



International Investment Law in the Age of Digitalization – Frankfurt Investment Law Workshop 2019 –

Goethe University Frankfurt am Main, Germany
Campus Westend, Frankfurt

8 and 9 March 2019

Digitalization is rapidly changing the way goods are sold and services provided across the globe. In contrast to traditional businesses, the digital economy operates worldwide with little need for any physical presence in foreign markets. In many instances, digital business models either create entirely new digital markets (e.g., social media) or successfully conquer traditional sectors (e.g. in the taxi or hotel industries) by providing platform-based services in exchange for personal data from their users. At the same time, the digital economy's enormous success prompts growing need for regulation: platform-based technologies seem to have a natural tendency to dominate markets, data-driven business models are often not in compliance with data protection laws, and fake news and hate speech propagated through social media can influence the democratic discourse and even destabilize a State's political system.

The growing importance of the digital economy and the willingness of States to introduce regulation indicate that international investment law will likely play an increasing role in the digital transformation of the world economy. However, the question arises whether the investment law framework which was designed in the analogue era for brick and mortar investments is able to work appropriately in the age of digitalization. Can processing data be a protected investment? Which State is the host State of a digital investment without physical presence? What are the host State's responsibilities towards investors facing digital threats, such as cyber-attacks? Do current investment protection standards leave enough regulatory space for States to regulate the digital transformation of their economies and societies? These are some of the questions that become pressing with investment law's entry into the digital age.

Yet, digitalization not only affects State regulation of economic activities, whether foreign or domestic. The use of digital technology is also reshaping the settlement of investment disputes. This implies new challenges and opportunities for parties, counsel and tribunals: how must proceedings be conducted in order to provide for sufficient cybersecurity? Are online-hearings an effective tool to enhance transparency and efficiency of proceedings? How do tribunals keep up with the challenge of having to analyze the authenticity and legal value of (potentially large amounts) of digital evidence? To which extent can technology help the advocate's cause in convincing the tribunal?

Even though digitalization is developing at a rapid pace, the questions raised in the context of investment protection have barely been discussed so far. In line with the 'Frankfurt tradition' of innovative inquiries into fundamental question of international investment law, the 2019 *Frankfurt Investment Law Workshop* will explore the different facets of how digitalization impacts international investment law and investor State dispute settlement.

Friday, 8 March 2019

Location: Campus Westend, IG-Farben Gebäude, Eisenhower-Saal, Norbert-Wollheim-Platz 1, 60323 Frankfurt

18.00 **Welcome**

Rainer Hofmann (Goethe University Frankfurt am Main)

Keynote Address

Annette Magnusson (Arbitration Institute of the Stockholm Chamber of Commerce)

Uber Yourself Before you Are Kodaked – How Can International Investment Law Meet The Challenge of Digitalization?

19.15 **Practitioners' Roundtable: Investment Dispute Settlement and Digitalization: Challenges and Opportunities**

Rolf Trittman (Freshfields Bruckhaus Deringer, Frankfurt) (Moderator)

Niuscha Bassiri (Hanotiau & van den Berg, Brüssel)

Viktor von Essen (German Arbitration Institute, Bonn)

Patricia Nacimiento (Herbert Smith Freehills, Frankfurt)

Erik Schäfer (Cohausz & Florack, Düsseldorf)

20.30 Reception and Dinner Buffet

Saturday, 9 March 2019

Location: Campus Westend, Hörsaalzentrum, Hörsaal 14, Theodor-W.-Adorno-Platz 4, 60323 Frankfurt

09.00 **Opening Remarks and General Introduction**

Rainer Hofmann (Goethe University Frankfurt am Main)

Stephan Schill (University of Amsterdam)

09.30 **Panel 1: Foreign Investment in the Digital Economy**

Julia Staudt (Organisation for Economic Co-operation and Development, Paris)

International Investment Policy in the Digital Economy

Mira Burri (University of Lucerne) and **Rodrigo Polanco Lazo** (World Trade Institute, Berne)

Governance of the Digital Economy under International Trade and Investment Law

– Coffee break –

11.30 **Panel 2: Digital Threats and Crypto-Investments**

Paulina Starski (Max Planck Institute for Comparative Public Law and International Law, Heidelberg)

Protection of Investment Against Digital Threats

Gustavo Prieto (University of Turin)

The Impact of Virtual Currencies on International Investment Law: Conceptualizing Crypto-Investments

– Lunch break –

14.00 **Panel 3: Regulatory Challenges in the Age of Digitalization**

Vid Prislán (University of Amsterdam)

Does International Investment Law Leave Enough Regulating Space for Host States?

Steffen Hindelang (University of Southern Denmark, Odense)

Regulating Digital Business Models as a Source of (Future) Investment Disputes

15.30 **Closing Remarks**

Christian J. Tams (University of Glasgow)

Registration: To register please get in touch with Ms. Sabine Schimpf, Merton Centre for European Integration and International Economic Order, by 22 February 2019 –
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