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Institut pour l'Arbitrage International**

**Max Planck Institute Luxembourg  
for Procedural Law**

**EU Law  
and  
International Investment  
Arbitration**

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**Joint IAI-MPI Roundtable  
April 2018**

**General Editor: Emmanuel Gaillard**

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**EU LAW  
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ARBITRATION**

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## Introduction

*Emmanuel Gaillard\** and *Hélène Ruiz-Fabri\*\**

The choice of the Imaret of Kavala (Greece) for the organization of the IAI-MPI Roundtable on “EU law and international investment arbitration” was no accident. Indeed, in this unique geographical location at the meeting point of continents, religions, cultures and civilizations, the International Arbitration Institute (IAI) and the Max Planck Institute Luxembourg for Procedural Law (MPI Luxembourg) brought together on 27–29 April 2018, for the first time, judges and advocates general of the European Court of Justice, judges of the International Court of Justice, national judges, arbitrators, representatives of arbitral institutions and academics in order to create a bridge between two legal orders that, for a long time, had had very little interaction with each other.

In keeping with the educational activities that took place there in times gone by, Imaret’s mosque, with the beautiful Arabic calligraphy decorating its dome and windows, housed a meaningful, fruitful and enjoyable debate that spanned over three daily sessions.

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\* Emmanuel Gaillard is a Visiting Professor of Law at Yale Law School and heads Shearman & Sterling’s International Arbitration Group. He is the President of the International Arbitration Institute (IAI).

\*\* Hélène Ruiz-Fabri is a Professor of Law at the Sorbonne Law School (University Paris 1 Panthéon-Sorbonne), currently on leave to head the Research Department of International Law and Dispute Resolution at the Max Planck Institute Luxembourg for Procedural Law of which she is also the Executive Director.

Each of these sessions began with a presentation of the report authored by one of three appointed rapporteurs, which was circulated to all the participants in advance of the roundtable.

Paschalis Paschalidis, référendaire at the European Court of Justice, drafted a very detailed report on the issue of the existence of systemic conflicts or incompatibilities between international investment law and arbitration, on the one hand, and EU law, on the other. His report provided a holistic approach to the various kinds of investment agreements that have been concluded by the EU or its Member States and addressed all potential incompatibilities that might exist between such agreements, including their dispute resolution mechanisms, and EU law.

Professor Vassilios Skouris, former President of the European Court of Justice, addressed the possibility to have recourse to international arbitration as a means of settlement of disputes to which EU law may be applicable. In that context, he stressed the importance of the EU constitutional principles of mutual trust and of autonomy of EU law and offered his valuable insight into the recent seminal judgment of the European Court of Justice in *Achmea*.

Finally, Martins Paparinskis, Reader in public international law at University College London, engaged with the task of comparing the substantive standards of investment protection under EU law and international investment law. One of his salient points was to challenge the idea of comparing two regimes that are totally different to each other.

Each rapporteur was tasked with presenting his report at the beginning of the relevant session, following which the floor was open to the participants to debate and comment on the issues addressed by the rapporteurs. The ensuing discussions were directed by the two chairs, Professors Emmanuel Gaillard and



Hélène Ruiz Fabri, under the Chatham House Rule. Conducted in a very cordial and informal atmosphere, these discussions allowed the participants not only to present their view of their own legal order but also to gain a better understanding of the issues associated with the interaction of EU law and international investment law. They also allowed the participants to identify areas in which the EU and the international arbitration legal orders do not see eye to eye. The roundtable was successful in achieving its purpose, which was to build a bridge between the two relevant legal orders and their respective proponents.

The three reports, as finalized by the rapporteurs after the debates, together with an anonymized summary of the ensuing discussions are published in the present volume not only to mark the occasion of the Imaret Roundtable but also for the benefit any practitioner, arbitrator, judge or academic with an interest in the interaction of EU law with international investment law and arbitration after the landmark *Achmea* decision of March 2018.

