

Settlement of International Investment Disputes

The purpose of my thesis is to introduce the basic types of settlement of international investment disputes while focusing especially on arbitration proceedings conducted by tribunals of the International Centre for Settlement of Investment Disputes, hereinafter referred to as ICSID. The main purpose of the thesis in this respect is to critically evaluate the situation that currently exists in international investment arbitration due to the absence of an appellate review mechanism in ICSID system and to suggest solutions to this problem. The evaluation includes both a description of current possibilities of review and a proposal of an appellate body along with alternatives thereto.

The thesis is composed of three chapters. The first chapter is introductory and concerns the basic terminology of international investment law. It focuses on defining the terms investment and investor, i.e. terms that are essential for comprehension of the nature of international investment disputes. It defines the terms using mainly the ICSID case law.

The second chapter deals with the individual methods of settlement of investment disputes. First it mentions diplomatic protection as a method used especially in past. It also mentions conciliation proceedings and describes the role domestic courts play in the settlement of investment disputes. The biggest attention is paid to arbitration and different institutions providing for arbitration proceedings.

The third chapter concentrates on arbitration provided for by ICSID. It describes the organizational structure as well as the arbitration mechanism and jurisdiction of ICSID. The second part of the chapter fully focuses on the matter of absence of appellate review mechanism in the ICSID system. It describes the possibilities of review that are currently available to parties. Then it analyses the situation which has arisen in ICSID arbitration due to the absence of an appellate body, i.e. especially the inconsistency in decisions rendered by ICSID tribunals, and introduces a proposal of constitution of such a body. It also presents alternatives to the constitution of the appellate body that might at least temporarily deal with the problem of the above-mentioned inconsistency.