

Interesting [article](#) published on African Liberty analyses the AfCFTA Protocol on Investment, raising the need to ensure effective enforcement mechanisms for its provisions in case of violation by African States, by establishing a continental court with competency for hearing all disputes between state parties or between an individual/private party and a state party. Once amicable dispute resolution mechanisms are exhausted, the investors should be able to approach an African court that has real teeth when confronting African states.

Africa does not have a good history of independent regional Courts in this regard. The case of the Southern African Development Community (SADC) Tribunal is mentioned, which was [disbanded](#) by SADC Heads of State after it ruled against Zimbabwe's programme of compulsory expropriations of land owned by white farmers, which was seen as an act of interference of the Court in domestic affairs of national States falling under their full sovereignty. If political considerations will continue to outweigh the interests of investors in the AfCFTA investment protocol, such a protocol will not influence foreign investors' choices in a favorable way, which is the main reason why it was adopted, in the hope of attracting fresh investment in Africa. And an ineffective Protocol on Investment, in turn, will limit the benefits of African free trade.

African governments do not have a good history of protecting investors, the article notes. Whether through expropriation, nationalisations, damage to investments because of war/rebellions, failure to protect investors against crime, excessive taxation, regulation, inflation, and so on, Africa has earned its reputation as a destroyer of capital invested in its territory.

The investment protocol of the AfCFTA can reverse this by offering higher guarantees to investors by protecting them from abuses of governments. But for this to happen, the protections outlined in the investment protocol must be enforceable in a robust manner. Governments that violate the Protocol should be firmly sanctioned in case of violation.