



INVESTMENT LAW AND SUSTAINABLE DEVELOPMENT

FALL 2018

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Number of Credits: 6 credit hours
Course Code: Law 365.1
Prerequisites: Law 206.1, 238/110/248
Class Schedule: Tu. 15:35; Th. 15:35
Office Hours: By appointment
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Information:

I. GENERAL DESCRIPTION AND OBJECTIVES OF THE COURSE

This course is focused on legal aspects of foreign direct investment (FDI) and sustainable development. As the world is moving towards the new generation of investment promotion and regulation, the comprehension of this field of law has become essential. Classes are aimed at providing students with the knowledge and critical understanding of main investment law as well as sustainable development concepts and issues primarily in accordance with the legislation of the Kyrgyz Republic. In addition, special attention is paid to the study of key multilateral and bilateral investment agreements and major court, arbitration cases.

As the course is interactive and practice-oriented, it has a number of practical assignments among which are international investment agreement and investment contract negotiation rounds (including the one based on Harvard Law School program on negotiation). All of these in-class activities are aimed at helping students not only to put substantive knowledge gained into practice, but also further improve their proficiency in verbal and written communication as well as their analytical and problem-solving skills.

II. PROGRAM AND COURSE LEARNING OUTCOMES

PROGRAM LEARNING OUTCOMES

Graduates of the Law Program should have the following competencies:

1. carry out professional activities in good faith on the basis of developed legal consciousness, legal thinking, and legal culture and with observation of ethical principles of the legal profession;
2. apply professional judgment, perform quality legal analysis, conduct legal research, and solve legal problems;
3. be able to speak and write in an argumentative, logical, and clear way in the legal context, have skills necessary to draft legal documents, be fluent in the English language at the level of professional communication;
4. draft normative legal acts and carry out their legal expertise in the field of professional activity;

5. interpret and apply substantive and procedural norms, provide qualified legal opinions and consultations in concrete types of legal activity;
6. demonstrate leadership qualities, active citizenship, take and develop initiatives aimed at promotion of civil society and welfare state;
7. understand the essence and significance of information in the development of modern society and law, master the basic methods of working with information and information technologies in the professional sphere.

COURSE LEARNING OUTCOMES

Upon successful completion of the course students will be able to:	Law Program Learning Outcomes
- gain knowledge of investment law starting from the principles and sources of investment law to investment protection standards;	1, 5
- comprehend the interrelationship between investment law and goals of sustainable economic, environmental, and social development;	1
- negotiate international investment agreements, investor-State contracts in line with sustainable development goals and have knowledge and skills necessary to draft such agreements and contracts;	1,2, 3
- conduct legal analysis of investment laws, agreements, and contracts and understand their sustainable development implications;	2, 3, 7
- advance proposals on the improvement of the national investment legislation in accordance with the goals of sustainable development;	2, 3, 4, 7
- draft legal opinions and provide legal consultation on issues related to investment law and sustainable development.	2, 3, 5, 7

III. TEACHING METHODS

During this course a variety of teaching methods are employed, including but not limited to the Socratic method, in-class written reflections, lectures, guest lectures, showing and discussion of investment law and sustainable development related video materials, presentations, pyramid discussions, negotiation simulations, and use of buzz groups.

IV. COURSE REQUIREMENTS AND POLICY

- (1) The class will meet twice a week. Class sessions are a mixture of lectures and interactive student-focused activities. Students are expected to come to classes prepared and be ready to discuss the assigned materials.
- (2) Students must be ON TIME for classes. If a student comes to class late and the instructor has already marked him/her as absent, the student is considered to be absent for the whole class.

- (3) CLASS ATTENDANCE is required. If the student misses a class with an excuse, a document explaining the absence must be presented to the instructor no later than the next class following the class during which the student was absent. If the requirements mentioned above are not observed, the student's absence is considered to be unexcused. If the student misses 50% of the whole course (irrespective of the reason for absence), the student will be assigned an "F" grade for the course.
- (4) Each student is required to be enrolled in the e-course system (www.e-course.auca.kg). The purpose of the e-course system is to allow students to get access to course materials, upload their course assignments, and benefit from a variety of interactive learning opportunities.
- (5) WRITTEN ASSIGNMENTS must be submitted by the set deadline and by the means specified by the instructor. Late submissions are NOT allowed. ***This rule applies to any student who was aware or should have been aware of an assignment and the deadline no matter whether he was sick or had any other excuse on the date of the deadline.***
- (6) The student has to follow the AUCA Academic Honesty Code and the Law Division's Policy on Plagiarism. All types of **cheating** (plagiarism, etc.) are strictly prohibited. If a student fails to observe this requirement, the instructor may assign an "F" grade for the work or an "F" grade for the whole course depending on the type of assignment and other circumstances.
- (7) CELL PHONES and any other electronic devices should be turned off or kept on a silent mode and are allowed to be used only for academic purposes unless restricted by the instructor.

Please, note that this syllabus is subject to change. Any changes to the syllabus will be announced in class, and the updated version of the syllabus will be available in the e-course. It is students' duty to stay informed of any adjustments made.

V. GRADING

- Class participation and attendance – 10%
- Written assignments – 20%
- Presentation – 10%
- Investment agreement negotiation and drafting simulations – 15%
- Mid-term examination – 15%
- Final exam – 30%

Grading Scale of the LL.M. Program

A	94-100%	C	68-73%
A-	90-93%	C-	64-67%
B+	86-89%	D+	60-63%
B	80-85%	D	54-59%
B-	77-79%	D-	50-53%
C+	74-76%	F	below 50%

VI. COURSE OUTLINE

Notice: All homework assignments and reading materials for each week are posted in the e-course. Select reading materials are distributed in a hard copy format in class.

Week	Topics
1	Introduction to the Course. Conceptual Framework of Sustainable Development. <i>Assignment:</i> Read materials posted in the e-course.
2	Investment Law and Sustainable Development. Investment and Investors. <i>Assignment:</i> Read materials posted in the e-course.
3	Sources of Investment Law. Investment Law Principles. <i>Assignment:</i> Read materials posted in the e-course.
4	Investment Law and Policy. Nature, Evolution, and Context of Investment Law. <i>Assignment:</i> Read materials posted in the e-course. Prepare for the investment negotiation exercise.
5	Admission and Establishment of FDI. Investment Negotiation Exercise. <i>Assignment:</i> Read materials posted in the e-course. Write a reflection paper on the negotiation exercise.
6	Standards of Investment Protection (Full Protection and Security; Arbitrary or Discriminatory Measures; National Treatment; Most-Favored-Nation Treatment). <i>Assignment:</i> Read materials posted in the e-course.
7	Standards of Investment Protection (Access to Justice, Fair Procedure and Denial of Justice; Emergency, Necessity, Armed Conflicts, Force Majeure; Preservation of Rights; Transfer of Funds). <i>Assignment:</i> Read materials posted in the e-course.
8	Expropriation. Standards of Compensation. Indirect Expropriation and State Regulatory Powers. <i>Assignment:</i> Read materials posted in the e-course. Prepare presentations on bilateral investment treaties.
9	Sustainable Development Challenges and Standards of Investment Protection. Rights and Responsibilities of States/Investors. Student presentations. <i>Assignment:</i> Read materials posted in the e-course.
10	In-Class Arbitration Exercise on the Standard of Indirect Expropriation
11	FALL BREAK

- 12 Mid-Term Examination. Fair and Equitable Treatment Standard.
Assignment: Read materials posted in the e-course.
- 13 Bilateral Investment Treaty Negotiation.
Assignment: Read materials posted in the e-course.
- 14 Investment Contracts and Sustainable Development. Types of Investment Contracts. Investment Contract Drafting Process. Study of Key Provisions of Investment Contracts.
Assignment: Read materials posted in the e-course. Prepare for the negotiation of an investment contract.
- 15 Negotiation of an Investment Contract.
Assignment: Submit the negotiated investment contract.
- 16 Final exam.

VII. COURSE OUTLINE

You will be required to read handouts that will be posted in the e-course. In addition, you may refer to the following list of recommended materials for further reading:

- Bungenberg, Marc et al., ed. *International Investment Law: A Handbook*. Baden-Baden, Germany: Nomos Verlagsgesellschaft, 2015;
- Segger, Marie-Claire et al., ed. *Sustainable Development in World Investment Law*. Netherlands: Kluwer Law International, 2011;
- Kulick, Andreas. *Global Public Interest in International Investment Law*. New York: Cambridge University Press, 2012;
- Cotula, Lorenzo. *Human rights, natural resource, and investment law in a globalised world: shades of grey in the shadow of the law*. New York: Routledge, 2012;
- Dolzer, Rudolf and Christoph Schreuer. *Principles of International Investment Law*. New York: Oxford University Press, 2012;
- Dupuy, Pierre-Marie et al., ed. *Human Rights in International Investment Law and Arbitration*. USA: Oxford University Press, 2009;
- Subedi, Surya. *International Investment Law: Reconciling Policy and Principle*. USA: Hart Publishing, 2012.