
European Society of International Law
Interest Group on International Courts and Tribunals
Annual Report 2021-2022

(26 September 2022)

1. Coordinating Committee

During the duration of the present report, the following members served as members of the Coordinating Committee.

- Veronika Fikfak
- Edouard Fromageau
- Machiko Kanetake
- Cecily Rose
- Stephan Wittich

As a result of the election of the ESIL Board, the following members will leave the Coordinating Committee. The election of two new IG convenors will take place in the fall of 2022.

- Edouard Fromageau
- Veronika Fikfak

2. Events

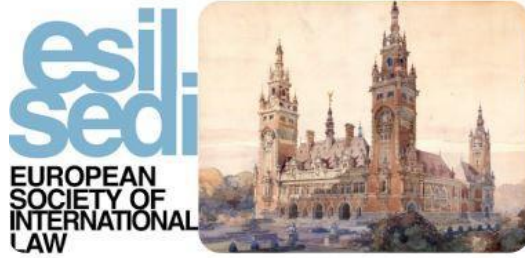
De-formalizing the International Judiciary

On 31 August 2022, the IG organized a hybrid workshop as part of the pre-conference workshops in Utrecht. The workshop was entitled as ‘De-formalizing the International Judiciary’. In February 2022, we released the call for papers, based on which the IG convenors selected seven promising papers. The workshop was convened on-campus and also via Zoom, in order to include participants from various parts of the world.

The workshop programme is attached.

3. Publications based on IG events

The IG is pursuing the publication of three papers which were originally written for the pre-conference workshop in 2021 in Stockholm. These papers concern various aspects of public interest litigation before the International Court of Justice, and they are currently under review at a peer review journal.



ESIL Interest Group on International Courts and Tribunals

De-formalizing the International Judiciary

The Interest Group on International Courts and Tribunals is organizing a (hybrid) Workshop on **De-formalizing the International Judiciary**, as a side-event to the ESIL 2022 Annual Conference in Utrecht. The workshop will take place on 31 August 2022 (14.00-18.00). You are welcome to join in person or online.

Theme of the workshop

The term ‘International Judiciary’ usually refers to those bodies formally constituted by international law as courts and tribunals with the power to render decisions binding upon parties. Included therein are a wide range of permanently constituted international courts and tribunals as well as arbitral tribunals, especially in the field of investment protection. While the proliferation of international courts and tribunals keeps international lawyers occupied, what may be relatively understudied is the status and practices of dispute settlement bodies whose function may well be understood as (quasi-) judicial, but which are not formally labelled as courts and tribunals.

In analyzing the de-formalization of the international judiciary, we want to go beyond the relatively static definition of the international judiciary that we have worked with in the last decades. We want to outline new dynamics and, perhaps, explore new borders of the international judiciary. This would include new functions and practices in ‘classical’ international courts and tribunals, but also the activities of ‘new players’ such as atypical quasi- judicial bodies, and, more generally, new forms of dispute settlement. Take, for instance, Facebook’s Oversight Board (known as the ‘Supreme Court’) as an example. While it is not labelled as a judicial body, the Board applies international human rights law in order to (legally) assess actions to be taken by the company. The Board is supposed to be an independent body, whose decisions are binding upon Facebook.

Against this background, the Interest Group aims to reflect on the functional understanding of the judiciary at the international level. The workshop will address the conceptual or theoretical analysis of international judicial functions, the status and function of so-called quasi-judicial bodies, and relations between formal courts and tribunals and quasi-judicial bodies.

The workshop is organised by the ESIL IG on International Courts and Tribunals (Veronika Fikfak, Edouard Fromageau, Machiko Kanetake, Cecily Rose, and Stephan Wittich). For questions, please contact the Interest Group convenors via: igictesil@gmail.com.

Programme

Session 1 (14.00-16.00)

Chair:

- What's in a Name?
Harlan Grant Cohen (University of Georgia School of Law)
- De-formalization of International Judiciary: Focus on the Expressive Functions and Legitimacy of the 'Judiciary'
Rahul Mohanty (NALSAR University of Law)
- Embracing Informalities of the Past: A Way Forward for Diverse Quasi-Judicial Bodies?
Ashley Barnes (University of Toronto Faculty of Law)
- Juridic Governance: On Power, Adjudication, and Participation beyond the State
Moritz Schramm (Humboldt-University of Berlin)

Session 2 (16.30-18.00)

Chair:

- Two Visions of the Facebook Oversight Board's Human Rights Future
Laurence R. Helfer (Duke University) & Molly K. Land (University of Connecticut School of Law)
- Out-of-Court Dispute Settlement Bodies in the Digital Environment and the Right to an Effective Remedy
Mihaela Buzenche (Council of Europe)
- Radio Silence: The Relationship between the Court of Justice of the European Union and Multilateral Environmental Compliance Bodies
Birgit Hollaus (WU Vienna University of Economics and Business)