UNITED KINGDOM IMPOSES SANCTIONS ON ROMAN ABRAMOVICH'S ASSETS: IS IT AN INDIRECT EXPROPRIATION?

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ABSTRACT

The asset freeze imposed by the United Kingdom(UK) on Roman Abramovich raises a critical legal issue regarding its classification as indirect expropriation under international investment law. A legal gap exists in interpreting economic sanctions as acts of indirect expropriation, particularly their compatibility with protections provided under Bilateral Investment Treaties (BITs). The research addresses whether such sanctions constitute unlawful indirect expropriation and examines the protection of Abramovich's rights as a foreign investor under international law. Using a normative juridical approach, the analysis draws on international treaties, arbitration case law, and BIT provisions between Russia Federation and the United Kingdom. Findings indicate that the sanctions meet the criteria for indirect expropriation, causing substantial economic loss and disruption to Abramovich's investments, including Chelsea FC. This paper contributes to the discourse on balancing state sovereignty, regulatory powers, and investor protections, offering insights into the broader implications of politically motivated actions on foreign investments.

Keyword: Indirect Expropriation; Bilateral Investment Treaty; Economic Sanctions; Roman Abramovich; International Investment Law.

INTRODUCTION

Roman Abramovich, a Russian entrepreneur, is one of the many businessmen who have invested across borders, placing his capital in England, specifically in the football club Chelsea Football Club. With a total wealth of 9.2 billion US dollars, Abramovich acquired ownership of Chelsea in 2003 for 140 million pounds.[1] Russia is one of the superpowers with strong military and political influence in the world. As a country that emerged from the Soviet Union, post-World War II, Russia fell into the Eastern bloc, while the United States became part of the Western bloc, which later formed NATO (North Atlantic Treaty Organization), an alliance of many countries initially consisting of 12 members, including the United States and Britain.[2]

In 2022, Russia launched a massive invasion of Ukraine due to indications that Ukraine was considering joining NATO, an organization with ideologies contrary to Russia's. This invasion marked Europe's largest military mobilization since World War II's end.[3] Russia's objective was to keep Ukraine neutral and prevent it from joining NATO. Russia's invasion of Ukraine drew condemnation from many countries, especially NATO member states. The United States, the European Union, and Britain imposed the heaviest economic sanctions ever seen during President Putin's administration [4] Britain, also a NATO member, was among the countries imposing severe sanctions not only on Russia but also on seven Russian nationals with assets in Britain.[5]

The British government, through the Royal Court, formally implemented an asset freeze against one Russian national, Roman Abramovich, estimated to be worth 7 billion US dollars. This action endangered the continuity of Abramovich's property, Chelsea Football Club, as it prohibited the sale of match tickets, player contracts or extensions, and player transfers. Expropriation is an uncommon occurrence in the world of international investment. Expropriation, an action that doesn't involve overt taking but effectively neutralizes the benefits of foreign-owned property, obliges the owner to submit to the takeover demands. This is undeniable according to international law.[6] Expropriation is also regulated in the Bilateral Investment Treaty between the Soviet

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[1] Eric Noveanto, 'Motif Di Balik Keputusan Roman Abramovich Beli Chelsea', *Goal.Com*, 2020, https://www.goal.com/id/berita/abramovic-chelsea-alasan-motif-beli/1g79debzjxz7fz8rcqn9gk4bc.

[2] Courses Lumenlearning, 'The Beginning of the Cold War', *Course Lumenlearning. Com*, n.d., https://courses.lumenlearning.com/suny-fmcc-worldcivilization2/chapter/the-beginning-of-the-cold-war/.

[3] Eric Nagourney, Richard Perez-Pena, and Dan Bilefsky, 'The Roots of the Ukraine War: How the Crisis Developed', *The New York Times*, 2023, https://www.nytimes.com/article/russia-ukraine-nato-europe.html.

[4] Paul Kirby, 'Has Putin's War Failed and What Does Russia Want from Ukraine?', *BBC*, 2023, https://www.bbc.com/news/world-europe-56720589.

[5] Commonwealth & Development Office Foreign, 'Abramovich and Deripaska among 7 Oligarchs Targeted in Estimated £15 Billion Sanction Hit', *Gov.Uk*, 2022, https://www.gov.uk/government/news/abramovich-and-deripaska-among-seven-oligarchs-targeted-in-estimated-15bn-sanction-hit#:~:text=Those%20newly%2Dsanctioned%20by%20the,also%20been%20placed%20under%20sanction.

[6] Giorgio Sacerdoti, *Bilateral Treaties and Multilateral Instruments on Investment Protection* (Nijhoff, 1997).

Union and Britain, stipulating that if an action is indicated as expropriation, compensation must be provided by the host state to the investor, according to the fair value of the asset.[7] Expropriation is classified into direct expropriation and indirect expropriation. In indirect expropriation, there is no transfer of ownership, but there is an effective loss of management (the investor loses control of the asset) or a significant depreciation in the value of the asset. The international investment arbitration community has developed various case law that helps determine when such actions constitute indirect expropriation. There are five notable cases that illustrate different aspects of indirect expropriation:

1. Tecmed v. Mexico (2003)[8]

   The claimant, Tecnicas Medioambientales Tecmed S.A. (Tecmed), invested in a landfill operation in Mexico. The Mexican government later changed environmental regulations, effectively rendering the claimant's investment economically unviable. The tribunal found that Mexico's regulatory changes amounted to indirect expropriation because they deprived Tecmed of the economic benefits of its investment. The key factors included the severity of the interference and the lack of a reasonable degree of stability and predictability in the regulatory framework. The case highlights that regulatory measures that significantly diminish the value or utility of an investment can be deemed indirect expropriation if they are not justified by legitimate public purposes or are disproportionate.

2. Metalclad v. Mexico (2000)[9]

   Metalclad Corporation is a U.S. company that invested in the construction of a hazardous waste landfill in Mexico. The local government issued an environmental permit, but the Mexican federal government later declared the site a protected area, effectively preventing Metalclad from operating. The tribunal ruled in favor of Metalclad, determining that Mexico's actions

[7] Russian Federation and United Kingdom, 'Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics for the Promotion and Reciprocal Protection of Investments' (1989), https://jusmundi.com/fr/document/treaty/en-agreement-between-the-government-of-the-united-kingdom-of-great-britain-and-northern-ireland-and-the-government-of-the-union-of-soviet-socialist-republics-for-the-promotion-and-reciprocal-protection-of-investments-russian-federation-united-kingdom-bit-1989-thursday-6th-april-1989.

[8] ICSID, Técnicas Medioambientales Tecmed v. United Mexican States' Case No. ARB(AF)/00/2 (2000).

[9] ICSID, Metalclad Corporation v. The United Mexican States' Case No. ARB(AF)/97/1 (1997).

amounted to indirect expropriation. The tribunal focused on the fact that the actions of Mexican authorities had effectively deprived Metalclad of the investment's value, despite not formally expropriating the property. The case illustrates that an expropriation claim may succeed even if the property is not formally seized, as long as government actions effectively eliminate the investment's economic value.

3. Pope & Talbot v. Canada (2002)[10]

   Pope & Talbot is a U.S. company that invested in the Canadian forestry industry. Disputes arose over changes in Canadian export control measures that affected the company's profitability. The tribunal found that the Canadian government's regulatory measures did not constitute indirect expropriation. The tribunal emphasized that while the measures affected the investment, they did not deprive Pope & Talbot of its investment's fundamental attributes. This case is significant for its focus on whether regulatory measures constitute indirect expropriation by examining the degree to which the measures affect the investment's economic viability.

4. Saluka v. The Czech Republic (2006)[11]

   Saluka Investments BV is a Dutch company that invested in a bank in the Czech Republic. The Czech government later implemented new regulations and supervisory measures that negatively impacted the bank's operation and Saluka's investment. The tribunal ruled that the Czech Republic's actions did not amount to indirect expropriation. The tribunal concluded that the measures were legitimate regulatory actions aimed at addressing broader economic issues rather than targeting Saluka's investment specifically. The case underscores that not all regulatory actions will amount to indirect expropriation. The tribunal evaluated whether the measures were disproportionate or aimed specifically at the investor's property.

5. BG Group v. Argentina (2007)[12]

[10] UNCITRAL, Pope & Talbot v. The Government of Canada (1999).
[11] UNCITRAL, Saluka Investments BV v. The Czech Republic' PCA Case No. 2001-04 (2001).
[12] UNCITRAL, BG Group Plc v. The Republic of Argentina (2003).

> BG Group plc is a British company that invested in Argentina's gas sector. Argentina's economic crisis led to measures that severely affected BG Group's investments, including changes in the regulatory framework and controls on gas exports. The tribunal found that Argentina's actions amounted to indirect expropriation. The tribunal considered the cumulative impact of Argentina's measures on BG Group's investment and concluded that they effectively deprived the investor of the investment's benefits. This case highlights the importance of the cumulative effect of regulatory measures and the context in which they are implemented. It shows that significant and prolonged regulatory changes that undermine the value of an investment can lead to findings of indirect expropriation.

These 5 cases demonstrate that indirect expropriation is assessed based on the impact of government actions on the investment. Key factors include the extent of the economic impact, the regulatory framework's stability, and the intent behind the measures. The determination of indirect expropriation often requires a nuanced analysis of the investor's rights and the government's regulatory objectives. There has never been a case of sanctions categorized as indirect expropriation, but in this case, there are indications that due to the sanctions given, is it possible that indirect expropriation has occurred due to the impacts of the sanctions. Therefore, this research is useful to see whether economic sanctions issued by the state against an individual can be indicated as an act of indirect expropriation. There are some previous research regarding an act of indirect expropriation such as, *Justification for Indirect Expropriation within a Government Measure* by Pulkeria Ekaristi,[13] *The Role Of Expropriation Clauses In Protection And Promotion Of Foreign Investments In Renewable Energy: An Essential But Overlooked Legal Consideration* by Moosa Akefi Ghaziani,[14] *The Concept of "Indirect Expropriation", its appearance in the international system and its effects in the*

[13] Pulkeria Proprieta Dewi Ekaristi, 'Justification for Indirect Expropriation Within a Government Measure', *Juris Gentium Law Review* 2, no. 1 (2014): 42–50, https://journal.ugm.ac.id/jurisgentiumlaw/article/view/56648.
[14] Moosa Akefi Ghaziani and Mohammad Akefi Ghaziani, 'The Role Of Expropriation Clauses In Protection And Promotion Of Foreign Investments In Renewable Energy: An Essential But Overlooked Legal Consideration', *Indonesia Law Review* 11, no. 2 (2022): 191–215, https://scholarhub.ui.ac.id/ilrev/vol11/iss2/8/.

regulatory activity of governments by Courtenay Barklem,[15] *Indirect Expropriation in Investment Treaty Arbitrations* by Jan Paulsson, [16] and *Indirect Expropriation and the Right to Regulate in International Investment Law* by OECD.[17] While these 5 previous research focus on how state actions directly affect companies, this research examines how state actions directed at an individual can, in turn, affect the company they own. So the distinguishing factor is that this research focuses on what the state does to an individual, in this case, sanctions imposed on Abramovich that impact the company he owns (Chelsea Football Club).

The asset freeze imposed by the British government is highly detrimental to Roman Abramovich, a foreign investor whose rights should be protected by the standard investment protection applicable in the international investment world. Therefore, this research will address two (2) questions, firsly on how can the asset freezing action against Abramovich by the British Government be categorized as an unlawful act of Indirect Expropriation? And secondly, how does Russia, as the home state, protect its citizens as foreign investors from asset freezing by the UK as the host state?

RESEARCH METHOD

This research adopts a normative juridical approach[18] focusing on the analysis of legal norms, principles, and case law relevant to the issue of indirect expropriation. The primary data sources include international treaties, such as the Bilateral Investment Treaty (BIT) between the United Kingdom and the Soviet Union, decisions from international investment arbitration tribunals, and secondary sources such as academic writings and legal commentaries. The study is conducted in a descriptive manner, analyzing the

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[15] Courtenay Barklem and Enrique Alberto Prieto-Ríos, 'The Concept of "Indirect Expropriation", Its Appearance in the International System and Its Effects in the Regulatory Activity of Governments *', *Civlizar Ciencias Sociales y Humanas- Universidad Sergio Arboleda* 11, no. 21 (2011), http://ssrn.com/abstract=2761106.
[16] Jaun Paulsson and Zachary Douglas, 'Indirect Expropriation in Investment Treaty Arbitrations***The Views Expressed in This Article Are Exclusively Those of the Authors and Do Not Necessarily Reflect the Opinions OfFreshfields Bruckhaus Deringer or Its Clients', *Kluwer International Law* , 2021, 1–8, https://icsid.worldbank.org/sites/default/files/parties_publications/C8394/Claimants%27%20documents/CL%20-%20Exhibits/CL-0274.pdf.
[17] OECD, '"Indirect Expropriation" and the "Right to Regulate" in International Investment Law', vol. 2004/04, OECD Working Papers on International Investment, 1 September 2004, https://doi.org/10.1787/780155872321.
[18] Soerjono Soekanto and Sri Mamudji, *Penelitian Hukum Normatif Suatu Tinjauan Singkat*, 1st ed. (Jakarta: Rajawali Pers, 2010).

sanctions imposed on Roman Abramovich by the UK Government and their impact on his assets, particularly Chelsea Football Club. The research method involves:

1. Review of International Legal Frameworks: Analysis of the legal principles governing indirect expropriation, including provisions in BITs, customary international law, and international arbitration precedents.
2. Case Study Methodology: Examination of tribunal decisions in landmark cases such as Tecmed v. Mexico, Metalclad v. Mexico, and Saluka v. Czech Republic to establish criteria for determining indirect expropriation.
3. Theoretical Analysis: Application of legal theories on state sovereignty, regulatory authority, and investor rights to evaluate the legitimacy of asset-freezing measures.
4. Comparative Approach: Comparison of the UK's actions with established principles of public interest, non-discrimination, and due process in expropriation cases to identify potential legal inconsistencies.

The analysis determines whether the asset-freezing sanctions imposed on Abramovich constitute an indirect expropriation under international investment law and whether they meet the requirements of legality, including the obligation to provide compensation.

RESEARCH OUTCOME AND DISCUSSION

1. Asset Freezing Action by the British Government

The asset freezing action taken by the British government is a sanction imposed on Abramovich due to his proximity to President Putin as a consequence of Russia's invasion of Ukraine. This sanction has led to the cessation of all economic activities of Abramovich's investments in the UK, namely Chelsea Football Club.[19] The sanction is intended as punishment. Punishment is given to parties who do not comply with the law or court orders. In this case, Abramovich did not violate any laws in the UK; he was punished because of his closeness to Russia. Chelsea also did not violate any laws in the UK, which also sets a precedent for the British government to take similar actions against

[19] BBC, 'Roman Abramovich: Chelsea Sale Halted by UK Government Sanctioning Club Owner', *BBC*, 2022, Roman Abramovich: Chelsea sale halted by UK government sanctioning club owner'.

other clubs in the future.[20] This freezing action is not a takeover because Abramovich still owns Chelsea, but all of his economic rights are restricted, thus posing a significant threat to Chelsea's continuity, and the British government seizes all of Abramovich's assets.[21]

Issues may arise when Abramovich has already sold Chelsea Football Club for 4.25 billion Euros, with 2.5 billion Euros being the actual club purchase price, but the funds cannot be disbursed due to the current sanctions. The money will be held in a British bank account until a final decision is made.[22] The British government may take steps to officially seize the funds because Abramovich has not been able to access the proceeds from the sale of his club until now, which is suspected to result in a takeover by the British government and the occurrence of expropriation actions against Abramovich.[23]

2. Indirect Expropriation

Expropriation is a deliberate act by the host country to reduce or eliminate an investor from the value or control of the investment, in general, expropriation is an act of taking by a host country.[24] There are two types of expropriation: direct expropriation and indirect expropriation. Junianto James interprets indirect expropriation as an action taken by the host country without causing a change in the ownership rights of investors, resulting in a loss or lack of opportunity for investors to utilize their investments.[25] Unlike direct expropriation, which involves seizure, indirect expropriation only considers the consequences of the state's actions. From a subjective standpoint, the consequences refer

[20] Aubrey Allegretti and Jasper Jolly, 'UK Imposes Sanctions on Roman Abramovich over "Clear" Links to Putin', *The Guardian*, 2022, https://www.theguardian.com/world/2022/mar/10/uk-imposes-sanctions-on-roman-abramovich-over-clear-links-to-putin.
[21] BBC, 'Roman Abramovich: Chelsea Sale Halted by UK Government Sanctioning Club Owner'.
[22] BBC, 'Chelsea: Funds from Roman Abramovich Sale Earmarked for Victims of Ukraine War Remain Frozen', *BBC*, 2023, https://www.bbc.com/sport/football/67698963.
[23] Paul MacInnes, 'Roman Abramovich Representatives Believe UK Government Changed Terms over Frozen £2.5bn', *The Guardian*, 2023, https://www.theguardian.com/football/2023/oct/17/roman-abramovich-representatives-uk-government-frozen-chelsea-sale-funds.
[24] Robert B Shanks, 'Insuring Investment and Loans against Currency Incovertibility, Expropriation, and Political Violence Insuring Investment and Loans Against Currency Inconvertibility, Expropriation, and Political Violence', *Hastings International and Comparative Law Review* 9, no. 3 (1986): 417–37, https://repository.uclawsf.edu/cgi/viewcontent.cgi?article=1180&context=hastings_international_comparative_law_review.
[25] Junianto James LOSARI, 'Comprehensive or BIT by BIT: The ACIA and Indonesia's BITs', *Asian Journal of International Law* 6, no. 1 (28 January 2016): 15–45, https://doi.org/10.1017/S2044251314000332.

to the significant depreciation of the value of investment assets.[26] UNCTAD explains the elements involved in indirect expropriation, namely:[27]

a) An action taken by a state.
b) It constitutes interference or intervention against the property rights possessed by investors or the legal interests protected.
c) Carried out within certain limits resulting in the loss of all or a significant part of its investment value, or the investor losing control over their investment.
d) It does not always change the ownership status of the investor.

The provisions regarding expropriation actions are often found in BITs, but the elements of such expropriation are rarely explicitly explained in most BITs, which interprets whether an action constitutes expropriation or not within the jurisdiction of arbitral tribunals. UNCTAD (UNCTAD Series on Issues in International Investment Agreements II) also explains that in determining whether an expropriation has occurred, a fact-based investigation should be conducted, considering at least three main factors:[28]

(1) Impact of state actions on investment or investors

The impact factors of these state actions can be seen from various aspects, the first in terms of its object, which refers to the reduction or loss of economic value of the investment owned by the investor; then from the perspective of the object referring to the loss of ownership or control by the investor over their investment; and finally from the perspective of the duration or permanence of the impact of the action or whether the action permanently affects the investment of the investor. When viewed from the perspective of its object, the diminished investment value must be substantial enough to cause the entire or almost entire value of the investment to be lost, referring to the case of Vivendi v Argentina, where the Tribunal stated that "weight of authority ... appears to distinguish between only a partial deprivation of value (not an expropriation) and a complete or near

[26] August Reinich and Christoph Schreuer, 'Expropriation in International Protection of Investments', in *International Protection of Investments* (Cambridge University Press, 2020), 1–250, https://doi.org/10.1017/9781139004978.003.
[27] UNCTAD, 'Transparency UNCTAD Series on Issues in International Investment Agreements II', 2012, https://unctad.org/system/files/official-document/unctaddiaeia2011d6_en.pdf.
[28] Ayu Anezka Chandradevi, 'Konsep Creeping Expropriation: Interpretasi Majelis Arbiter Di Dalam Putusan ICSID Terkait Creeping Expropriation', *Mutiara: Multidiciplinary Scientifict Journal* 1, no. 8 (26 October 2023): 451–69, https://doi.org/10.57185/mutiara.v1i8.79.

complete deprivation of value (expropriation)".[29] This means that a reduction in investment value that is not substantial or minor cannot be used as a reason to consider a country as expropriating.

(2) Impact of state actions on investor expectations

Expropriation in the context of investment law cannot only be measured by concrete actions taken by a country towards investment but also by the expectations held by investors regarding their investment. This concept is closely related to 'legitimate expectations' in investment law. In the Indonesia-Singapore BIT (2018), there are norms governing this by stating that the assessment of whether government actions interfere with clear and reasonable investment expectations depends on various factors, including whether the government has provided written assurances to investors and the nature and scope of government regulations or potential government regulations in the relevant sector. In short, this formulation can be interpreted into two parts. First, investor expectations are deemed legitimate and reasonable if the government provides written assurances. Second, this consideration also encompasses the nature and potential of regulations in the relevant sector. Thus, the existence of potential regulations in that sector can influence the assessment of investors' reasonable expectations. However, this should also be considered in the context of the policy and scope of those regulations. In ISDS (Investor-State Dispute Settlement) practice, some tribunals interpret this provision by considering whether assurances have been given by the state to the investor (even if not specific or explicit) and whether investor expectations have been violated. Meanwhile, other tribunals assess based on whether specific commitments have been made that the state will not take certain actions. This latter approach preserves the space for the state's public policy, as not all actions that violate investor expectations will be considered expropriated.

(3) The nature, character, and purpose of the state's actions.

The nature, character, and purpose of expropriation are important in determining whether an action can be classified as expropriation. This becomes relevant, especially when distinguishing between indirect expropriation and the state's right to regulate, which

[29] ICSID, Suez, Sociedad General de Aguas de Barcelona, S.A. and Vivendi Universal, S.A. (Formerly Aguas Argentinas, S.A., Suez, Sociedad General de Aguas de Barcelona, S.A. and Vivendi Universal, S.A.) v. Argentine Republic (II)', Case No. ARB/03/19 (2003).

is based on the police powers doctrine and does not require compensation. Regarding the nature or character of the state's actions, the assessment is based on whether the action is a bona fide rule or regulation as part of the right to regulate. The measure of this includes looking at the purpose of the action, whether the state's action is solely for the public interest or legitimate public welfare. Additionally, the assessment also involves characteristics inherent in the action, such as whether the regulation is non-discriminatory, follows legal procedures, and is proportional. However, these measures are not always measured cumulatively. Analysis of this third factor should be based on how these measures are established in investment agreements. Various formulations are found in BITs, including the criteria in the Indonesia-Singapore BIT (2018) that emphasize the character of government action, including its purpose and whether the action is disproportionate to the public interest.[30] Although there are differences in formulations, all these measures are generally used together to determine the third factor of indirect expropriation.

Considering the three factors mentioned, expropriation actions occur not only when there is a takeover of rights or ownership but also when viewed from the fact that these three things happen, the action can be categorized as expropriation. The actions taken by the British Government did not directly take over rights or even seize investments, but the order from the British Government formally imposing sanctions in the form of freezing Roman Abramovich's assets indirectly had a significant impact on Abramovich's investments in the UK.[31]

The impact of these sanctions caused Chelsea Football Club to be unable to continue its economic activities such as selling match tickets, contracting players, and buying and selling players, which, if this situation persists for a few months, it can be ensured that Chelsea Football Club may go bankrupt because the costs incurred daily are quite significant while there is no income at all.[32] This factually fulfills the first factor, as almost the entire investment value can be lost relatively quickly. The action also affects the expectations of investors, in this case, Abramovich, where the monthly income and

[30] Pemerintah Pusat Indonesia, ‘Agreement Between the Government of the Republic of Indonesia and the Government of the Republic of Singapore on the Promotion and Protection of Investments’, Pub. L. No. 97 (2020), https://peraturan.bpk.go.id/Details/148465/perpres-no-97-tahun-2020.
[31] Allegretti and Jolly, ‘UK Imposes Sanctions on Roman Abramovich over “Clear” Links to Putin’.
[32] BBC, ‘Roman Abramovich: Chelsea Sale Halted by UK Government Sanctioning Club Owner’.

previously calculated profits, as well as the expected increase in the value of the investment, are directly lost due to the action, causing the previously calculated expectations not to be achieved factually due to the freezing of assets.

This British action is not aimed at public welfare but rather a political move to sanction Russia through sanctions against its citizens. This action can be seen as discriminatory, as the claims linking Roman Abramovich to the Russian government and the Ukraine invasion lack factual evidence. Based on this, the sanctions imposed on Abramovich are discriminatory toward Russian investors and Britain's sanctioning Roman Abramovich constitutes indirect expropriation.

Expropriation actions are one form of state sovereignty as long as the conditions are met. States are obliged to fulfill these conditions based on customary international law and matters commonly regulated in Bilateral Investment Treaties (BITs). In BITs, expropriation actions are actions prohibited by the state, but several conditions must be met cumulatively to make expropriation actions by a state legal and permissible, namely:[33]

A. Conducted Based on Public Purpose or Interest

The concept of expropriation actions grounded in the public interest is well-known worldwide in legal communities. This concept asserts that for the sake of public interest and welfare, expropriation actions are necessary. In practice, particularly in arbitration, the public interest is interpreted in accordance with the general understanding of international law. Generally, international law allows states discretion in determining how a policy is justified by public interest, known as the margin of appreciation in human rights law. Expropriation actions justified by public interest must also be carried out at the time the expropriation occurs. If a state's actions later reflect public interest, then it could be deemed an illegal expropriation.[34] For instance, in the Siag and Vecchi v. Egypt case, Egypt expropriated land but only used it for public interest six years later, which was considered an illegal expropriation.[35] In the Abrahamovich case, the freezing of Abramovich's assets wasn't aimed at the public interest but rather stemmed from sanctions

[33] UNCTAD, 'Expropriation UNCTAD Series on International Investment Agreements II', 2012, https://unctad.org/system/files/official-document/unctaddiaeia2011d7_en.pdf.
[34] UNCTAD.
[35] ICSID, Waguih Elie George Siag and Clorinda Vecchi v. Arab Republic of Egypt' Case No. ARB/05/15 (2005).

imposed by the UK against Russia for its invasion of Ukraine. Therefore, it didn't meet the requirement.

B. Conducted in a Non-Discriminatory Manner

The tribunal's understanding of the concept of non-discriminatory basis implies that expropriation actions should not be based on discriminatory reasons against foreign investors based on their nationality. However, not all differences made towards foreign investors are discriminatory. Expropriation can be considered discriminatory if it targets not only foreign investors but also their nationality.[36] In Abrahamovich's case, it is clear that the sanctions that caused his investment to not run were based on Abramovich's Russian citizenship and in this case, although the UK sanctioned not only Abramovich, but there were 7 Russian businessmen sanctioned by the UK, but only elite businessmen or what can be called oligarchs were sanctioned by the UK, making it a discriminatory action by the UK.

C. Conducted in Accordance with Legal Procedures

As a prerequisite for legal expropriation, it must be carried out in accordance with legal procedures or "in accordance with due process of law," meaning it should adhere to national legal procedures and applicable laws. Additionally, investors should be allowed to review such actions before an independent court.[37] In this case, the UK government's imposition of sanctions through the British Government was deemed to comply with national legal procedures. However, since the sanctions were applied when they were announced, Abramovich wasn't given the chance to review the actions before the sanctions were imposed.

D. Accompanied by Compensation

The provision of compensation is a crucial requirement for the legality of an expropriation action. Legal expropriation necessitates compensation, typically measured by the fair market value.[38] The BIT between the UK and the Soviet Union (now Russia) also states that expropriation should be accompanied by appropriate compensation.[39] In

[36] UNCTAD, 'Expropriation UNCTAD Series on International Investment Agreements II'.
[37] UNCTAD.
[38] UNCTAD.
[39] Russian Federation and United Kingdom, Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics for the Promotion and Reciprocal Protection of Investments.

this case, freezing Abramovich's assets did not involve any form of compensation, thus failing to meet this requirement according to the researcher's perspective.

Based on the four conditions mentioned above, researchers argue that what Britain did in terms of freezing Roman Abramovich's assets constitutes an illegal form of expropriation. This is because it fails to meet all four conditions cumulatively. Researchers argue that Britain's actions against Abramovich are discriminatory due to the investor's Russian citizenship and also because they are not aimed at the public interest. Researchers also argue that although it may appear as a sanction, this is a form of indirect expropriation due to the consequences arising from the imposition of sanctions, since the UK Government restricts his ability to manage and control his assets, including Chelsea Football Club, without directly confiscating them. This indirect expropriation occurs through the following mechanisms:[40]

1) Asset Freeze: The UK froze Abramovich's assets, effectively preventing him from accessing or managing his wealth, including his ownership of Chelsea FC.
2) Travel Ban: The sanctions also prohibited Abramovich from traveling to the UK, limiting his ability to engage in business or manage his assets remotely.
3) Restrictions on Business Operations: The sanctions restricted Chelsea FC's operations, including the sale of tickets, merchandise, and the transfer of players, effectively limiting the club's financial capabilities.
4) Impact on Ownership: The sanctions created uncertainty about the future of Chelsea FC, potentially leading to a loss of value or even the sale of the club, which could be seen as an indirect expropriation of Abramovich's ownership rights.

These measures, while not directly confiscating Abramovich's assets, significantly restrict his ability to manage and control them, effectively amounting to an indirect expropriation.

[40] Allegretti and Jolly, 'UK Imposes Sanctions on Roman Abramovich over "Clear" Links to Putin'.

3. Protection of Foreign Investors by the home state against the host state

Political risk is the biggest risk in implementing foreign direct investment (FDI) activities. The impact of this risk is usually through the vulnerability to expropriation actions. Due to the many risks in FDI implementation, the home state as the investor's country of origin needs to protect its citizens, thus requiring legal efforts to protect investor investments in the host state's territory.[41] The home state can protect investors who are investing in other countries through various efforts. One of the efforts is binding foreign investment in a Bilateral Investment Treaty (BIT), which is the most dominant source of international law for protecting foreign investment in a country.[42] BIT serves as a legal umbrella for investment cooperation between two countries, protecting the investment interests and investors from one country (home state) in the territory of a partner country (host state).

As an international agreement, BIT binds the signing countries with widely recognized principles of general law and produces rights and obligations that apply at the international level. BIT solely regulates investment relations between two countries to manage investments made between the parties.[43] BIT is a manifestation of the host state's commitment to ensure investment security for foreign investors within its territory. Thus, it can serve as a tool for the host state to encourage foreign investment into its country.[44] For investors themselves, BIT serves as a form of protection for their investments from potential political risks, such as expropriation and other actions that may harm them by the host state, thus BIT serves as a bridge between the interests of investors and the host state.[45] Although BIT has many variants and types that apply worldwide, there are at least 5 substances that are generally found in all BITs, namely:

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[41] Muhammad Iqbal Hasan, Hukum Investasi Internasional: Teori Dan Implementasi (Bandung: Refika Aditama, 2021).
[42] Yacob Rihwanto, 'Bilateral Investment Treaties Dan Penyelesaian Arbritase Internasional (Studi Kasus Pencabutan Izin Kuasa Pertambangan Churchill Mining)', *Jurnal Lex Renaissance* 1, no. 1 (25 January 2016): 107–25, https://doi.org/10.20885/JLR.vol1.iss1.art7.
[43] Prita Amalia and Garry Gumelar Pratama, 'Indonesia Dan ICSID: Pengecualian Yurisdiksi ICSID Oleh Keputusan Presiden', *Majalah Hukum Nasional* 48, no. 1 (18 July 2018): 1–21, https://doi.org/10.33331/mhn.v48i1.110.
[44] Surya P Subedi, International Investment Law : Reconciling Policy and Principle (New York: Hart Publishing, 2008).
[45] Joseph Maheswara, 'Efektivitas Klausul Definisi Investasi & Investor Pada Bilateral Investment Treaty Dalam Menjaga Keseimbangan Kepentingan Antara Investor Dan Host State Serta Penerapannya Dalam Penyelesaian Sengketa Arbitrase Melalui Icsid (Studi Kasus Sengketa Investasi)', *Hukum Pidana Dan Pembangunan Hukum* 6, no. 1 (2023): 20–36, https://e-journal.trisakti.ac.id/index.php/hpph/article/view/16665.

(1) Definition of investment and investor, These two definitions are paramount to determining the scope of application of the relevant investment treaty.[46]
(2) Admission of foreign investors
(3) Fair and equitable treatment of investors
(4) Compensation in the event of expropriation
(5) Methods of settling disputes

BIT contains elements that regulate the standards of investment protection that the host state must carry out. In the BIT itself, there are standards of protection that must be carried out by the host state, such as:[47]

1) Fair and equal treatment or non-discrimination of all types of investment, both foreign and domestic;
2) Full protection and security which contains the obligation of the State to provide compensation for losses suffered by corporations due to war, armed conflict, revolution, state of emergency, riots, or rebellion. Usually this protection is in the form of compensation or recovery;
3) Protection from expropriation or nationalization actions and requires compensation for losses;
4) Dispute settlement mechanisms, which level the playing field between the investor and the state, known as "Investor-State Dispute Settlement" (ISDS).

Russia and the United Kingdom are bound by an international bilateral treaty, the Soviet BIT with the UK since 1989. This BIT agreement is to protect investors from both countries if they want to carry out FDI activities in both countries. With this BIT, Russia and the UK are bound to carry out all obligations regulated in the BIT.

Investment activities demand the safeguarding of investments made by foreign investors in sovereign nations, which are recognized entities under international law and integral members of the global community. This responsibility is inherent to each nation and aligns with customary practices in fostering cooperative economic relations between

[46] Prita Amalia and Muhammad Lazuardy Thariq Makmun, 'Multinational Corporation's Investments Made through Its Subsidiary under The Latest Generation of Investment Treaties', *Indonesian Journal of International Law* 19, no. 1 (2021): 113–35, https://doi.org/https://doi.org/10.17304/ijil.vol19.1.5.
[47] Rachmi Hertanti and Rika Febriani, *"Negara vs Korporasi" Indonesia Bilateral Investment Treaties (BITs)* (Jakarta: Indonesia for Global Justice, 2014), https://igj.or.id/wp-content/uploads/2015/08/MODUL-BITs_Indonesia.pdf.

countries to ensure the security and promotion of investments. [48] Consequently, the protective standards incorporated into the BIT are specifically intended to safeguard the investments made by investors.

The principle of full protection and security contained in BITs is also useful to prevent expropriation[49] If the exceptions are fulfilled for expropriation to occur in accordance with what is regulated in the UNCTAD, it must be accompanied by compensation for losses based on the principle of Fair and Equitable Treatment (FET) and Russian Federation and United Kingdom BIT Regulation[50].

The application of compensation based on it aims to protect foreign investors who are harmed in order to reduce the losses experienced by foreign investors. In general, foreign investors have protections against unfair or arbitrary action by host states. Abramovich in this case, could argue that being sanctioned based on speculative allegations of his ties to Putin is a form of violation to his investor rights. However, sanctions are seen as exceptional measures under international law, frequently justified under national security or foreign policy grounds, which can make it difficult to challenge

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[48] Fredy Roeroe, *Batam Komitmen Setengah Hati* (Jakarta: Aksara Karunia, 2003).

[49] George K Foster, 'Recovering "Protection and Security": The Treaty Standard's Obscure Origins, Forgotten Meaning, and Key Current Significance', *Vanderbilt Journal of Transnational Law* 45 (2012): 1095–1156, https://download.ssrn.com/12/11/20/ssrn_id2178604_code792507.pdf?response-content-disposition=inline&X-Amz-Security-Token=IQoJb3JpZ2luX2VjEOj%2F%2F%2F%2F%2F%2F%2F%2F%2FwEaCXVzLWVhc3QtMSJHMEUCIQDgpDhBB0oTaDLNcvtR5%2Fv0jyh9qQEx60qw0ZcBFUwLawIgLEaXcyukvpfkQIHSM03E6jRWLd%2FbsP23qC4AmCNikZEqxgUI0f%2F%2F%2F%2F%2F%2F%2F%2F%2FARAEGgwzMDg0NzUzMDEyNTciDMK5LNMGcesfIn%2F3tiqaBVubRmxGjDU4Tc%2BN%2FVUl1qW3E77UH7kW7gM7Me26KN4Jk%2B0BNwb%2FUHnkRJ2orGWQrP0JJ4TR%2BO8Rk%2FVFaeMaOpCEOl5S1u6s8OOyT9LAL6%2Fmdo8FBekPYI4d41CiNPkwkXB%2FuY426bnQuPvelwlsFm8YkFICAyhXgOMJlqJCJeVU75%2FlssUhlVEg1l9CguF0K6CzfMp3ISe2%2BrrAZhel%2B6mrVnVyVu5jssicvTupTdqvKNcWTTnCw0ltP2sa%2BMoCcWmoaolOdxQHyRSvziKN%2FWKb%2Fn0H5IE8%2F8mvip5E1Fd%2BBEybsG6pEL411ZZSd2Uu8sFBzia5%2BiKIVAYJ4kbYyQ52j6Y6df66rhSrzzeQop%2FOCIHkNLkMfdrXN7eF%2BelyiuxnM5NPoD7G506pvms97i8Z%2B30r27%2Br8TCXNfyVkcaY6W0TA8ZnWfYZnIPdNZl2bari66b7fW80%2B%2FQUz9Bziuvngz3Q%2BiM5RlE72Tpa%2BLawhGr0ba7%2FKTVXU9dfot%2FFv9OSItjXjfT8bqKsneyVCzyg836%2BiKZiUWhRESWV3KIij%2BmdP7yMvA4LfbPPe%2FUaGONjhnqKZmB50hiHRSsQ4Vzgr5yOk9CnC0ik0jziioNtkDk1Q6m97y%2B%2FsULoCuDeeeOhHS82NS3NYZFc5JfDOmIEG4G%2B%2BhKNaoDlPws%2B%2FiJSIL1whDrdDxRhTzkITjyVWCuIOiFOn9oG2HjuYN5PfT8lTbKvvUhPjyoq%2BDzIuQn1cd8FPrnOOl0WdZRtOoTJJrASzv8ESd90R5IsdVcq3BMiD%2F2MIzZUu0GTGgibu%2Fa94ujxry29LJ71%2FX2A25c9tgbycOPMfX3Sz16PaPys9jaZCbGx7v0xvr4YL6oBQ35gCtKOhsy5%2BalP%2FjDy3Y28BjqxAWpoKW3YJo3W2SH5oLYNJH7naMuxaYir5AI5yq%2FjGQgYSQYq8%2BotTAURQ%2FhTdizTbdLgj3thNU887GmfFAJlgVzeXuecNKUuMWUfugS5X09TFleEHSI6TIczlJMF%2FYHoplP5Bbupx9xqGftghWKuAESOlmZaiT%2Fv%2BctH85vZMWudL2yzsFtbIGgjH9uONXoWcovRg1%2FTguwT%2BHsmO9XgnSKi81NUIuZB2btUGCHYJS0%2FFA%3D%3D&X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Date=20250112T083612Z&X-Amz-SignedHeaders=host&X-Amz-Expires=300&X-Amz-Credential=ASIAUPUUPRWEV3XUZ6BI%2F20250112%2Fus-east-1%2Fs3%2Faws4_request&X-Amz-Signature=f6c1d6d1d3f2890ed204e0f11ee27a35198696f5fa3c49b8ffea79d059e8e0eb&abstractId=2102895.

[50] Russian Federation and United Kingdom, Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics for the Promotion and Reciprocal Protection of Investments.

legally, but if the sanctions are indeed based on speculation rather than concrete legal findings, it can be said that they have violated his investor rights. Even if the UK's actions are legally justified because of how broad the government is when imposing sanctions for national security reasons, there's a broader question regarding fairness. Abramovich lost his ability to access his assets and was forced to sell Chelsea FC, with the proceeds going to a charitable cause rather than himself. This kind of thing could be seen as punitive, especially if there is no evidence regarding Abramovich's wealth and actions toward the Russian state or the Ukraine conflict.

Every Bilateral Investment Treaty (BIT) has a mechanism for resolving disputes using the investor-state dispute settlement system, which means investors can directly sue the host state through international arbitration if the host state is suspected of violating provisions in the BIT. The arbitration clause is mandatory in every BIT because, from the investors' perspective, resolving disputes through arbitration is considered a neutral option not influenced by interference or intervention from the host state, thus providing a sense of fairness.[51] BITs contain clauses that allow for alternative dispute resolution mechanisms, whereby an investor whose rights are violated under a BIT may seek protection or pursue legal action through international arbitration in a court such as ICSID rather than suing the host-state in its own courts. BITs are usually the basis of a claim by one country against another at the ICSID arbitration tribunal.[52] In general, BITs are implemented between developed and developing countries with the aim of increasing and protecting developed countries' investments in developing countries. However, in fact, BITs create direct benefits for investors rather than host states.[53]

The Bilateral Investment Treaty (BIT) between Russia and the United Kingdom regulates expropriation in the event that the United Kingdom government expropriates investments made by Russian investors. Article 5 of the treaty states that investments of investors of either Contracting Party shall not be nationalized, expropriated, or subjected to measures having an effect equivalent to nationalization or expropriation, except for a public purpose, under due process of law, and upon payment of prompt and adequate

[51] Sugeng, Memahami Hukum Perdata International Di Indonesia (Jakarta: Kencana, 2021).
[52] Amalia and Pratama, 'Indonesia Dan ICSID: Pengecualian Yurisdiksi ICSID Oleh Keputusan Presiden'.
[53] Laura Natalia Sembiring, 'Urgensi Perjanjian Investasi Bilateral Antara Indonesia Dan Negara Lain Dengan Klausula Penyelesaian Sengketa Investor-State Dispute Settlement', *Dharmasisya Jurnal Program Magister Hukum FHUI* 1, no. 4 (2022): 1941–54, https://scholarhub.ui.ac.id/dharmasisya/vol1/iss4/22.

compensation.[54] This compensation must be effectively realizable and be freely transferable. Furthermore, the investor affected shall have the right to prompt review, by a judicial or other independent authority of the United Kingdom, of the valuation of their investment in accordance with the principles set out in the treaty.[55] This provision ensures that Russian investors have a safeguard against arbitrary expropriation by the UK government. Additionally, Article 4 of the UK-Russia Bilateral Investment Treaty provides that investors of one Contracting Party whose investments in the territory of the other Contracting Party suffer losses owing to any armed conflict, a state of national emergency or civil disturbances in the territory of the latter Contracting Party shall be accorded by the latter Contracting Party treatment, as regards restitution, indemnification, compensation or other settlement, no less favorable than that which the latter Contracting Party accords to investors of any third State, which could be relevant in the event of a conflict between Russia and the UK.[56] Furthermore, the treaty includes provisions for investor-state dispute settlement, allowing Russian investors to seek arbitration through the International Centre for the Settlement of Investment Disputes (ICSID) or an ad hoc investment tribunal established under the United Nations Commission on International Trade Law (UNCITRAL) procedure, should their investments be expropriated or subjected to measures having an effect equivalent to expropriation.

In the event of a dispute suspected of violating the BIT, the home state, in this case, is Russia, and it cannot actively engage or interfere with actions suspected of illegal indirect expropriation by the UK, which is also suspected of violating Article 5 of the BIT between Russia and the UK regarding compensation in case of expropriation. Russia can only formally warn the UK to comply with the previously agreed BIT. Additionally, the investor can also seek assistance from their home country, meaning Abramovich, in this case, is seeking assistance from Russia to help resolve the dispute with the UK as the host state through the International Court of Justice (ICJ). Therefore, if Abramovich seeks

[54] Russian Federation and United Kingdom, Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics for the Promotion and Reciprocal Protection of Investments.
[55] George William Alexander Walley, 'Protections Against Direct and Indirect Expropriation How the United States and the European Union Use Sanctions and Bilateral Investment Treaties to Protect Intellectual Property' (Lund University, 2023), https://lup.lub.lu.se/luur/download?fileOId=9123546&func=downloadFile&recordOId=9123534.
[56] Crowell, 'Russia and Ukraine: The Next Wave of International Disputes', *Crowell.Com*, 2022, https://www.crowell.com/en/insights/client-alerts/russia-and-ukraine-the-next-wave-of-international-disputes.

Russia's assistance to sue the UK on his behalf, Russia can sue the UK at the ICJ. This can be considered Russia's efforts to protect its citizens investing abroad from the host state. Russia, as Abramovich's home state, might argue that the UK violated the BIT by freezing his assets and restricting his economic rights without compensation, thereby undermining the treaty's guarantee of fair treatment and protection against expropriation. The ICJ's jurisdiction would depend on whether the BIT's dispute resolution mechanisms allow for ICJ intervention or whether broader international legal provisions apply. The core of the case would likely center on whether the UK's sanctions constitute indirect expropriation by significantly interfering with Abramovich's property rights and investment control, while the UK might argue its actions were legitimate under the doctrine of police powers, aimed at addressing national security and foreign policy concerns.

This study sheds light on an evolving dimension of international investment law by examining how state-imposed sanctions targeting individuals can indirectly impact their business assets and investments. The analysis emphasizes the complexity of distinguishing between legitimate regulatory actions and indirect expropriation, particularly in politically sensitive cases. By exploring the Abramovich case, this research highlights the critical role of proportionality, non-discrimination, and public interest as benchmarks for evaluating state actions under Bilateral Investment Treaties (BITs). It challenges traditional approaches that primarily address corporate-focused disputes, thereby advancing the discourse on investor protections in an era where geopolitical tensions increasingly influence economic measures. This work not only enriches the understanding of indirect expropriation but also underscores the importance of balancing state sovereignty and investor rights in the context of global investment frameworks.

CONCLUSION

The asset freeze imposed by the British government on Roman Abramovich is a response to allegations of Abramovich's proximity to President Putin regarding Russia's invasion of Ukraine. Although Abramovich and Chelsea Football Club have not violated any laws in the UK, the freeze has caused serious disruption to the club's economic activities. Despite Chelsea being sold for a significant value, the sanctions prevent the liquidation of sale proceeds. Junianto James explains indirect expropriation as interference with ownership rights without direct seizure. UNCTAD identifies elements of indirect expropriation, including significant adverse impacts on investment value. In this context, the asset freeze on Abramovich caused serious disruption to his investments in the UK, which is consistent with the definition of indirect expropriation.

Protecting foreign investors by the home state against the host state is crucial in FDI. BITs, such as those signed by Russia and the UK, provide a legal framework for safeguarding foreign investments. This includes compensation in cases of expropriation and dispute settlement mechanisms through arbitration. Although the home state, like Russia, cannot directly intervene in the UK's expropriation actions against Abramovich, they can issue formal warnings or provide legal support in dispute resolution, such as through the International Court of Justice on behalf of Roman Abramovich. In conclusion, the asset freeze against Abramovich by the British government may be considered an indirect expropriation violating international investment agreements. This raises questions about the protection of foreign investors and the host state's authority in responding to international political issues.

BIBLIOGRAPHY

Allegretti, Aubrey, and Jasper Jolly. 'UK Imposes Sanctions on Roman Abramovich over "Clear" Links to Putin'. *The Guardian*, 2022. https://www.theguardian.com/world/2022/mar/10/uk-imposes-sanctions-on-roman-abramovich-over-clear-links-to-putin.

Amalia, Prita, and Muhammad Lazuardy Thariq Makmun. 'Multinational Corporation's Investments Made through Its Subsidiary under The Latest Generation of Investment Treaties'. *Indonesian Journal of International Law* 19, no. 1 (2021): 113–35. https://doi.org/https://doi.org/10.17304/ijil.vol19.1.5.

Amalia, Prita, and Garry Gumelar Pratama. 'Indonesia Dan ICSID: Pengecualian Yurisdiksi ICSID Oleh Keputusan Presiden'. *Majalah Hukum Nasional* 48, no. 1 (18 July 2018): 1–21. https://doi.org/10.33331/mhn.v48i1.110.

Barklem, Courtenay, and Enrique Alberto Prieto-Ríos. 'The Concept of "Indirect Expropriation", Its Appearance in the International System and Its Effects in the Regulatory Activity of Governments *'. *Civlizar Ciencias Sociales y Humanas-Universidad Sergio Arboleda* 11, no. 21 (2011). http://ssrn.com/abstract=2761106.

BBC. 'Chelsea: Funds from Roman Abramovich Sale Earmarked for Victims of Ukraine War Remain Frozen'. *BBC*, 2023. https://www.bbc.com/sport/football/67698963.

———. 'Roman Abramovich: Chelsea Sale Halted by UK Government Sanctioning Club Owner'. *BBC*, 2022. Roman Abramovich: Chelsea sale halted by UK government sanctioning club owner'.

Chandradevi, Ayu Anezka. 'Konsep Creeping Expropriation: Interpretasi Majelis Arbiter Di Dalam Putusan ICSID Terkait Creeping Expropriation'. *Mutiara: Multidiciplinary Scientifict Journal* 1, no. 8 (26 October 2023): 451–69. https://doi.org/10.57185/mutiara.v1i8.79.

Courses Lumenlearning. 'The Beginning of the Cold War'. *Course Lumenlearning. Com*, n.d. https://courses.lumenlearning.com/suny-fmcc-worldcivilization2/chapter/the-beginning-of-the-cold-war/.

Crowell. 'Russia and Ukraine: The Next Wave of International Disputes'. *Crowell.Com*, 2022. https://www.crowell.com/en/insights/client-alerts/russia-and-ukraine-the-next-wave-of-international-disputes.

Ekaristi, Pulkeria Proprieta Dewi. 'Justification for Indirect Expropriation Within a Government Measure'. *Juris Gentium Law Review* 2, no. 1 (2014): 42–50. https://journal.ugm.ac.id/jurisgentiumlaw/article/view/56648.

Foreign, Commonwealth & Development Office. 'Abramovich and Deripaska among 7 Oligarchs Targeted in Estimated £15 Billion Sanction Hit'. *Gov.Uk*, 2022. https://www.gov.uk/government/news/abramovich-and-deripaska-among-seven-oligarchs-targeted-in-estimated-15bn-sanction-hit#:~:text=Those%20newly%2Dsanctioned%20by%20the,also%20been%20placed%20under%20sanction.

Foster, George K. 'Recovering "Protection and Security": The Treaty Standard's Obscure Origins, Forgotten Meaning, and Key Current Significance'. *Vanderbilt Journal of Transnational Law* 45 (2012): 1095–1156. https://download.ssrn.com/12/11/20/ssrn_id2178604_code792507.pdf?response-content-disposition=inline&X-Amz-Security-Token=IQoJb3JpZ2luX2VjEOj%2F%2F%2F%2F%2F%2F%2F%2F%2F%2FwEaCXVzLWVhc3QtMSJHMEUCIQDgpDhBB0oTaDLNcvtR5%2Fv0jyh9qQEx60qw0ZcBFUwLawIgLEaXcyukvpfkQIHSM03E6jRWLd%2FbsP23qC4AmCNikZEqxgUI0f%2F%2F%2F%2F%2F%2F%2F%2F%2F%2FARAEGgwzMDg0NzUzMDEyNTciDMK5LNMGcesfIn%2F3tiqaBVubRmxGjDU4Tc%2BN%2FVUl1qW3E77UH7kW7gM7Me26KN4Jk%2B0BNwb%2FUHnkRJ2orGWQrP0JJ4TR%2BO8Rk%2FVFaeMaOpCEOl5S1u6s8OOyT9LAL6%2Fmdo8FBekPYI4d41CiNPkwkXB%2FuY426bnQuPvelwlsFm8YkFICAyhXgOMJlqJCJeVU75%2FlssUhlVEg1l9CguF0K6CzfMp3ISe2%2BrrAZhel%2B6mrVnVyVu5jssicvTupTdqvKNcWTTnCw0ltP2sa%2BMoCcWmoaolOdxQHyRSvziKN%2FWKb%2Fn0H5IE8%2F8mvip5E1Fd%2BBEybsG6pEL411ZZSd2Uu8sFBzia5%2BiKIVAYJ4kbYyQ52j6Y6df66rhSrzzeQop%2FOCIHkNLkMfdrXN7eF%2BelyiuxnM5NPoD7G506pvms

97i8Z%2B30r27%2Br8TCXNfyVkcaY6W0TA8ZnWfYZnIPdNZl2bari66b7fW80%2B%2FQUz9Bziuvngz3Q%2BiM5RlE72Tpa%2BLawhGr0ba7%2FKTVXU9dfot%2FFv9OSItjXjfT8bqKsneyVCzyg836%2BiKZiUWhRESWV3KIij%2BmdP7yMvA4LfbPPe%2FUaGONjhnqKZmB50hiHRSsQ4Vzgr5yOk9CnC0ik0jziioNtkDk1Q6m97y%2B%2FsULoCuDeeeOhHS82NS3NYZFc5JfDOmIEG4G%2B%2BhKNaoDlPws%2B%2FiJSIL1whDrdDxRhTzkITjyVWCuIOiFOn9oG2HjuYN5PfT8lTbKvvUhPjyoq%2BDzIuQn1cd8FPrnOOl0WdZRtOoTJJrASzv8ESd90R5IsdVcq3BMiD%2F2MIzZUu0GTGgibu%2Fa94ujxry29LJ71%2FX2A25c9tgbycOPMfX3Sz16PaPys9jaZCbGx7v0xvr4YL6oBQ35gCtKOhsy5%2BalP%2FjDy3Y28BjqxAWpoKW3YJo3W2SH5oLYNJH7naMuxaYir5AI5yq%2FjGQgYSQYq8%2BotTAURQ%2FhTdizTbdLgj3thNU887GmfFAJlgVzeXuecNKUuMWUfugS5X09TFleEHSI6TIczlJMF%2FYHoplP5Bbupx9xqGftghWKuAESOlmZaiT%2Fv%2BctH85vZMWudL2yzsFtbIGgjH9uONXoWcovRg1%2FTguwT%2BHsmO9XgnSKi81NUIuZB2btUGCHYJS0%2FFA%3D%3D&X-Amz-Algorithm=AWS4-HMAC-SHA256&X-Amz-Date=20250112T083612Z&X-Amz-SignedHeaders=host&X-Amz-Expires=300&X-Amz-Credential=ASIAUPUUPRWEV3XUZ6BI%2F20250112%2Fus-east-1%2Fs3%2Faws4_request&X-Amz-Signature=f6c1d6d1d3f2890ed204e0f11ee27a35198696f5fa3c49b8ffea79d059e8e0eb&abstractId=2102895.

Ghaziani, Moosa Akefi, and Mohammad Akefi Ghaziani. 'The Role Of Expropriation Clauses In Protection And Promotion Of Foreign Investments In Renewable Energy: An Essential But Overlooked Legal Consideration'. *Indonesia Law Review* 11, no. 2 (2022): 191–215. https://scholarhub.ui.ac.id/ilrev/vol11/iss2/8/.

Hasan, Muhammad Iqbal. *Hukum Investasi Internasional: Teori Dan Implementasi* . Bandung: Refika Aditama, 2021.

Hertanti, Rachmi, and Rika Febriani. *"Negara vs Korporasi" Indonesia Bilateral Investment Treaties (BITs)*. Jakarta: Indonesia for Global Justice, 2014. https://igj.or.id/wp-content/uploads/2015/08/MODUL-BITs_Indonesia.pdf.

ICSID. Metalclad Corporation v. The United Mexican States' Case No. ARB(AF)/97/1 (1997).

———. Suez, Sociedad General de Aguas de Barcelona, S.A. and Vivendi Universal, S.A. (Formerly Aguas Argentinas, S.A., Suez, Sociedad General de Aguas de Barcelona, S.A. and Vivendi Universal, S.A.) v. Argentine Republic (II)', Case No. ARB/03/19 (2003).

———. Técnicas Medioambientales Tecmed v. United Mexican States' Case No. ARB(AF)/00/2 (2000).

———. Waguih Elie George Siag and Clorinda Vecchi v. Arab Republic of Egypt' Case No. ARB/05/15 (2005).

Indonesia, Pemerintah Pusat. Agreement Between the Government of the Republic of Indonesia and the Government of the Republic of Singapore on the Promotion and Protection of Investments, Pub. L. No. 97 (2020). https://peraturan.bpk.go.id/Details/148465/perpres-no-97-tahun-2020.

Kirby, Paul. 'Has Putin's War Failed and What Does Russia Want from Ukraine?' *BBC*, 2023. https://www.bbc.com/news/world-europe-56720589.

LOSARI, Junianto James. 'Comprehensive or BIT by BIT: The ACIA and Indonesia's BITs'. *Asian Journal of International Law* 6, no. 1 (28 January 2016): 15–45. https://doi.org/10.1017/S2044251314000332.

MacInnes, Paul. 'Roman Abramovich Representatives Believe UK Government Changed Terms over Frozen £2.5bn'. *The Guardian*, 2023. https://www.theguardian.com/football/2023/oct/17/roman-abramovich-representatives-uk-government-frozen-chelsea-sale-funds.

Maheswara, Joseph. 'Efektivitas Klausul Definisi Investasi & Investor Pada Bilateral Investment Treaty Dalam Menjaga Keseimbangan Kepentingan Antara Investor Dan Host State Serta Penerapannya Dalam Penyelesaian Sengketa Arbitrase Melalui Icsid (Studi Kasus Sengketa Investasi)'. *Hukum Pidana Dan Pembangunan Hukum* 6, no. 1 (2023): 20–36. https://e-journal.trisakti.ac.id/index.php/hpph/article/view/16665.

Nagourney, Eric, Richard Perez-Pena, and Dan Bilefsky. 'The Roots of the Ukraine War: How the Crisis Developed'. *The New York Times*, 2023. https://www.nytimes.com/article/russia-ukraine-nato-europe.html.

Noveanto, Eric. 'Motif Di Balik Keputusan Roman Abramovich Beli Chelsea'. *Goal.Com*, 2020. https://www.goal.com/id/berita/abramovic-chelsea-alasan-motif-beli/1g79debzjxz7fz8rcqn9gk4bc.

OECD. '"Indirect Expropriation" and the "Right to Regulate" in International Investment Law'. Vol. 2004/04. OECD Working Papers on International Investment, 1 September 2004. https://doi.org/10.1787/780155872321.

Paulsson, Jaun, and Zachary Douglas. 'Indirect Expropriation in Investment Treaty Arbitrations***The Views Expressed in This Article Are Exclusively Those of the Authors and Do Not Necessarily Reflect the Opinions OfFreshfields Bruckhaus Deringer or Its Clients'. *Kluwer International Law* , 2021, 1–8. https://icsid.worldbank.org/sites/default/files/parties_publications/C8394/Claimants%27%20documents/CL%20-%20Exhibits/CL-0274.pdf.

Reinich, August, and Christoph Schreuer. 'Expropriation in International Protection of Investments'. In *International Protection of Investments*, 1–250. Cambridge University Press, 2020. https://doi.org/10.1017/9781139004978.003.

Rihwanto, Yacob. 'Bilateral Investment Treaties Dan Penyelesaian Arbritase Internasional (Studi Kasus Pencabutan Izin Kuasa Pertambangan Churchill Mining)'. *Jurnal Lex Renaissance* 1, no. 1 (25 January 2016): 107–25. https://doi.org/10.20885/JLR.vol1.iss1.art7.

Roeroe, Fredy. *Batam Komitmen Setengah Hati*. Jakarta: Aksara Karunia, 2003.

Russian Federation, and United Kingdom. Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the Union of Soviet Socialist Republics for the Promotion and Reciprocal Protection of Investments (1989). https://jusmundi.com/fr/document/treaty/en-agreement-between-the-government-of-the-united-kingdom-of-great-britain-and-northern-ireland-and-the-government-of-the-union-of-soviet-socialist-republics-for-the-promotion-and-reciprocal-protection-of-investments-russian-federation-united-kingdom-bit-1989-thursday-6th-april-1989.

Sacerdoti, Giorgio. *Bilateral Treaties and Multilateral Instruments on Investment Protection*. Nijhoff, 1997.

Sembiring, Laura Natalia. 'Urgensi Perjanjian Investasi Bilateral Antara Indonesia Dan Negara Lain Dengan Klausula Penyelesaian Sengketa Investor-State Dispute Settlement'. *Dharmasisya Jurnal Program Magister Hukum FHUI* 1, no. 4 (2022): 1941–54. https://scholarhub.ui.ac.id/dharmasisya/vol1/iss4/22.

Shanks, Robert B. 'Insuring Investment and Loans against Currency Incovertibility, Expropriation, and Political Violence Insuring Investment and Loans Against Currency Inconvertibility, Expropriation, and Political Violence'. *Hastings International and Comparative Law Review* 9, no. 3 (1986): 417–37. https://repository.uclawsf.edu/cgi/viewcontent.cgi?article=1180&context=hastings_international_comparative_law_review.

Soekanto, Soerjono, and Sri Mamudji. *Penelitian Hukum Normatif Suatu Tinjauan Singkat*. 1st ed. Jakarta: Rajawali Pers, 2010.

Subedi, Surya P. *International Investment Law : Reconciling Policy and Principle* . New York: Hart Publishing, 2008.

Sugeng. *Memahami Hukum Perdata International Di Indonesia* . Jakarta: Kencana, 2021.
UNCITRAL. BG Group Plc v. The Republic of Argentina (2003).

———. Pope & Talbot v. The Government of Canada (1999).

———. Saluka Investments BV v. The Czech Republic' PCA Case No. 2001-04 (2001).
UNCTAD. 'Expropriation UNCTAD Series on International Investment Agreements II', 2012. https://unctad.org/system/files/official-document/unctaddiaeia2011d7_en.pdf.

———. 'Transparency UNCTAD Series on Issues in International Investment Agreements II', 2012. https://unctad.org/system/files/official-document/unctaddiaeia2011d6_en.pdf.

Walley, George William Alexander. 'Protections Against Direct and Indirect Expropriation How the United States and the European Union Use Sanctions and Bilateral Investment Treaties to Protect Intellectual Property'. Lund University, 2023.https://lup.lub.lu.se/luur/download?fileOId=9123546&func=downloadFile&recordOId=9123534.

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