

## **SUSTAINABLE INVESTMENT THROUGH EFFECTIVE RESOLUTION OF INVESTMENT DISPUTES—IS TRANSPARENCY THE ANSWER?**

*By Cornel Marian*

### **ABSTRACT**

In investment arbitration, procedural rules that incorporate broad transparency provisions subject both sides of an investment dispute to public scrutiny and, as a consequence, establish an equitable and sustainable framework for investors to seek a remedy against respondent-states. In this day and age, procedural transparency in investment arbitration cannot be ignored. The article draws on the arguments advanced by various non-profit organizations, primarily in North-America, demanding public accountability in investment arbitration. The article deduces three pillars that support investors' needs in resolving investment disputes against respondent-states. First, broad procedural rules facilitate the enforcement of an award since transparent procedural principles are already incorporated in the ICSID Arbitration Rules, which incidentally also offer, pursuant the ICSID Convention, the most favorable framework for enforcement of awards against a state. Second, relying on such transparent procedural rules enhances the level of credibility that is necessary for the enforcement of a foreign award, which leads to the third point—that of justification—inherent in the public relations benefits that mirror the resolve of the investment arbitration proceedings. The article contextualizes these pillars through a review of the dispute resolution mechanisms in the three major model investment agreements, which reveal that the sustainable framework, despite the difficulty of implementing it, is shaped by transparent procedural rules that are no longer an aspiration but a reality.

Keywords: sustainable development, international investment arbitration, transparency, procedural transparency, bilateral-investment treaties, investor-state arbitration.