

# COLLOQUIUM

## International Investment Law & Competition Law

27-28 September 2018  
Zaragoza, Spain



Universidad  
Zaragoza



Facultad de Derecho  
Universidad Zaragoza



UNIVERSITÉ PARIS II  
PANTHÉON-ASSAS



HELLENIC REPUBLIC  
National and Kapodistrian  
University of Athens



Athens PIL



### 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

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Katia Fach Gómez, University of Zaragoza

Laura Carballo Piñeiro, World Maritime 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**

**Ioannis Lianos & Andrew McLean**, University College London.

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

**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 21<sup>st</sup> 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.

**Zdenek Novy**, Masaryk University.

**The Directive on Damages for the Infringement of the National and EU Competition Law Provisions and International Investment Protection – a New Collision?**

**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**

**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**

**Jose Ángel Rueda García**, Cuatrecasas.

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

## 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 & **Ernesto Bonafé**, Energy Charter Treaty Secretariat (TBC).

### **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**

**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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