICSID and MIGA, 1986, 1 ICSID Rev – FILJ 1.). Thus, depoliticization and impartiality were the rationales behind this dispute settlement mechanism.

Although the investor-to-state dispute settlement mechanism is a common part of IAs, the public is currently actively discussing its necessity and potential reforms (e.g., negotiations of the EU-Canada Comprehensive Economic and Trade Agreement (CETA)).

How transparent is the investor-to-state dispute settlement mechanism? [🔗](#) ▼

The level of transparency in investor-to-state arbitral proceedings depends on IAs to be applied to respective investment dispute and on the arbitral rules that are applied to the international arbitration proceedings based on the agreement between the disputing parties. For instance, ICSID awards are made public only if both disputing parties consent.

Who represents the interests of the Republic of Latvia before international investment tribunals? 



Since 17 November 2015, the State Chancellery has been ensuring the State representation in international investment disputes. The State representation is based on the so-called 'hybrid model', namely the State Chancellery collaborates with outside experts invited for legal representation of the State.

Latest developments and other binding information.

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