



British Institute of
International and
Comparative Law

Investment Treaty Forum Annual Report 2025



A global centre for high level debate on International Investment Law

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Introduction from the ITF Director



As we are moving closer to 2026, it is good time to reflect on the current year of the Investment Treaty Forum.

In 2025, key events in international investment law explored emerging challenges in investor-state dispute settlement, involving various actors and sectors. Our members also contributed to discussions of the UNCITRAL Working Group III on ISDS reform in Vienna and New York and worked on other research and policy initiatives.

The Mining Disputes event addressed the surge in ISDS claims in mining, focusing on ESG obligations, regulatory frameworks, and valuation challenges, particularly balancing investor protections with a State's right to regulate. Meanwhile, the State-Owned Enterprises panel examined their role in investment treaties, tackling classification, sovereign immunity, and enforcement issues.

The annulment of Investor-State arbitration awards was also a key topic, with a session reviewing the rise in annulments and inconsistencies in domestic court treatment. The panel highlighted the tension between fairness and finality in ISDS and discussed the broader impact of annulment on investment protection. We hope to release a paper summarizing key findings very soon.

The Evolving Standards of Investment Protection conference focused on the growing environmental and social concerns within investment treaties and ISDS. The Geopolitics and International Investment Law conference explored how shifting geopolitical dynamics are influencing investment law, with discussions on national security, sanctions, and the impact of armed conflict on investment protection.

The Young ITF Debate this year focused on whether States should rely on domestic illegality to avoid international obligations, focusing on the interaction between domestic law and investment treaties, and the legitimacy of States benefiting from illegal acts.

This year we also convened the inaugural Legal Training and Technology Workshop, which focused on the training needs and challenges of law firms and delved into AI's influence on legal education and professional competence. We hope to do more on the challenges of knowledge management and educating lawyers in the digital context within the new [ELDA Network](#).

I look forward to catching up next year with many Investment Treaty Forum members in person or online, working on new events, publications and shaping international investment law. Please feel free to contact me about possible ideas and initiatives.

With best wishes,

A handwritten signature in black ink, appearing to read 'Yarik Kryvoi', written in a cursive style.

Professor Yarik Kryvoi
y.kryvoi@biicl.org

Events

11 November 2025

Mining Disputes: ISDS, ESG, and Valuation Challenges



The Investment Treaty Forum convened a hybrid event to explore complex and high-value disputes arising from mining projects under international investment agreements. In recent years, ISDS claims in the mining sector have surged in both number and quantum, with several disputes now exceeding US\$1 billion. The event examined whether tribunals and claimants have adequately accounted for the inherent

risks of mining operations—particularly environmental compliance obligations, regulatory uncertainty, and the substantial upfront capital costs characteristic of the industry.

A central theme of the discussion was the role of ESG obligations and domestic regulatory frameworks in shaping jurisdiction, liability and valuation outcomes. Panellists highlighted that failures to comply with environmental licensing procedures or instances of illegality and corruption may deprive tribunals of jurisdiction or negate an investor's legitimate expectations. The session also evaluated how tribunals balance investor protections against a State's sovereign right to regulate natural resources, noting that legal reforms and environmental measures often intersect with the FET standard.

The forum devoted particular attention to valuation methodologies in mining disputes. Speakers observed that tribunals have sometimes accepted speculative assessments of future profitability, especially in cases where projects had not reached production. Panellists debated whether more restrained or context-sensitive valuation approaches are needed to avoid windfall outcomes detached from geological, operational and regulatory realities.

From an industry perspective, the discussion underscored the importance of stakeholder engagement, realistic feasibility studies and rigorous ESG compliance as critical components of responsible project design. These practical considerations, speakers noted, are often overlooked in ISDS proceedings but remain central to understanding the true risk profile of mining ventures.

The event also addressed the broader international legal landscape, including the ICJ Advisory Opinion on climate change (23 July 2025) and evolving treaty practice incorporating explicit ESG-oriented "right to regulate" clauses. These developments, combined with regional human rights jurisprudence emphasising environmental impact assessments and community rights, are likely to influence future treaty drafting and the adjudication of mining-related claims.

Bringing together practitioners, government representatives, academics and sector specialists, the event offered an in-depth analysis of how ESG considerations, regulatory frameworks and valuation techniques intersect in contemporary mining disputes. The discussion underscored the

need for careful due diligence by investors, nuanced reasoning by tribunals, and treaty frameworks that more accurately reflect the complexities of natural resource governance.

Speakers: Prof. Yarik Kryvoi, BIICL, London; Arthad Kurlekar, Curtis; Dr Juan Carlos Boué, Curtis; Richard Bowley, Mining Sector Consultant; Monica Feria-Tinta, Twenty Essex; Lourdes Martínez de Victoria, Attorney General's Office, Spain.

This event was co-organised with Curtis, Mallet-Prevost, Colt & Mosle LLP.

5 November 2025

State-Owned Enterprises and International Investment Law



BIICL and Withers co-organised a panel discussion examining how State-owned enterprises (SOEs) intersect with the international investment law regime. The session focused on two central themes: how SOEs are defined and classified for investment treaty protection, and how sovereign immunity shapes their participation in and exposure to investor–state arbitration.

A core part of the discussion addressed the threshold question of whether an SOE can be treated as a State entity with standing under investment treaties and the ICSID Convention. Speakers explored the criteria tribunals use when assessing SOE status, including the weight placed on ownership, control, statutory functions, and whether the enterprise has been delegated public authority. The debate reflected ongoing tensions between formal corporate separateness and the functional reality of how SOEs operate—particularly in jurisdictions where commercial entities may simultaneously perform governmental or strategic tasks.

This led to a broader examination of attribution and consent. Participants discussed the complexities that arise when SOEs or State subdivisions purport to consent to arbitration without clear or formal State authorisation. Questions surrounding implicit designation, the need for communication of consent, and objections *ratione personae* illustrated how procedural ambiguities continue to affect jurisdictional determinations.

The second major theme concerned sovereign immunity. The panel analysed the difficulties investors encounter when seeking to bring claims against SOEs or enforce awards involving them. Discussion focused on how domestic immunity frameworks interact with treaty obligations, the practical application of commercial-activity exceptions, and the challenges of identifying when the conduct of an SOE should be treated as distinct from, or attributable to the State. Participants also highlighted the growing complexity of enforcement strategies where SOEs hold substantial assets but maintain a separate legal personality under national law.

Overall, the event underscored that definitional uncertainty, attribution questions, and immunity-related obstacles remain central to the treatment of SOEs in international investment law, affecting both access to ISDS and the execution of resulting awards.

Speakers: Prof. Arif Hyder Ali, AHALI Dispute Resolution; Prof. Hussein Haeri KC, Withers; Prof. Yarik Kryvoi, British Institute of International and Comparative Law; Dr. Nērika Lizinska, State Chancellery of the Republic of Latvia; Prof. Ming Du, Durham University.

This event was co-organised with Withers.

15 October 2025

Annulment of Investor-State Arbitration Awards in Domestic Courts – Empirical Study Launch



BIICL and Baker Botts convened leading practitioners, academics, and policy experts in London to launch an empirical study examining how domestic courts approach the annulment of investor–state arbitration awards, which is a follow-up to the first empirical study on annulment in 2021. The session opened with an overview of why this research was undertaken:

annulment applications have grown steadily in recent years, yet their success rates, rationale, and treatment across jurisdictions remain uneven and often misunderstood.

The conversation began by revisiting the purpose of annulment within ISDS. Panellists noted that annulment under the ICSID Convention is still designed as an exceptional safeguard, not an avenue for rehearing the merits. Although the number of ICSID applications has increased, full annulments remain rare. Much of the debate focused on the meaning of “success,” with speakers stressing that most annulments are only partial and leave the tribunal’s core findings intact. In that sense, investors often emerge with the substantive outcome preserved even after a formal annulment.

Attention then shifted to non-ICSID annulments, where national law plays a far larger role. The panel highlighted that domestic courts enjoy broader discretion compared to ICSID ad hoc committees, particularly on questions of jurisdiction and public policy. Throughout the discussion, several speakers remarked on the increasing number of annulment applications filed by States. While some are prompted by genuine concerns about procedural integrity, others may reflect political considerations or pressure to show resistance to unfavourable awards. Despite this, the data shows investors fare better overall in annulment proceedings than States.

The final part of the event looked ahead. The panel further deliberated on how statutory reforms in England, the growing body of domestic annulment jurisprudence, and the differing standards of review across jurisdictions may influence future practice. There was broad agreement that while annulment will remain an important feature of ISDS, its proper scope—and the balance between safeguarding fairness and preserving finality—will continue to command attention from tribunals, courts, and policymakers.

Speakers: Prof. Maxi Scherer, ArbBoutique, London; Prof. Martins Paporinskis, University College London; Cyrus Benson, 4 New Square Chambers, London; Prof. Yarik Kryvoi, BIICL,

London; Dr Johannes Koepp, Baker Botts LLP, London; David Turner, Baker Botts LLP, London; Jack Biggs, Baker Botts (UK) LLP, London; Irene Zegarra-Ballón, Baker Botts LLP, London.

This event was co-hosted with Baker Botts.

15 October 2025

Legal Training and Technology Workshop



BIICL convened a workshop examining how technological change, and particularly the rise of AI-enabled tools, is reshaping the training and development of legal professionals. Thought leaders from private practice, academia and knowledge-management considered how legal education and professional competence are evolving as technology becomes increasingly integrated into day-to-day work.

The discussions highlighted that, while AI can assist with research, drafting and document-handling tasks, it cannot replicate core legal judgment. Several contributions underscored the risks posed by superficially convincing but substantively inaccurate outputs, emphasising the continued importance of rigorous verification, structured workflows, and clear professional safeguards. These concerns were contrasted with examples of thoughtful, practice-led implementation, where AI is deployed within defined processes and supported by strong human oversight, enabling meaningful efficiencies without compromising quality.

The workshop also explored broader implications for law firms operating across multiple jurisdictions, including questions around privilege, data protection and uneven training data across legal systems. Academic participants reflected on similar challenges within legal education, particularly concerning assessment, authorship and the need to teach students how to use AI responsibly without displacing foundational analytical skills.

A recurring theme was the value of continued engagement between law schools, practitioners and regulators, given that each faces parallel uncertainties as technology reshapes expectations of competence and professional responsibility. The concluding discussion considered potential future activities, including follow-up workshops, shared resources on good practice, and structured dialogue with regulators and technologists.

Speakers: Prof. Diana Laurillard, UCL Knowledge Lab; Prof. Yarik Kryvoi, British Institute of International and Comparative Law; Clare Semple, Skadden, Arps, Slate, Meagher & Flom; Abdul Sattar, Withers; Barry Fletcher, DLA Piper; Carys Clipper, White & Case; Olivia Dhein, Baker McKenzie; Benjamin Barrat, Clifford Chance; Mona Wright, White & Case; Vanessa Naish, Herbert Smith Freehills Kramer.

The workshop was organised as an inaugural activity of the [ELDA Network](#).

10 October 2025

Forty-Fourth ITF Public Conference: Evolving Standards of Investment Protection: Recent Developments and New Trends



On 10 October 2025, the Investment Treaty Forum convened its Forty-Fourth Public Conference to assess how recent jurisprudence, treaty drafting and policy reforms are reshaping the standards of investment protection. With more than 1,400 publicly known ISDS cases to date, the conference reviewed empirical trends and substantive developments that continue to influence the relationship between investor rights and State regulatory authority.

The event opened with an overview of recent ISDS activity. Drawing on UNCTAD’s latest data, speakers highlighted that claims remain concentrated against a limited group of respondent States and that developed-country investors continue to dominate as claimants. This empirical backdrop framed a broader discussion on how adjudicators are approaching standards such as fair and equitable treatment, national treatment, most-favoured nation treatment, expropriation and umbrella clauses.

A key theme was the continued significance of older-generation investment treaties, many of which remain operative through sunset clauses. The conference examined “new generation” treaties—such as CETA and the EU–Vietnam Investment Protection Agreement—which incorporate clearer drafting, explicit recognition of the right to regulate, provisions addressing environmental and social concerns, and safeguards against treaty shopping. Although their practical impact is not yet fully visible, these instruments reflect a deliberate shift toward more balanced treaty architecture.

Speakers emphasised that, despite longstanding criticisms relating to inconsistency, cost and potential regulatory chill, ISDS continues to operate as one of the few mechanisms capable of holding States accountable under binding and enforceable international law. The discussion underscored that the future of investment protection lies not in dismantling ISDS but in refining it to ensure legitimacy, coherence and predictability, particularly in areas where treaty and domestic policy objectives intersect.

The conference also stressed the importance of interpreting investment obligations within the wider framework of international law. Reference was made to the 2025 ICJ Advisory Opinion on climate change obligations, which reaffirmed that investment treaties must be read in harmony with other relevant international norms, including environmental and human rights law. This trend is increasingly reflected in arbitral reasoning and treaty drafting and is likely to shape the future trajectory of international investment law.

Speakers: Prof. Yarik Kryvoi, BIICL, London; Prof. Federico Ortino, King’s College London; Prof. Can Yeginsu, 3VB, London; Dr Joachim Pohl, OECD, Paris; Diana Rosert, UNCTAD, Geneva;

Markus Burgstaller, Hogan Lovells, London; Sylvia Tordova, Pinsent Masons, London; Álvaro Nistal, Arnold & Porter, London; Noah Rubins KC, Freshfields, Paris; Guled Yusuf, A&O Shearman, London; Prof. Attila Massimiliano Tanzi, University of Bologna and 3VB; Robert Hunter, Osborne Clarke, Frankfurt am Main; Dr Inga Martinkutė, Vilnius University; Anna Kirkpatrick, Clifford Chance, London; Audley Sheppard KC, Twenty Essex, London.

Read an overview of this event on the BIICL Blog: www.biicl.org/blog/119/evolving-standards-of-investment-protection-reflections-following-the-forty-fourth-itf-public-conference

3 July 2025

Young ITF Debate: “This House believes that a State should not be allowed to rely on domestic illegality to avoid its international obligations”



Young ITF hosted its annual debate on the motion that “*This House believes that a State should not be allowed to rely on domestic illegality to avoid its international obligations.*”

Against the backdrop of continued scrutiny of the ISDS system and increasing attention to the interaction between domestic legality and international responsibility, the debate examined how tribunals should treat domestic law when assessing treaty claims. Evgeniya Rubinina and Veronika Lakhno argued for the motion, while Tariq Baloch KC and Prof. Hayk Kupelyants argued against it.

The panellists submitting against the proposition framed the issue narrowly, focusing on investment treaty arbitration and excluding cases where illegality itself constitutes an international wrong, such as corruption. They argued that domestic legality is structurally embedded in many treaties—particularly through “in accordance with host State law” clauses, umbrella clauses and Article 46 VCLT—and therefore cannot be dismissed wholesale. In their view, the motion’s absolute prohibition was inconsistent with treaty texts and established State practice.

Proponents for the motion grounded their position in *pacta sunt servanda* and Articles 27 VCLT and 32 of the ILC Articles on State Responsibility. They cautioned that allowing States to invoke minor or ex post domestic irregularities undermines legal certainty and may enable opportunistic defences. Tribunal practice was cited to show that only serious illegality at the inception of an investment has been treated as jurisdictionally relevant, while later administrative breaches rarely justify denying protection.

Both sides agreed that States should not benefit from their own wrongful conduct, with cases cited to illustrate that a State cannot rely on illegality it created, tolerated or concealed. Conversely, it was conceded by the panellists for the proposition that where illegality was actively hidden from the State, breaches can deprive an investment of treaty protection at the jurisdictional stage.

The debate ultimately revealed a shared middle ground: domestic law is relevant and often decisive in determining the scope of treaty obligations, but motivated reliance on trivial or State-induced illegality should not defeat investors’ claims. The audience vote—narrowly in favour of

the motion—reflected ongoing concerns about consistency and fairness in the treatment of domestic illegality in ISDS. The discussion underscored that the legitimacy of the ISDS system depends on calibrated, context-sensitive approaches rather than blanket proscriptions.

Speakers: Pranay Lekhi, A&O Shearman; Evgeniya Rubinina, Enyo Law; Veronika Lakhno, Boies Schiller Flexner LLP; Tariq Baloch KC, Essex Court Chambers; Prof. Hayk Kupelyants, KCL

25 April 2025

Forty-Third ITF Public Conference: Geopolitics and International Investment Law



The Forty-Third ITF Public Conference, held on 25 April 2025, examined how shifting geopolitical dynamics are reshaping the architecture and practice of international investment law. Opening the event, Prof. Yarik Kryvoi highlighted the extent to which geopolitical pressures—once treated as background conditions—now directly influence treaty design, investor–state relations and the operation of ISDS.

The keynote address, delivered by Professor David Collins, explored the rise of plurilateralism and its implications for global investment governance. He examined how emerging plurilateral structures interact with established bilateral treaty networks, particularly in areas such as market access, regulatory sovereignty and the procedural framework for dispute resolution. His remarks framed the day’s discussions around a broader question: how can the investment regime remain predictable while accommodating heightened national security sensitivities and fast-moving geopolitical realignments?

The conference then moved to three thematic panels. The first panel focused on foreign direct investment (FDI) admission regimes and national security screening. Panellists discussed the proliferation of screening mechanisms, the expansion of national security exceptions in investment treaties, and the consequences of these developments for jurisdiction and merits in ISDS. The conversation underscored how States are increasingly asserting security-based regulatory space in ways that inevitably affect investor confidence and treaty stability.

The second panel turned to coercion, sanctions and their impact on ISDS. Speakers examined the legal and procedural challenges posed by sanctions regimes, including obstacles to jurisdiction, participation in proceedings, enforcement of awards and the capacity of sanctioned entities to access the ISDS system. The discussion emphasised the rising complexity practitioners face when navigating overlapping sanctions laws and treaty obligations.

The final panel considered the implications of armed conflict and occupation for investment protection. Panellists analysed recent cases involving full protection and security (FPS) obligations, claims arising from wartime or emergency measures, and disputes relating to investments in occupied territories. Issues of necessity, force majeure and due diligence were revisited in light of evolving jurisprudence.

The conference concluded by reflecting upon how geopolitics has become structurally embedded in investment law, reinforcing the need for frameworks that preserve both regulatory autonomy and the credibility of ISDS.

Speakers: Professor David Collins, City Law School, University of London; Prof. David Chekroun, ESCP Business School and Founder of FDI Control Forum, Paris; Dr Jens Hillebrand Pohl, Helsinki Geoeconomics School, Helsinki; Danielle Morris, WilmerHale, Washington DC; David Hunt, Boies Schiller Flexner, London; Dr Claudia Annacker, Annacker International Disputes, Paris; Dr Oliver Hailes, London School of Economics, London; Joaquin Terceño, Eversheds Sutherland, London; Shreyas Jayasimha, Aarna Law, Bengaluru; Prof. Yarik Kryvoi, British Institute of International and Comparative Law, London Penny Madden KC, Gibson, Dunn & Crutcher, London; Michelle Bradfield, Jones Day, London; Matthew Weiniger KC, Linklaters, London; Ahmed Abdel-Hakam, Volterra Fietta, London; Christophe Bondy, Steptoe International, London.

12 March 2025

International Investment Law Protections in Global Banking and Finance



The Investment Treaty Forum hosted a panel discussion to mark the launch of BIICL’s empirical study on investment protection in global banking and finance. The event brought together contributors to the study and practitioners working at the intersection of finance and international law. The conversation focused less on theory and more on the practical realities facing foreign investors, as States respond to economic pressure with increasingly interventionist financial measures.

The session opened with an outline of the study’s motivation: financial disputes have grown steadily over the past decade, coinciding with geopolitical instability, volatile markets and rising levels of sovereign indebtedness. Participants noted that banking institutions and holders of financial instruments are often among the first to feel the impact of emergency measures, capital controls, or politically driven interventions in the banking sector. This broader context framed a recurring theme of the discussion – the tension between financial stability objectives and investor protection.

A significant portion of the event examined sovereign debt restructuring. Speakers observed that an unprecedented number of States now face acute fiscal distress, prompting interventions that directly affect bondholders. Ethiopia’s 2023 default was discussed as an example of the practical difficulties investors encounter when restructuring negotiations are disrupted or delayed. The event also considered how tribunals have assessed claims arising from these situations, including the way necessity and financial-stability defences are evaluated.

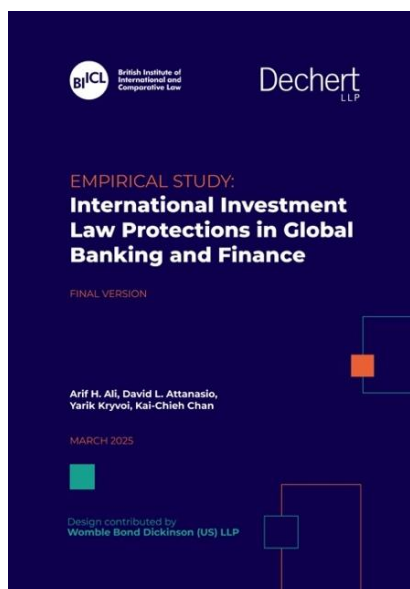
Another strand of the discussion addressed the regulatory measures that give rise to claims in the banking sector, such as forced bank interventions, restrictions on transactions, and measures influenced by geopolitical considerations. Participants highlighted the emphasis tribunals place on evidence, motive and proportionality when examining such disputes.

The deliberations concluded with reflections on the importance of predictable legal frameworks for the financial sector. As the frequency of crisis-driven measures increases, the role of investment treaty arbitration in managing financial-sector risk is likely to become even more significant.

Speakers: Dr Arif Hyder Ali, AHALI Dispute Resolution, Washington, DC (Chair); Prof. Yarik Kryvoi, British Institute of International and Comparative Law, London; Dr David L. Attanasio, Womble Bond Dickinson, London; Kai-Chieh Chan, AHALI Dispute Resolution, Paris; Dr Todd Weiler, Arbitra, Ontario; Marinn Carlson, Independent Arbitrator, Washington, DC.

ITF Publications

[Empirical Study: International Investment Law Protections in Global Banking and Finance](#)



The empirical study examines the publicly available decisions of investor-State tribunals addressing the protection of investments in the banking and finance sector. It complements the first detailed treatise dedicated to the subject, co-authored by Prof. Arif Ali and Dr. David Attanasio, entitled *International Investment Protection of Global Banking and Finance: Legal Principles and Arbitral Practice* (2021).

Confronted by rising geopolitical tensions, price instability and a lack of prospects for stable growth, host States may act precipitously in the face of real, imagined, or invented financial instability in banks and other financial institutions. More than ever, banking institutions and investors of financial products face increased regulatory risks that may arise out of politically motivated measures.

An example is the impact of economic risk on foreign holders of sovereign bonds. With higher interest rates and increases in government spending, the risks of States and related entities defaulting on their debts has also increased. For example, Countries like Ghana, Zambia and Sri Lanka were engaging in serious yet difficult discussions with their international lenders on ways to restructure their debts. Faced with these difficulties, foreign investors in the sovereign bonds of these countries may find their rights impaired during the debt restructuring process.

Sovereign debt is just one example of an investment that can be affected by a State: no banking or finance investment is immune from governmental measures, some of which may adversely impact the investment or the investor. Does international law offer effective protection to investors in the banking and finance sector affected by purported emergency regulations, sovereign debt restructuring, financial sector reform, or other measures? How can investors in the banking and financial sector benefit from the protection of international law?

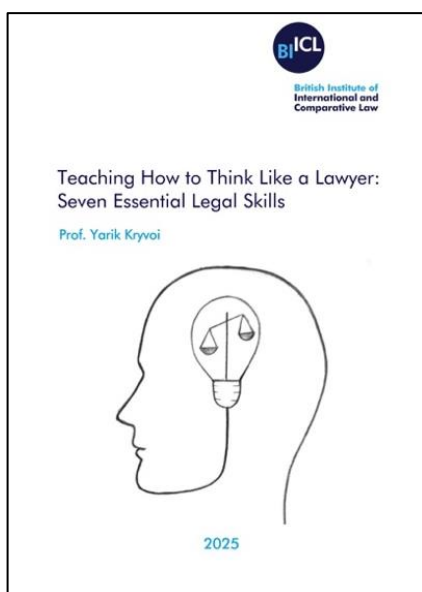
These and other questions are addressed in this first empirical study of 149 international investment cases related to banking and finance.

Authors: this study is co-authored by Prof. Yarik Kryvoi, Director of the Investment Treaty Forum (ITF) at BIICL with Prof. Arif Hyder Ali, Dr. David L. Attanasio and Kai-Chieh Chan.

The study is available at: www.biicl.org/publications/empirical-study-international-investment-law-protections-in-global-banking-and-finance

Selected Publications by ITF Director

[Teaching How to Think Like a Lawyer: Seven Essential Legal Skills \(2025\)](#)



For a long time, law was not a "taught profession". For example, in England, until the 1970s, there was no need to have a degree to become a lawyer. People were becoming lawyers as a result of a training contract (solicitors) or pupillage (barristers). The English system of legal education still requires a training contract or a pupillage before one can become a qualified lawyer. This is different from the United States and most other jurisdictions. However, what unites many jurisdictions is the growing gap between teaching law and practising law.

In many jurisdictions, law degrees do not allow graduates to practice law successfully (on their own or even attempt to qualify as lawyers for regulatory reasons and because law graduates are, to a significant extent, detached from real-world practice. Conventional legal education often

produces lawyers with theoretical knowledge about law and problem-solving capacity, but with weak skills to do actual legal work with clients. Large law firms both pay these recent graduates and charge their clients in accordance with their inputs (hourly rates) rather than their outputs. It is, therefore, not surprising that the high hourly rates of law firms have been criticised for effectively making clients subsidise the training of their junior lawyers.

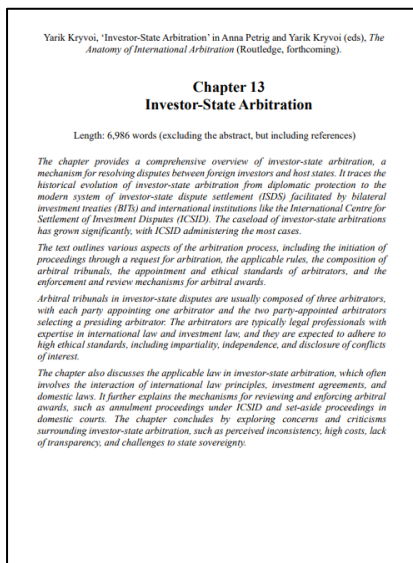
The article begins by discussing the need to balance the taught and practical elements of legal education and various approaches to what it means to "think like a lawyer" and what makes legal education different from education in other areas. It then discusses the differences between various jurisdictions and the construction of a transnational legal profession. The rest of the article focuses on the analysis of a series of interviews conducted by the author with senior legal practitioners about essential legal skills and how to make teaching more relevant to the practice of law.

The article formulates seven essential legal skills based on conducted interviews, which begin with focusing on the factual nuances that matter to effectively present client-centric solutions.

The article also provides specific recommendations on how to teach these legal skills, such as utilising real-life scenarios, involving practitioners more, incorporating international and comparative law elements, and offering flexible online courses.

Also available at SSRN: Yarik Kryvoi, [Teaching How to Think Like a Lawyer: Seven Essential Legal Skills](#) (BIICL, 2025).

[Yarik Kryvoi, Chapter 13 Investor-State Arbitration 'Investor-State Arbitration' in Anna Petrig and Yarik Kryvoi \(eds\), The Anatomy of International Arbitration \(Routledge, forthcoming\)](#)

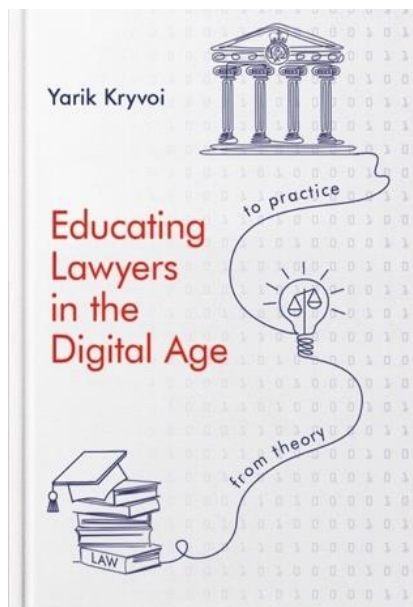


The chapter provides a comprehensive overview of investor-state arbitration, a mechanism for resolving disputes between foreign investors and host states. It traces the historical evolution of investor-state arbitration from diplomatic protection to the modern system of investor-state dispute settlement (ISDS) facilitated by bilateral investment treaties (BITs) and international institutions like the International Centre for Settlement of Investment Disputes (ICSID). The caseload of investor-state arbitrations has grown significantly, with ICSID administering the most cases.

The text outlines various aspects of the arbitration process, including the initiation of proceedings through a request for arbitration, the applicable rules, the composition of arbitral tribunals, the appointment and ethical standards of arbitrators, and the enforcement and review mechanisms for arbitral awards.

Also available at: www.papers.ssrn.com/sol3/papers.cfm?abstract_id=4919577

[Educating Lawyers in the Digital Age: From Theory to Practice \(2025\)](#)



This book takes a practical, design-based research approach to enhance and refine learning design principles for legal education. Drawing on extensive research conducted at University College London, including interviews with legal practitioners, students, and educators, it explores what sets legal education apart from other fields. It identifies what works in online courses and offers strategies to bridge the gap between academic learning and real-world legal practice, making legal education more effective and affordable.

The book formulates seven essential legal skills and provides practical guidance on teaching these skills in both traditional and online learning environments. It also introduces a comprehensive set of learning design principles tailored to legal education. While the focus is on the legal field, the findings and recommendations have broader applications across various disciplines.

findings and recommendations have broader applications across various disciplines.

The book is available to purchase at: www.amazon.co.uk/Educating-Lawyers-Digital-Age-International/dp/1905221975/

Yarik Kryvoi, 'Key Concepts of International Arbitration' in Anna Petrig & Yarik Kryvoi (eds),
The Anatomy of International Arbitration (Routledge, draft chapter, forthcoming, 2025)

Yarik Kryvoi, 'Key Concepts of International Arbitration' in Anna Petrig and Yarik Kryvoi (eds),
The Anatomy of International Arbitration (Routledge, draft chapter, forthcoming, 2025).

2. Key Concepts of International Arbitration

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Abstract
This chapter introduces and defines key concepts of arbitration such as consent, arbitration agreement, jurisdiction, *ad hoc* and institutional arbitration, seat of arbitration, expedited arbitration, interim measures, arbitrators, applicable law, arbitral awards, enforcement and other related topics. Arbitration is a private dispute resolution method where parties submit disagreements to a tribunal rather than courts for a binding decision. Modern arbitration encompasses diverse sectors like investor-state, sports, maritime, and business and human rights disputes. Special conventions related to the enforcement of arbitration awards make arbitration particularly suitable for international disputes as the prospects of enforcing arbitration awards are often better than those of domestic court judgements. The chapter concludes by addressing some emerging trends in international arbitration emphasizing diversity, digitization, environmental considerations, and third-party funding. Future reforms focus on enhancing efficiency, inclusion, and legitimacy to adapt to evolving global needs and challenges.

Keywords
arbitral tribunals, applicable law, arbitral awards, arbitration procedure, jurisdiction, alternative dispute resolution (ADR)

1. Background and History

Arbitration is a dispute resolution process in which parties agree to submit a disagreement to a non-governmental decision-maker (typically called arbitration tribunal), rather than a domestic or international court, to render a binding decision. International arbitration has evolved over centuries into a widely used mechanism for resolving conflicts. It has become a crucial tool in addressing disputes not only between private parties but also among sovereign States and state-created entities such as international organisations. The 20th century has witnessed the emergence of specialized arbitration mechanisms for many types of disputes, for example, investor-state, sports, maritime, commodities and business and human rights disputes. Despite shared features, these arbitration mechanisms differ. Key concepts of international arbitration,² which are introduced in this chapter, pave the way for more in-depth discussions in following chapters.

¹ Prof., Senior Fellow, British Institute of International and Comparative Law (BIICL).
² According to the comparative grid presented in Chapter 1 of this book, these are arbitration agreement and consent, jurisdiction, key procedural elements, adjudicators, applicable law, awards and enforcement and relationship between arbitration tribunals and domestic/international courts.

1

This chapter introduces key concepts of international arbitration and distinguishes it from other methods of international dispute resolution.

International arbitration, as a dispute resolution mechanism outside of state courts, based on the consent of parties has a long history stretching from medieval *lex mercatoria* to modern arbitration institutions. Arbitration's roots trace back to the Medieval and Renaissance periods, where traders turned to local trade associations to resolve disputes informally, avoiding state courts. Today arbitration plays a significant role in dispute resolution with hundreds of arbitration institutions established around the world and exists alongside other methods of dispute resolution alternative to court litigation (such as mediation, conciliation and expert determination).

This chapter introduces and defines key concepts of arbitration such as consent, arbitration agreement, jurisdiction, *ad hoc* and institutional arbitration, seat of arbitration, expedited arbitration, interim measures, arbitrators, applicable law, arbitral awards, enforcement and other related topics

Investment Treaty Forum Membership

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- A direct influence on the agenda of Forum meetings and the opportunity to recommend events, speakers and topics for debate.
- The opportunity to suggest research or other work to be carried out by the Forum staff.
- Access to a members-only section of the website with various materials related to investment treaty law.
- The membership benefits in line with the Institute's Individual membership (free access to ICLQ, 40% discount on BIICL publications, 20% discount on CUP publications and member rate at BIICL events).

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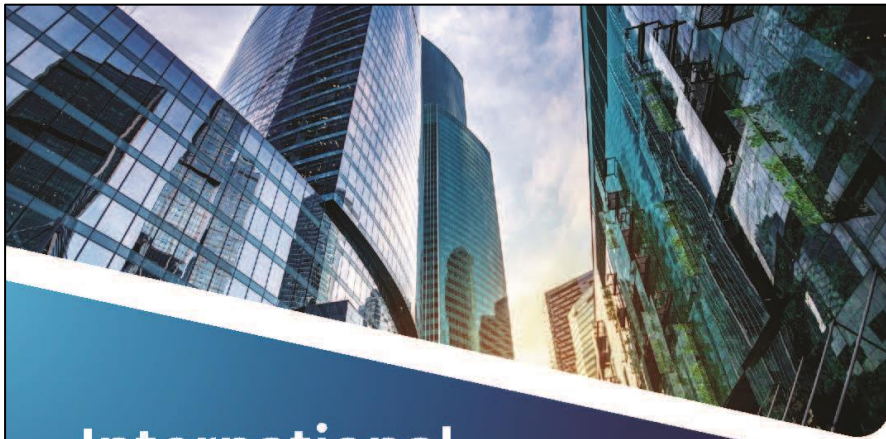
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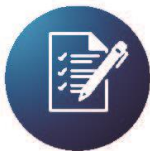
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