

ESTABLISHING A CODE OF CONDUCT FOR A BALANCED RELATIONSHIP BETWEEN INVESTMENT ARBITRAL TRIBUNALS AND NATIONAL COURTS

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ABSTRACT

The relationship between investment arbitral tribunals and national courts has long been a complex issue in international investment law. On one hand, the cooperation between them is necessary for the efficiency and effectiveness of investment arbitration, especially with regard to the enforcement of provisional measures and awards. On the other hand, the jurisdictional competition between the two dispute settlement mechanisms occurs too frequently and leads to great concern about parallel proceedings and conflicting decisions. Furthermore, the mutual scrutiny of tribunals and courts increases the tension and conflicts between them. Since each enjoys the power to review decisions or actions made by the other, it is hard to define the boundary of intervention in the other's proceedings.

It has been shown that the conflicts between investment arbitral tribunals and national courts reflect a need for the establishment of a mechanism to harmonize the relationship between them. The purpose of this article is to present a broad overview of the interaction between international tribunals and national courts, and to propose an establishment of a code of conduct for the construction of balanced relationship between them.

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