

AGENDA**09:30 – 10:00 Registration and Welcome Coffee****10:00 – 10:05 Introductory Words**

Oleh Marchenko

10:05 – 10:50 First Session**INVESTOR-STATE DISPUTE SETTLEMENT UNDER BITS: RULES OF GAME**

- What is ISDS, who can use it and how it works under Bilateral Investment Treaties (BITs)
- When national remedies fail: ISDS v. Ukrainian courts
- ISDS instruments: investor-state negotiations and investment arbitration
- Why regulatory and tax measures could be subject to ISDS under Ukrainian BITs
- Substantive protections under BITs against arbitrary regulatory or tax measures: expropriation (direct and indirect), fair and equitable treatment (FET), nondiscrimination

10:50 – 11:10 Coffee Break**11:10 – 12:00 Second Session****PLAYING AT HOME: COOLING-OFF PERIOD AND INVESTOR-STATE
NEGOTIATIONS**

- They made it: recent stories of successful pre-arbitration settlements in Ukraine
- How to kick-off the cooling-off period or why a good Notice matters
- Investor-state negotiations: tips, tricks, insights and procedure
- Why domestic courts still matter: interplay between ISDS and domestic proceedings
- Pre-arbitration settlement between investors and Ukraine: prospects and instruments

12:00 – 12:20 Coffee Break**12:20 – 13:10 Third Session****PLAYING AWAY: INVESTMENT ARBITRATION**

- Global experience: review of ISDS cases in regulatory and tax disputes
- Where to go: choice of arbitration fora and rules
- Who is paying: third-party funding
- I won! Now what? How to enforce an arbitral award in Ukraine

13:10 – 14:00 Networking

ARBITRATION

IN REGULATORY & TAX DISPUTES

~~COURT~~

DECEMBER 07, 2017
HYATT REGENCY KYIV

ACC
ADVANCED
COUNSELING
CENTRE

MARCHENKO
DANEVYCH

Ukraine is still in the process of establishing the rule of law. Its courts are not fully independent and judgements may often be influenced by executive intervention. In large cases involving significant financial, regulatory or political implications for Ukraine judges normally favor state's interests on account of such reasons as loyalty or career prospects.

Moreover, judges normally apply the rules of domestic law even if such rules are unfair or discriminatory to foreign investors and contrary to obligations of Ukraine under bilateral investment treaties (BITs).

At the seminar we will discuss relevant investment arbitration case law and share our experience in using investment arbitration and related instruments under Ukrainian BITs, as an alternative to national courts, to prevent, settle or resolve high value regulatory and tax disputes faced by foreign investors in Ukraine.

Speakers:



Oleh
MARCHENKO

Nikolay
YURLOV

Nadiya
MYKIYEVYCH

Volodymyr
NAKONECHNYI