
European Society of International Law
Interest Group on International Courts and Tribunals
Annual Report 2019-2020

1. Coordinating Committee

The Coordinating Committee for the IG on International Courts and Tribunals consists of the following members, who have been leading IG activities since September 2018:

- Edouard Fromageau
- Andrea Gattini
- Machiko Kanetake
- Stephan Wittich

2. Website

Our events and relevant information have been disseminated through the ESIL main website as well as through our own IG website: <https://igict.wordpress.com/>. On top of the dissemination of our IG events, we have also used this website in order to provide update on the publication of books and articles which may be of interest to the members of the IG.

3. Events

Digital technologies and international courts and tribunals

On 10 February 2020, the Interest Group on International Courts and Tribunals organised its first Skype-based doctoral workshop, the first of its kind for the ESIL. The workshop was entitled ‘Contemporary digital technologies and international courts and tribunals’. The workshop was based upon the call for papers we have published in October 2019. Based upon the proposals we have received, we selected three doctoral researchers as speakers. The workshop allowed a wide range of ‘engaged listeners’ from various parts of the world, who had registered for the online event through the IG website.

Biases and international adjudication

On 10 September 2020, the IG has organised an online workshop focusing on the presence of ‘biases’ in the practices of international courts and tribunals. In March 2020, the call for papers was released, based on which the IG convenors selected six promising speakers. The event was convened through Zoom, having been assisted by Max Planck Institute Luxembourg. The speakers submitted their papers in advance. The workshop attracted many participants from various corners of the world and allowed them to discuss the impact of explicit and implicit biases on the part of adjudicators and some of the innovative methodologies in order to identify such biases.

The programmes for these events are attached.



ESIL Interest Group on International Courts and Tribunals

Skype-based doctoral workshop on:

Contemporary digital technologies and international courts and tribunals

The Interest Group on International Courts and Tribunals is organizing its first online Skype-based doctoral workshop to discuss the impact of new technologies in the work and analysis of international courts and tribunals. The Workshop will take place on **10 February, 2020, at 2-4 pm**, Central European Time. The speakers are selected on the basis of the call for papers.

Theme of the workshop

Technology affects and transforms the way scholars and practitioners engage in and with international law. The work and study of international courts and tribunals are no exception in this regard. When the International Court of Justice rendered its *Nicaragua* judgment on the merits in 1986, the World Wide Web did not exist and the size of data to be processed by ordinary computers was significantly small. Should the judgment be delivered in 2019, by a group of judges whose reasoning is constructed in a different information age, it would be immediately communicated and deliberated via blogs and social media across the globe, and, over time, be subject to computational analysis.

International courts and tribunals are using these digital tools in order to respond to various contemporary means, be it to filter cases and decide on their admissibility in a more efficient manner, or to have a more direct access to their past decisions. At this age of ‘datafication’ of justice, many different paths can still be explored, each coming with their own risks and potentials.

Against this background, the Interest Group invites paper proposals regarding the use of various digital technologies which influences the practices of international courts and tribunals—and our understanding about them. The Interest Group welcomes papers addressing, for instance, the following topics. However, other innovative topics are equally welcome.

- Statistical analysis based on a large set of data, to analyze and predict the judgments of particular courts and tribunals
- Computational analysis of the reasoning of specific international courts and tribunals, such as the analysis of cited cases

- Potential relevance of blockchain technology in facilitating the effective enforcement of arbitral judgments

Programme

Samira Allioui (University of Strasbourg)

- “Artificial Intelligence and decisions-making process: the case of the European Court of Human Rights”

Benedetta Capiello (Università deli Studi di Milano)

- “Arbitral Awards’ Execution Through Blockchain: An Available and Desirable Solution?”

Riccardo Vecellio Segate (University of Macau)

- “From the ICTY’s Electronic Evidence to the ICC’s Digital Evidence: Admissibility, Probative Weight, and Judges’ Cognitive Bias ‘Shared’ by International Tribunals with US Domestic Courts”

Organizers

The workshop is organised by IG convenors: Edouard Fromageau; Andrea Gattini, Machiko Kanetake; and Stephan Wittich.

BIASES AND INTERNATIONAL ADJUDICATION

ESIL IGICT Annual Meeting 2020
Online sessions

Thursday 10 September 2020
10.00-12.00 and 14.00-16.00
(Central European Time)

SEMINAR THEME

On 10 September 2020, the Interest Group on International Courts and Tribunals will organize 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.

PARTICIPATION

To participate, please register via <https://igict.wordpress.com/annual-meeting-2020/>.

Approximately one hour before the seminar, you will receive a link and a meeting code, through which you will be able to join the online meeting.

The workshop is organised by: Edouard Fromageau (edouard.fromageau@abdn.ac.uk); Andrea Gattini (andrea.gattini@unipd.it); Machiko Kanetake (m.kanetake@uu.nl); and Stephan Wittich (stephan.wittich@univie.ac.at).

PROGRAMME

Session 1 (10.00-12.00) (Central European Time)

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](#)

10.40-11.00: Networking breakout rooms

11.00-11.30

- Tikumporn Rodkhunmuang (Zhejiang University) – [A Reappraisal of International Adjudications: Asian Perspectives or Biases?](#)

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](#)

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](#)

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](#)

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](#)

15.50-16.00: Closing