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*The Influence and Effects of EU Business Law
in the Western Balkans*

1st EU Business Law Forum

Balázs Horváthy:

**Multilateralising ISDS? – The new
ambition of the European Commission**

(abstract)

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Multilateralising ISDS?

– The new ambition of the European Commission

The Investor-State Dispute Settlement (ISDS) provisions of the recent EU trade and investment agreements have been subject to harsh debates for couple of years. The discussion was set off by the TTIP negotiations and called attention to the institutional weaknesses of the current ISDS model, having argued that the ISDS can primarily undermine regulatory freedom and the ISDS clauses are in fact not adequate in the relationship between developed contracting parties.

The discussion, which has transformed completely the transparency of the EU external trade policy, had implications not only on technical-procedural issues of ISDS, but has taken pressure on the European Commission to rethink the standard model of ISDS. As a result, in 2015, the Commission has revealed an entirely new concept regarding the dispute settlement rules and proposed a court-like model of investment arbitration.

The most ambitious element of the proposal has been the objective of the future ‘multilateralization’ of the model that might have global impact on the international investment arbitration as well. However, this ambition might be not too unrealistic, knowing the fact, that the EU and Canada amended the text of the CETA with the new provisions last year, highlighting also the importance of the ‘multilateralization’ of the EU model in the future agreements. The paper is intending to shed light on the background of the new model, explains the debate behind the ISDS, the concept of the European Commission and makes attempt to estimate the possible future impacts of this new approach on the investment arbitration.