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THE FAIR AND EQUITABLE TREATMENT STANDARD - CUSTOMARY RULE OF INTERNATIONAL INVESTMENT LAW?

Abstract:

Article examines whether or not the Fair and Equitable Treatment (FET) standard has become a rule of customary international law. It analyses the question based on the two conditions under which a treaty-based norm could transform into a customary rule. Author argues that FET standard has not become a rule of custom. Practice of states to include FET clauses in their BITs can be considered as general, widespread and representative, however it is not uniform and consistent. There is no indication that state parties to BITs believe that they have an obligation under international law to provide fair and equitable treatment protection to investors.

Keywords:

FET standard, Investment Arbitration, International Investment Law, BITs, International Custom

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