

NOTE ON COVID-19 AND THE POLICE POWERS DOCTRINE: ASSESSING THE ALLOWABLE SCOPE OF REGULATORY MEASURES DURING A PANDEMIC

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ABSTRACT

The COVID-19 pandemic has caused severe disruptions not only to public health, but also to the global economy. In response, many States have enacted preventive control measures to curtail the spread of the virus, as well as rehabilitative measures aimed at protecting the economy. Due to the breadth, scope and (at present) uncertain duration of these measures, it is likely that these may result to investment claims from foreign investors whose investments have been severely affected. This Note will discuss one of the available defences to investment claims resulting from regulatory measures undertaken pursuant to public health, that of the doctrine of police powers. This doctrine recognises that reasonable governmental regulation does not result to compensable expropriation. This Note will further consider the challenges faced in the application of the police powers doctrine to the present pandemic situation.

KEYWORDS: *COVID-19, regulatory measures, police powers doctrine, investment treaty claims*

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