International Law and Litigation

Launch conference of the Department of International Law and Dispute Resolution directed by Professor Hélène Ruiz Fabri

Luxembourg, Friday 16 October 2015
Programme

09:30 - 10:00  Registration and welcome coffee

10:00 - 10:45  Opening
His Excellency, Mr. Guy Yelda,
Ambassador of France to Luxembourg

Prof. Burkhard Hess,
Executive Director of the MPI Luxembourg

Prof. Hélène Ruiz Fabri,
Director of the MPI Luxembourg

10:45 - 12:30  Panel 1:
How Much Does Procedure Matter in International Litigation?

Chair: Judge Bruno Simma
Speakers: Dr. Yas Banifatemi, Prof. Gabrielle Marceau, Judge Allan Rosas,
Prof. Jean-Marc Sorel, Judge Ineta Ziemele

In this panel, speakers are invited to consider the relevance of procedural rules in disputes before international judicial and arbitral jurisdictions. International law scholars have usually focused the attention on the role substantive rules play in international proceedings, considering procedural norms as only “secondary” or “formal” means to achieve the final decision. However, more and more in practice, procedure often holds the balance of power capable of affecting the final result. To what extent is this statement applicable to all international courts and tribunals? Is there a difference in how procedural rules are perceived by the distinct actors involved in an international dispute (i.e. judges and arbitrators versus parties and parties’ counsels)? What are the on-field experiences of the speakers on this matter? Procedural reforms are often referred to as efficient instruments to address the issue of “legitimacy” of international law. Transparency of the proceedings, openness of the hearings to the public, submissions of amicus curiae briefs, independence and impartiality of the adjudicators, as well as the role of experts and the rules on evidence are only a few examples showing how procedure in international law matters. Is this “corrective” role of procedure a general feature of all international jurisdictions? Do standing courts and ad hoc tribunals look at and apply procedural rules alike?

12:30 - 14:00  Lunch break

14:00 - 15:45  Panel 2:
International Litigation: Foreground and Background of an International Judicial Decision

Chair: Prof. Andrea Gattini
Speakers: Prof. Hervé Ascensio, Prof. Laurence Boisson de Chazournes,
Judge Jean-Claude Bonichot, Prof. Robert Howse, Judge Fausto Pocar,
Prof. Rüdiger Wolfrum

In this panel, speakers are invited to consider the different elements that motivate the decisions of international courts and tribunals. This includes of course the very element of “motivation” in law of a decision. But the motivation itself often refers to broader policy reasons, sometimes obiter, sometimes as an element of legal analysis (e.g. object and purpose). Even when explicit reference is avoided, anecdotal evidence suggests that decision-makers are mindful of the broader implications of their decisions. To what extent do these broader elements influence decision-making? Additionally, the extensive rules regarding the composition of courts demonstrate that no less important than the law to be applied is the identity of the adjudicators, in terms of expertise, national origin, and acceptability to the disputing parties. How do the backgrounds and assumptions of those ma-
Before becoming Director of the Max Planck Institute Luxembourg in September 2014, Prof. Hélène Ruiz Fabri held a chair at the Sorbonne Law School where she acted as Dean for four years. She has also been Director of the Joint Institute of Comparative Law of Paris for 11 years and Director of the Master 2 Degree Program in International Economic Law. Hélène Ruiz Fabri has published extensively in the fields of WTO Law and International Dispute Resolution, and Constitutional Law. She has taught at the Academy of European Law (Florence), the Academy of International Law (The Hague) and Cardozo Law School (New York).

She was awarded the French CNRS Silver Medal in 2015 and is Honorary Member of the Institut Universitaire de France. Hélène Ruiz Fabri is Director of the Department of International Law and Dispute Resolution.
Department of International Law
and Dispute Resolution

The Department of International Law and Dispute Resolution examines and analyses various mechanisms and techniques of international dispute settlement – including traditional litigation as well as alternative methods of dispute resolution and adjudication – but also extends its research to all kinds of decision-making processes. Its research agenda focuses on the principles and processes underlying each of these mechanisms and explores various theoretical and historical schools of thought in international law in order to assess their accuracy regarding procedural issues.

Since her appointment as Director, Prof. Ruiz Fabri has gathered in her department promising senior and junior research fellows with various disciplinary and cultural backgrounds. Currently, the research activities of this internationally-minded team are in particular focused on two long-term ambitious projects:

- The Max Planck Encyclopedia of International Procedural Law, which aims to bring into focus essential topics in international dispute resolution, to cover the latest developments in the field and to reflect international law from a procedural perspective;

- The Making of International Judicial and Arbitral Decisions, which combines the perspectives of law, political science, sociology, psychology and history, and aims at opening up the black box which in many respects still encrypts the decision-making processes of courts and tribunals.

Besides the two aforementioned challenging projects, our Department is actively engaged in international research projects, scientific and professional networks, international organisations and forums. Seminars, colloquia and in-house workshops that gather leading scholars and practitioners of international law are regularly held, as well as Lecture series organised in close collaboration with the Department of European and Comparative Procedural Law.

Upcoming Events

We would like to invite you to our upcoming events!
Please find more information on www.mpi.lu/news-and-events/

11 November 2015 / 16:00
Max Planck Lecture Series
The ICJ as a Court of Cassation: Recent Developments
Prof. Pasquale De Sena (Catholic University of Milan)

3 December 2015 / 15:30
4 December 2015 / 09:00
Conference
Transatlantic Trade and Investment Partnership (TTIP) – Framing the Adequate System for Dispute Settlement
Conference on the occasion of the EU Council Presidency of Luxembourg

11 December 2015 / 14:00
Workshop
The Making of Decisions by the European Court of Human Rights
Prof. Hélène Ruiz Fabri (Max Planck Institute Luxembourg)

16 December 2015 / 16:00
Max Planck Lecture Series
International Judicial Dissent: Causes and Consequences
Prof. Mark A. Pollack (co-authored with Jeffrey Dunoff - Temple University School of Law)
Contact person: Martina Winkel
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Venue:
Max Planck Institute Luxembourg for Procedural Law
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L-2721 Luxembourg