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# **The Role of the Domestic Law of the Host State in Determining the *ratione materiae* Jurisdiction of Investment Treaty Tribunals: The Partial Revival of the Localisation Theory**

Eftekhar, R.

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**Author:** Eftekhar, R.

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## **Curriculum Vitae**

Reza Eftekhar (Dezfool, 18 July 1986) took his bachelor's degree in law from Shahid Beheshti University of Tehran (*cum laude*). Reza took his LL.M. degree in International Commercial Law from Shahid Beheshti University of Tehran (*cum laude*).

From 2008 until 2013, Reza was the chief legal adviser of Teyf Sharif Consultants Co. (Tehran) in telecommunications regulation, international contracts, and dispute settlement. Since 2013, Reza has been a legal adviser at the Iran-United States Claims Tribunal in The Hague, the Netherlands. In October 2015, he became an external Ph.D. candidate at Law School of Leiden University where he conducted his research under the supervision of Professor Eric de Brabandere.

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### **Bilateral Investment Treaties**

#### **Albania**

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#### **Argentina**

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Argentina for the Promotion and Protection of Investments, signed on 11 December 1990, entered into force on 19 February 1993.

Agreement between the Government of the Argentine Republic and the Government of the Republic of France for Reciprocal Protection and Promotion of Investments, signed on 03 July 1991, entered into force on 03 March 1993.

Agreement on Encouragement and Reciprocal Protection of Investments between the Kingdom of the Netherlands and the Argentine Republic, signed on 20 October 1992, entered into force on 01 October 1994.

#### **Armenia**

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Armenia for the Promotion and Protection of Investments, signed on 27 May 1993, entered into force on 11 July 1996.

#### **Australia**

Agreement between Australia and the Islamic Republic of Pakistan on the Promotion and Protection of Investments, signed on 07 February 1998, entered into force on 14 October 1998.

#### **Austria**

Agreement between the Republic of Austria and Malaysia for the Promotion and Protection of Investments, signed on 12 April 1985, entered into force on 01 January 1987.

Agreement between the Republic of Austria and the State of Kuwait for the Encouragement and Reciprocal Protection of Investments, signed on 16 November 1996, entered into force on 22 September 1998.

Agreement between the Republic of Austria and the Republic of the Philippines for the Promotion and Reciprocal Protection of Investments, signed on 11 April 2002, entered into force on 01 December 2003.

Agreement for the Promotion and Protection of Investment between the Government of the Republic of Austria and the Government of the Kyrgyz Republic, signed on 22 April 2016, not yet entered into force.

### **Belarus**

Agreement between the Government of the Lebanese Republic and the Government of the Republic of Belarus on the Promotion and Reciprocal Protection of Investments, signed on 19 June 2001, entered into force on 29 December 2002.

### **Belgo-Luxemburg Union**

Investment Guarantee Agreement between Malaysia and the Belgo-Luxemburg Union, signed on 22 November 1979, entered into force on 08 February 1982.

Agreement between the Government of the Kingdom of Thailand and the Belgo-Luxemburg Economic Union on the Reciprocal Promotion and Protection of Investments, signed on 12 June 2002, entered into force on 19 September 2004.

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### **Bosnia and Herzegovina**

Agreement on Reciprocal Promotion and Protection of Investments between the Government of the Islamic Republic of Iran and the Government of Bosnia and Herzegovina, signed on 27 July 1996, entered into force on 02 June 2009.

### **Bulgaria**

Agreement between The Government of the People's Republic of Bulgaria and The Government of the Republic of Cyprus on Mutual Encouragement and Protection of Investments, signed on 12 November 1987, entered into force on 18 May 1988.

### **Cambodia**

Agreement on Encouragement and Reciprocal Protection of Investments between the Kingdom of Cambodia and the Kingdom of the Netherlands, signed on 23 June 2003, entered into force on 01 March 2006.

### **Canada**

Agreement between the Government of Canada and the Government of the Republic of Ecuador for the Promotion and Reciprocal Protection of Investments, signed on 29 April 1996, entered into force on 06 June 1997 (subsequently terminated).

Agreement between the Government of the Republic of Croatia and the Government of Canada for the Promotion and Protection of Investments, signed on 03 February 1997, entered into force on 30 January 2001.

Agreement between the Government of Canada and the Government of the Republic of Costa Rica for the Promotion and Protection of Investments, signed on 18 March 1998, entered into force on 29 September 1999.

Agreement between the Government of Canada and the Government of the People's Republic of China for the Promotion and Reciprocal Protection of Investments, signed on 09 September 2012, entered into force on 01 October 2014.

Agreement between Canada and Mongolia for the Promotion and Protection of Investments, signed on 08 August 2016, entered into force on 24 February 2017.

### **China**

Agreement on Reciprocal Promotion and Protection of Investment between the Government of the People's Republic of China and the Government of the Islamic Republic of Iran, signed on 22 June 2000, entered into force on 01 July 2005.

Agreement between the Government of the People's Republic of China and the Government of the Republic of Cote D'Ivoire on the Promotion and Protection of Investments, signed on 30 September 2002, not yet entered into force.

Agreement between the Government of Canada and the Government of the People's Republic of China for the Promotion and Reciprocal Protection of Investments, signed on 09 September 2012, entered into force on 01 October 2014.

### **Colombia**

Agreement between the Government of the Republic of Colombia and the Government of the Republic of Turkey Concerning the Reciprocal Promotion and Protection of Investments, signed on 28 July 2014, not yet entered into force.

### **Costa Rica**

Agreement between the Government of Canada and the Government of the Republic of Costa Rica for the Promotion and Protection of Investments, signed on 18 March 1998, entered into force on 29 September 1999.

Agreement between the Swiss Confederation and the Republic of Costa Rica on the Promotion and the Reciprocal Protection of Investments, signed on 01 August 2000, entered into force on 19 November 2002.

### **Cote D'Ivoire**

Agreement between the Government of the People's Republic of China and the Government of the Republic of Cote D'Ivoire on the Promotion and Protection of Investments, signed on 30 September 2002, not yet entered into force.

### **Croatia**

Agreement between the Government of the Republic of Croatia and the Government of Canada for the Promotion and Protection of Investments, signed on 03 February 1997, entered into force on 30 January 2001.

The Agreement between the Government of the Republic of Croatia and the Government of the Republic of Indonesia on the Promotion and Protection of Investments, signed on 10 September 2002, not yet entered into force.

### **Cyprus**

Agreement between The Government of the People's Republic of Bulgaria and The Government of the Republic of Cyprus on Mutual Encouragement and Protection of Investments, signed on 12 November 1987, entered into force on 18 May 1988.

Agreement between the Government of the Republic of Cyprus and the Government of the Hungarian People's Republic on Mutual Promotion and Protection of Investments, signed on 25 May 1989, entered into force on 25 May 1990.

### **Czech**

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Czech and Slovak Federal Republic for the Promotion and Protection of Investments with Protocol, signed on 10 July 1990, entered into force on 26 October 1992.

Agreement on Encouragement and Reciprocal Protection of Investments between the Kingdom of the Netherlands and the Czech and Slovak Federal Republic, signed on 29 April 1991, entered into force on 01 October 1992.

### **Ecuador**

Agreement between the Government of Canada and the Government of the Republic of Ecuador for the Promotion and Reciprocal Protection of Investments, signed on 29 April 1996, entered into force on 06 June 1997 (subsequently terminated).

### **Egypt**

Agreement between The Government of The Republic of Finland and The Government of The Arab Republic of Egypt on The Promotion and Protection of Investments, signed on 03 March 2004, entered into force on 05 February 2005.

### **El Salvador**

Agreement for the Reciprocal Promotion and Protection of Investments signed between the Republic of El Salvador and the Kingdom of Spain, signed on 14 February 1995, entered into force on 20 February 1996.

### **Finland**

Agreement between The Government of The Republic of Finland and The Government of The Arab Republic of Egypt on The Promotion and Protection of Investments, signed on 03 March 2004, entered into force on 05 February 2005.

### **France**

Agreement between the Government of the Argentine Republic and the Government of the Republic of France for Reciprocal Protection and Promotion of Investments, signed on 03 July 1991, entered into force on 03 March 1993.

## **Germany**

Treaty between the Federal Republic of Germany and Pakistan for the Promotion and Protection of Investments, signed on 25 November 1959, entered into force on 28 April 1962.

Agreement Between the Federal Republic of Germany and the Federation of Malaya Concerning the Promotion and Reciprocal Protection of Investments, signed on 22 December 1960, entered into force on 06 July 1963.

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## **Ghana**

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Agreement between the Government of the Republic of India and the Government of the Republic of Ghana for the Reciprocal Promotion and Protection of Investments, signed on 05 August 2002, not yet entered into force.

## **Guinea**

Agreement between the Government of the Republic of Ghana and The Government the Republic of Guinea for the Promotion and Protection of Investments, signed on 18 May 2001, not yet entered into force.

## **Hungary**

Agreement between the Kingdom of the Netherlands and the Hungarian People's Republic for the Encouragement and Reciprocal Protection of Investments, signed on 02 September 1987, entered into force on 01 June 1988.

Agreement between the Government of the Republic of Cyprus and the Government of the Hungarian People's Republic on Mutual Promotion and Protection of Investments, signed on 25 May 1989, entered into force on 25 May 1990.

## **Indonesia**

The Netherlands and Indonesia: Agreement on Economic Cooperation, signed on 07 July 1968, entered into force on 17 July 1971.

Agreement between the Government of The Republic of Indonesia and the Government of the Republic of India for the Promotion and Protection of Investments, signed on 10 February 1999, entered into force on 22 January 2004.

The Agreement between the Government of the Republic of Croatia and the Government of the Republic of Indonesia on the Promotion and Protection of Investments, signed on 10 September 2002, not yet entered into force.

## **India**

Agreement between the Government of The Republic of Indonesia and the Government of the Republic of India for the Promotion and Protection of Investments, signed on 10 February 1999, entered into force on 22 January 2004.

Agreement between the Government of the Kingdom of Thailand and The Government of the Republic of India for the Promotion and Protection of Investments, signed on 10 July 2000, entered into force on 13 July 2001.

Agreement between the Government of the Republic of India and the Government of the Republic of Ghana for the Reciprocal Promotion and Protection of Investments, signed on 05 August 2002, not yet in force.

Treaty between The Republic of Belarus and The Republic of India on Investments, signed on 24 September 2018, not yet entered into force.

## **Iran**

Agreement on Reciprocal Promotion and Protection of Investments between the Government of the Islamic Republic of Iran and the Government of Bosnia and Herzegovina, signed on 27 July 1996, entered into force on 02 June 2009.

Agreement on Reciprocal Promotion and Protection of Investments between the Government of the Republic of Turkey and the Government of the Republic of Iran, signed on 21 December 1996, entered into force on 13 April 2005.

Agreement between the Government of the Lebanese Republic and the Government of the Islamic Republic of Iran on The Reciprocal Promotion and Protection of Investments, signed on 28 October 1997, entered into force on 14 May 2000.

Agreement on Reciprocal Promotion and Protection of Investments between the Government of the Italian Republic and the Government of the Islamic Republic of Iran, signed on 10 March 1999, entered into force on 08 August 2003.

Agreement on Reciprocal Promotion and Protection of Investment between the Government of the People's Republic of China and the Government of the Islamic Republic of Iran, signed on 22 June 2000, entered into force on 01 July 2005.

Agreement on the Promotion and Reciprocal Protection of Investments between the Kingdom of Spain and the Islamic Republic of Iran, signed on 29 October 2002, entered into force on 13 July 2004.

Agreement between the Slovak Republic and the Islamic Republic of Iran for the Promotion and Reciprocal Protection of Investments, signed on 19 January 2016, not yet entered into force.

Agreement between Japan and the Islamic Republic of Iran on Reciprocal Promotion and Protection of Investment, signed on 05 February 2016, entered into force on 26 April 2017.

## **Iraq**

The Protocol between the Governments of the State of Kuwait and the Republic of Iraq on the Promotion of the Movement of Capital and Investments between the Two Countries, signed on 25 October 1964, entered into force on 07 June 1966.

## **Italy**

Agreement on Reciprocal Promotion and Protection of Investments between the Government of the Italian Republic and the Government of the Islamic Republic of Iran, signed on 10 March 1999, entered into force on 08 August 2003.

## **Japan**

Agreement between Japan and the Islamic Republic of Iran on Reciprocal Promotion and Protection of Investment, signed on 05 February 2016, entered into force on 26 April 2017.

## **Kazakhstan**

Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Uzbekistan on the Promotion and Protection of Investments, signed on 02 June 1997, entered into force on 08 September 1997.

Agreement between the Government of the Kingdom of Sweden and the Government of the Republic of Kazakhstan on the Promotion and Reciprocal Protection of Investments, signed on 25 October 2004, entered into force on 01 August 2006.

## **Kuwait**

The Protocol between the Governments of the State of Kuwait and the Republic of Iraq on the Promotion of the Movement of Capital and Investments between the Two Countries, signed on 25 October 1964, entered into force on 07 June 1966.

Agreement between the Republic of Austria and the State of Kuwait for the Encouragement and Reciprocal Protection of Investments, signed on 16 November 1996, entered into force on 22 September 1998.

## **Kyrgyzstan**

Agreement for the Promotion and Protection of Investment between the Government of the Republic of Austria and the Government of the Kyrgyz Republic, signed on 22 April 2016, not yet entered into force.

## **Lebanon**

Agreement between the Government of the Lebanese Republic and the Government of the Islamic Republic of Iran on The Reciprocal Promotion and Protection of Investments, signed on 28 October 1997, entered into force on 14 May 2000.

Agreement between the Government of the Lebanese Republic and the Government of the Republic of Belarus on the Promotion and Reciprocal Protection of Investments, signed on 19 June 2001, entered into force on 29 December 2002.

## **Malaysia**

Agreement Between the Federal Republic of Germany and the Federation of Malaya Concerning the Promotion and Reciprocal Protection of Investments, signed on 22 December 1960, entered into force on 06 July 1963.

Investment Guarantee Agreement between Malaysia and the Belgo-Luxemburg Union, signed on 22 November 1979, entered into force on 08 February 1982.

Agreement between the Republic of Austria and Malaysia for the Promotion and Protection of Investments, signed on 12 April 1985, entered into force on 01 January 1987.

### **Mauritius**

Agreement between the Government of the Republic of Mauritius and the Government of the Republic of Ghana for the Promotion and Reciprocal Protection of Investments, signed on 18 May 2001, not yet entered into force.

### **Mongolia**

Agreement between Canada and Mongolia for the Promotion and Protection of Investments, signed on 08 August 2016, entered into force on 24 February 2017.

### **Montenegro**

Agreement between The Belgium-Luxembourg Economic Union, on the one hand, and Montenegro, on the other hand, on the Reciprocal Promotion and Protection of Investments, signed on 16 February 2010, not yet in force.

### **Netherlands**

The Netherlands and Indonesia: Agreement on Economic Cooperation, signed on 07 July 1968, entered into force on 17 July 1971.

Agreement on Reciprocal Encouragement and Protection of Investments between the Kingdom of the Netherlands and the Republic of Turkey, signed on 27 March 1986, entered into force on 01 November 1989.

Agreement between the Kingdom of the Netherlands and the Hungarian People's Republic for the Encouragement and Reciprocal Protection of Investments, signed on 02 September 1987, entered into force on 01 June 1988.

Agreement on Encouragement and Reciprocal Protection of Investments between the Kingdom of the Netherlands and the Czech and Slovak Federal Republic, signed on 29 April 1991, entered into force on 01 October 1992.

Agreement on Encouragement and Reciprocal Protection of Investments between the Kingdom of the Netherlands and the Argentine Republic, signed on 20 October 1992, entered into force on 01 October 1994.

Agreement on Encouragement and Reciprocal Protection of Investments between the Kingdom of Cambodia and the Kingdom of the Netherlands, signed on 23 June 2003, entered into force on 01 March 2006.

### **Pakistan**

Treaty between the Federal Republic of Germany and Pakistan for the Promotion and Protection of Investments, signed on 25 November 1959, entered into force on 28 April 1962.

Agreement between Australia and the Islamic Republic of Pakistan on the Promotion and Protection of Investments, signed on 07 February 1998, entered into force on 14 October 1998.

### **Philippines**

Agreement between the Federal Republic of Germany and the Republic of the Philippines for the Promotion and Reciprocal Protection of Investments, signed on 18 April 1997, entered into force on 01 February 2000.

Agreement between the Republic of Austria and the Republic of the Philippines for the Promotion and Reciprocal Protection of Investments, signed on 11 April 2002, entered into force on 01 December 2003.

### **Portugal**

BIT between the Portuguese Republic and the Government of the Republic of Venezuela, signed on 17 June 1994, entered into force on 07 October 1995.

### **Russia**

Agreement between the Government of the Kingdom of Thailand and the Government of the Russian Federation on the Promotion and Reciprocal Protection of Investments, signed on 17 October 2002, not yet entered into force.

### **Slovakia**

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Czech and Slovak Federal Republic for the Promotion and Protection of Investments with Protocol, signed on 10 July 1990, entered into force on 26 October 1992.

Agreement on Encouragement and Reciprocal Protection of Investments between the Kingdom of the Netherlands and the Czech and Slovak Federal Republic, signed on 29 April 1991, entered into force on 01 October 1992.

Agreement between the Slovak Republic and the Islamic Republic of Iran for the Promotion and Reciprocal Protection of Investments, signed on 19 January 2016, not yet entered into force.

### **Spain**

Agreement for the Reciprocal Promotion and Protection of Investments signed between the Republic of El Salvador and the Kingdom of Spain, signed on 14 February 1995, entered into force on 20 February 1996.

Agreement on the Promotion and Reciprocal Protection of Investments between the Kingdom of Spain and the Islamic Republic of Iran, signed on 29 October 2002, entered into force on 13 July 2004.

Agreement between the Kingdom of Spain and the Republic of Albania on the Promotion and Reciprocal Protection of Investments, signed on 05 June 2003, entered into force on 14 January 2004.

### **Swaziland**

Treaty between the Federal Republic of Germany and the Kingdom of Swaziland concerning the Encouragement and Reciprocal Protection of Investments, signed on 05 April 1990, entered into force on 07 August 1995.

### **Sweden**

Agreement between the Government of the Kingdom of Sweden and the Government of the Republic of Kazakhstan on the Promotion and Reciprocal Protection of Investments, signed on 25 October 2004, entered into force on 01 August 2006.

### **Switzerland**

Agreement between the Swiss Confederation and the Republic of Costa Rica on the Promotion and the Reciprocal Protection of Investments, signed on 01 August 2000, entered into force on 19 November 2002.

### **Thailand**

Agreement between the Government of the Kingdom of Thailand and The Government of the Republic of India for the Promotion and Protection of Investments, signed on 10 July 2000, entered into force on 13 July 2001.

Agreement between the Government of the Kingdom of Thailand and the Belgo-Luxemburg Economic Union on the Reciprocal Promotion and Protection of Investments, signed on 12 June 2002, entered into force on 19 September 2004.

Agreement between the Government of the Kingdom of Thailand and the Government of the Russian Federation on the Promotion and Reciprocal Protection of Investments, signed on 17 October 2002, not yet entered into force.

### **Turkey**

Agreement on Reciprocal Encouragement and Protection of Investments between the Kingdom of the Netherlands and the Republic of Turkey, signed on 27 March 1986, entered into force on 01 November 1989.

Agreement between the Republic of Turkey and Turkmenistan Concerning the Reciprocal Promotion and Protection of Investments, signed on 02 May 1992, entered into force on 13 March 1997.

Agreement on Reciprocal Promotion and Protection of Investments between the Government of the Republic of Turkey and the Government of the Republic of Iran, signed on 21 December 1996, entered into force on 13 April 2005.

Agreement between the Government of the Republic of Colombia and the Government of the Republic of Turkey Concerning the Reciprocal Promotion and Protection of Investments, signed on 28 July 2014, not yet entered into force.

### **Turkmenistan**

Agreement between the Republic of Turkey and Turkmenistan Concerning the Reciprocal Promotion and Protection of Investments, signed on 02 May 1992, entered into force on 13 March 1997.

### **United Kingdom**

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Czech and Slovak Federal Republic for the Promotion and

Protection of Investments with Protocol, signed on 10 July 1990, entered into force on 26 October 1992.

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Argentina for the Promotion and Protection of Investments, signed on 11 December 1990, entered into force on 19 February 1993.

Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Republic of Armenia for the Promotion and Protection of Investments, signed on 27 May 1993, entered into force on 11 July 1996.

### **Uzbekistan**

Agreement between the Government of the Republic of Kazakhstan and the Government of the Republic of Uzbekistan on the Promotion and Protection of Investments, signed on 02 June 1997, entered into force on 08 September 1997.

### **Venezuela**

BIT between the Portuguese Republic and the Government of the Republic of Venezuela, signed on 17 June 1994, entered into force on 07 October 1995.

### **Model BITs**

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United States – Singapore Free Trade Agreement, signed on 06 May 2003, entered into force 01 January 2004.

Comprehensive Economic and Trade Agreement (CETA) between Canada, of the One Part, and the European Union And Its Member States, signed on 30 October 2016, not yet entered into force.

Comprehensive and Progressive Agreement for Trans-Pacific Partnership (CPTPP), signed on 08 March 2018, not yet entered into force.

### **International Conventions**

African Union Convention on Preventing and Combating Corruption, signed on 11 July 2003, entered into force 05 August 2006 (2004) 43 ILM.

Civil Law Convention on Corruption, signed on 04 November 1999, entered into force on 01 November 2003, 2246 UNTS 3.

Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights), adopted on 04 November 1950, entered into force on 03 September 1953, 213 UNTS 222.

Convention on Certain Questions Relating to the Conflict of Nationality Laws, signed on 12 April 1930, entered into force on 01 July 1937, 179 LNTS 89.

Convention on the Settlement of Investment Disputes between States and Nationals of Other States (ICSID Convention), adopted on 18 March 1965, entered into force on 14 October 1966, 575 UNTS 159.

Criminal Law Convention on Corruption, signed on 27 January 1999, entered into force 01 July 2002, 2216 UNTS 225.

Energy Charter Treaty (ECT), adopted on 17 December 1994, entered into force on 16 April 1998, 2080 UNTS 100.

European Convention on Nationality, signed on 06 November 1997 in Strasbourg, entered into force on 01 March 2000, 2135 UNTS 123.

Inter-American Convention against Corruption, signed on 29 March 1996, entered into force on 06 March 1997, (1996) 35 ILM.

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