

Prof. Dr. Eric De Brabandere
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1000 Brussels

Eric De Brabandere holds the Chair in International Dispute Settlement at Leiden University Law School, and is a founding partner of De Meulemeester & De Brabandere Law Firm (DMDB Law) based in Brussels. He is specialised in international arbitration and international investment law. He was awarded the ‘Serge Lazareff Prize - Legal Services’ by the SHAPE/NATO Allied Command Operations (ACO) Office of Legal Affairs (OLA) in 2021.

At Leiden Law School, Eric De Brabandere is Director of the Grotius Centre for International Legal Studies, and of the Master of Advanced Studies in International Dispute Settlement and Arbitration which he founded in 2017. He has published seven books and over 100 articles and book chapters, relating to international investment law, arbitration, dispute settlement and international law.

Eric De Brabandere practices in international law and investment arbitration as partner with DMDB Law. He has been appointed as presiding arbitrator, sole arbitrator, and co-arbitrator in international commercial arbitrations, regularly acts as expert in international proceedings, has previously acted as counsel in investment treaty arbitrations under the ICSID Convention and the UNCITRAL Arbitration Rules, and regularly advises on international commercial arbitration, investment law and arbitration, and international dispute settlement.

He is listed as arbitrator with the Netherlands Arbitration Institute (NAI), a member of the Belgian Centre for Arbitration (CEPANI), and a Member of the International Advisory Council, and was appointed to the list of international arbitrators of the [Centro Internacional de Arbitraje Cámara de Bélgica y Luxemburgo en el Perú](#).

As an academic, he also has vast experience in cooperating with governmental agencies and international institutions to conduct training sessions for government officials, attorneys, and lawyers in international investment law and arbitration, and corporate social responsibility. He has, amongst others, been involved in a capacity-building project on international investment arbitration in Indonesia and has trained African officials and lawyers in international investment arbitration and corporate social responsibility.

Eric De Brabandere is fluent in English, French and Dutch.

EDUCATION

2002-2007	Ph.D. (Law), Ghent University, Faculty of Law, Department of Public International Law
2001-2002	University of Geneva, Faculty of Law, LLM Public International Law (D.E.A. Droit International Public), mention « bien » (<i>cum laude</i>).
1996-2001	Ghent University, Faculty of Law, Cand Jur. and Lic. Jur. (<i>cum laude</i>)

PROFESSIONAL EXPERIENCE

- 2022-... Listed as arbitrator suitable for appointment in bilateral disputes under the EU's trade agreements with third countries, established by Commission Decision C(2020) 8905 final of 16.12.2020
- 2021 Visiting Professor of International Dispute Settlement and Investment Law, the University of Makeni (UNIMAK), Sierra Leone.
- 2007-... Grotius Centre for International Legal Studies | Leiden University
Director of the Grotius Centre / Head of Department
Full Professor | Chair of International Dispute Settlement Law
- 2018-... Partner with De Meulemeester & De Brabandere (DMDB Law)
- 2013-2018 Attorney-at-law, Member of the Ghent Bar and Brussels Bar, Lexlitis Lawfirm.
- 2014-2017 Visiting Professor of International Investment Law, University of Trento (Italy)
- 2010-2015 Visiting Professor of International Responsibility and International Litigation, ,
Faculté Libre de Droit, Université Catholique de Lille (France)
- 2013 Visiting Professor of International Investment Law, University of Groningen (Netherlands)
- 2002-2007 Assistant Lecturer and researcher, Ghent University, Faculty of Law, Department of Public International Law
- 2002 - 2006 Attorney-at-law at the Brussels Bar with Harmel, de Crayencour, Herinckx
- 2005-2007 Lecturer, *Karel de Grote University College*, Antwerp

OTHER INTERNATIONAL ACTIVITIES (SELECTION)

- 2020-...: Elected as Member of the Academic Council of the Institute for Transnational Arbitration, The Center for American and International Law (United States).
- 2018-... : Member of the 'Academic Forum on ISDS' and of its Working Group Four on the "Correctness" of ISDS decision-making', set up to 'exchange views, explore issues and options, test ideas and solutions, and make a constructive contribution to the ongoing discussions on possible reform of ISDS, in particular the discussions in the context of UNCITRAL's Working Group III (WGIII)' (see <https://www.jus.uio.no/pluricourts/english/projects/leginvest/academic-forum/>) (2018-..)
- 2005-2006 Expert to the Belgian Permanent Representation to the UN for the discussion of the report of the International Law Commission at the 6th Committee, United Nations Headquarters, New York (2005-2006)

HONOURS, SCHOLARSHIPS AND GRANTS (SELECTION)

- Recipient of the 'Serge Lazareff Prize - Legal Services (Ordinary, individual – Category Commander)' by the SHAPE/NATO Allied Command Operations (ACO) Office of Legal Affairs (OLA) (2021 -effectively awarded in 2022)

- Research grant by Lund University Research Council (jointly with Professor Ulf Lindefalk from Lund University), Research Project on Discretion in International Law (2018-2020) (657.884 EUR)
- NUFFIC Capacity Building Project, Capacity Development of Transnational Law including Asset Recovery and International Investment Arbitration at the Department of Transnational Law Universitas Indonesia - CAPDEV-TL (1.517.419,00 EUR (1/9-2015 – 31/8/2019) (with VU University Amsterdam) – Responsibility for the International Investment Arbitration component.
- VENI Research grant by the Netherlands Organization for Scientific Research (NWO) to conduct a three-year research project on the Resolution of Contemporary Investment Disputes. (39 grants -3 in law- out of 274 applications) (250.000 EUR)

PUBLICATIONS (SELECTION)

MONOGRAPHS

2022

- *Merrill's International Dispute Settlement* (7th Edition) (with the late John G. Merrills) (Cambridge: Cambridge University Press, 2022)

2014

- *Investment Treaty Arbitration as Public International Law: Procedural Aspects and Implications* (Cambridge: Cambridge University Press, 2014)

2009

- *Post-conflict Administrations in International Law. International Territorial Administration, Transitional Authority and Foreign Occupation in Theory and Practice* (Leiden: Martinus Nijhoff Publishers, 2009)

EDITED BOOKS

2021

- *International Procedure in Interstate Litigation and Arbitration: A Comparative Analysis* (Cambridge: Cambridge University Press, 2021)
- *Public Participation and Foreign Investment Law: From the Creation of Rights and Obligations to the Settlement of Disputes* (edited with Tarcisio Gazzini and Avidan Kent) (Leiden/Boston: Brill Nijhoff, 2021)

2014

- *Foreign investment in the energy sector: Balancing private and public interests* (edited with T. Gazzini) (Leiden/Boston: Martinus Nijhoff Publishers, 2014)

2012

- *International Investment Law. Sources of Rights and Obligations*, (edited with T. Gazzini) (Leiden/Boston: Martinus Nijhoff Publishers, 2012)

BOOK CHAPTERS

2022

- 'International Adjudication and Jurisdictional Conflict', in Ulf Lindefalk, *International law as a system of knowledge* (Cheltenham: Edward Elgar, 2022) (forthcoming).
- 'The Development of Investment Law and Arbitration during the Cold War: Paradoxes and antagonisms', in Matt Craven, Sundhya Pahuja, Gerry Simpson Sundhuya Pahuja, *The Cambridge History of International Law - Volume XI: International Law during the Cold War (1945-1990)* (work in progress/forthcoming, 2022)

- ‘Coherence, Consistency, and the Reform of Investment Treaty Arbitration – Reflections on the Role and Function of Arbitral Tribunals’ in Nicholas Tsagourias, Russell Buchan, and Daniel Francini, *The Changing Character of International Dispute Settlement* (Oxford: Hart, 2022) (forthcoming).
- ‘Amicus Curiae Intervention: From NAFTA to the Intra-Eu Saga’ in H el ene Ruiz-Fabri and Edoardo Stoppioni, *International Investment Law: An Analysis of the Major Decisions* (Oxford: Hart Publishing, 2022), 193–210.
- ‘Overriding Mandatory Provisions and Arbitrability in International Arbitration: the Case of Multilateral and Unilateral Sanctions’ (with David Holloway), in Georges Affaki and Vladimir Khvalei (ed.), *Overriding Mandatory Rules and Compliance in International Arbitration* (Dossier XIX) (Paris: International Chamber of Commerce, 2022), 153-162.

2021

- ‘International Investment Law and Human Rights’, in C Binder, M Nowak JA Hofbauer, and P Janig (eds), *Elgar Encyclopedia of Human Rights* (Edward Elgar, 2021), 1-10 (online edition)
- ‘International Investment Law and Arbitration in Cyberspace’ in Nicholas Tsagourias and Russel Buchan (ed.), *Research Handbook on International Law and Cyberspace* (2nd Ed.) (Edward Elgar, 2021), 181-202.
- ‘Unilateral Sanctions through an International Arbitration Lens: Procedural and Substantive Issues’ (with David Holloway), in Charlotte Beaucillon (ed.), *Research Handbook on Unilateral and Extraterritorial Sanctions* (Cheltenham: Edward Elgar, 2021) 342–364.

2020

- ‘International investment law and social rights: interactions and encounters’ in Christina Binder, Jane A. Hofbauer, Fl avia Piovesan and Amaya  beda de Torres (eds.), *Research Handbook on Social Rights Actors* (Cheltenham: Edward Elgar, 2020) 414-439.

2019

- ‘Panel Discussion: Be Careful What You Ask For: Can Recent Changes to BIT Models Satisfy ISDS Sceptics and Opponents?’ in M.N. Al-Rashid, K. Duggal, M.K. Harwood M.K., and T.J. Weiler (eds.) *Investment Treaty Arbitration and International Law* (Volume 12) (Huntington: Juris, 2019) 184-186.
- ‘Amicus Curiae (Investment Arbitration)’ in H el ene Ruiz-Fabri, *Max Planck Encyclopedia of International Procedural Law* (Oxford: Oxford University Press, 2019), 1-15 (online edition).
- ‘Measures of Constraint and the Immunity of International Organisations’, in Tom Ruys and Nicolas Angelet, *Cambridge Handbook on Immunities and International Law* (Cambridge: Cambridge University Press, 2019) 327-349.
- ‘Human Rights and International Investment Law’, in Markus Krajewski and Rhea Hoffmann (ed.), *Research Handbook on Foreign Direct Investment* (Cheltenham: Edward Elgar, 2019) 619-645.

2018

- ‘Corporate Responsibility and Human Rights – Navigating between international, domestic and self-regulation’ (with Maryse Hazelzet), in Yannick Radi (ed.) *Research Handbook on Human Rights and Investment* (Cheltenham: Edward Elgar, 2018) 221-243.

2017

- ‘Role of Courts in International Economic Law’, in Thomas Cottier and Krista Nadakavukaren Schefer (eds), *Elgar Encyclopedia of International Economic Law* (Cheltenham: Edward Elgar Publishing 2017) 46-47.
- ‘Sanctions and International Arbitration’ (with David Holloway), in Larissa van den Herik (ed.), *Research Handbook on UN Sanctions and International Law* (Cheltenham: Edward Elgar, 2017) 304-329.

- ‘Mercantile Adventurers’? The Disclosure of Third-Party Funding in Investment Treaty Arbitration’, in Willem van Boom (ed.), *Litigation, costs, funding and behaviour –implications for the law* (London: Routledge, 2017) 105-128.

2016

- ‘States’ Reassertion of Control over International Investment Law - (Re)Defining ‘Fair and Equitable Treatment’ and ‘Indirect Expropriation’, in Andreas Kulick (ed.), *Reassertion of Control over the Investment Treaty Regime* (Cambridge: Cambridge University Press, 2016) 285-308.
- ‘Responsabilité internationale et régulation économique : la protection internationale des investissements en perspective’, in David Renders (ed.), *La responsabilité extracontractuelle des pouvoirs publics* (Brussels: Bruylant : 2016) 621-646. (Translation: ‘International Responsibility and Economic Regulation : Perspectives on the International Protection of Foreign Investments’).

2015

- ‘Good Faith in Treaty Interpretation’ (with Isabelle van Damme), in A. Mitchell, M. Sornarajah and T. Voon (eds), *Good Faith and International Economic Law* (Oxford: Oxford University Press, 2015) 37-59.
- ‘UN Post-Conflict Peacebuilding Activities – An Economic Reconstruction Perspective’ in Frauke Lachenmann, Tilmann J. Röder, Rüdiger Wolfrum (eds.), *Max Planck Yearbook of United Nations Law, Volume 18 (2014)*, (Leiden/Boston: Martinus Nijhoff Publishers, 2015) 188-216.

2014

- ‘The Settlement of Investment Disputes in the Energy Sector’ in Eric De Brabandere and Tarcisio Gazzini, *Foreign investment in the energy sector: Balancing private and public interests* (Leiden/Boston: Martinus Nijhoff Publishers, 2014) 130-168.

2013

- ‘Co-existence, Complementarity or Conflict? Interaction between Preferential Trade and Investment Agreements and Bilateral Investment Treaties’, in Rainer Hofmann, Stephan Schill and Christian Tams (eds.), *Preferential Trade and Investment Agreements: From Recalibration to Reintegration* (Baden-Baden: Nomos, 2013) 37-69.

2012

- ‘Human Rights Considerations in International Investment Arbitration’, in M. Fitzmaurice and P. Merkouris (eds.), *The Interpretation and Application of the European Convention of Human Rights: Legal and Practical Implications* (Boston/Leiden: Martinus Nijhoff Publishers, 2012) 183-216.
- ‘La doctrine en tant que source de droit à l’OMC’, in V. Tomkiewicz, T. Garcia and D. Pavot (ed.), *Les sources et les normes dans le droit de l’OMC* (Paris : Pedone, 2012) 209-221 (translation: ‘Legal Writings as a Source of Law at the WTO’).
- ‘Judicial and Arbitral Decisions as a Source of Rights and Obligations’, in T. Gazzini and E. De Brabandere, *International Investment Law. Sources of Rights and Obligations* (Leiden/Boston: Martinus Nijhoff Publishers, 2012) 245-288.

2011

- ‘Immunity as a Guarantee for Institutional Autonomy: A Functional Perspective on UN Immunity in Post-conflict Situations’, in N. White and R. Collins, *International Organisations and the Idea of Autonomy* (Abingdon: Routledge, 2011) 278-296.
- ‘Non-State Actors and Human Rights: Corporate Responsibility and the Attempts to Formalize the Role of Corporations as Participants in the International Legal System’, in J. d’Aspremont (ed.), *Participants in the International Legal System Multiple Perspectives on Non-State Actors in International Law* (Abingdon: Routledge, 2011) 268-283.

- ‘Pragmatism in International Law: Non-State Actors and International Dispute Settlement’, in J. d’Aspremont (ed.), *Participants in the International Legal System: Multiple Perspectives on Non-State Actors in International Law* (Abingdon: Routledge, 2011) 342-359.
- ‘Non-State Actors and the Individualization and Proliferation of International Dispute Settlement’, in B. Reinalda (ed.), *The Ashgate Research Companion to Non-State Actors* (Farnham: Ashgate, 2011) 347-359.

ARTICLES

2022

- ‘The 2019 Dutch Model Bilateral Investment Treaty – Navigating the Turbulent Ocean of Investment Treaty Reform’, 36(2) *ICSID Review - Foreign Investment Law Journal* (2021), 319–338.
- ‘The judgement of the Brussels court of first instance in R. v Mauritius of 30 June 2021 – Reflections on treaty interpretation, dual nationality, and the scope of review of arbitral awards in investment treaty arbitration’, 2021(2) *b-Arbitra – Belgian Review of Arbitration* (2022), 366-392.

2021

- ‘Reforming Investment Law and Arbitration and the “New Economic World Order”: Between Myth and Reality’, 114 *Proceedings of the ASIL Annual Meeting* (2021) 67-70.
- ‘Internationale bevoegdheid van de Nederlandse rechter en de immuniteit van internationale organisaties: de uitspraak van het Hof van Justitie in Supreme v Supreme Headquarters Allied Powers Europe (SHAPE)’ 7/8 *Nederlands Tijdschrift voor Europees Recht (NTER)* (2020) 189-195. (translation: ‘The International Competence of Dutch Courts and the Immunity of International Organisations: the Judgement of the European Court of Justice in Supreme v Supreme Headquarters Allied Powers Europe (SHAPE)’ – Netherlands Journal of European Law)

2020

- ‘The (Ir)relevance of Transnational Public Policy in Investment Treaty Arbitration – A Reply to Jean-Michel Marcoux’ 21 (6) *Journal of World Investment & Trade* (2020), 847–866.
- ‘The Role of Proportionality in International Investment Law and Arbitration - A System-Specific Perspective’ 89 (3-4) *Nordic Journal of International Law* (2020), 471-491 (with Paula Baldini Miranda da Cruz).
- ‘In Memoriam: Professor Hugh W. A. Thirlway (14 June 1937 – 13 October 2019)’ (2020) 33(2) *Leiden Journal of International Law* 261-268 (with Cristina Hoss and Santiago Villalpando).

2018

- ‘(Re)Calibration, Standard-Setting and the Shaping of Investment Law and Arbitration’, 59(8) *Boston College Law Review* (2018), 2607-2634.
- ‘Human Rights Counterclaims in Investment Treaty Arbitration’, 2 *Revue Belge de Droit International* (2017), 591-610 (published in November 2018).
- ‘De Achmea-zaak voor het Europees Hof van Justitie – Het Einde van Intra-EU Investeringsverdragen ?’, *Nederlands Tijdschrift voor Europees Recht (NTER)* 2018(3), 1-14 (translation: ‘The Achmea-case before the European Court of Justice – The End of Intra-EU Investment Treaties ?’ – Netherlands Journal of European Law)
- ‘International Dispute Settlement – From Practice to Legal Discipline’, 31(3) *Leiden Journal of International Law* (2018), 1-10.

2017

- ‘Full Protection and Security and Fair and Equitable Treatment in African Investment Relations: Between Contextual Specificity and Generality’, 18(1) *Journal of World Investment and Trade* (2017), 530-555.

2016

- ‘The jurisdiction *ratione temporis* of international investment tribunals – Some observations on the Decision of the Tribunal in Ping An v Belgium’ (with Saskia Lemeire), 2016(2) *b-Arbitra – Belgian Review of Arbitration* (2016), 139-149.
- ‘The Use of Precedent and External Case-Law by the International Court of Justice and the International Tribunal for the Law of the Sea’, 15(1) *The Law and Practice of International Courts and Tribunals* (2016), 24-55.

2015

- ‘Host States’ Due Diligence Obligations in International Investment Law”, 42(2) *Syracuse Journal of International Law and Commerce* (2015), 319-361.
- ‘Jus Post Bellum and Foreign Direct Investment – Mapping the Debate”, 16 *Journal of World Investment and Trade* (2015), 590-603.
- ‘Complementarity or Conflict? Contrasting the Yukos-case before the European Court of Human Rights and Investment Tribunals”, 30(2) *ICSID Review – Foreign Investment Law Journal* (2015), 345-355.

2014

- ‘Teinver S.A., Transportes de Cercanías S.A. and Autobuses Urbanos del Sur S.A. v. The Argentine Republic”, 15 *Journal of World Investment and Trade* (2014), 295-304.

2013

- ‘Belgian Courts and the Immunity of International Organizations’, 10(2) *International Organizations Law Review* (2013), 464-504.
Reprinted as “Belgian Courts and the Immunity of International Organizations”, in N.M. Blokker and N.J. Schrijver (eds.), The Immunity of International Organizations Leiden/Boston: Martinus Nijhoff Publishers, 2015.

2012

- ‘Third-Party Funding in International Investment Arbitration’ (with J. Lepeltak), 27(2) *ICSID Review – Foreign Investment Law Journal* (2012), 379-398.
- ‘Good Faith, Abuse of Process, and the Initiation of Investment Treaty Claims’, 3(3) *Journal of International Dispute Settlement* (2012), 609-636.
- ‘Individuals in Advisory Proceedings before the International Court of Justice: Equality of the Parties and the Court’s Discretionary Authority’, 11(2) *The Law and Practice of International Courts and Tribunals* (2012), 253-279.
- ‘The ICSID Rule on Early Dismissal of Unmeritorious Investment Treaty Claims : Preserving the Integrity of ICSID Arbitration’, 9(1) *Manchester Journal of International Economic Law* (2012), 23-44.
- ‘Le conflit entre le droit belge et le droit international: un conflit dont les multiples formes sont abordées par les juges sous différents angles’ (with Anne Lagerwall), 45 *Revue Belge de Droit International* (2012/2), 399-422.

2011

- ‘NGOs and the ‘Public Interest’: The Legality and Rationale of Amicus Curiae Interventions in International Economic and Investment Disputes’, 12 *Chicago Journal of International Law* (2011), 85-113.
- ‘Legitimacy of Origin v. Legitimacy of Exercise : The Complementary Faces of Legitimacy in International Law’, (with J. d’Aspremont), 43 *Fordham International Law Journal* (2011), 190-235.

Reprinted in Michael P. Malloy (ed.), Economic Sanctions (Edward Elgar, 2015) (two volumes 1,480 p.)

2010

- ‘Non-State Actors, State-Centrism and Human Rights Obligations’, 22 *Leiden Journal of International Law* (2009), 191-209 (6th most read article of the *Leiden Journal of International Law*, 2009-2010).

2007

- ‘Opvolging van staten inzake bilaterale (dubbelbelasting)verdragen’, 332 *Tijdschrift voor Fiscaal Recht [België]* (2007), 1019-1028 (Translation: State succession in respect of bilateral (double taxation) treaties).

Cited and relied upon by Court of Cassation Advocate-General Thijs in his conclusions in the case Cour de Cassation, *S.B.T.C. SOTRAMAR v. Belgium*, Case nr. F.09.0061.N, 10 September 2010, at paras. 3-5

OTHER (DATABASE, BLOGS, ETC.)

2022

- Co-submission of an Amicus Curiae Brief before the Supreme Court of the United States in *Beijing Shougang Mining Investment Company, Ltd., Et Al., v. Mongolia*, (case No. 21-1244), 29 April 2022.

2021

- Investment Arbitration Database (with Daniel Peat), <https://investmentarbitrationdatabase.com>

2018

- ‘Human Rights Counterclaims in Investment Treaty Arbitration’, *Investment Claims* (25 October 2018), <http://oxia.ouplaw.com/page/723>.

PROFESSIONAL MEMBERSHIPS AND AFFILIATIONS

- European Society of International Law (life-time membe)
- International Law Association
- Belgian Society of International Law
- Netherlands Society of International Law
- American Society of International Law
- Society for International Economic Law
- Former member of the Board of Directors of the United Nations Association Flanders – Belgium