

17TH ANNUAL CONFERENCE OF THE
EUROPEAN SOCIETY OF INTERNATIONAL LAW

In/Ex-clusiveness of International Law

31 AUGUST -
3 SEPTEMBER
2022
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UTRECHT

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**EUROPEAN
SOCIETY OF
INTERNATIONAL
LAW**



**Utrecht
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Welcome #ESIL2022Utrecht!

Utrecht University School of Law is honoured to welcome you all at the 17th Annual Conference of the European Society of International Law!

ESIL Annual Conferences are the one provide a unique opportunity for European scholars to get together, meet new people and catch up with old friends. They are also important moments for analysing, discussing and disagreeing on the many issues and challenges our planet is facing and on how our field and our professions are contributing in finding solutions, but also in creating problems.

The theme of this year conference is 'The In/Ex-clusiveness of International Law'. We wanted to offer a different lens of analysis for international law. In a world where climate injustice is already shaping social dynamics, where the war of aggression against Ukraine is highlighting the many weaknesses of globalisation, we asked the many talented speakers of these days to reflect on who and what is in and who and what is left out by international law; on why this is so; and whether this is a problem.

Our approach does not necessarily favour inclusiveness over exclusiveness. We also do not consider the two elements to be in contraposition. This is the reason why the title does not read inclusiveness v. exclusiveness. The 'In' comes before the 'Ex' just as a result of common language: 'in or out' / 'dedans ou dehors'.

Inclusiveness

Modern international law and lawmakers have worked towards greater inclusiveness, or at least so it seems. The independence of former colonies may have been one of the most significant achievements involving people under colonial rule, whose struggle, among others, eventually led to some changes to international law and institutions. While decolonisation and related legal and institutional changes may provide one of the symbolic instances, there are many other dimensions in which international politics and law have embraced actors, processes, and ideas that were previously excluded or marginalised. The inclusion of new actors and processes may however raise new legal issues that the legal framework has not always efficiently tackled.



Exclusiveness

While international law's problematic exclusiveness has been partly remedied, it is often acknowledged that the issue remains unresolved, reproduced, or undetected on many fronts. Various exclusionary factors may persist in the specific fields of international law, in such a manner that affected entities, groups, and individuals find them normatively problematic. Consider, for instance, representation and participation in the development of law, actors to whom accountability is rendered, the identification of right-holders and protected persons, economic ideologies that underpin law and institutions, and the legal construction of security threats. While global values, common interests, and solidarity are constantly referred to in the practices of international law and institutions, the flexibility and uncertainty of such values may have rather preserved and strengthened the exclusiveness of international law or produced a problematic inclusiveness of it.

The next three days

The 17th ESIL Annual Conference takes then a critical look at the inclusiveness and exclusiveness of international law. Consideration will also be given to the related role of international law scholarship. The conference addresses the theme in various theories, domains, methodologies, and the teaching of international law. The conference serves as an opportunity for participants to revisit some of the underlying assumptions about international law, practices, and theories.

It is our hope that the Conference generates forward-looking discussions and that all participants find their own way to engage with many topics covered by the programme. •

*With our warmest wishes,
The Organising Committee*



The Home Team

Local organisers

- Seline Trevisanut
- Cedric Ryngaert
- Machiko Kanetake
- Róisín Burke
- Miranda Walraven
- Angélique Neisingh
- Inge Terwan
- Jelle Honing

Local members as part of the agora selection committee

- Natalie Dobson
- Katharine Fortin
- Laura Henderson
- Alexandra Hofer
- Brianne McGonigle Leyh
- Lan Nguyen
- Salvo Nicolosi
- Luca Pasquet
- Rozemarijn Roland Holst
- Lorena Sosa

Programme Committee

- Freya Baetens
- Neha Jain
- Machiko Kanetake
- Cedric Ryngaert
- Catherina Titi
- Seline Trevisanut
- Ramses A. Wessel



Welcome from the ESIL President

Dear Participants,

We are extremely grateful to our colleagues from Utrecht University School of Law, in particular Seline Trevisanut, Cédric Ryngaert and Machiko Kanetake, for the energy and time dedicated to organizing a very promising Annual Conference, and for welcoming us in Utrecht. A big thank you also to the Rector of the University, the Head of the Law School, the members of the Programme Committee, all chairs and speakers, and all the persons who have been involved for many months in organizing the conference.

The 17th Annual Conference's theme is a legal object in and of itself, in the sense that it must be read in order to be understood, or at least in order to begin to understand it: In/Ex-clusiveness of international law.

It is difficult to pronounce such a title without two short pauses, but reading it allows us to make progress in deciphering what it hides. Indeed, the attention of the reader is immediately drawn to two unpronounced typographic characters: the slash that separates "In" from "Ex", and the dash that separates "Ex" from "clusiveness".

While "clusiveness" is not a word, the dash allows us to link it to "Ex" but also to "In", which is separated from "Ex" by the slash. This may sound rather complicated, but it is actually quite straightforward: the dash allows to add "clusiveness" both to "In" and to "Ex" in order to make two words.

But, if we end up with two words (inclusiveness, exclusiveness) what is the function and the meaning of the slash, and why not use a conjunction instead?

As is well known, cases referred to at the ICJ as "State A/State B", as opposed to "State A v. State B", indicate that they were brought by special agreement, as if such cases were somehow less contentious than those initiated by application for which the

bellicose "v." for "versus" is reserved—lawyers should pay attention to details, shouldn't they?

As far as the "in/ex-clusiveness of international law" is concerned, it is far from certain that the slash should be understood the same way. Rather, it signals an irreconcilable opposition between two attributes of international law. But the slash can hide an "and" or an "or", the question being whether—and to what extent—the two attributes simultaneously coexist in international law. And why is "In" preceding "Ex" while the alphabetical order (which, at the ICJ, determines the order of States when the case is brought by compromis) would require the opposite? Is the chosen order an indication that inclusiveness must always be preferred over exclusiveness? But why would that be the case? Are we not witnessing the self-imposed and well-deserved exclusion from international law by a State acting in breach of international law's most fundamental norms and in defiance of its most sacred institutions? Why should exclusiveness not be part and parcel of the system, if it is to be values-driven?

These are some of the questions that a reading of the conference's title may bring to mind.

I thank you for taking part in the conference and, thereby, in the life of the Society.

I wish you all a great conference—let us bet that the slash will make a splash! ●

Pierre d'Argent
ESIL President



About ESIL

The European Society of International Law (ESIL) is a dynamic network of researchers, scholars, and practitioners in the field of international law. The Society's goals are to encourage the study of international law, to foster inquiry, discussion, and innovation in international law, and to promote a greater understanding of the role of international law in the world today.

The Society has provided a forum for the exchange and promotion of new ideas ever since the inaugural meeting in 2004 in Florence, and ESIL events and publications continue to illustrate the breadth and range of members' interests and activities. There has been a major ESIL event in a different venue each year since the Society was set up: Geneva (2005), Paris (2006), Budapest (2007), Heidelberg (2008), Helsinki (2009), Cambridge (2010), Tallinn (2011), Valencia (2012), Amsterdam (2013), Vienna (2014), Oslo (2015), Riga (2016), Naples (2017), Manchester (2018), Athens (2019) and Stockholm (2021). After Utrecht, future conferences will be held in Aix-en-Provence (2023) and Vilnius (2024).

As well as Annual Conferences, ESIL also holds an annual Research Forum, a scholarly event which promotes engagement with research in progress by early-career members of the Society. To date, these have been held in Florence (2015), Istanbul (2016), Granada (2017), Jerusalem (2018), Göttingen (2019), Catania (2021) and Glasgow (2022). The next Research Forum is scheduled in Tartu (2023).

In addition, there are an increasing number of joint events where ESIL works together with other institutions to set up conferences, symposia or workshops looking at specific aspects of international law. ESIL also supports many events throughout Europe, including the symposia and workshops of the ESIL Interest Groups, and other international workshops and conferences organised by its members.

The 20 ESIL Interest Groups are all active and provide excellent networking opportunities for the members of the groups. The groups' conveners work together with members to arrange events and publications.

The ESIL Board has introduced a number of measures to further increase participation in the Society's activities and to support participation at ESIL events: members in lower-income countries are offered reduced membership fees; ESIL travel grants are available to members to facilitate attendance at a range of ESIL events; carers' grants are available to encourage and facilitate the attendance of members with parental or other caring responsibilities.

ESIL publications include the ESIL Series (high-quality volumes on the themes of Annual Conferences and joint events), the ESIL Paper Series (papers presented at ESIL events), and the online ESIL Reflections.

In 2022, the ESIL Diversity Advisory Body was established to advise and to consult with the Board on how to adopt best practices in relation to upholding the values of diversity, equality, and inclusion across its work. The ESIL Board also announced the creation of the ESIL Early-Career Network, a European and global network of early-career international lawyers.

The activities of the Society have been generously funded from the outset by the Academy of European Law at the European University Institute in Florence, where the ESIL Secretariat is based. This continuing support is a much-appreciated contribution to the future of the Society. The Society is also very grateful for the support of its lifetime members and institutional members. •



ESIL Governance



ESIL Executive Committee



Pierre d'Argent
President



Gleider Hernández
Secretary General



Ramses Wessel
Vice-President



Veronika Bilkova
Vice-President



Evelyne Schmid
Vice-President

- **Pierre d'Argent** (University of Louvain) *President*
- **Gleider Hernández** (KU Leuven) *Secretary General*
- **Ramses Wessel** (University of Groningen) *Vice-President*
- **Veronika Bilkova** (Institute of International Relations, Charles University in Prague) *Vice-President*
- **Evelyne Schmid** (University of Lausanne) *Vice-President*



Other Board Members

- **Freya Baetens** (Oslo University / Leiden University)
- **Christina Binder** (Bundeswehr University Munich / University of Vienna)
- **Adriana Di Stefano** (University of Catania)
- **Paolo D. Farah** (University of West Virginia)
- **Neha Jain** (European University Institute)
- **Sandrine Maljean-Dubois** (CNRS and Aix-Marseille University)
- **Photini Pazartzis** (National and Kapodistrian University of Athens)
- **Ana Salinas** (University of Malaga)
- **Catharine Titi** (University Paris II Pantheon-Assas)
- **Christian Tams** (University of Glasgow)
- **Seline Trevisanut** (Utrecht University)
- **Ganna Yudkivska** (European Court of Human Rights)



ESIL Staff

- **Joyce Davies**, *Project Coordinator* (Academy of European Law, European University Institute, Florence)
- **Maria Grazia Dusina**, *Project Associate* (Academy of European Law, European University Institute, Florence)



Past Presidents of the Society

- 2019 – 2021: **Photini Pazartzis**
- 2017 – 2019: **Luis Miguel Hinojosa Martinez**
- 2014 – 2017: **Andre Nollkaemper**
- 2012 – 2014: **Laurence Boisson de Chazourne**
- 2010 – 2012: **Anne Peters**
- 2006 – 2010: **Hélène Ruiz Fabri**
- 2004 – 2006: **Bruno Simma**

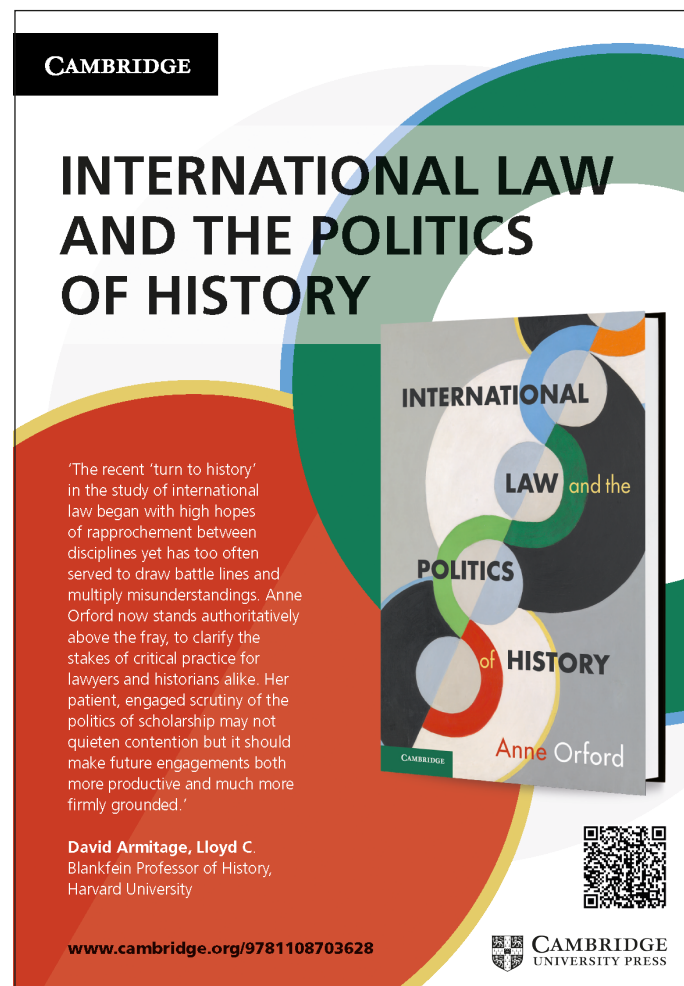


ESIL Book Prizes

ESIL Monograph Prize

The 2022 European Society of International Law Monograph Prize jury has unanimously decided to award this year's prize to **Anne Orford** for her book *International Law and the Politics of History*, published by Cambridge University Press.

The 2022 ESIL Monograph Prize jury members were Judge Prof. Ineta Ziemele (Court of Justice of the EU, Riga Graduate School of Law) and Professors Phoebe Okowa (Queen Mary University of London, Member (Elect) International Law Commission) and Frédéric Mégret (McGill University). The jury evaluated a wide range of monographs published in 2021 on any topic relating to international law which were submitted for consideration by leading international law publishers.



Anne Orford is Melbourne Laureate Professor and Michael D Kirby Chair of International Law at Melbourne Law School. She is a past President of the Australian and New Zealand Society of International Law, a Fellow of the Academy of the Social Sciences in Australia, and a Visiting Legal Fellow at the Australian Department of Foreign Affairs and Trade. She has been awarded honorary doctorates in law from the Universities of Lund, Gothenburg, and Helsinki, and the Woodward Medal for Excellence in Humanities and Social Sciences by the University of Melbourne. She has been a Visiting Professor of Law at Harvard Law School, Université Paris 1 (Panthéon-Sorbonne), Lund Univer-

sity, and the University of Gothenburg, and presented a Special Course at the Hague Academy of International Law in 2021. Her publications include *Reading Humanitarian Intervention* (Cambridge University Press, 2003); *International Authority and the Responsibility to Protect* (Cambridge University Press, 2011); *Pensée Critique et Pratique du Droit International* (Pedone, 2020), and *International Law and the Politics of History* (Cambridge University Press, 2021).

ESIL Collaborative Book Prize

The 2022 European Society of International Law Collaborative Book Prize jury has unanimously decided to award this year's prize to **Helmut Philipp Aust and Janne E. Nijman** for their book *Research Handbook of International Law and Cities*, published by Edward Elgar Publishing.

The 2022 ESIL Collaborative Book Prize jury was composed of Anne van Aaken (University of Hamburg), Burkhard Hess (Max Planck Institute Luxembourg), and Lauri Malksöo (University of Tartu). The jury evaluated a wide range of books published in 2021 on any topic relating to international law co-authored by two or more authors or edited collections which were submitted for consideration by leading international law publishers.

Helmut Philipp Aust is a Professor of Law at Freie Universität Berlin where he teaches public and international law. Previously, he was a Research Fellow at the Universities of Munich and Humboldt University Berlin. He was also a Visiting Fellow at the Lauterpacht Centre for International Law, University of Cambridge and at the Institute of International Law and the Humanities at Melbourne Law School. Most recently, he was Visiting Professor at the Institut des hautes études internationales, Université Paris II - Panthéon-Assas. Professor Aust is the Co-Chair of the ILA Study Group on "The Role of Cities in International Law" (with Janne E. Nijman) as well as an Associate Fellow of the German Council on Foreign Relations. In his academic work, he is focusing on the role of cities in international law, the relationship between foreign relations law and international law as well as number of other issues of general international law. His publications include "Complicity and the Law of State Responsibility" (CUP 2011), "The Interpretation of International Law by Domestic Courts" (co-edited with Georg Nolte, OUP 2016), "Das Recht der globalen Stadt" (Mohr Siebeck 2017),



“Encounters between Foreign Relations Law and International Law” (co-edited with Thomas Kleinlein, CUP 2021) and the “Research Handbook on International Law and Cities” (co-edited with Janne E. Nijman, Edward Elgar 2021).

Janne E Nijman is Professor of History and Theory of International Law at the Faculty of Law and the Amsterdam Center for International Law of the University of Amsterdam (<https://acil.uva.nl>) and Professor of International Law at the Graduate Institute of International and Development Studies in Geneva <https://www.graduateinstitute.ch/academic-departments/faculty/janne-nijman>. She is a former chairperson of the executive board and academic director of the T.M.C. Asser Instituut in The Hague (2015-2022). Her research interests center on how the past, present, and future of international law influence each other. One research line focuses specifically on the relationship between cities and international law and governance. Professor Nijman has published widely on international law issues.

Together with Helmut Aust (FU Berlin), Janne Nijman co-chairs the ILA Study Group on ‘*The Role of Cities in International law*’. She serves the *London Review of International Law* as an advisory editor and is also an editor of the *Netherlands Yearbook of International Law* and the *Grotiana* journal. Nijman is a board member of the Grotiana Foundation and the *Koninklijke Nederlandse Vereniging voor Internationaal Recht* (KNVIR, the Dutch branch of the International Law Association). She is the chair of the Supervisory Board of World Press Photo (<https://www.worldpressphoto.org/>) and member of the Supervisory Board of PAX for Peace (<https://www.paxvoorvrede.nl/>). Currently, she serves on the Jury of the UCLG Peace Prize 2022 (<https://peace-prize.uclg.org/>).

The awards will be celebrated during the conference dinner on Friday 2 September and a “Conversation with the 2022 winners of the ESIL Monograph Prize and the ESIL Collaborative Book Prize” is scheduled on Saturday 3 September.

ESIL Young Scholar Prize

In line with ESIL’s goals of encouraging high-level scholarship, developing a greater awareness and understanding of international law, and promoting younger researchers, the ESIL Young Scholar Prize (YSP) is awarded at each ESIL Annual Conference for an outstanding paper submitted and presented by an early-career scholar during the conference or one of the pre-conference events.

The jury members for this year’s Prize were Professor Adriana Di Stefano (University of Catania), Professor Sandrine Maljean-Dubois (CRNS and Aix-Marseille University) and Professor Christian Tams (University of Glasgow). The jury has unanimously decided that the Young Scholar Prize 2022 goes to **Florenz Volkaert** for his paper “The Most Favoured Nation Clause in Late 19th- and Early 20th -Century Legal Doctrine: A Tool for Civilisational and/or Economic In/Exclusion?”, to be delivered on Thursday 1 September 2022 at the pre-conference workshop “Histories of Inclusion/ Exclusion in International Law” (ESIL Interest Group on the History of International Law).

Florenz Volkaert (°1995, Belgium) studied law at Ghent University (2018, summa cum laude) and obtained an LL.M/MSc. in Law and Economics (2018-2019, receiving the award for best student in the program) from the Universität Hamburg, Erasmus University Rotterdam and the Indira Gandhi Institute of Development Research as part of an Erasmus Mundus program. During his law studies in Ghent, he also spent a semester at the University of Waikato (New Zealand). As of November 2019, Florenz is a PhD Fellow of the Research Foundation - Flanders (FWO) at Ghent University, investigating the history of treaties of commerce in the mid-to-late 19th century. Other research interests include the history of international economic law more broadly, the history of economic thought and empirical legal studies.

The Prize consists of two years’ free membership of the Society and a contribution towards the costs of travel and accommodation for the conference. In addition, the prize-winning paper will be published in the *European Journal of International Law* (subject to review).



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The jury also awarded an honourable mention to **Tsvetelina van Benthem**, DPhil candidate in public international law at Merton College, Oxford, for her paper “The Shape of Trauma: Mental Harm and the Law of Armed Conflict”.

ESIL strongly encourages young scholars to submit abstracts for future Annual Conferences and pre-conference Interest Group events and to indicate their interest in competing for the Prize.

ESIL is very grateful to **Prakken d’Oliveira Human Right Lawyers** for sponsoring this year’s ESIL Young Scholar Prize. •



ESIL Premium Institutional Members:



ESIL Standard Institutional Members:



ESIL Membership

Who can join?

Membership of the European Society of International Law is open to all those with an interest in international law who wish to contribute to the realisation of the goals of the Society.

There are no limitations of nationality or qualification. As a learned society, ESIL aims to promote excellent scholarship and research in international law from all members, irrespective of their background or identity. The Society encourages the engagement and collaboration of individuals with diverse identities, experiences, and ideas.

The number of members continue to increase each year, and the members include: junior and senior academics; students and researchers; professionals in law firms and international organisations; judges and other Court personnel.

What are the benefits?

- You are part of a community of international law professionals from all over the world.
- You can choose to receive an online subscription to the *European Journal of International Law* (four issues per year) at a reduced cost.
- You receive regular emails about all ESIL events - Annual Conferences, Research Fora, ESIL joint events, Interest Group events, ESIL-supported events, and so on.
- You pay reduced registration fees at ESIL Annual Conferences and ESIL Research Fora.
- You can join any of the 20 ESIL Interest Groups and participate in their activities.
- You have exclusive access to the ESIL Teaching Corner.
- You benefit from numerous opportunities to network with other members and potentially to publish with the Society.
- You can submit up-to-date reflections on current issues in international law to be published in the series of ESIL Reflections.
- You receive quarterly ESIL Newsletters, regular ESIL Reflections, and monthly ESIL Updates by email.

- You can post announcements in the Members' News section of the ESIL website to share information with other members about conferences, workshops, seminars, summer schools, research posts, etc. and these announcements will be sent to all members in the monthly ESIL Updates.
- You can participate in the election of the ESIL Board and of Interest Group Coordinating Committees.

After one year of membership, you are eligible to stand for election yourself.

There are four categories of membership: Lifetime member, Regular member, Retired member, and Student member.

ESIL offers reduced fees to students, retired persons, and members based in low- and middle-income countries. Since membership fees represent the Society's one and only source of income, the Society kindly asks all members who can afford it to pay the standard fee.

If you are interested in Lifetime Membership or Institutional Membership, please contact the ESIL Secretariat for further details at esil.secretariat@eui.eu.

How to join / renew membership

To join or renew your membership, click on JOIN/RENEW on the website home page and go to our online membership platform, select your type of membership, click on "proceed to payment", log in to your account (or create an account if you are a new member) and follow the instructions. You can pay by credit card or bank transfer.

If you have any questions about your membership, please contact esil.secretariat@eui.eu •



ESIL Conference Venues

The annual conference will take place at TivoliVredenburg.

The conference dinner will also take place at TivoliVredenburg.

The welcome reception will take place at University Hall (Academiegebouw).

Pre-conference IG workshops will take place at Janskerkhof 3.



1 TivoliVredenburg
Vredenburgkade 11
3511 WC Utrecht



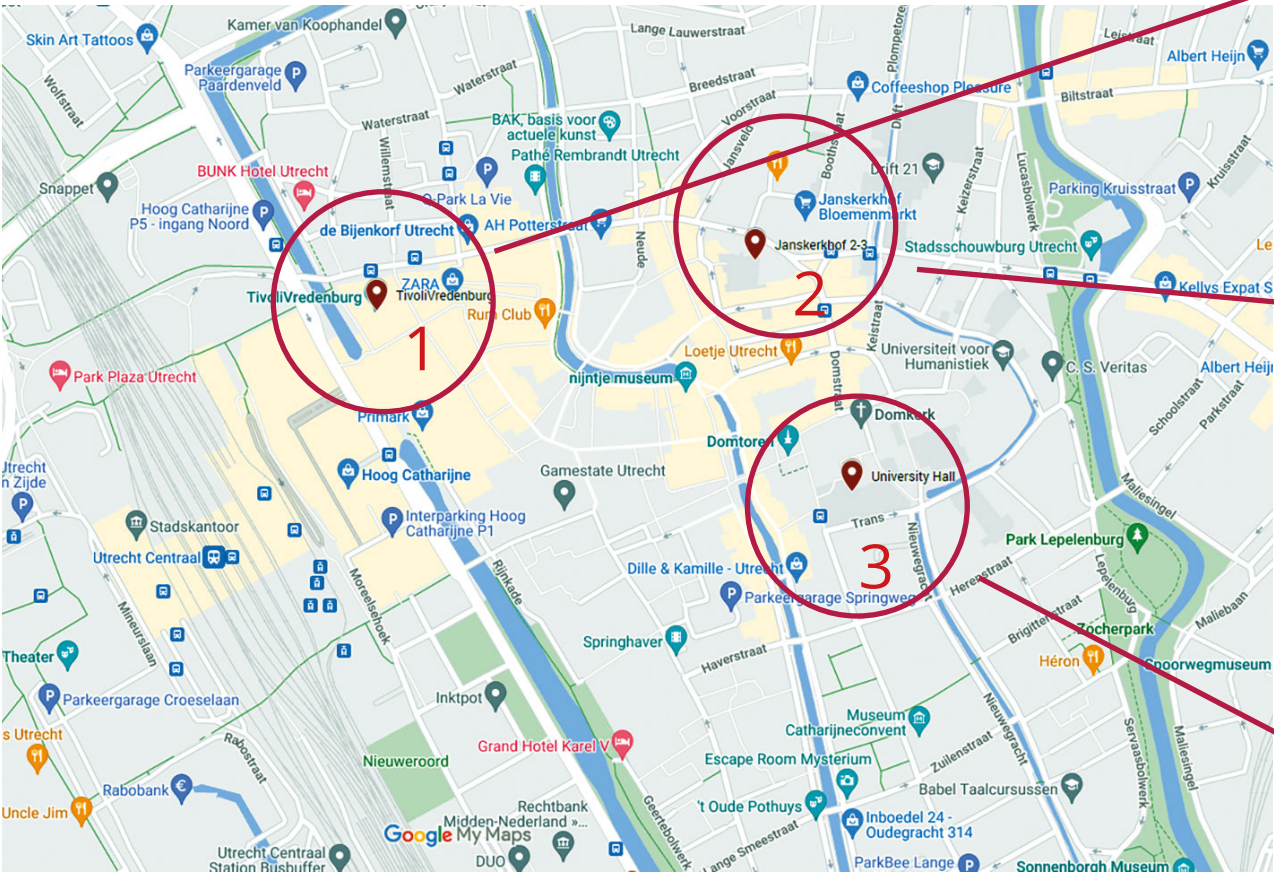
Photo by: Bas van Hattum

2 Janskerkhof
Janskerkhof 3
3512 BK Utrecht



Photo by: Pierre Banoori

3 Academiegebouw
Domplein 29
3512 JE Utrecht



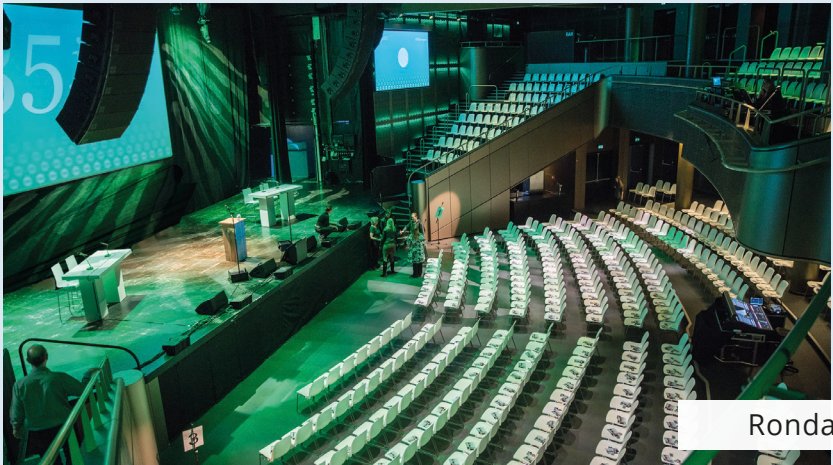
TivoliVredenburg: locations



Ronda foyer



Pandora



Ronda



Publication opportunities

After the conference, speakers will be informed of the publication opportunities in the ESIL Series (<https://esil-sedi.eu/esil-series/>) and/or the ESIL Paper Series (<https://esil-sedi.eu/esil-paper-series/>).

ESIL Series

The European Society of International Law Series publishes high-quality volumes on the themes of ESIL events. The volumes include chapters based on selected papers presented at ESIL events. The chapters may have been revised to fit the theme and focus of the volume and may have been complemented by additional chapters that address topics that were not fully explored during the events but that are essential for a full coverage of the theme.

Volumes in the Series will be subject to a double-blind review process by a high-level editorial board in cooperation with the Series editors and will be published by Oxford University Press. The General Editor is Christian J. Tams, and the Series editors are Başak Çalı, Carlos Esposito, André Nollkaemper, Yuval Shany, and Anne van Aaken.

Volumes in the ESIL Series:

- **Volume 5:** *The Protection of General Interests in Contemporary International Law: A Theoretical and Empirical Inquiry*, edited by Massimo Iovane, Fulvio M. Palombino, Daniele Amoroso, and Giovanni Zarra (2021)
- **Volume 4:** *Migration and the European Convention on Human Rights*, edited by Başak Çalı, Ledi Bianku, and Iulia Motoc (2021)
- **Volume 3:** *How International Law Works in Times of Crisis*, edited by George Ulrich and Ineta Ziemele (2019)
- **Volume 2:** *The European Convention on Human Rights and General International Law*, edited by Anne van Aaken and Iulia Motoc (2018)
- **Volume 1:** *The Judicialization of International Law. A Mixed Blessing?*, edited by Andreas Follesdal and Geir Ulfstein (2018)

ESIL Paper Series

The ESIL Paper Series features papers presented at ESIL events. Publication in the series enables authors to disseminate their work widely and reach broader audiences without the usual delays involved in more traditional means of publication. It does not prevent the subsequent publication of papers in academic journals or edited collections.

ESIL Papers are included in the CADMUS Research Repository at the European University Institute.

The current Series editors are the ESIL Board members Adriana Di Stefano, Evelyne Schmid, and Catharine Titi.

All conference speakers will be invited to submit their paper to the Paper Series after the Utrecht conference. The deadline for submission of final papers is 1 November 2022. For any enquiries, please send an email to esil.papers@gmail.com.

ESIL Reflections

ESIL Reflections (<https://esil-sedi.eu/category/reflections/>) offer up-to-date reflections on current issues in international law. The Reflections cover a wide range of topics relating to current developments in international law and practice as well as theoretical reflections in a way that is relatively accessible to non-experts. ESIL Reflections are short papers (3,000-4,000 words) that argue one particular point that may trigger further debate in the scientific community.

ESIL Reflections are published on the ESIL website and distributed freely to ESIL members. The current editor-in-chief is Ramses Wessel, and the other editors are Federico Casolari, Patrycja Grzebyk, Ellen Hey, and Guy Sinclair.

ESIL Members who have an interest in contributing a Reflection are encouraged to do so. Please see the ESIL website for details of how to submit a paper proposal. ●



Utrecht University School of Law

The Utrecht University School of Law conducts top-ranking research in all important legal fields: private law, criminal law, constitutional and administrative law, international law, and EU law. Our researchers collaborate intensively with international partners, especially in the fields of international, EU, and comparative laws. We are also involved in commissioned research and consultancy.

The School's scholars are part of renowned research institutes, such as the Netherlands Institute of Human Rights (SIM), the Netherlands Institute for the Law of the Sea (NILOS), the Utrecht Centre for Water, Oceans and Sustainability Law (UCWOSL), the Utrecht Centre for Accountability and Liability Law (UCALL), Montaigne Centre for Rule of Law and Administration of Justice, Utrecht Centre for Regulation and Enforcement in Europe (RENFORCE), and the Utrecht University Centre for Global Challenges (UGlobe).

The educational programmes of the School of Law are based on academic research conducted within the Faculty of Law, Economics and Governance. We support the development of students as highly qualified, internationally-oriented lawyers through the combination of practice-oriented approaches, theoretical insights, and critical perspectives. The School of Law offers several English-language Master's programmes. We have an extensive international student exchange programme. Furthermore, our department offers training programmes for professionals. •



In/Ex-clusiveness of International Law

17th Annual Conference of the European Society of International Law

31 August – 3 September 2022

PRE-CONFERENCE WORKSHOPS

Wednesday 31 August 2022

All the pre-conference workshops will take place at Janskerkhof 3 in Utrecht. For the latest information regarding pre-conference workshops, please check: <https://esilutrecht2022.sites.uu.nl/the-conference/programme/pre-conference-workshops/>.

08.30 Walk in with coffee and tea

08.30-17.00 *Registration*

09.00-13.00 *Parallel Interest Group Sessions*

Interest Group	Format & Location
International Economic Law – Part 1/2	Hybrid, Room 109
Peace and Security	Hybrid, Room 110
International Law and Technology – Part 1/2	Hybrid, Room 115

09.30 Coffee Break during the Interest Group Sessions

13.00 Lunch Break

14.00-18.00 *Parallel Interest Group Sessions*

Interest Group	Format & Location
International Economic Law – Part 1/2	Hybrid, Room 109
Migration and Refugee Law	Hybrid, Room 017
International Environmental Law – Part 1/2	Hybrid, Room 022

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>>	International Economic Law – Part 2/2	Hybrid, Room 109
	History of International Law – Part 1/2	Hybrid, Room 110
	International Courts and Tribunals	Hybrid, Room 111
	International Law and Technology – Part 2/2	Hybrid, Room 115
	Law of the Sea	Hybrid, Room 116
	International Criminal Justice	Hybrid, Room 117

15.30 Coffee Break and drinks during the Interest Group Sessions

Thursday 1 September 2022

08.30 Walk in with coffee and tea

09.00-12.00 *Parallel Interest Group Sessions*

Interest Group	Format & Location
International Law of Culture	Hybrid, Room 017
International Environmental Law – Part 2/2	Hybrid, Room 022
International Organizations	Hybrid, Room 109
History of International Law – Part 2/2	Hybrid, Room 110
Social Sciences and International Law	Hybrid, Room 111
International Business and Human Rights	Hybrid, Room 115
European and International Rule of Law	On-site, Room 117
International Bio Law	Hybrid, Room 118

10.00 Coffee Break during the Interest Group Sessions

12.00 Lunch Break

ANNUAL CONFERENCE

The annual conference will take place at TivoliVredenburg, except for the Thursday evening reception at University Hall (Academiegebouw): see: <https://esilutrecht2022.sites.uu.nl/venues/>. For the latest information, please check: <https://esilutrecht2022.sites.uu.nl/the-conference/programme/>.

12.00-18.00 *Registration*

13.00-13.45 *Welcome addresses and presentation of the theme by the local organisers*
Location Ronda

- H. Kummeling, Rector Magnificus of Utrecht University
- I. Giesen, Head of Utrecht Law School
- L. Lijnzaad, Judge at the International Tribunal for the Law of the Sea/ Maastricht University
- S. Trevisanut, (Utrecht University), local organizer

13.45-15.00 *Inaugural Panel - How Exclusive is International Law? The State of Affairs*
Location Ronda

Chair C. Ryngaert (Utrecht University)

- E.T. Achiume (UCLA)
- J. Nijman (University of Amsterdam/Asser Institute)
- J.M. Thouvenin (The Hague Academy of International Law)

15.00-15.30 Coffee Break sponsored by Max Planck Institute Heidelberg

15.30-16.45 *Parallel sessions*

FORUM 1 *Methodologies for the Identification and Assessment of In/ex-clusiveness*

Location Ronda

Dictionaries define the term 'inclusive' as 'not excluding any of the parties or groups involved in something'. Accordingly, inclusive international law includes all relevant parties in its processes of law-making, law-enforcement, and dispute-settlement. How should we identify these relevant parties, and how should their appropriate level of involvement in international law be assessed?

Chair M. Shahabuddin (University of Birmingham)



Speakers:

- **E. Hey** (Erasmus University) *Engaging with other disciplines in legal analysis*
- **G. Baars** (City, University of London) *Cruising International Law's Cruel Optimism: The 'dark past', the fake apology, reparations and the abolitionist movement*

FORUM 2 *In/ex-clusiveness in the Construction of the History of International Law*

Location **Pandora**

There is a resurgence of academic interest in the history of international law. There is clearly a desire to better understand the origins of the discipline. However, attention tends to focus on the European roots of international law. How can the construction of the history of international law be made more inclusive?

Chair **A. Peters** (Max Planck Institute, Heidelberg)

Speakers:

- **I. de la Rasilla** (University of Wuhan) *A Very Short History of Women in International Law*
- **H. de Waele** (University of Nijmegen) *Black holes and revelations. How in/exclusion shapes international law history discourse*
- **L. Obregon** (Universidad de los Andes) *Teaching and Writing International Legal History: A Test of the Discipline's In/ex-clusiveness*

17.00-18.15 *Parallel sessions*

AGORA 1 *In/ex-clusiveness in Personality and Actors in International Law*

Location **Ronda**

NGOs, non-state armed groups, multinational corporations, professional associations, certification and insurance companies, etc. have increasingly gained agency in international decision-making processes and in the enforcement of international law, at the international and domestic levels. Should international legal personality be more inclusive? Are there alternative approaches to personality and subjectivity?

Chair **N. Tzouvala** (Australian National University)

Speakers:

- **D. Hughes** (Canadian Forces College/University of Toronto) & **Y. Shereshevsky** (University of Haifa): *State-Academic Lawmaking*

- **G. Lythgoe** (University of Manchester): *Territory as International Law's Shibboleth or: The International Lawyer's Guide to Eradicating the Exceptional 'Sui Generis' Entity*
- **M. Shinde** (University of Cologne): *The Ecocidal Corporation as Subject to and as a Subject of International Criminal Law*

AGORA 2 *In/ex-clusiveness in the Interpretation of International Law*

Location **Pandora**

The dichotomy between a formalistic versus non-formalistic approach to the application and interpretation of international law still permeates international practice and scholarship. This agora engages with this dichotomy and/or considers possible 'third' approaches to interpretation.

Chair **F. Zarbiyev** (Graduate Institute of Geneva)

Speakers:

- **B. Etkin** (Université Paris II Panthéon-Assas): *In/Excluding Pragmatics: Interpretative Formalism and Its Discontents*
- **B. Pegorari** (University of New South Wales): *'Exclusionary Inclusiveness': A Critique of the Inter-American Court of Human Rights' Interpretative Approach to Indigenous Peoples' Rights*
- **V. Tzevelekos** (University of Liverpool) & **K. Istrefi** (Utrecht University): *In/Ex-clusiveness in the Interpretation of the ECHR for the Purposes of the Establishment of Common European Human Rights Standards through European Consensus*

AGORA 3 *Interest Group on International Law and Culture – In/ex-clusiveness of Diversity in International Law*

Location **Pandora Foyer**

This Agora reflects on the dual work of diversity in international law, and queries whether our current legal frameworks that embrace, promote, and even enforce diversity can be fully inclusionary, or if instead the exclusion of some is the inevitable price to be paid for access to rights. In reflecting on this double-movement, the panel offers pathways to reimagining what international law can be for not only those who are most vulnerable, but also for the diversity we as humanity select in narrating our own stories, successes, and failures.

Chair **A. Jakubowski** (University of Opole)



Speakers:

- **A. Alves** (University of New South Wales)
- **Y. Donders** (University of Amsterdam/Commissioner at the Netherlands Human Rights Institute)
- **E. Polymenopoulou** (Hamad Bin Khalifa University)

18.30-20.00 *Welcome reception at the University Hall (Academiegebouw) with the participation of Emeritus Prof. A.H.A. Soons (Utrecht University)*

Friday 2 September 2022

08.30 Walk in with coffee and tea

08.00-09.00 Breakfast Meeting: ESIL Board meets new members

Location Restaurant Danel

09.00-10.15 **Parallel sessions**

AGORA 4 *In/ex-clusiveness in International Adjudication*

Location Ronda

Legal standing in front of international courts and tribunals is still limited for non-state actors. Moreover, international benches tend to lack diversity, in terms of gender, race, national and cultural backgrounds, and class. International adjudication can also emphasise the inequalities between states and, thus, impact actual participation in judicial proceedings. This agora addresses the many facets of international adjudication, and its inclusiveness or lack thereof.

Chair **T. Pasipanodya** (Foley Hoag LLP)

Speakers:

- **B. Menezes Queiroz & M. Vicente** (Universidade Católica Portuguesa): *Are Women 'Offside'? Achieving Gender Parity in Sports Dispute Settlement*
- **C. Espaliu Berdud** (Universidad Antonio de Nebrija): *Ex-clusiveness in International Adjudication: The Legitimacy of Permanent Members of the Security Council at the Bench of the International Court of Justice*
- **T. Soave** (Central European University): *Cracks in the Ivory Tower: Exclusivity and Inclusivity in the International Judicial Profession*

AGORA 5 *In/ex-clusiveness in Right-Holders and Protected Persons*

Location Pandora

Who has rights pursuant to international law? Should elements of nature or animal species also have rights? Is a right-based approach to protect individuals or elements of nature always the answer? This agora strives to answer these questions by discussing who/what international law protects and through which legal framing the object/subject of protection should be viewed.

Chair **M. Hébié** (University of Leiden)

Speakers:

- **M. Barletta** (University of Rome): *The Benefits and Drawbacks of a Wider Inclusion of Protected Subjects under International Law*
- **A.R. Harrington** (Lancaster University): *Future Generations as Rightsholders Advances and Uncertainties*
- **E. Jones** (University of Essex): *The Rights of Nature in International Law: Transforming the Meaning of Rights*

AGORA 6 *Interest Group on The EU as a Global Actor – EU Exceptionalism and the In/ex-clusiveness of International Law*

Location Pandora Foyer

This agora panel has a two-fold aim. First, taking an outside view on the EU's exceptionalism with its both inclusionary and exclusionary tendencies, it explores how international law responds to this ambiguity and accommodates the EU as a global normative actor in its framework. Second, and more broadly, this panel also aims to bring together two academic disciplines that have increasingly drifted apart, namely EU law and international law.

Chair **P. Cebulak** (University of Amsterdam)

Speakers:

- **Prof Katja Ziegler** (University of Leicester) *EU "Exceptionalism" and the Paradox of Inclusiveness of International Law*
- **Dr Jed Odermatt** (City, University of London) *'EU' Exceptionalism in International Dispute Settlement*
- **Teresa Cabrita** (University of Amsterdam / KU Leuven) *EU Exceptionalism and the Codification of International Disaster Law*

10.15-10.45 Coffee Break sponsored by **Brill Nijhoff**

Book launch by **Brill Nijhoff**



10.45-12.00 **Parallel sessions**

AGORA 7 In/ex-clusiveness in Economic Ideologies and Perspectives

Location Pandora

International law is not economically neutral. Capitalist and neoliberal ideologies have greatly influenced the development of international law, specifically since the end of World War II. Like any ideology, they have buttressed certain interests and protected certain actors. Who/what has been in/excluded from the developments of international law buttressed by the different economic ideologies and perspectives? Which economic ideologies are currently influencing the development of international law, and how?

Chair M. Salomon (London School of Economics)

Speakers:

- **O. Baillet** (Max Planck Institute Luxembourg): *The European Court of Human Rights and Economics: Does Political Liberalism Entail Economic Liberalism?*
- **H. Eklund** (University of Copenhagen): *Excluding People and Including Resources: Colonialism in the Treaty of Rome*
- **R. Brown** (University of Cambridge): *Neoliberalism in Global Health Law: Past, Present and Future*

AGORA 8 In/ex-clusiveness in the Legal Construction of Sustainable Environment

Location Ronda

Sustainable development presupposed interlinkages between the protection of the environment, the protection of human rights, and international economic law. International environmental law has thus been framed as tightly connected to economic development. It remains unclear, however, what a sustainable environment is from a legal perspective and what the legal nature of sustainable development is.

Chair S. Boysen (Helmut Schmidt University, Hamburg)

Speakers:

- **C. Ceretelli** (University of Padua): *Discussing the Limits of Sustainable Development: Is the Time Ripe for the Inclusion of Indigenous Peoples?*
- **J. Bendel** (University of Copenhagen) & **G. Jokubauskaite** (University of Glasgow): *Sustainable Forests? The Exclusion of Land Rights from International Environmental Law*

- **E. Boshoff** (University of Oslo): *An Emerging Right to Sustainable Development – Where Do We Stand?*

AGORA 9 In/ex-clusiveness in the Legal Construction of Violence and Security

Location Pandora Foyer

International law has dealt with the security of states and the violence perpetrated by states since its very beginning. Many scholars and practitioners have highlighted the weaknesses and limitations of the international legal framework in tackling other forms of violence perpetrated by non-state actors, and threats to their security. How is international law dealing with violence targeting social groups and minorities, with violence perpetrated by non-state actors, and with guaranteeing the security of non-state actors, social groups and minorities?

Chair P. Grzebyk (University of Warsaw)

Speakers:

- **P. Thielbörger** (Hertie School/Ruhr-Universität Bochum): *Including or Excluding Climate Change as a Responsibility of the Security Council?*
- **C. Wittke & E. Bescotti** (Leibniz Institute for East and Southeast European Studies): *International Law's Role in Political Violence and the Destabilization of Unresolved Secessionist Conflicts in the Post-Soviet Space*

12.00-13.30 Lunch break

12.15- 13.15 Mentoring event (in cooperation with KNVIR)

Location de Punt

12.45-13.30 Business meeting editors and publishers (closed)

Location Pandora Foyer

13.30-14.45 ESIL General Assembly, including elections for new Board members

Location Ronda

14.45-15.30 Coffee Break sponsored by Marine Veissiere

14.45-15.30 Meet the Editors and Publishers of International Law Journals!
(open to all)

Location Pandora



15.30-16.45 **Parallel sessions**

FORUM 3 *In/ex-clusiveness in International Law Making*

Location Pandora Foyer

In the traditional understanding of international law, states are the lawmakers, with some limited involvement of international organizations. At the same time, it is acknowledged that various non- state actors, such as corporations, non-governmental organizations, religious groups, and even armed groups, play a role in global governance. Is there a need to open up international law- making processes to these actors? How should such processes be reconceptualized so as to accommodate new actors?

Chair **N. Klein** (University of New South Wales)

Speakers:

- **J. Pauwelyn** (Graduate Institute of Geneva) *Taking stakeholder engagement in international lawmaking seriously: Lessons from global health, finance and trade governance*
- **M. Takeuchi** (University of Kobe) *In/Ex-clusiveness in the Governmental Networks' Involvement in the International Law Making: Financial Action ask Force as an Invisible Actor*

FORUM 4 *In/ex-clusiveness in University Curricula on International Law*

Location Ronda

University curricula on international law tend to focus on the practice of a limited number of Western (and often Anglo-Saxon) states, with little attention being paid to potentially original contributions of the non-West. In addition, the dominant frame of studying international law remains positivism. How can the university curriculum be decolonized, and how can space be created for other theoretical approaches to studying international law?

Chair **P. Okawa** (Queen Mary University of London)

Speakers:

- **J. Fraser** (Utrecht University) *Context, Power and Positionality: International Law in the Classroom*
- **L. Mälksoo** (University of Tartu) *Teaching History of International Law and Questions of Inclusion/Exclusion*
- **M. Al Attar** (University of Warwick) *The Dialectics of Decolonisation: Between Entrapment and Rupture*

17.00-18.30 **Parallel sessions**

FORUM 5 *In/ex-clusiveness of International Legal Knowledge*

Location Pandora Foyer

Judicial decisions, doctrine, and expert reports all create international legal knowledge. However, a large part of this knowledge appears to be generated by members of an in-crowd. Degrees from top law schools in certain countries, good connections with established knowledge-producers, and an almost impeccable command of academic English and/or French offer a path towards membership. What are the exclusionary practices at play here, and how could this be remedied?

Chair **C. Schwobel-Patel** (Warwick University)

Speakers:

- **B.S. Chimni** (Jindal University)
- **A. Rasulov** (University of Glasgow)
- **K. M. Clarke** (University of Toronto) *Thinking Justice and Law Otherwise*

FORUM 6 *Military Aggression Against Ukraine: International Law's Present, Past, and Future*

Location Ronda

The military aggression against Ukraine is at the centre of many legal debates. It is then without much surprise that the last Forum of this conference, usually dedicated to current events, will try to discuss some of them together with legal scholars from the interested countries. Speakers have been invited to address international humanitarian law, human rights and accountability aspects of the ongoing conflict.

Chair **A. Nollkaemper** (University of Amsterdam)

Speakers:

- **A. Korynevych** (Ambassador-at-large, Ministry of Foreign Affairs of Ukraine)
- **S. Golubok** (legal practitioner, member of the St Petersburg Bar Association)
- **G. Yudkivska** (former judge at the European Court of Human Rights)

19.00-22.00 *Conference Dinner, with the participation of Prof. P. Sands.*

Location Pandora



Saturday 3 September 2022

08.30-09.00 Walk in with coffee and tea

09.00-10.15 *Parallel sessions*

AGORA 10 *In/ex-clusiveness of the Legal Construction of the Commons*

Location Ronda

Why are the commons common? Who participates in the decision-making processes? Who benefits from their management and exploitation? Who should address and remedy problems? This agora welcomes papers which offer answers to these and related questions on how international law has construed the concept of, and manages, the 'commons.'

Chair **L. Kotzé** (North-West University, South Africa)

Speakers:

- **G.E. Exarchou** (George Washington University): *Allocation of the Radio Spectrum and Satellite Orbits: Jurisprudential Perspectives*
- **M. Eccleston-Turner** (King's College London): *Pathogen Sequence Information as a Commons in International Law*

AGORA 11 *In/ex-clusiveness in the Legal Construction of Borders*

Location Pandora Foyer

Borders in international law are stable and objective: delimitation treaties are binding erga omnes and they are not affected by state succession. Their stability, and thus their rigidity, have however jeopardized the respect of fundamental principles, such as the principle of self-determination of people, and they are now debated due to territorial changes and forced migrations caused by climate change.

Chair **K.G. Lee** (Seoul National University / International Law Commission)

Speakers:

- **M. Saliternik** (Netanya Academic College) & **S. Shlomo Agon** (Bar-Ilan University): *Fluctuating Borders, Borderless Spaces, and International Legal Geography*
- **O. Semenova** (Maastricht University): *Fundamental Change of Circumstances and Maritime Zones and Boundaries*

AGORA 12 *In/ex-clusiveness of the Legal Construction of Justice*

Location Pandora

Which type(s) of justice is international law enabling/pursuing? Who are the beneficiaries of this justice? Which are the institutions involved in legally guaranteeing justice at the international level? Who controls the guarantor?

Chair **I. Venzke** (University of Amsterdam)

Speakers:

- **D.M. Amann** (University of Georgia): *Absent at the Creation? Women and International Criminal Justice*
- **P. Wilinski** (Erasmus University): *Is There Room for Distributive Justice under International Investment Law?*
- **A. Ferrara** (Irish Centre for Human Rights): *Evolving Conceptions of Justice and International Law*

10.30-11.15 *Conversation with the 2022 winners of the ESIL Monograph Prize and the ESIL Collaborative Book Prize.*

Location Ronda

11.15-11.45 Coffee Break

11.45-12.45 *Closing Roundtable – The Inclusiveness of International law: The Way Forward*

Location Ronda

Chair **M. Kanetake** (Utrecht University)

Speakers:

- **W. Ferchichi** (Université de Carthage)
- **T. Skouteris** (American University in Cairo)
- **N.N. Negm** (African Union)

12.45-13.30 *Conclusions*

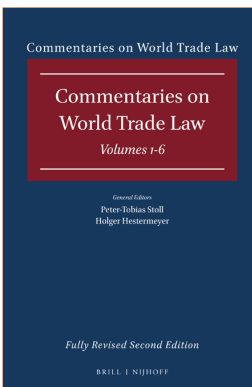
Location Ronda

- **Utrecht University** (organizers)
- **R.A. Wessel** Vice-President (European Society of International Law)
- **S. Maljean-Dubois**, *Presentation of the 18th Annual Conference of ESIL in Aix-en-Provence*

13.30-14.30 Light Lunch

~ end of conference ~





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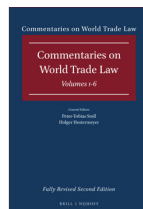
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Volume 1, Cross-cutting Themes

Editors: **The Academic Network on the European Social Charter and Social Rights, Stefano Angelieri,** and **Carole Nivard**

The complete *Commentary* will offer approx. 106 Chapters, organized in 8 Volumes, some of which are focused on the substantive state obligations and the jurisprudence of the European Committee of Social Rights, others on the procedures that state representatives, international bodies and applicants must follow to engage with the system of the European Social Charter.

Commentaries on World Trade Law

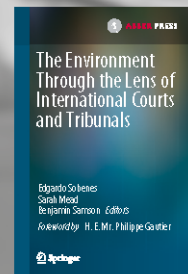
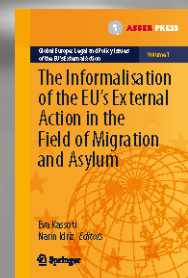
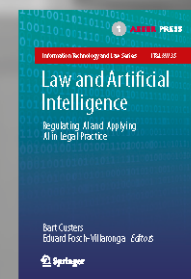
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International and European Law

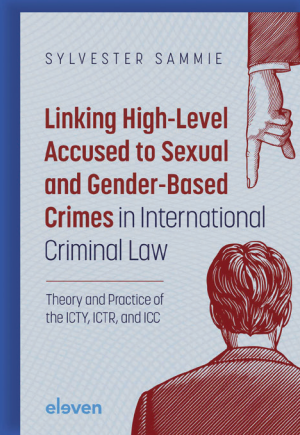
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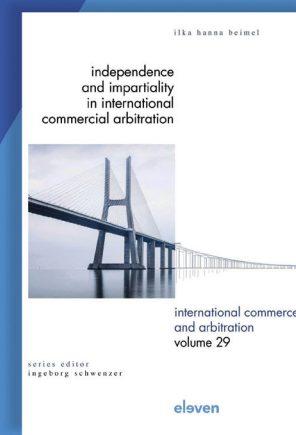
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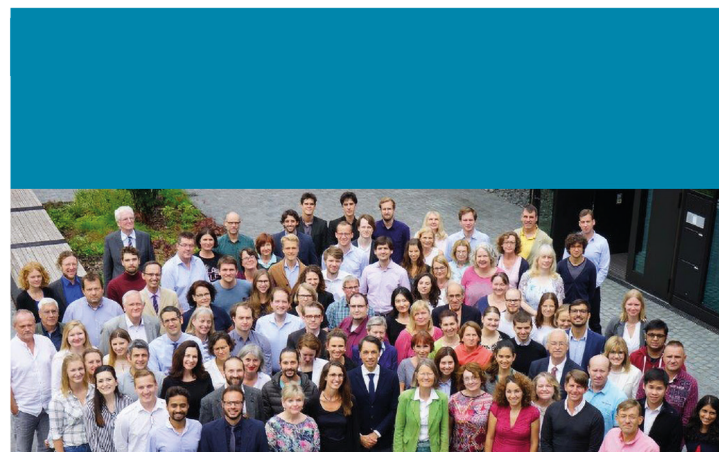


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