

# Report on the Activities of the ESIL IG on International Environmental Law (2022-2023)

## ESIL IG Co-convenors:

Paolo Farah (chair), West Virginia University, USA; gLAWcal- Global Law Initiatives for Sustainable Development

Daria S. Boklan, Higher School of Economics

Chamu Kuppuswamy, University of Hertfordshire

Otto Spijkers, Leiden University College; Erasmus School of Law

Martin Svec, Masaryk University

## INTRODUCTION

The ESIL Interest Group on International Environmental Law was formally launched after approval of the Executive Committee on the October 2, 2009, before the opening of the ESIL-ASI Research Forum held in Helsinki (Finland). The IG on International Environmental Law is one of the 21 Interest Groups of the ESIL, and its Coordinating Committee is composed by the following Members: Paolo Davide Farah, Daria S. Boklan, Chamu Kuppuswamy, Otto Spijkers and Martin Švec.

The ESIL Interest Group on International Environmental Law is an intergenerational and open forum where authoritative academics, young scholars, experienced practitioners, interested students as well as researchers concerned with the development of environmental protection at an international level can jointly discuss both its challenges and progress. The International Environmental Law Interest Group may also explore the interferences of environmental rules in the spheres of trade law and international peace and security, as well as consider them within the general debate on the fragmentation of international law.

The establishment of an Interest Group on International Environmental Law is of utmost importance given the current paradox. Despite the heightened concern of the international community regarding the impact of climate change, there is a widespread belief that legal initiatives lack the necessary synchronization with both political will and industrial progress.

The signing of the Paris Agreement, the UN Sustainable Development Goals (SDGs), and other successful international achievements has provided the global community with the assurance that the momentum for environmental protection and the battle against climate change has finally arrived.

Recent events at both domestic and international levels highlight a notable risk of setbacks in achieving objectives and goals related to sustainable development. This underscores the urgent need to maintain heightened attention on these critical societal values.

Given these considerations, the ESIL IG on international environmental law plays a crucial role in raising awareness through conferences, workshops, research, publications. Furthermore, the intricacy of global challenges necessitates shaping our scholarly and academic mission not only beyond the boundaries of international law but also extending beyond the limits of the legal field. This approach is essential to provide multidisciplinary responses to complex, multi-level, and multiscale problems.

Numerous activities unfolded during the period 2022-2023, concentrating on International Environmental Law, Climate Change, Energy, and Global Governance. The ensuing report outlines the results attained during this covered period.

## **ACTIVITIES OF THE IG ON INTERNATIONAL ENVIRONMENTAL LAW**

### **I.**

#### **A pre-Annual Conference IG workshop in the context of 2022 ESIL's Annual Meeting:**

#### **IN/EX-CLUSIVENESS IN THE ENERGY TRANSITION AND CLIMATE ACTION**

31 August - 1 September 2022, Utrecht University

The workshop recognized climate change as a multifaceted global challenge with diverse impacts on local, national, regional, and international levels. It emphasized the importance of each participating country pursuing domestic mitigation and adaptation measures aligned with their nationally determined contributions (NDCs). These NDCs, bridging the gap between global and local climate action, underscored the need for a country-driven, gender-responsive, participatory, and transparent approach, considering vulnerable groups and ecosystems. With a particular focus on the energy sector, discussions explored the imperative of decarbonizing this major source of greenhouse gas emissions, transitioning from fossil-based to renewable energy systems. The workshop highlighted the necessity of an inclusive and people-centered energy transition, questioning the priorities, transparency, and accountability of actors in the energy sector. The conference laid the groundwork for sustainable and equitable climate action, emphasizing the crucial role of inclusivity, social and economic considerations, and fairness in the process of energy transition.

#### ***Program***

##### **Welcoming Remarks**

Martin SVEC (Masaryk University, Czech Republic)

Paolo Davide FARAH (West Virginia University, USA; gLAWcal- Global Law Initiatives for Sustainable Development)

##### **1st PANEL**

##### **JUST ENERGY TRANSITION: THE INTERNATIONAL HUMAN RIGHTS LAW PERSPECTIVE**

“Human Right to a Clean, Healthy and Sustainable Environment for Future Generations”

Otto SPIJKERS (China Institute of Boundary and Ocean Studies (CIBOS) and Research Institute of Environmental Law (RIEL) of Wuhan University, China)

“The Role of Human Rights in Promoting In/Exclusiveness in the Energy Transition”  
Daniëlla DAM-DE JONG (Leiden University, Netherlands)

“A Notion of Collective Human Rights Guiding a more Inclusive Energy Transition”  
Jolein Ilse HOLTZ (Leiden University, Netherlands)

## **2nd PANEL**

### **JUST ENERGY TRANSITION: THE INTERNATIONAL INVESTMENT LAW PERSPECTIVE**

“Resistant Governance, Sustainability and International Investment Law: Re-Engineering Inclusion”  
Alessandra ARCURI (Erasmus School of Law, Erasmus University Rotterdam, the Netherlands;  
European University Institute, Italy)

“Breaking the chains: Just energy transition and host States’ duties to provide a stable regulatory environment to foreign investors”  
Callum MUSTO (University of Sheffield, UK)

“Balancing Limits of Energy Investments in Energy Transition, Sustainable Development and International Investment Law Nexus”  
Ozge VARIS (Kirklareli University Faculty of Law, Turkey)

## **3rd PANEL**

### **PATHS TOWARDS JUST ENERGY TRANSITION**

“Energy Communities as Catalysts for a Just Energy Transition: The Role of Public-Private Partnerships”  
Aikaterini FLOROU (University of Liverpool, UK)

“The Technology of Inclusion in International Climate Law”  
Melissa J. DURKEE (University of Georgia School of Law)

“The Glasgow Climate Pact and Pathways to Just Energy Subsidy Reform” Henok ASMELASH  
(University of Birmingham, UK)

### **Concluding Remarks and IG Business Meeting**

Martin SVEC (Masaryk University, Czech Republic)

## **SCIENTIFIC COMMITTEE**

**Paolo Davide Farah** (West Virginia University, USA & gLAWcal – Global Law Initiatives for Sustainable Development, UK)

**Chamu Kuppuswamy** (University of Hertfordshire, UK)

**Martin Svec** (Masaryk University, Czech Republic; Institute of International Relations, Czech Republic)



## II.

### **Conference: Energy Crisis Against the Background Climate Emergency**

14 April 2023, Telč (Czech Republic), Masaryk University

The conference jointly organized by the ESIL Interest Group on International Environmental Law and Masaryk University, Faculty of Law.

The conference explored crucial aspects of energy and environmental law in response to pressing global challenges. More specifically, it examined the role of these legal frameworks in addressing the climate emergency, managing the energy crisis, reducing the European Union's dependency on Russian fossil fuels, assessing the compatibility of the REPowerEU plan with EU climate objectives, and navigating the delicate balance between the EU's energy security and climate ambitions. The conference provided a comprehensive platform for in-depth discussions and insights into these critical issues at the intersection of law, energy, and the environment.

#### ***Program***

##### **Opening Remarks**

Martin SVEC (Masaryk University, Czech Republic)

##### **SESSION 1**

*The Rise and Fall of a Treaty: Is an EU withdrawal from the Energy Charter Treaty in line or at odds with its ambitions to achieve a locally driven energy transition?*

Daniela MUTH (University of Westminster, UK)

*EU Emergency Energy Measures Adopted During CZ PRES*

Ludvík Zelinka (Masaryk University, Czech Republic)

*Post-conflict development and investments in the energy sector*

Attila NAGY (Jena Center for Reconciliation Studies, Germany)

*Discussion*

##### **SESSION 2**

*Speeding up permitting for renewable energy projects: sustainability concerns*

Marina-Elissavet KONSTANTINIDI

*A Coal Phase Out: A Step towards Climate Neutrality*

Martin SVEC (Masaryk University, Czech Republic)

*Post-conflict development and investments in the energy sector*

Michaela HOLÍKOVÁ (Masaryk University, Czech Republic)

##### **Concluding Remarks**

Martin SVEC (Masaryk University, Czech Republic)



### III.

## **Conference: Persistent Imbalances in International Trade and the Prospects for Sustainable Development, with a focus on developing countries**

30 June – 1 July 2023, Ljubljana (Slovenia), University of Ljubljana

The conference jointly organized by the ESIL Interest Group on International Environmental Law the University of Ljubljana, West Virginia University, the American Society of International Law Interest Group on International Environmental Law, and gLAWcal.

The conference addressed the crisis in the WTO institutional arrangement, highlighting persistent imbalances in international trade that have excluded many regions and social groups. Structural issues caused by domestic and international policy measures remain unaddressed, leading to a reliance on unilateral measures that deepen the crisis. After the failed Doha round, efforts for 'development-friendly' trade talks were replaced by bilateral agreements, the rise of BRICS countries, and trade wars between major blocs. The conference explored ways to redefine international trade rules for more inclusive and sustainable development, reconciling international openness with national and regional policy space and promoting the coexistence of different economic and social models in the pursuit of socially inclusive and environmentally friendly global trade deals.

### *Program*

#### **Welcoming Remarks**

Iztok Prezlj (Dean of the Faculty of Social Sciences, University of Ljubljana, Slovenia)  
Paolo Davide Farah (West Virginia University, USA and gLAWcal – Global Law Initiatives for Sustainable Development, UK)  
Matjaz Nahtigal (Head of International Relations Department, Faculty of Social Sciences, University of Ljubljana, Slovenia)

#### **1st Panel: Energy Transition and Sustainable Development – Dissemination of Good Practices**

*Chair and Discussant* Paolo D. Farah (West Virginia University, USA and gLAWcal, UK)

Energy Transition, Resilience and International Solidarity  
Catherine BANET (University of Oslo, Faculty of Law, Norway)

Breaking Free from the Fossil Fuel Economy: People Have the Power  
Alessandra ARCURI (University of Rotterdam, The Netherlands)

Trade and Sustainable Development: Key Current Developments at EU Level and Impact on Developing Countries  
Sergi CORBALAN (European Parliament, Belgium)

#### **2nd Panel: WTO Reform, South – South Cooperation, Sustainable and Inclusive International Development**

*Chair and Discussant* Catherine Banet (University of Oslo, Norway)

Global Trade Liberalisation and Developing Countries  
Sanya YADAV and Versha VAHINI (Bennett University, India)

Sustainable Development and WTO  
Mariona Cardona VALLES (University of Oberta de Catalunya, Spain)

Operationalisation of the WTO Least Developing Countries (LDC) Services Waiver  
Nicolette BUTLER and J. TARAWNEH (University of Manchester, UK)

Pharma Innovations, Public Health and Trade Law  
Jacopo NATALI (University of Milan, Italy)

### **3rd Panel: Trade, Development and Environment Nexus (1)**

*Chair and Discussant* Matjaz Nahtigal (University of Ljubljana, Slovenia)

Conditionality as an Obstacle to International Cooperation  
Luigi CREMA (University of Milan, Italy and Notre Dame University, USA)

Persistent Imbalances in Asia- Africa Trade  
Tariq KHAN (Institute for Global Dialogue, South Africa)

Foreign Direct Investments (FDI) and Settlement Dispute in Africa  
Olaniyi OLAYINKA (Redemeer University, Ontario, Canada)

BRICs and Belt & Road Initiative (BRI) Trading Blocs  
Attila NAGY (University of Yena, Germany)

### **4th Panel: Trade, Development and Environment Nexus (2)**

*Chair and Discussant* Matjaz Nahtigal (University of Ljubljana, Slovenia)

India, International Trade, Sustainable Development  
Tushti CHOPRA (New Delhi University, India)

Forced Labour and Global Political Economy - Case, Class and Gender Exploitation in India  
Rajesh KOTA (Osmania University, India)

Biodiversity and International Trade Fish Products  
Jiajin LIN and Yanxuedan ZHANG (Shanghai Ocean University, China)

### **5th Panel: Trade, Development and Environment Nexus (3)**

*Chair and Discussant* Martin Svec (Masaryk University, Faculty of Law, Brno, Czech Republic)

Free Trade vs. Biosafety and Sustainability: How Precaution and Proportionality can Mitigate  
Normative and Judicial Issues in Trade Contexts  
Alessandra GUIDA (Queen's University of Belfast)

Highlighting Neglect of Developing Countries' Socio-economic Conditions in Environmental Trade  
Measures  
Isha DAS and Vinitka VIJ (University of Passau, Germany and Jindal Global Law School, India)



Technology Transfer via Climate Change and Trade Law towards Sustainable Development  
Paolo D. FARAH (West Virginia University, USA and gLAWcal, UK) and Imad Antoine IBRAHIM  
(University of Twente, The Netherlands and gLAWcal, UK)

Challenges in Achieving Economic Integration among Arab Countries  
Khaled M. KWEILEH (International University of Sarajevo, Bosnia and Herzegovina)

#### **6th Panel: Trade, Development and Environment Nexus (4)**

*Chair and Discussant* Paolo D. Farah (West Virginia University, USA and gLAWcal, UK)

Just Energy Transition, SDGs Implementation and the Constraining Development Space  
Matjaz NAHTIGAL (University of Ljubljana, Slovenia)

Persistent Imbalances in EU's Effort to Ensure Secure and Sustainable Supply of Critical Raw Materials  
for Europe's Industry  
Martin SVEC (Masaryk University, Czech Republic)

The Role of Supreme National Courts for the Non-Trade Concerns: the Case of Bhopal  
Mara BISI and Piercarlo ROSSI (University of Turin, Italy)

For Whom the Bell Tolls: Balancing Environmental Justice and Economic Justice in the Agreement on  
Fisheries Subsidies  
Kwanghyuk YOO (Emory University School of Law)

The Cost-Of-Living Crisis and Corporate Accountability: How the Unequal Distribution of Power in  
Global Value Chains Connects to Rising Food Prices in Slovenia  
Elena LUNDER (Expert at Expert at Focus Association for Sustainable Development)

#### **Concluding Remarks by the Conference Chairs and Coordinators**

Paolo Davide FARAH (West Virginia University, USA and gLAWcal – Global Law Initiatives for  
Sustainable Development, UK)  
Matjaz NAHTIGAL (Faculty of Social Sciences, Head of International Relations Department,  
University of Ljubljana, Slovenia)



## IV.

### Contribution to the enrichment of scholarship in International Environmental Law

#### 2023 Annual Meeting of the American Society of International Law

March 29 - April 1, 2023, Washington, D.C.

At the 2023 Annual Meeting of the American Society of International Law, IG Convenors **Paolo D. Farah, Chamu Kuppuswamy, and Martin Svec** discussed legal challenges associated with coal phase-out, as well as the concept of just energy transition. This collaborative engagement provided an invaluable opportunity to exchange insights, share expertise, and explore innovative strategies for addressing pressing environmental challenges on a global scale.

#### **Just Energy Transition: Legal challenges associated with coal phase out (*Roundtable*)**

An accelerated coal phase-out is critical to the global energy transition and climate mitigation. According to the Secretary-General of the UN, the phasing out of coal in OECD nations should be carried out by 2030 and by 2040 in the rest of the world. However, coal cannot be viewed only as a source of CO<sub>2</sub> emissions, it is also the largest source of electricity generation. The importance of coal, especially for developing countries, makes a transition to low-carbon energy systems particularly challenging. COP 26 in Glasgow reminded us that a global consensus on the importance of reducing greenhouse gasses does not mean that the energy transition is to be an easy process. Indian Environment Minister Bhupender Yadav made it very clear: "Developing countries have a right to their fair share of the global carbon budget and are entitled to the responsible use of fossil fuels." Hence, coal phase-out policies need to be accompanied by ambitious renewable energy phase-in strategies to ensure that political, economic, legal, social risks associated with the coal phase out are well addressed. In other words, without just energy transition, the Paris Agreement remains can hardly be implemented. Negative impact of coal phase out on coal regions (jobs, stable and affordable electricity) is at the core of the just energy transition. This panel aims to critically assess the role of legal tools in accelerating energy transition.



## V.

### **A pre-Annual Conference IG workshop in the context of 2023 ESIL's Annual Meeting:**

#### **ARE FOUNDATIONAL, FUNDAMENTAL, AND EVOLVING INTERNATIONAL ENVIRONMENTAL LAW PRINCIPLES FAIR?**

3 August 2023, Utrecht University

The 2015 United Nations Resolution, "Transforming our world: the 2030 Agenda for Sustainable Development," envisions a future where consumption, production patterns, and the use of natural resources are sustainable and within the limits of natural systems. Contrary to the perception of natural resource preservation and economic development as conflicting interests, there is a recognized interdependence between the two. The International Court of Justice, in the *Gabčíkovo-Nagymaros* case, emphasized the concept of sustainable development as a means to reconcile economic growth with environmental protection. The Arbitral Tribunal in the *Iron Rhine* case acknowledged the debate around the definition of "principles" in environmental law but highlighted the reference to conservation, management, prevention, sustainable development, and protection for future generations. These emerging principles integrate environmental protection into the development process, emphasizing their mutual reinforcement. While the precise legal status of each principle is still evolving, international courts and tribunals have confirmed the applicability of foundational principles such as sovereignty over natural resources, responsibility not to cause environmental harm, the precautionary principle, the polluter pays principle, and the principle of common but differentiated responsibilities. The dynamic relationship between environmental law and the law on development underscores the necessity of preventing or mitigating harm when development poses a significant threat to the environment.

The conference placed a central focus on various critical aspects of international environmental law, delving into the legal status, conflicting interpretations, and practical effectiveness of its basic principles. Participants explored the intricate interconnections between environmental principles and human rights, as well as the intersections with international development law. Additionally, the conference examined the compatibility of the fundamental principles of international environmental law with those of international trade and investment law. Special attention was given to the pressing issues of energy solidarity and energy transition, exploring their relationship with the foundational principles of international environmental law.

#### *Program*

##### **Welcoming Remarks**

Martin SVEC (Masaryk University, Czech Republic)

##### **1st PANEL**

##### **ENVIRONMENTAL LAW PRINCIPLES AND CLIMATE CHANGE**

“Highest Possible Ambition” on Climate Change Mitigation”

Benoit MAYER (The Chinese University of Hong Kong)

“Climate Justice for Children: the UNCRC and (draft)\* General Comment 26”

Freya DOUGHTY-WAGNER (Washington University in St. Louis School of Law, USA)

„Intergenerational Rights are Children's Rights: Upholding the Right to a Healthy Environment through the UNCRC“

Aoife DALY (University College Cork, Ireland)

“Intergenerational Fairness for the Future Generation under the Anthropocene to Cope with Climate Change”

Hitomi KIMURA (Otsuma Women’s University, Japan)

“The Principle of Prevention as a Legal Basis for Establishing State Responsibility for Actions and Omissions that Cause Climate Change Impacts”

Mattia COLLI VIGNARELLI (University of Turin, Italy)

## **2nd PANEL**

### **INTERNATIONAL INVESTMENTS IN THE CONTEXT OF ENVIRONMENTAL LAW PRINCIPLES**

“Access to Justice in Environmental Matters in EU Investment Arbitration: A Matter of Autonomy?”

Zamira XHAFERRI (University of Amsterdam) and Rena HÄNEL (University of Amsterdam)

“Re-Cycling Legal Regimes for Sustainable Development Goals & International Environmental Law Principles”

Ozge VARIS (Kirkklareli University)

## **3rd PANEL**

### **RIGHTS OF NATURE AND EXTRACTIVISM IN THE CONTEXT OF ENVIRONMENTAL LAW PRINCIPLES**

“Rights of Nature: the End of State Sovereignty to Exploit Natural Resources?”

Izabela SCHIFFAUER (Adam Mickiewicz University, Poland) and Peter SCHIFFAUER (Fernuniversität in Hagen, Germany)

“The Human Rights-Based Approach as an Emerging Principle of International Environmental Law – Development by the Rights of Nature”

Kaito SUZUKI (McGill University, Canada)

“The Importance of the Principles of Cooperation, Solidarity and Common Concern of Humankind to Avoid Water Scarcity”

Patricia GRAZZIOTIN NOSCHANG (University of Passo Fundo, Brazil)

“Extractivism in the Context of Environmental Law Principles”

Lavinia FRANCESCONI (Aix-Marseille University, France)

“Climate Litigation for Future Generations in the Netherlands”

Otto SPIJKERS (Leiden University College), Luísa PINTO E NETTO (University of Leiden)

“Aligning International Environmental Law with Climate Justice and Responsible Ethics: The Case of Appalachia's Energy Transition Between Extractivism and Phasing Out Coal”

Paolo Davide FARAH (West Virginian University, USA and & gLAWcal – Global Law Initiatives for Sustainable Development, UK)

“The First Czech Climate Litigation: An International Law Perspective”

Martin SVEC (Masaryk University, Czech Republic)

## Concluding Remarks

Martin SVEC (Masaryk University, Czech Republic)

Paolo Davide FARAH (West Virginian University, USA and & gLAWcal – Global Law Initiatives for Sustainable Development, UK)

## SCIENTIFIC COMMITTEE

Paolo Farah

Daria S. Boklan

Chamu Kuppuswamy

Otto Spijkers

Martin Svec



## **VI.**

### **Establishing Links with other learned societies in allied fields**

**Chamu Kuppuswamy** participated in the members meeting and disseminated information on ESIL and ESIL IG on international environmental law to members of the Taskforce on Earth Systems Law – a group of multidisciplinary scholars from natural and social sciences and public international law on approaching climate change and other planetary issues from an earth systems perspective.

### **Radboud Conference on Earth Systems Governance**

22-27<sup>th</sup> October 2023

<https://www.earthsystemgovernance.org/2023radboud/>