

**Biases and International Adjudication**

ESIL IGICT Annual Meeting 2020

*Online sessions*

**Thursday 10 September 2020**

10.00-12.00 and 14.00-16.00

# Seminar theme

The Interest Group on International Courts and Tribunals is organizing a seminar focusing on biases and international adjudication.

Studies of biases are not a novelty in international law, including in the field of international adjudication. The institutional decisions of international courts and tribunals cannot be immune from some of the biases of individuals who shape the outcomes of international adjudication. It is ‘common knowledge’, as Thomas Franck acknowledged in 1966, that we all have biases and that ‘subjective’ and ‘socially conditioned’ attitudes of the decision maker play a role (T. M. Franck, (1966) 19 *Stanford Law Review* 1217 at 1247). According to Martin Kuijer’s analysis published in 1997, national bias among the judges of the International Court of Justice was proved to be ‘more than a hypothesis’ (M. Kuijer, (1997) 10 LJIL 49 at 66). More recently, a growing number of (experimental) findings shed light on the role of adjudicators’ intuitive and automatic thinking. The analyses of biases have also led us to critically consider the question of transparency in decision- making processes (including the selection of judges and the issues of recusal to the openness of the procedure to third parties). Other studies have challenged, for example, the assumption about decision-making that groups usually enhance the quality of the outcomes of deliberative processes, by investigating groupthink behaviour.

Against this background, the seminar will explore the implications of (broadly defined) biases in the practices of, and analysis about, international courts and tribunals.

# Programme

Session 1 (10.00-12.00)

*10.00-10.10*: Opening

*10.10-10.40* (15 minutes presentation, followed by Q&A)

* Relja Radović (MPI Luxembourg) – [On the Concept of Unneutrality: Putting Judicial Biases in Context](https://igict.files.wordpress.com/2020/06/radovic_abstract.pdf)

*10.40-11.00*: Networking breakout rooms

*11.00-11.30*

* Tikumporn Rodkhunmuang (Zhejiang University) – [A Reappraisal of International Adjudications: Asian Perspectives or Biases?](https://igict.files.wordpress.com/2020/06/a-reappraisal-of-international-adjudications.pdf)

*11.30-12.00*

* Éva Grünwald (University of Pécs) – [Ruling on or out the implicit – Methodological suggestions for the measurement of the role of biases and implicit social cognition on the work of international courts and third party decision making bodies](https://igict.files.wordpress.com/2020/06/abstract_eva-grunwald_ruling-on-or-out-the-implicit.pdf)

Session 2 (14.00-16.00)

*14.00-14.05*: (Re)opening

*14.05-14.35*

* Benedikt Pirker (University of Fribourg) and Izabela Skoczeń (Jagiellonia University in Cracow) – [Is Ordinary Meaning a Moral Concept? An Experimental Investigation in International Legal Interpretation](https://igict.files.wordpress.com/2020/06/abstract-for-esil-igict-pre-conference-workshop-stockholm.pdf)

*14.35-14.50*: Networking breakout rooms

*14.50-15.20*

* Catharine Titi (CNRS/Paris 2) – [Nationality and Judges ad Hoc on the International Bench: The Pendulum between Bias and Legitimacy](https://igict.files.wordpress.com/2020/06/nationality-and-judges-ad-hoc-on-the-international-bench.pdf)

*15.20-15.50*

* Caroline de Lima e Silva (Göttingen University) – [Domestic courts’ structural bias and the reception of the Inter-American Court’s jurisprudence](https://igict.files.wordpress.com/2020/06/abstract-esil-interest-group-ics-and-tribunals.pdf)

*15.50-16.00*: Closing