

## **Abstract**

This thesis aims to transparently elaborate the topic of damages in investment disputes. Chapter One is a brief introduction to the problem. It provides a short clarification of the concept and meaning of arbitration and its importance for the protection of investors; it also describes the principles of modern forms of investor protection. The end of the first Chapter includes a short introduction regarding the sources on damages in investment arbitration.

Chapter Two deals with the issue of valuation. At the beginning the author approaches the issue in general, describing the basic terminology and definitions and providing the classification of the valuation methodology (Market-Based Approach, Income-Based Approach, Asset-Based Approach). This is followed by outlining the issues related to the term “market value”, when the author focuses on the questions related to the calculation of fair market value, its use in practice, issues related to this use, etc. The next is the theme of damage arising from the breach of a contract and by describing the ways of valuation of the damage arising from the breach of a contract. The Chapter also includes the study regarding the issue of the determination of damages in the absence of the market, and analyses the issue of the moment as at which the valuation is carried out. A separate subchapter is devoted to the question of taking into account the events occurring after the harm is incurred, which influence the decision-making regarding the day as at which the valuation is made. It also describes the situations how the damages and valuation are influenced if the damage is incurred during “mere” interruption of operation. A separate subchapter is dedicated to general legal limits of compensation, specifically to the issues of too speculative market value, discontinued business, lack of predictability, lack of causal nexus in relation to the damage, the issues of the burden of proof, mitigation and unjust enrichment, or the aspects of a fair solution of damages. The end of Chapter Two of the thesis contains a subchapter concerning the institute of comparability.

Chapter Three of the thesis describes the issue of interest in connection with investment arbitration. The term “interest” is briefly defined and its meaning described,

and the general legal framework regulating the interest is outlined. This is followed by the explanation of the difference between *pre-award interest* and *post-award interest*. Questions are then briefly elaborated which each tribunal deciding on claims for interest has to deal with. The arbitral tribunal determines whether simple or compound interest should be awarded and what period of time it should be granted for. Furthermore, the tribunal must decide from which date the interest should be calculated. The amount of interest rate is determined only then. This area is gradually described in this Chapter of the thesis.

Chapter Four contains a case study where issues related to damages are clearly analyzed on selected cases, and the validity of the principles that were theoretically defined in the previous parts of this thesis is demonstrated in practice.

Chapter Five of the thesis contains a brief summary of what appropriate and admissible means of damages in investment disputes are available, and provides a list of commonly used valuation methods.

The end of the thesis includes the conclusion, and the list of abbreviations and of literature used.

**Key words:**

- Damages in investment disputes
- Valuation
- Investment protection
- Investment dispute
- Restitution – Compensation – Satisfaction
- Interest in investment disputes