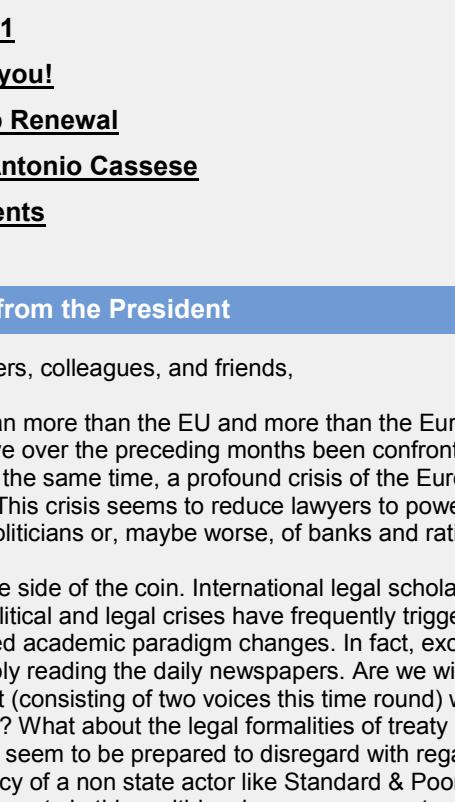


La newsletter en français suit le texte en anglais. Pour y accéder directement, veuillez [cliquer ici](#) ou faites défiler cet écran vers le bas.



ESIL Newsletter

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Vol. 4, Nov. 2011

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1. Message from the President

Dear ESIL members, colleagues, and friends,

Does Europe mean more than the EU and more than the Euro? Scholars from international and European law have over the preceding months been confronted with the European financial crisis, which is, at the same time, a profound crisis of the European Union and of the global financial system. This crisis seems to reduce lawyers to powerless bystanders, to willing executioners of politicians or, maybe worse, of banks and rating agencies.

But this is only one side of the coin. International legal scholars of ESIL might remember that political and legal crises have frequently triggered fresh scholarship and have sometimes induced academic paradigm changes. In fact, we witness the resurgence of a European concert (consisting of two legal tools) which dictates the fate of a small European country? What about the legal formalities of treaty amendment processes which European leaders seem to be afraid to disregard with regard to the EU Treaty? And what about the legitimacy of a non state like Standard & Poor's? What is and should be the role of domestic parliaments in this multi-level framework for a lighter fiscal union on the contrary, loosening in the direction of merely functional and overlapping jurisdictions?

The crisis of the Euro, with its potentially detrimental effects on the USA, and seeming dependency on China as a help hand has brought home as never before the points which the globalisation discourse on mutual interdependency has made ad nauseam. Does anyone still entertain doubts about financial stability being a global public good? But what follows from this analysis?

Against this background, the recent foundation of the new ESIL Interest Group on the EU as an international actor is most welcome. More information on this IG and the other new one on international bio law follow in this newsletter. I am looking forward to the creation of additional interest groups and encourage you all to step forward with your new research ideas.

Current and salient questions have also been raised at a joint workshop on "Global legal goods and the plurality of legal orders", held by ESIL together with the America Society of International Law, the EJIL and the Hague Institute for Internationalisation of Law in Florence at the European University Institute last month. I was pleased to meet, besides the panellists, quite a number of ESIL members who attended the event and joined in the debates.

I also met ESIL members at the conference of the Asian Society of International Law, which took place in Beijing in August this year. A great interest was highly impressed by the European and diversity of the presentations there. A great interest was highly impressed by the European scholars and with ESIL was visible. Please suggest keywords and themes for such a European-Asian cooperation.

In October, the ESIL Lecture Series was launched with a panel debate on genocide, with political scientist Daniel Jonah Goldhagen (picture), and the international lawyers and practitioners Nicolas Michel (Geneva), Christian Tomuschat (Berlin), and Jürg Lindenmann (Swiss Foreign Office, Berne). The debate, preceded by a film based on Goldhagen's book "Worse than War", was attended by about 350 people and can be watched on the ESIL website. You might want to read more about the upcoming ESIL lecture in this newsletter! Again, I invite members to approach me with further ideas for ESIL lectures all around Europe.



A technical reminder about the renewal of membership for 2012: We have worked on facilitating renewal by introducing an additional option of a five-year commitment by credit card which will then be charged each January without any further formalities.

Finally, I would like to follow up on the vice-president's message in the last newsletter and encourage all members to consider standing and/or to propose other members as candidates for the next elections to the ESIL board which will take place at the Valencia conference. Please note that the new dates of the biennial conference are 13-15 September 2012. I am very much looking forward to your nominations, and even informal suggestions to be followed up by our nominations committee. ESIL's drive, diversity, and excellency depend on you.

Anne Peters.

2. Guest Editorial

'The Exercise of the Secondary Responsibility to Protect by the UN Security Council in the 2011 Libyan Crisis'

by Hanspeter Neuhold – Vienna University

The responsibility to protect is one of the recent positive innovations in international law. It was formulated in 2001 by the International Commission on Intervention and State Sovereignty created by Canada in the wake of the atrocities committed in the former Yugoslavia and Rwanda and the debate on "humanitarian intervention". NATO states to stop "ethnic cleansing" by Serb forces in Kosovo in the 1990s. The concept was endorsed at the highest political level at the 2005 summit meeting of the UN General Assembly. According to the World Summit Outcome, states must protect their populations from genocide, war crimes, ethnic cleansing and crimes against humanity. If they fail to do so, collective action is to be taken through the Security Council (SC).

The Council exercised this secondary responsibility in the 2011 Libyan crisis which was triggered by the brutal repression of protest demonstrations by the Gaddafi regime. In the preamble to its resolution 1973, the SC recalled the responsibility of the Libyan authorities to protect their population. It adopted targeted sanctions, a travel ban and a freeze of their financial assets, against the responsible decision-makers, first and foremost Gaddafi and members of his family, but spared the rest of the population. Thereby the Council fulfilled its obligation under the Charter to act in accordance with the purposes of the UN which include the respect for human rights. The SC also established a comprehensive arms embargo, which, however, for human rights, the forces of the regime against whom it initially outgunned rebels who were later unlawfully provided with military equipment from abroad. Moreover, the Council referred the unlawfulness to Libya by this extending the jurisdiction to Libya as a non-party. The Court issued arrest warrants against Gaddafi and two close relatives.

Resolution 1973 provided for further measures in addition to tightening and extending those already adopted. Since the SC does not have armed forces of its own, it could only authorize states to take all necessary measures to protect threatened civilians and to enforce a no-fly zone over Libya. It also decided a ban on flights by Libyan aircraft. The authorization to use force provided the legal basis for a NATO-led military campaign in which non-NATO members also participated.

It is difficult to accurately assess the impact of these enforcement measures. While targeted sanctions have so far not impressed the political elites in North Korea and Iran and probably had only a limited effect on the Gaddafi regime, the air strikes made a decisive contribution to the eventual victory of the rebels in Libya.

The Security Council should be commanded on living up to its secondary responsibility to protect in the Libyan crisis and using the entire repertoire of measures at its disposal. It must be criticized, however, for failing to do so against the regimes in Syria and Yemen which continue their bloody crackdown on pro-democracy demonstrators.

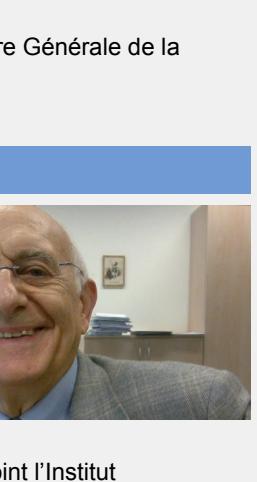
3. Biennial Conference 2012, Valencia

The 5th Biennial Conference of the European Society of International Law will take place in Valencia, Spain, from 13 to 15 September 2012 and will be organised in association with the University of Valencia and the Centro de Estudios del Derecho y Relaciones Internacionales (CEDRI). The overarching theme of the conference is "Regionalism and International Law". The programme consists of two plenary sessions, eight fora and eight agoras. Speakers have been invited for the plenary sessions and the fora, and agora speakers will be selected on the basis of abstracts submitted in response to a call for papers published on the ESIL website on 19 October.

The submission of abstracts began on 10 November and the general registration process will be opened for "early birds" from 1st February 2012 onwards. Please stay tuned to the ESIL website and the 2012 Conference website at www.eu.esil2012 which will be up and running soon!

4. 2nd ESIL Lecture, Armin von Bogdandy, Madrid

We are proud to announce that Prof. Dr. Armin von Bogdandy, Director of the Max-Planck Institute of International and Public Law, will deliver the second ESIL Lecture on "Sovereign Debt Restructurings as Exercises of International Law" on 2 March 2012 in Madrid, Spain. The ESIL Lecture will take place in the context of the UNCTAD-JAM Conference on the Principles on Responsible Sovereign Lending and Borrowing. For more information about this Lecture and the Conference, please write to unctad-principles@uam.es.



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5. New Interest Groups

Interest Groups have long been a backbone of ESIL activities, and their range is expanding at a rapid pace. Last year, the established IGS on *International Legal Theory*, *International Economic Law*, *International Environmental Law*, *Peace and Conflict Resolution* and *Human Rights* were joined by the new group on *Feminism and International Law* which held an inaugural workshop in the spring of 2011 and also organised a *International Workshop on the Tallyrand Research Forum*. Since then, three new groups have been created, all which reach out to fields of knowledge related to, but often not in direct contact with, international law. The group on *International Biolaw* (contact: dagarica@tuebingen.de) seeks to link international law with life sciences; the group on *The European Union as a Global Actor* (contact: a.thies@reading.ac.uk) focuses on connections between international law and EU law; and the group on *International Business and Human Rights* (contact: marta.requejo@uisc.es) straddles the boundaries between public and private international law. More information on these groups will appear on the ESIL website in due course. All members are encouraged to join them (and old!) groups, and we look forward to many new ones.

I also met ESIL members at the conference of the Asian Society of International Law, which took place in Beijing in August this year. A great interest was highly impressed by the European and diversity of the presentations there. A great interest was highly impressed by the European scholars and with ESIL was visible. Please suggest keywords and themes for such a European-Asian cooperation.

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6. Florence Symposium

On 24 and 25 October 2011 the European University Institute hosted an international symposium on "Global Public Goods and the Plurality of Legal Orders". The symposium was jointly organised by the ESIL and the ASIL with the support of the EU Academy of European Law, the European Journal of International Law and the Hill project on national law in a global society.

The purpose of the symposium was to discuss whether and how the co-existence, interaction, and possible conflicts, of different legal orders – international law, domestic law, EU law and private international law, domestic law, EU law and private regulation regimes – and their driving agents – regulators, contracting parties, courts and enforcement bodies – contribute to generating and maintaining global public goods.

The symposium addressed the question of the legal definition of "global public goods", a definition that in legal terms may not entirely coincide with the concept of "public goods" in terms of economic theory, and focused on a typology of goods which are shaped by law and whose very existence can benefit all states and the international community as a whole. Examples are legal regimes concerning financial stability, peace, health, free trade, cultural heritage, as well as the procedural mechanism to ensure such public goods through adjudication, compliance and arbitration.

The symposium has brought together different perspectives, especially US and European perspectives, on the relations between different legal orders and on the question of whether existing pluralism supports or undermines the conservation and management of global public goods.

Contributions to the symposium, or a selection thereof, will be submitted for publication in the *International Journal of Human Rights*.

Francesco Francioni

7. ESIL Needs You!

Could you contribute to the running of the society? Have you ever considered standing as a Board candidate? Do you know another member who would be a good Board member? All members of the society are eligible so please consider whether there is someone you could nominate and get in touch with them. The deadline for nominations has been extended until Friday 25th November to encourage as many members as possible to consider getting more involved in the running of the society. You can nominate candidates for the consideration of the Nominating Committee just by sending their name, cv and a statement that the nominee approves the nomination to the ESIL Secretariat (esil.secretariat@eui.eu).

The prize-winning work will be published before the end of 2013 by Hart Publishing in the *International Institute of Human Rights* series, which will bear the costs of the publication.

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