



## PRESENTAZIONE DEL VOLUME

(a cura dell'autore o del curatore)

### Informazioni generali

Autore: **Marco Argentini**

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### Informazioni sul volume

Sovereign Wealth Funds (SWFs) are hybrid entities established by their states of nationality to invest public resources through private investments, with a long-term sovereign purpose. The monograph *Sovereign Wealth Funds and State Immunity* examines how the Janus-faced nature of SWFs affects the application of the rule of state immunity to their investment activities and assets. This primary research question is addressed with the aim of shedding light on potential new standards regarding the application of the said rule to SWFs, based on the practice and *opinio iuris* of a number of selected jurisdictions and international instruments.

The right of SWFs to enjoy immunity is addressed in terms of both adjudicative immunity and immunity from execution. While the former relates to claims arising from the investment activities of SWFs (*e.g.*, in the case of market manipulation), immunity from attachment can be relevant in a number of further different situations. For example, judgment creditors of an SWF's state of nationality may seek to attach the assets of the fund (or, more specifically, the shares it holds in foreign companies) in order to enforce the judicial decision or the arbitral

award. Indeed, piercing the corporate veil between the state and an SWF may be the only way for a creditor to enforce an investment arbitration award (as in the case of *Stati v. Kazakhstan*). The study is based on a comparative analysis of a number of national jurisdictions and conventional instruments. In particular, it focuses on the legal framework of the UN Convention on Jurisdictional Immunities of States and Their Property (UNCIS) and that of six states from both civil and common law legal traditions, namely the US, the UK, France, Germany, Italy, and China. The choice of these six jurisdictions is dictated by two types of considerations, legal and economic. From a legal perspective, these states have played a central role in defining the rule of state immunity as it exists today. From an economic standpoint, empirical analyses show that these states are the main recipients of SWF investments. Consequently, they can be considered as some of the specially affected states with respect to the financial activities of SWFs, whose practice appears to be of significant relevance for the identification of a new customary standard in the matter under consideration. For the same reasons, they are also the main forums where litigation involving SWFs may occur.

The monograph is structured in four parts. The first one (chapters 1 to 2) contextualises the concept of 'SWFs' in the current international landscape. In particular, it highlights five key elements of SWFs that are often considered by domestic courts when deciding whether to grant them immunity: legal nature, governance model, source of assets, purposes, and types of investments. The second (chapters 3 to 5) and third (chapters 6 to 8) parts focus on adjudicative immunity and immunity from execution, respectively, from the perspective of the UNCIS and the six jurisdictions considered, with an emphasis on statutory law and judicial decisions. The different legal structures that may characterise SWFs are taken into account (separate entities or pools of assets without an autonomous legal personality). Given the scarcity of judgments on SWFs, the research is mainly based on cases involving similar entities, such as state-owned enterprises. The fourth part (chapter 9) deals specifically with SWFs owned and managed by central banks, both from the standpoint of adjudicative immunity and from that of immunity from execution. The reason for the thematic autonomy of these funds lies in the guarantees traditionally granted to central banks and monetary authorities in domestic systems, in particular with respect to immunity from execution.