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Author: Prislán, V.

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Stellingen behorende bij het proefschrift

*Domestic Courts in Investor-State Arbitration:
Partners, Suspects, Competitors*

van Vid Prislán

1. International investment tribunals should see domestic courts as partners, rather than as suspects or competitors. However, it is a small step from partners to suspects, especially if they can be also competitors.
2. Domestic courts' pronouncements on points of domestic law must be taken as conclusive, as long as such pronouncements have not been rendered in disregard of international standards of procedural propriety.
3. Scrutinizing judicial conduct against discrete treaty standards of treatment must not be a way to sidestep the more stringent requirements of the denial of justice standard.
4. The path to international arbitration is all too often grounded in investment tribunals' unwarranted assumptions about the incapacity of domestic courts to adequately administer justice in investment disputes.
5. De-politicization of investment disputes through investment arbitration is but a myth; the legitimacy crisis of ISDS is real.

6. There can be no meaningful ISDS reform without redefining domestic court-investment tribunal-relations. A successful permanent investment court, as advocated by the European Union, can only be one operating on the basis of complementarity.
7. Applying the requirement of prior exhaustion of local remedies would contribute to solving the legitimacy crisis of investment arbitration.
8. Investment arbitration is supposed to make up for deficient rule of law in the host states recipients of investment. But domestic rule of law cannot be strengthened if domestic courts never get a chance to adjudicate investment disputes.
9. As TTIP negotiations have demonstrated, investment arbitration is only acceptable to developed States, as long as the courts that are avoided are not their own.
10. Arbitral awards are like a box of chocolates: you never know what you are going to get.
11. Deferring to the judgment of the better placed decision-maker is a sign of virtue, not weakness.
12. Due process is essential to any proper procedure, adjudicatory or otherwise.
13. With great power comes great responsibility; but for the proper exercise of responsibility, one needs to possess appropriate competences.