

ANTI-ARBITRATION INJUNCTIONS IN INVESTMENT ARBITRATION: LESSONS LEARNT FROM THE *INDIA V. VODAFONE* CASE

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ABSTRACT

In August 2017, the High Court of Delhi granted an interim injunction which restrains Vodafone from continuing a parallel investment arbitration against India. While this order has been criticized as judicial intervention, it raises an important question as to whether a domestic court can restrain a non-ICSID international treaty arbitration. Although it seems contrary to the kompetenz-kompetenz principle, the Court's final decision in May 2018 reveals that issuing anti-arbitration injunctions is within its inherent jurisdiction, and it may restrain an investment arbitration when the continuation of such arbitration amounts to an abuse of process. However, the exact scope of such jurisdiction still depends on national laws of host States, which creates uncertainty for foreign investors. This paper thus proposes some limits on the exercise of the court's jurisdiction in granting anti-arbitration injunctions.

KEYWORDS: *anti-arbitration injunction, investment arbitration, parallel proceedings, abuse of process, kompetenz-kompetenz principle*

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