



Max Planck Institute
LUXEMBOURG
for Procedural Law

INTERNATIONAL LAW AND LITIGATION

**Launch conference of the Department of
International Law and Dispute Resolution
directed by Professor H el ene Ruiz Fabri**

Luxembourg, Friday 16 October 2015

Provisional Programme

09:30 am – 10:00 am Registration and welcome coffee

10:00 am – 10:45 am **Opening**

His Excellency, Mr. Guy Yelda, Ambassador of France to Luxembourg

Burkhard Hess, Executive Director of the MPI Luxembourg

Hélène Ruiz Fabri, Director of the MPI Luxembourg

10:45 am – 12:30 pm **Panel 1 on “Procedural International Law: How Does Procedure Influence the Final Judgments in International Law?”**

In this panel, speakers are invited to consider the relevance of procedural rules in disputes before international judicial and arbitral bodies. Although sometimes considered merely as ‘formal’ or ‘secondary’, procedure often holds the balance of power. Is this statement applicable to all international courts and tribunals? Is there a difference in the perception and importance given to procedural rules according to the actors involved (i.e., judges and arbitrators versus parties and parties’ counsels)? What are the speakers’ on-field experiences on this matter?

Procedural reforms are often referred to as an efficient mean to address or redress the so-called ‘legitimacy deficit’ of international law. Hence the scholarly interest in the transparency of the proceedings, the openness of the hearings to the public, the submissions of amicus curiae briefs, as well as rules regarding the independence and impartiality of adjudicators. 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? What about the increasing importance of technical (or non-legal) experts in resolving international legal dispute?

Speakers: Gabrielle Marceau, Yas Banifatemi, Ineta Ziemele, Jean-Marc Sorel, Jean-Claude Bonichot

12:30 pm – 02:00 pm Lunch Break

02:00 pm – 03:45 pm **Panel 2 on “The Making of International Law: Foreground and Background of an International Decision”**

In this panel, speakers are invited to consider the different elements that motivate decisions made by international courts and tribunals. This includes, of course, the motivation in law stricto sensu of a decision. But motivation itself often refers to broader policy reasons, sometimes as obiter, sometimes as an element of legal analysis (e.g. object and purpose). Even when explicit reference is avoided, empirical evidence suggests that decision-makers are mindful of the broader (political, socio-economic) implications of their decisions. To what extent do these broader elements influence decision-making? Additionally, the existing and extensive rules regarding the composition of courts suggest that as important as the content of the law being applied is the individuals composing adjudicating bodies, in terms of expertise, national origin, and/or acceptability to states or parties. How do the backgrounds and assumptions of those individuals, as well as their idiosyncratic or shared sense of purpose, impact their decisions? More generally, to what extent do such elements (background) interact with written legal rules (foreground), leading to patterns in decision-making, and possibly shaping the core of entire legal fields?

Speakers: Rüdiger Wolfrum, Laurence Boisson de Chazournes, Hervé Ascensio, Fausto Pocar, Robert Howse

03:45 pm – 04:15 pm Coffee Break

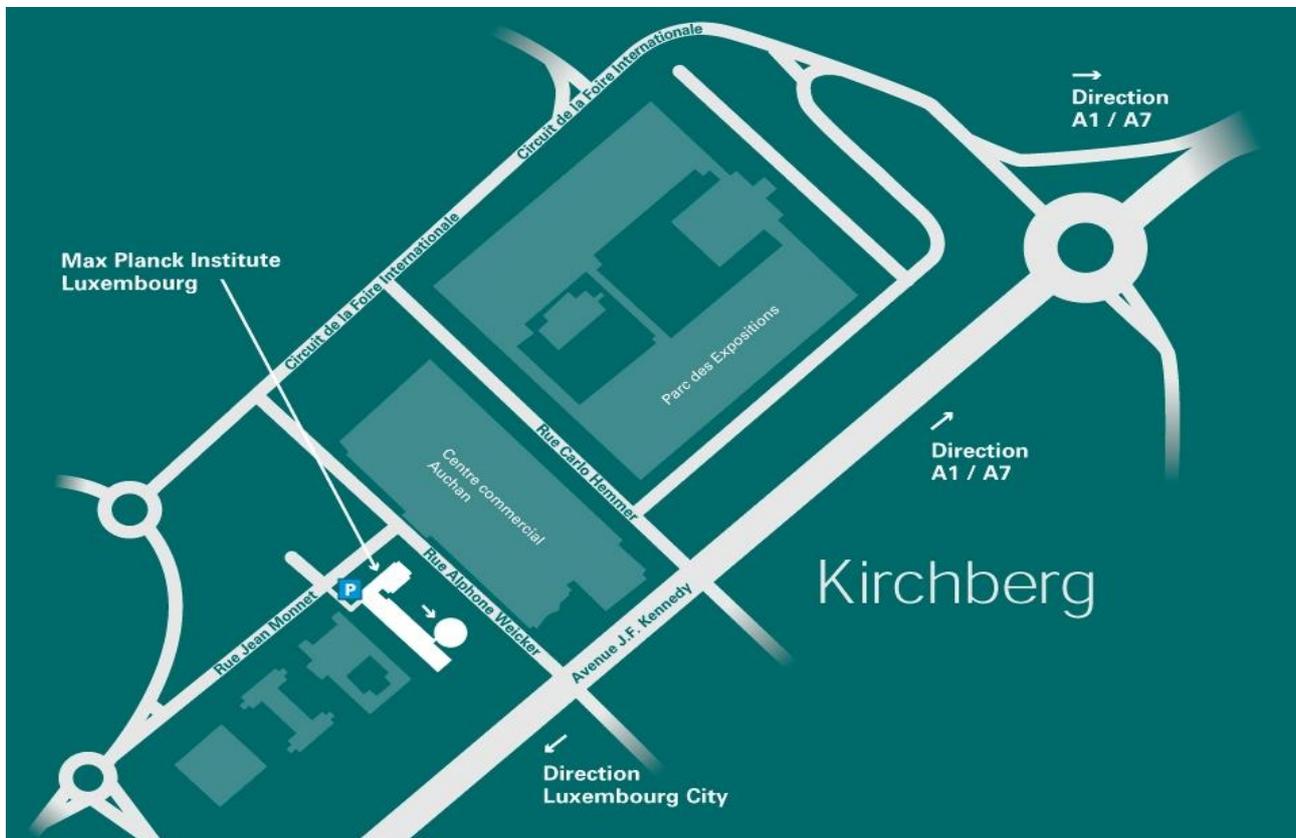
04:15 pm – 06:00 pm **Panel 3 on “The Making of International Law: Internal versus External Perspectives”**

In this panel, speakers are invited to engage with their own situationality through the distinction between the internal (“insider”) and the external (“outsider”) perspectives. Is this distinction a useful one to apprehend the making of international law, and to study the normative and institutional dynamics of legal decision-making? Do the two perspectives complement or contradict each other? Each perspective is, of course, multi-dimensional: the internal perspective may include that of the judge, the lawyer, the plaintiff, the witness, etc., whereas the external perspective can be that of the media, the scholar, the civil society, the “international community” at large, etc. How should we understand the positions of other actors, such as an expert intervening in decision-making or third parties having a keen interest in the ongoing procedure? Where do they fall? Is there an in-between the two categories?

Speakers: Yves Daudet, Christoph Schreuer, Andrea Hamann, Michael Wood, Matthew Happold

06:00 pm Reception

The conference is an opportunity to celebrate the launch of the Department of International Law and Dispute Resolution and the appointment of Prof. H el ene Ruiz Fabri as Director of the Max Planck Institute Luxembourg for Procedural Law.



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