

*La política de la Unión Europea en materia de derecho de las inversiones internacionales.* By Katia Fach Gómez (ed.) (Barcelona, J. Bosch, 2017), 406 pp. [ISBN: 978-84-946829-9-5].

The origin of this work was the bilingual International Conference held at the Faculty of Law of the University of Zaragoza on March 20 and 21, 2017, entitled “EU Policy on International Investment: Uncertainties, Challenges, and Opportunities” and organized by Dr. Katia Fach Gómez (University of Zaragoza), Humboldt scholarship holder. She finally published the book gathering various contributions made at that conference, and divided into three parts: EU Policy on International Investment (pages 23-152); The EU proposal of a Multilateral Investment Court (pages 153-315); and Other Actors in the International Investment Policy: Civil Society and non-EU Countries (317-406).

The first part of the work consists of six chapters. The first one (pages 25-44) deals with the EU as a global actor in the post-Lisbon era. José Gustavo Prieto Muñoz (University of Verona, Italy) focuses on policy about International Investments, as a tale of triple fragmentation: A. Substantive fragmentation: the proliferation of norms. B. Institutional fragmentation: proliferation of institutions. C. Methodological fragmentation: plurality of assumptions. He concludes with several considerations about the role of the EU as a global actor. The second chapter (pages 45-68) is about investments arbitration before the Court of Justice of the European Union, and the internationalist and pro-European perspectives on intra-EU BITs. For Amir Farhadi, David Restrepo Amariles and Arnaud Van Waeyenberge (HEC Paris) the main problems are here, on one hand, the relationships between international investment law and internal market law of the European Union; and on the other hand, the incompatibility with intra-EU BITs of the internal market of the Union (respect for the principle of non-discrimination, primacy of European law, jurisdiction of the Court of Justice of the European Union and incompatibility of arbitral awards with European Union law). In chapter three (pages 69-84), Mauro Gatti (University of Luxembourg) writes about the provisional application of EU Trade and investment agreements. He suggests that the Union may bypass some of the problems created by “mixed” procedures by giving provisional application to trade and investment agreements. His analysis demonstrates that a provisionally applied agreement produces legal effects, and may therefore ensure a certain degree of legal certainty. The provisional application of EU trade and investment agreements also covers a large part of their substantive scope. Finally, provisional application should ensure a rather stable legal framework, because only the Union (and not its Member States) can decide to terminate it. Chapter four (pages 85-110) deals with the assessment of the jurisdictional conflict between the CJEU and investor-State tribunals from the perspective of neo-functionalism. Ewa Zelazna (Leicester Law School, UK) explains first the role of EU law in the process of integration, considering the constitutionalization of the Treaty, the EU external constitutionalism and finally the CJEU’s attitude towards external courts and tribunals. Secondly, she focuses on the essential character of the powers of the CJEU and investor-state tribunals (CJEU’s exclusive power to interpret EU law and investment arbitration, the EU investment agreements, the application of EU Law in investment disputes regarding the autonomy of EU law and the availability of the preliminary

ruling procedure). Finally, the author considers other objections to the jurisdiction of external courts and their applicability to investment tribunals. In chapter fifth (pages 111-130), Ana Mercedes López Rodríguez (Loyola University Andalucía, Spain) deals with the impact of investment arbitration on the financial responsibility and the proposal of the Permanent Court of Investment in the European Union. She considers both as two sides of the same coin. The exclusive competence of the CJEU to determine the EU's financial responsibility and the obligation to compensate monetarily for infringements of investors' rights as a possible interference with the functioning of the internal market are the most important questions faced. The final chapter of this first part (pages 131-152) is about the relationships between the new commercial treaties and public administrations. Julio González García (Autónoma University of Madrid, Spain) considers on one hand the impact on those new generation treaties (NGT) on the EU regulation (their expansive commercial content, the regulatory cooperation, the complex harmonization and its impact on the European social model, the risks of the procedure and the right to legislate by the States). On the other hand, the author configures the relationships between investments arbitration and public administrations (the investor protection to guarantee their investment against arbitrary and national risks before the court as the essential purpose of investment treaties; and a critical vision based on the problems that arise in the administrative field of investment arbitration).

The second part of the book is entitled "The EU proposal of a Multilateral Investment Court" (pages 153-315). In chapter seventh (pages 155-174), Enrique Fernández Masiá (University of Castilla La Mancha, Spain) he points out that the disputes resolution system is at a crossroad, thinking about the future creation of a multilateral arbitration Court. Francisco Pascual Vives (University of Alcalá, Madrid) deals with alternatives to investments arbitration in chapter eighth (pages 175-200). He focuses particularly on strengthen the role of the State in two ways: to enlarge the resource to domestic Courts and to substitute investment arbitration for inter-state arbitration (as the Brazilian, Australian and South African experiences show). He concludes with the initiatives from the institutional structure: the creation of a permanent judicial organ, its need, advantages and the problems of coexistence between the court of justice of the European Union and a Permanent Court of Investments. The ninth chapter (pages 201-226) is devoted to the appeal mechanism in the European Union proposals of the Permanent Investment Tribunal. Esther López Barrero (UDIMA) designs the appeal as a second instance in the permanent investment courts proposed by the EU: the structure and operating rules of the Court as well as the development of the appeal procedure, pointing out its advantages and disadvantages. Fernando Gallego Osuna (European Commission) brings social and environmental considerations about the new investor-state dispute resolution mechanisms proposed by the European Union. In chapter tenth (pages 227-253) he develops the EU proposal on a permanent Court of Investments Arbitration, focused on the problems solved by the new system: lack of transparency, cost of the procedure and the right to regulate. He concludes with certain pending questions and proposals for improvement: the participation of third parties in the procedure; the inclusion of members of the courts with a scientific or technical profile; and State's control of the interpretation of international investment agreements. Chapter eleven (pages 255-278) deals with the nature and powers of arbitrators in the new generation of international Investment Agreements. Belén

Olmos Giupponi (Liverpool Hope University, UK) exposes firstly the legal framework of megaregional agreements. Secondly, she analyzes deeply the TTIP, CETA and the investment court system (investment tribunal and arbitrators, appellate tribunal and applicable law, as well as the controversies surrounding CETA). About the TTIP, the author focuses on the investment court system and arbitrators (appointment and functions of the tribunal, procedural rules and arbitrators' powers, third party and non-disputing party intervention, consolidation of claims, types of awards, appeal and enforcement of awards). She finally considers the TPP model (investor-to-state dispute resolution, arbitrators' powers, transparency provisions and dispute settlement under chapter 28). The last chapter of this part (pages 279-315) wrote by Katia Fach Gómez (University of Zaragoza) is devoted to diversity and gender in international arbitration.

The third and last part of the book deals with "other Actors in the International Investment Policy: Civil Society and non-EU Countries" (pages 317-406). Chapter thirteenth (pages 319-350) by Dámaso Javier Vicente Blanco (University of Valladolid) focuses on the criticism and opposition to the international regulation of investments: from anti-globalization movements to European critical amendments in the negotiation of the TTIP. It begins with the international regulation of foreign investments and their opposition, strategies and stages. Nevertheless, the main part is about the implicit criticisms of the international regulation of investments in the European proposal for the TTIP (namely, the protection against the treaty shopping, the concept of "fair and equitable treatment", the limitation of the application of most favored nation treatment, the right to regulate, and the elimination of investment arbitration from the ISDS and its replacement by a so-called investment court system). Fernando Dias Simoes (University of Macau) analyzes in chapter fourteenth (pages 351-374) the transparency system in the European trade policymaking: the TTIP Negotiations as a case study. He criticizes the lack of transparency in the TTIP negotiations, pointing out the European Commission's 'fresh start' on TTIP and striking a balance between confidentiality and transparency. In chapter fifteenth (pages 375-390) Marina Trunk-Fedorova (Kiel Center for Eurasian Economic Law, Germany) faces the challenges to the EU policy on foreign investment on a Third Country perspective. She focuses on the new EU competencies perception by third states with the example of Russia, also exploring a possible investment agreement between both parties, being Russia a host State: the compatibility with the Russian approach and possible influences on an eventual EU-Russia investment agreement, with particular interest on the settlement of investment disputes). Finally, Weiwei Zhang (Graduate Institute of Geneva, Switzerland) analyzes in chapter sixteenth (pages 391-406) the EU-China investment agreement in making. He firstly exposes the investment liberalization in international law, mainly the BIT practices (prior to 1982 —no right for admission/establishment—; the 1982/2004 period —the rise of investment liberalization—; and after 2004 —convergence with NAFTA—) as well as the international trade agreements (namely, WTO and Free Trade Agreements). He follows with the EU-China BIT negotiations and ends up with the negotiating a stand-alone BIT to pursue investment liberalization.

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