

Muhammad Abdul Khalique (PhD student, SZTE ÁJK)

Analyses of the European Union and its member states' proposals on reforming ISDS system under the UNCITRAL working group III

The European Union and its member States' support the establishment of an investment tribunal functioning on a permanent basis. They also support the creation of a Committee of the Parties, responsible for carrying various functions, including those related to the appointment of adjudicators. The European Union and its member States' view is that members of the tribunal should be employed full time. On the question of nationality, they suggest drawing inspiration from the ICJ Statute (Article 2) and retain the option "elected regardless of their nationality". They believe that the objective should be to appoint the most qualified and independent individuals irrespective of their nationality. On the question of qualifications requirements, they suggest to take the full language of Article 2 of the ICJ Statute which would allow to enlarge the pool of potential adjudicators and its diversity. However, the European Union and its member States are against the possibility that tribunal members are selected by States other than those that accept the tribunal's jurisdiction. On some of the issues, some of the members of UNCITRAL working group III have similar position as the European Union and its member States, and on others, some of the members have different positions than the European Union and its member States. In my presentation and paper, I'll analyze the European Union and its member States' positions on couple of basic issues of ISDS, and I'll also explain different positions by other stakeholders.