

NATIONALIZATION

by
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Nationalization A Study In The Protection Of Alien Property In International Law

Isi Foighel



Nationalization A Study In The Protection Of Alien Property In International Law:

Nationalization Isi Foighel, 1957 **The International Law of Property** John G. Sprankling, 2014-05-01

Does a right to property exist under international law? The traditional answer to this question is no: a right to property can only arise under the domestic law of a particular nation. But the view that property rights are exclusively governed by national law is obsolete. Identifiable areas of property law have emerged at the international level and the foundation is now arguably being laid for a comprehensive international regime. This book provides a detailed investigation into this developing international property law. It demonstrates how the evolution of international property law has been influenced by major economic, political, and technological changes: the embrace of private property by former socialist states after the end of the Cold War, the globalization of trade, the birth of new technologies capable of exploiting the global commons, the rise of digital property, and the increasing recognition of the human right to property. The first part of the book analyzes how international law impacts rights in specific types of property. In some situations, international law creates property rights, such as rights in aboriginal lands, deep seabed minerals, and satellite orbits. In other areas, it harmonizes property rights that arise at the national level, such as rights in intellectual property, rights in foreign investments, and security interests in personal property. Finally, it restricts property rights that may be recognized at the national level, such as rights in celestial bodies, contraband, and slaves. The second part of the book explores the thesis that a global right to property should be recognized as a general matter, not merely as a moral precept but rather as an entitlement that all nations must honour. It establishes the components of such a right, arguing that the right to property at the international level should be seen in the context of five key components of ownership: acquisition, use, destruction, exclusion, and transfer. This highly innovative book makes an important contribution to how we conceptualize the protection of property and to the understanding that much of this protection now takes place at the international level.

New Governments and the Protection of Foreign Investments under International Law Dr Heba Yehia Abdelmegeed, 2025-03-21

In recent years, there has been a tension in international arbitration between legal stability and political change. This tension increases significantly when new governments face pressure to enact economic reforms that redress the perceived shortcomings of their predecessors. In doing so, new governments may have to renegotiate concession contracts, terminate monopolies, and re-nationalise state assets that have been illegitimately transferred into private hands. However, when foreign investments are affected, foreign investors may claim that judicial, administrative, or legislative measures have violated the core principles of international investment law under investment treaties. Indeed, foreign investors have previously raised claims against host states in relation to the implementation of treaty obligations. Such claims raise the question of how arbitral tribunals should address the tension between legal stability and political change. The primary aim of this book is to effectively understand how international law deals with the tension between legal stability and political change. Specifically, this book seeks to address the vagueness that surrounds determinations on the international

liability of new governments in relation to foreign investments under international law Thus the scope of the book covers three main areas of international law 1 the law of state immunity 2 the law of state responsibility and 3 international investment law which is a sub field of international law that integrates both public and private international law

International Protection of Investments August Reinisch, Christoph Schreuer, 2020-07-16 This book outlines the protection standards typically contained in international investment agreements as they are actually applied and interpreted by investment tribunals It thus provides a basis for analysis criticism and stocktaking of the existing system of investment arbitration It covers all main protection standards such as expropriation fair and equitable treatment full protection and security the non discrimination standards of national treatment and MFN the prohibition of unreasonable and discriminatory measures umbrella clauses and transfer guarantees These standards are covered in separate chapters providing an overview of textual variations explaining the origin of the standards and analysing the main conceptual issues as developed by investment tribunals Relevant cases with quotations that illustrate how tribunals have relied upon the standards are presented in depth An extensive bibliography guides the reader to more specific aspects of each investment standard permitting the book's use as a commentary of the main investment protection standards

Regulatory Freedom and Indirect Expropriation in Investment Arbitration Aniruddha Rajput, 2018-12-20 Many investment arbitration cases involve a challenge to a regulatory measure of a host state on the basis of indirect expropriation The practice of arbitral tribunals is diverse and unsettled In recent years States have been trying to clarify the relationship between regulatory freedom also known as police powers and indirect expropriation by revising provisions on indirect expropriation in their investment treaties This book provides the first focused analysis of indirect expropriation and regulatory freedom drawing on a broad range of the jurisprudence of investment tribunals The nature of regulatory freedom in international law has been explained on the bases of jurisprudence of international courts and tribunals such as the International Court of Justice ICJ Permanent Court of International Justice PCIJ dispute resolution bodies of the World Trade Organisation WTO European Court of Human Rights While showing how cases involving standoff between regulatory freedom and indirect expropriation can be resolved in practice the book goes on to present a conceptual framework for interpreting the nuances of this relationship The book provides a detailed responses to the following complex questions To what extent do states retain regulatory freedom after entering into investment treaties What is the scope of regulatory freedom in general public international law What are the elements of regulatory freedom and standard of review How to draw a dividing line between regulatory freedom and indirect expropriation Whether the sole effects doctrine or the police powers is the appropriate method for distinguishing between regulatory freedom and indirect expropriation While addressing these questions the author analyses different theoretical approaches that reflect upon the relationship between regulatory freedom and indirect expropriation and how far they assist in understanding these potentially overlapping concepts their relationship with each

other and the method for distinguishing between them Given the dense network of around three thousand bilateral investment treaties BITs that impose an obligation to protect foreign investments in a State this book will help practitioners identify through analysis of cases from diverse fields how a situation may be categorized either as regulatory freedom or as indirect expropriation The analysis will also be of value to government officials and lawyers involved in negotiating and re negotiating investment treaties and to arbitrators who have to decide these issues Scholars will welcome the book s keen insight into the contentious relationship between a customary international law norm and a treaty norm

International Investment Law and the Right to Regulate Lone Wandahl Mouyal, 2016-03-10 The book considers the ways in which the international investment law regime intersects with the human rights regime and the potential for clashes between the two legal orders Within the human rights regime states may be obligated to regulate including a duty to adopt regulation aiming at improving social standards and conditions of living for their population Yet states are increasingly confronted with the consequences of such regulation in investment disputes where investors seek to challenge regulatory interferences for example in expropriation claims Regulatory measures may for instance interfere with the investment by imposing conditions on investors or negatively affecting the value of the investment As a consequence investors increasingly seek to challenge regulatory measures in international investment arbitration on the basis of a bilateral investment treaty This book sets out the nature and the scope of the right to regulate in current international investment law The book examines bilateral investment treaties and ICSID arbitrations looking at the indicative parameters that are granted weight in practice in expropriation claims delimiting compensable from non compensable regulation The book places the potential clash between the right to regulate and international investment law within a theoretical framework which describes the stability flexibility dilemma currently inherent within international law Lone Wandahl Mouyal goes on to set out methods which could be employed by both BIT negotiators and adjudicators of investment disputes allowing states to exercise their right to regulate while at the same time providing investors with legal certainty The book serves as a valuable tool an added perspective for academics as well as for practitioners dealing with aspects of international investment law

International Law Reports E. Lauterpacht, 1967 International Law Reports is the only publication in the world wholly devoted to the regular and systematic reporting in English of courts and arbitrators as well as judgements of national courts

International Property Law John G. Sprankling, 2014-03 International law increasingly creates harmonizes and restricts property rights thereby superseding national law This book examines this emerging regime of international property law Looking at the intersection between international law and private property the work argues that a global right to property should be recognized

Encyclopedia of Public International Law Ezio Biglieri, G. Prati, 2014-06-28 Digital Communications

The Origins of International Investment Law Kate Miles, 2013-10-24 International investment law is a complex and dynamic field Yet the implications of its history are under explored Kate Miles examines the historical evolution of international investment law

assessing its origins in the commercial and political expansionism of dominant states during the seventeenth to early twentieth centuries and the continued resonance of those origins within modern foreign investment protection law In particular the exploration of the activities of the Dutch East India Company Grotius treatises and pre World War II international investment disputes provides insight into current controversies surrounding the interplay of public and private interests the systemic design of investor state arbitration the substantive focus of principles and the treatment of environmental issues within international investment law In adopting such an approach this book provides a fresh conceptual framework through which contemporary issues can be examined and creates new understandings of those controversies

Principles of International Development Law Milan Bulajic, 2023-10-09 The growing population of Europe needs adequate and wholesome food at reasonable prices and a sufficient supply of pure drinking water Accommodating this need and the many other pressures on land while maintaining biodiversity ecosystems and cultural landscapes is a matter of continuing concern and debate in Europe The changing nature of agriculture concerns about agricultural subsidies and surpluses food and water quality issues and discussion of the future of the European Union EU s Common Agricultural Policy have all increased the intensity of this debate in recent years Through its discussion of how best to achieve sustainable land use Agriculture and Sustainable Land Use in Europe tackles this wide range of issues examining problems faced by the EU concerning the future of rural communities the maintenance of an attractive and diverse countryside and more This work comprises papers presented at two conferences organised by groups of European Environmental Advisory Councils These papers offer the reader access to a broad range of experience and points of view making Agriculture and Sustainable Land Use in Europe a contribution of particular value to the debate on these issues

The Multilateralization of International Investment Law Stephan W. Schill, 2009-08-20 The book argues that international investment law is a structured body of law based on uniform principles of investment protection

International Law Daniel Patrick O'Connell, 1965 International law Treaty questions in vol 1 pt 3

The Legal Regime of Foreign Private Investment in Sudan and Saudi Arabia Fath El Rahman Abdalla El Sheikh, 2003-09-18 Developing countries require foreign investment for growth yet in the existing economic order investors often come across a range of obstacles This revised edition draws on the author s experience both as a legal academic and international investment lawyer to detail the interaction between new and traditional understandings of investment insurance This comparative study of two countries with similar ethnic religious and social backgrounds the Sudan and Saudi Arabia considers how international and Islamic law have evolved in new directions in the post Soviet years He considers the rules both at the domestic and the international level for the protection and promotion of foreign investments as well as the incentives and facilities provided for foreign investors He also details investment treaties national regional and international investment insurance programmes and remedies for aggrieved investors Of interest to legal academics as well as business and legal professionals involved with investment in developing countries

Full Protection

and Security in International Investment Law Sebastián Mantilla Blanco, 2019-10-24 This book provides a comprehensive study of the standard of full protection and security FPS in international investment law Ever since the Germany Pakistan BIT of 1959 almost every investment agreement has included an FPS clause FPS claims refer to the most diverse factual settings from terrorist attacks to measures concerning concession contracts Still the FPS standard has received far less scholarly attention than other obligations under international investment law Filling that gap this study examines the evolution of FPS from its medieval roots to the modern age delimits the scope of FPS in customary international law and analyzes the relationship between FPS and the concept of due diligence in the law of state responsibility It additionally explores the interpretation and application of FPS clauses drawing particular attention to the diverse wording used in investment treaties the role ascribed to custom and the interplay between FPS and other treaty based standards Besides delivering a detailed analysis of the FPS standard this book also serves as a guide to the relevant sources providing an overview of numerous legal instruments examples of state practice arbitral decisions and related academic publications about the standard

Revolutions in International Law Kathryn Greenman, Anne Orford, Anna Saunders, Ntina Tzouvala, 2021-02-18 The 1917 October Revolution and the revolutionary Mexican Constitution shook the foundations of international law This collection revisits their legacies

Digest of United States Practice in International Law , Expropriation of American-owned Property by Foreign Governments in the Twentieth Century, Report Prepared by the Legislative Reference Service, Library of Congress, for the Committee on Foreign Affairs. Committee Print ... 88-1 ... July 19, 1963 United States. Congress. House. Foreign Affairs, 1963

L'Influence de la religion dans le droit international privé des pays musulmans Academie de Droit International de la Haye, 1988-05-16 The Academy is a prestigious international institution for the study and teaching of Public and Private International Law and related subjects The work of the Hague Academy receives the support and recognition of the UN Its purpose is to encourage a thorough and impartial examination of the problems arising from international relations in the field of law The courses deal with the theoretical and practical aspects of the subject including legislation and case law All courses at the Academy are in principle published in the language in which they were delivered in the Collected Courses of the Hague Academy of International Law

Legal Aspects of Foreign Investment in the European Economic Community ,

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