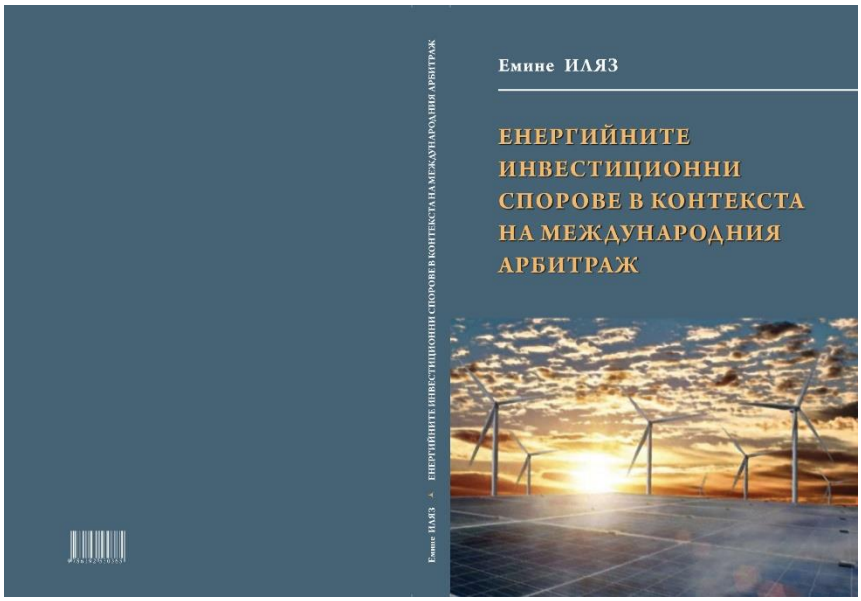
SUMMARIES OF THE SCIENTIFIC PAPERS OF Emine ILYAZ, PhD

submitted for the academic position of Associate Professor in the professional field 3.6. Law (Private International Law) at Burgas Free University, promulgated in the State Gazette issue 29/ 02.04.2024.

For participation in the competition for the academic position of "associate professor", summaries of scientific publications have been prepared: **1 published monographic work**, **4 articles** and **3 reports**.

1. Monograph – habilitation thesis:



Ilyaz, E., Energy Investment Disputes in the Context of International Arbitration, ed. Burgas Free University, ISBN 978-619-253-036-5, 2024. The monograph was reviewed by Prof. Maria Neikova, D.Sc. and Assoc. Prof. Ana Dzhumalieva.

The monograph represents the first comprehensive and comprehensive study of energy investments in international arbitration, until now there is no complete in-depth analysis of this nature in the Bulgarian legal literature. The book is structured into an introduction, five chapters, a conclusion and bibliography, a list of cited literature, as well as an executive summary and table of contents. The volume of the printed edition is 311 pages.

The relevance of the monograph is related to the increase in a large number of energy investment disputes, as well as the withdrawal of the European Union and Euratom from the Energy Charter Treaty (ECT), after the European Parliament approved this at its last plenary session in April 2024.

Chapter one provides an extended legal analysis of investment law, arbitration proceedings, investment agreements (bilateral and multilateral), as well as the ECT and

USMCA/NAFTA. In this context, the characteristics of international investment law, the sources of international investment law and investment arbitration are considered.

In the second chapter, a definition of the terms "investment", "energy investment", "investor", "investment dispute" is given, and the sources of the investment dispute are studied in detail. In the first paragraph of this chapter, consisting of two paragraphs, the concept of energy investments, the conditions for the basis of investments and the participants in these investment processes are analyzed, thus aiming to define the concepts used in determining the competence of the authorities for the resolution of disputes regarding the subject matter and the person in the resolution of disputes arising from energy investments. In the second paragraph of the chapter, the concept of "investment dispute" is analyzed in order to determine the subject competence of the dispute resolution bodies. In periods when energy investments were protected by concession agreements, the main cause of investment disputes was "expropriation", violations of other protection provisions and standards of treatment introduced in the agreements were also addressed in the scope of the definition of an investment dispute.

The most important point is the definition of the concept of "energy investment" and the detailed examination of the concept of "energy investment" in ECT.

The third chapter covers the dispute settlement mechanisms that apply to the resolution of investment disputes and, in relation to this, determines the competence of the dispute settlement bodies. The competence of the national courts under the conditions of referral to the courts of the host country and of a third country is analysed. Courts of the host country are recognized as the traditional competent dispute settlement authorities for the resolution of investment disputes. However, whether third country courts or source country courts can be considered competent to hear investment disputes by establishing extraterritorial jurisdiction is a controversial issue in investment law. Therefore, consideration of this issue is provided in the first paragraph of the chapter. The method of arbitration, which is discussed in the second paragraph of the chapter, has become one of the main tools of investment law and has become a preferred method for investors to settle their disputes. Therefore, paragraph "Arbitration" analyzes the operation of the arbitration procedure and the requirements for the jurisdiction of the arbitral tribunals. Since the jurisdiction of arbitrators is contested in almost all disputes referred to arbitration, this chapter broadly addresses the conditions for arbitrators' jurisdiction and the types of jurisdiction.

The main contribution is the examination of the dispute settlement mechanism in the ECT and USMCA, the assessment of the provisions of the ICSID and ECT Convention on personal jurisdiction and the discovery of the problems arising from the fragmented structure of international law in relation to investment disputes in the field of energy.

Chapter four deals with the determination of the law applicable to investment disputes. Since the source of the dispute is important in determining the law applicable to investment disputes, the subject has been analyzed in two main directions: disputes based on contracts and disputes based on agreement. The law applicable to disputes based on contracts is not considered a significant source of problems in practice and doctrine due to the international nature of these contracts. On the other hand, the law applicable to agreement-based disputes continues to be a contentious area of investment law. For this reason, this chapter analyzes the law applicable to investment agreements.

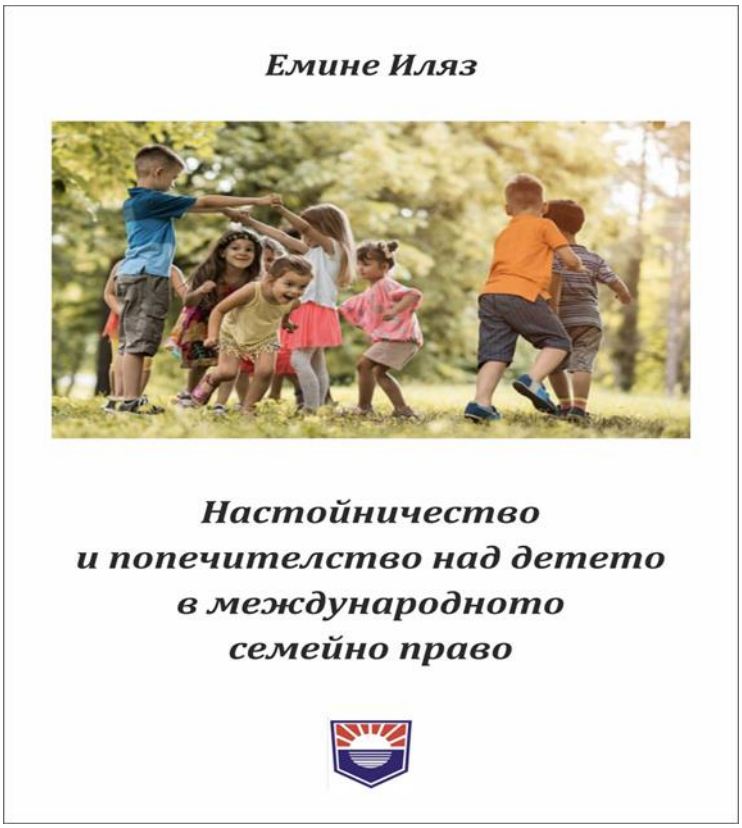
The contribution point is the examination of the problem of applicable law in energy investment disputes. It is concluded that the issue of applicable law is the allocation of roles between host country law and international law in dispute resolution. In the ECT, the applicable law in the settlement of disputes is determined in accordance with the provisions of the ECT and the provisions of international law (Art. 26, paragraph 6 of the ECT), thus avoiding a debate about the applicability of international law to disputes. However, most investment agreements do not contain a provision on applicable law. It is generally accepted in doctrine and practice that investment agreements constitute the lex specialis with respect to the matters they regulate and that they are subject to international law because they are inter-state agreements. Therefore, the determination of the law applicable to disputes based on agreements does not present a significant problem in the context of investment law.

Chapter five examines the new trends and attempts to remedy the shortcomings in international investment arbitration and the impact of European Union law on energy investment disputes. With the topics covered in chapter five, ***a contribution of applied importance is made.***

2. Monograph - A published book based on a defended dissertation for the award of the Doctor of Education Degree.

İlyaz, E., Milletlerarasi Aile Hukukunda Çocuğun Vesayet, BFU, ISBN 978-619-253-033-4, 2024.

Ilyaz, E., Child Guardianship and Custody in International Family Law, ed. Burgas Free University, ISBN 978-619-253-035-8, 2024, reviewed by Prof. Dr. Fluria Yusufova Bilgin. Translation: Associate Prof. Menet Shukrieva and Emine Ilyaz, PhD.



The book is 226 pages long, structured in an introduction, five chapters, a conclusion and a bibliography. The book is the first Bulgarian and Turkish monographic study dedicated to guardianship and guardianship of children in private international law.

The topicality of the topic is determined by the legal problems of the children of Turkish citizens living abroad.

Chapter one analyzes the institution of guardianship and guardianship in Turkish civil law. In Turkish civil law, guardianship and guardianship decisions are made in two cases. The first of them is the decision on guardianship and guardianship of minors and minors who are not placed under guardianship. The other possibility that leads to guardianship and guardianship is the limitation of legal capacity. The restriction of the legal capacity of an adult who is not under guardianship by a court decision based on the reasons specified in the law and due to the need for legal protection over oneself. The types of guardianship and guardianship, as well as guardianship and guardianship bodies, are also discussed.

The second chapter is devoted to the legal sources related to guardianship/custody of the child (GCC) with an international element. In this chapter, first, general explanations are given about the international conventions that will be considered in our study. The purpose of these clarifications is not to provide a detailed explanation of the relevant international conventions, but in order to better understand the relevant conventions, emphasis will be placed on the purpose of the convention, its field of application and the main concepts it respects.

These conventions are the 1902 Convention on the Guardianship of Minors, the Convention of 5 October 1961 concerning the powers of authorities and the law applicable in respect of the protection of infants and Convention of 19 October 1996 on Jurisdiction, Applicable Law, Recognition, Enforcement and Co-operation in Respect of Parental

Responsibility and Measures for the Protection of Children. In addition, Council Regulation (EC) No. 2201/2003 of 27 November 2003 on the jurisdiction, recognition and enforcement of judgments in matrimonial matters and matters relating to parental responsibility on the international jurisdiction of matrimonial and parental responsibility courts is also included. guardianship and guardianship and on the recognition and enforcement of court decisions, which is applicable to the Member States of the European Union, but not to the Republic of Turkey due to the country's status as a candidate for membership of the European Union.

The third chapter of our study is devoted to the international competence of courts in cases with a foreign element concerning the GCC. First, the international jurisdiction of the courts under the Hague Convention of 1961 and the Hague Convention of 1996, which govern the rules of international jurisdiction in cases related to the GCC, is examined. An attempt was then made to determine the international jurisdiction of the courts within the scope of the Code of Private International Law and Procedure (CPILP) No. 5718 and the Brussels IIA Regulation.

The fourth chapter analyzes the question of which law will be applicable to disputes arising from the GCC of a child of foreign origin. In determining the applicable law, the provisions of the 1961 Hague Convention and the 1996 Hague Convention, which are sources of international law, are first considered. The opinions in the doctrine regarding the applicable law when granting or terminating the GCC and the mandatory rules in some national legal systems are mentioned, and the provisions of the CPILP on the subject are also evaluated and examined.

The last part of the study is devoted to the recognition and enforcement of the decisions of foreign courts regarding the GCC. In this context, after analyzing the Hague Convention of 1961 and the Hague Convention of 1996, the provisions of the CPILP and the Regulation "Brussels IIA. The topic is particularly important from the point of view of the action in Turkey of the measures taken by the authorities of the habitual residence in relation to minors and minors of Turkish citizens living in foreign countries. This is because these minors and minors may come to Turkey or the guardian may be required to perform acts related to guardianship and guardianship in Turkey.

Contributing moments:

The application of the 1961 Hague Convention has created many problems as it has led to conflicts of jurisdiction between the courts of States. According to this convention, the authorities competent to take the necessary measures to protect the child's person and property are the relevant authorities and courts of the country of the child's habitual residence. These authorities generally take into account the law of the country of which the child is a national, but apply their own domestic law.

Based on the example of Germany, where such disputes occur most often, in the case of taking measures for the protection of Turkish children or in cases requiring the withdrawal of parental rights, it would be useful to choose Turkish families for foster families and care for the children to be taken in by Turkish rather than German families. It would be more beneficial for children to grow up in their own cultural environment. Consulates General of Turkey and other missions should have a great commitment in this regard. Because in finding Turkish families who have lived in Germany for many years and have adapted to the culture and life here, the German authorities and courts can best assist the consulates and other representations. To

accomplish this important task, it is very helpful to do the necessary research and organize lists of suitable families in advance.

In Germany, children are usually accommodated in dormitories run by foundations, usually created by the state. Turkish citizens living in Germany can also establish such foundations and provide care and supervision for Turkish children.

In cases where the child has to be placed in an institution or family in Turkey, this obligation falls directly on the state, namely the Republic of Turkey.

As the protection of children is of great importance, changes in this area have been gaining momentum in recent years. The drafting of conventions containing provisions that protect children at a high level is the result of the sensitivity of almost all international institutions and organizations to this issue.

All rights granted to children in the conventions are also applicable to Turkish children living in foreign countries. Based on these conventions, Turkish children can present their claims before the authorities and courts of the foreign country in which they reside. If the injustice is not remedied in this way, they can apply to the European Court of Human Rights for a violation of Article 8 of the European Convention for the Protection of Human Rights and Fundamental Freedoms. In order for these requests to be possible, Turkish citizens must be informed about this matter.

The entry into force of the 1996 Hague Convention for Turkey has led to the emergence of a "dual" system in the law applicable to guardianship/custody in Turkish private international law, as there are differences between conflicting norms on guardianship/custody set out in the CPILP and conflicting norms regulated in the Convention.

Since the Convention will be applicable to the GCC dispute, the provision of Article 10 of the CPILP will no longer be taken into account. On the other hand, Article 10 of the CCPR will continue to apply to claims regarding the establishment and determination of the GCC.

In the cases in which the Convention applies, the principle of security of the transaction is applied in the case of cancellation of a dispositional transaction made on behalf of the child on the child's property, due to lack of powers of the guardian/custodian to represent the child, and in cases in which the Convention does not apply, the principle of securing the transaction does not apply according to Article 9/2 of the CPILP. In all matters regulated by international conventions, parallel provisions arise with different provisions on the same matter.

However, the fact that the 1996 Hague Convention's conflict-of-laws and the conflict-of-laws of the same subject in the CPILP are so different from each other in all areas affecting the determination of the applicable law will lead to difficulties and confusion in practice. In this regard, we are of the view that the conflicting rules in the CPILP, which has already been criticized for providing for a "fragmented" system that does not take into account the personal status of the child as the basis of the applicable law in matters related to the GCC, should be amended and harmonized as soon as possible.

In this regard, decisions of Turkish courts regarding the guardianship/guardianship of Turkish children living abroad, rendered under Turkish law, will not have effect in foreign countries. With the entry into force of the 1996 Convention, the distinction between the law applicable to the establishment of the GCC and the law applicable to its termination is not a desirable situation for the child. When these shortcomings are added to the criticism leveled at the question of attachment to nationality, the "law of the child's habitual residence" emerges as

the most appropriate point of attachment in cases with an international element regarding guardianship/custody.

3. Abstract of Articles:

3.1. Ilyaz, E., Scientific and educational review of fast-track arbitration in the context of modern practices, Journal of Education and Science Policy Strategies, Issue 4s/2024, ISSN 1310-0270.

The article presents a legal analysis of expedited arbitration in current modern practices. The advantages and disadvantages of expedited arbitration are discussed in detail. Emphasis is placed on the distinctive features of expedited arbitration, taking into account provisions in comparative law. A detailed description of expedited arbitration proceedings in light of the provisions of foreign institutional arbitration centers is made. The main principles dominating arbitration proceedings, such as fair trial and freedom of will, are examined, and as a result of the analysis of these principles, the relationship between the general principles of arbitration and the suitability of expedited arbitration in relation to these principles is assessed.

An analysis of expedited arbitration in current modern practices has been made;

The main issues in expedited arbitration are highlighted.

3.2. Ilyaz, E., Scientific and educational analysis of the present regime of access to the labor market of third country citizens – Journal of Education and Science Policy Strategies, Issue 4s/2024, ISSN 1310-0270.

The article is dedicated to the access to the labor market of citizens of third countries, and the aim is to make a general analysis of the legal regime of the right to access the labor market and to present to the reader in a systematized form only those provisions of the law that refer to the types of legal regime of access to the labor market of third-country nationals.

On the basis of the analysis, 3 groups of legal regimes have been distinguished, *grouped into permit, registration and declarative regimes* with a total of seventeen procedures.

An attempt has been made to highlight their most important features and additional points. The article also includes up-to-date statistics from the Employment Agency on the types of work permits issued.

A definition of the types of employment according to the Bulgarian normative provisions along with the European directives is indicated.

3.3. Ilyaz, E., Applicable law to environmental pollution occurring on the high seas under private international law, Legal Proceedings of Burgas Free University for 2024, dedicated to the 100th anniversary of the birth of Prof. Dr. Alexander Yankov, Volume XXXI, ISSN 1311-3771.

The article published in English examines the conventions for the protection of the marine environment, such as the Geneva Convention on the High Seas of 1958 and the UN Convention on the Law of the Sea, to which the Republic of Bulgaria is also a party. The Torrey Canyon incident is also discussed, showing the importance of regulating oil pollution through international agreements.

Disputes arising from pollution in the open sea are settled in accordance with international conventions. But in cases where the ships or installations causing the pollution are one of the countries that have not acceded to the conventions in question, the problem of determining the applicable law becomes important. In these cases, various systems for determining the applicable law for disputes arising on the high seas have been presented, but no system has been proposed for determining the applicable law for disputes arising from environmental pollution.

Since the high seas are an area that is not under the sovereignty of any country, many special problems can arise in the case of pollution of these areas. The first of these concerns is jurisdictional. The first issue that arises is which country will be subject to the jurisdiction of the polluter causing environmental pollution. The 1958 Geneva Convention on the High Seas and the United Nations Convention on the Law of the Sea clarified this issue in relation to ships. Under these conventions, ships on the high seas are under the exclusive jurisdiction of their flag state.

Grouped on applicable law systems such as: general maritime law system, the system of the judge's law, flag law system, registration place system .

3.4. Ilyaz, E., The ethical rules applicable to lawyers of parties in international commercial arbitration, Legal Proceedings of Burgas Free University for 2024, dedicated to the 100th anniversary of the birth of Prof. Dr. Alexander Yankov, Volume XXXI, ISSN 1311-3771.

The international arbitration community is expanding and becoming accessible to new members/practitioners from different legal systems and cultures, ie. for all persons participating in international arbitration; on the other hand, the fundamental differences in the rules applicable to the lawyers of the parties in international arbitration necessitate the regulation of uniform rules that should be applied to the lawyers of the parties in order to guarantee a fair and impartial conduct of the arbitration procedure.

The article analyzes the existing ethical rules applicable to representatives of the parties in international commercial arbitration, assesses the content of these rules and the difficulties encountered in practice, and discusses the shortcomings of the existing provisions and the problem of sanctions.

Resolution of the issue of which code of ethics to apply to counsel for the parties;

Investigation of a sanctioning body in the event of a violation of the ethical rules.

4. Abstract of reports:

4.1. Ilyaz, E., International conventions on maintenance obligations in Turkish international private law, Legal Proceedings of Burgas Free University for 2024, dedicated to the 100th anniversary of the birth of Prof. Dr. Alexander Yankov, Volume XXXI, ISSN 1311-3771.

The report was prepared in connection with the participation in the Scientific Conference with international participation "100 years since the birth of cor. prof. dr. Alexander Yankov", organized by the Center of Legal Sciences at BFU, held on 20 and 21 June 2024. It examines the Maintenance Conventions to which the Republic of Turkey is a party. The Hague Convention of 24 October 1956 on the Law Applicable to Child Maintenance Obligations, the

Hague Convention of 2 October 1973 on the Law Applicable to Maintenance Obligations, the New York Convention of the United Nations on the Collection of Maintenance Abroad, of 20 June 1956, The Hague Convention on the Recognition and Enforcement of Judgments Concerning Maintenance Obligations of 02.10.1973, The Hague Convention on the International Collection of Maintenance for Children and Other Family Members of 23 November 2007.

A comparison was made with the provision of Art. 19 of the Code of Private International Law and Procedure of the Republic of Turkey and Council Regulation (EC) No. 4/2009 of 18 December 2008 on jurisdiction, applicable law, recognition and enforcement of judgments and cooperation in matters related to maintenance obligations. Pursuant to Article 19 of the CPILP, the maintenance obligation is governed by the law of the country where the maintenance claimant is habitually resident. However, this provision has lost its general application. Because there are international conventions on maintenance. It applies only to disputes where the convention cannot be applied due to reservations made by Turkey.

4.2. Ilyaz, E., Legal analysis of Art. 7 of the Vienna Convention on international sale of goods (CISG), Legal Proceedings of Burgas Free University for 2024, dedicated to the 100th anniversary of the birth of Prof. Dr. Alexander Yankov, Volume XXXI, ISSN 1311-3771.

The report was prepared in connection with the participation in the Scientific Conference with international participation "100 years since the birth of Art. cor. prof. Dr. Alexander Yankov", organized by the Center of Legal Sciences at BFU, was held on June 20 and 21, 2024. It examines the Vienna Convention on the International Sale of Goods, in the event that the interpretation of the contract between the parties reveals that there is no provision applicable to the matter, this contractual gap should be filled by application of customary practice. However, if it is not possible to perform the contract, the matter is resolved in accordance with the reserve provisions of the CISG. The rule regarding the interpretation and completion of blanks is governed by Article 7 of the CISG. Accordingly, the provisions of the CISG should be interpreted independently of the rules of interpretation in those legal systems, taking into account the international character of the Convention.

4.3. Ilyaz, E., The law applicable to construction contracts from the point of view of fidic and arbitration in international turkish private law, Legal Proceedings of Burgas Free University for 2024, dedicated to the 100th anniversary of the birth of Prof. Dr. Alexander Yankov, Volume XXXI, ISSN 1311-3771.

The report is in Turkish and focuses on the law applicable to construction contracts from the perspective of FIDIC and arbitration. It exposes the problem with national legislation and FIDIC rules, as well as mechanisms for resolving disputes arising from the operation of construction contracts.

On the basis of the research done, the current problems in construction are revealed, which reflect in our country as a neighboring country of Turkey.