Call for Papers: Lillehammer Workshop: International Investment Contracts

By:

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The workshop aims to gather scholars and practitioners interested in exploring - theoretically, doctrinally, empirically, comparatively, critically, and otherwise - the nature of international investment contracts in different contexts and its implications for elaborating transnational standards.

Background

While having commenced its recent work on guidance to foster the modernisation and standardisation of international investment contracts, The International Institute for the Unification of Private Law (UNIDROIT) has not (yet?) defined such contracts. This reluctance, or more precise caution, to start with the definition is not random. International investment contracts may have many definitions, so any conceptual discussions may raise numerous debates that might be counterproductive for the initial efforts on harmonisation and

cause delays.

By way of example, it may be argued that such contracts must be necessarily understood in the context of international treaties on the protection of foreign investments and the definitions that they provide. It may also be argued that instead of concrete public international law instruments, one could look at the idea of investment as developed and still debated in investor-State arbitration with a focus on (1) commitment of capital, (2) assumption of risk, and (3) duration. As another alternative, one can rely on definitions of national laws that might be relevant and determinative. One can also start from some transnational perspectives, looking at model contracts in specific industries or making other suggestions.

In all these efforts, it is possible to be inspired by one of the most successful definitions of another type of international contract – international sales of goods in the Vienna Convention of International Sales of Goods – and argue that international investment contracts also have unique features justifying their treatment as a single category. There is also room to put this suggestion in doubt by referring to otherwise incomparable contractual arrangements that could fall under the international investment contract category, such as privatization agreements, concessions, joint ventures, sovereign debt restructuring, or construction contracts. Doubts may also be fuelled by the non-existence of the concept of international investment contracts in some jurisdictions or an approach that, for instance, does not recognise any single contract/contractual step as an international investment contract but only a resulting/cumulative overarching transaction as being an international investment contract.

Whatever approach to the conceptualisation of international investment contracts is chosen alone or in combination, it will make the interplay between international, transnational, and national rules more pronounced. Engaging with all these legal orders, international investment contracts undoubtedly challenge legal imagination. Their relational character and implications for third parties' and community interests, or legitimate public objectives, such as human rights, environment, sustainability, and indigenous rights, further pose important questions for anybody wishing to understand if an overarching category of international investment contracts makes sense and what the core of

international investment contracts might be.

Call for paper

Timeline

- **30 March 2024** – deadline for submitting abstracts, up to 300 words
- **1 April 2024** – confirmation
- **30 August 2024** – submission of the first extended draft of 3000-4000 words
- **Publication**: Selected contributions will be considered for a special issue.

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