

International Courts & Tribunals

Interest Group Newsletter

Introductory Note

It is a pleasure to bring you yet another issue of the ICTIG Newsletter. In the last quarter, ICTIG got up to some interesting activities for our members, including the first in-person event in a long while. First, we continued the webinar series on incidental proceedings. Following the success of the webinar on provisional measures, held last autumn, we recently held another webinar dedicated to preliminary objections. We have one more such webinar scheduled, with details to be released in due course. Second, we held an ICTIG debate at Tillar House, in which we were lucky to have academic and U.S. government lawyers debate the existence, and opportunity, to have a terrorist activities exception to immunity under customary international law.

We are looking forward to seeing many of you at the Annual Meeting in just about a month. As ICTIG, we will hold a business meeting, details of which will be released as soon as the schedule is finalised. Lastly, on a more personal note, my mandate as ICTIG Co-chair will end at the forthcoming Annual Meeting. It has been a pleasure to act as co-chair alongside Freya, first, and Vlad, second. I am sure that whoever takes over from me will continue ICTIG's tradition as one of the most active interest groups in our Society!

Massimo Lando, on behalf of Vladyslav Lanovoy, Co-Chairs

Developments at International Courts & Tribunals

Guyana Seeks Provisional Measures in Boundary Dispute with Venezuela

On 6 March 2025, Guyana requested provisional measures in its dispute with Venezuela over Guyana's Essequibo region. Guyana's request comes as Venezuela prepares to hold elections in Essequibo. The borders between Venezuela and Guyana in this region were established in an arbitral award dated 3 October 1899. Guyana requests, *inter alia*, that the Court indicate provisional measures instructing Venezuela not to hold elections and to refrain from taking any actions that might affect the borders established in the 1899 arbitral award. Guyana filed its application in this case, which involves the interpretation and application of the 1899 arbitral award in 2018, and the Court found in 2020 that it had jurisdiction to hear the dispute. The Court rejected Venezuela's preliminary objections in April 2023. Guyana sought provisional measures in October 2023 over Venezuela's decision to hold a "Consultative Referendum" on the status of the Essequibo region. In an order of 1 December 2023, the Court called on Venezuela not to do anything that might modify the situation in Essequibo and called on the Parties not to take any actions that might aggravate the dispute.

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International Courts & Tribunals Interest Group

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Views contained in this publication are those of the authors in their personal capacity. The American Society of International Law and this Interest Group do not generally take positions on substantive issues, including those addressed in this periodical.



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Sudan Institutes Proceedings against the United Arab Emirates before the ICJ

Sudan filed an **application** on 5 March 2025 with regard to a dispute concerning alleged violations by the UAE of its obligations under the Convention on the Prevention and Punishment of the Crime of Genocide in relation to the Masalit group in Sudan, notably in West Darfur.

ICJ to Hear Advisory Opinion Proceeding on Israel's Obligations with Respect to IOs and Third States

On 19 December 2024, the General Assembly adopted resolution A/RES/79/232, **requesting** an Advisory Opinion from the ICJ on “the obligations of Israel in relation to the presence and activities of the United Nations, other international organizations and third States.” In an **Order** of 23 December 2024, the Court fixed 28 February as the deadline for States and organizations to submit written statements, and on 12 March 2025, the Court **announced** that 45 States had submitted written submissions. Public hearings are scheduled to begin on 28 April 2025.

ICJ President Salam Steps Down, Judge Iwasawa Elected New President

On 14 January 2025, President of the International Court of Justice Judge Nawaf Salam **resigned** from the Court. He was nominated as Prime Minister of Lebanon on 13 January and took up the post on 8 February. Judge Salam had joined the Court in 2018 and was elected President in 2024; his term was set to expire on 5 February 2027. Pursuant to Article 14 of the Statute of the ICJ, on 3 March 2025 the ICJ **elected** Judge Iwasawa Yuji of Japan to serve out the remainder of Judge Salam's term. Vice President of the Court Julia Sebutinde had been serving as acting president until a new president was chosen. Elections will be held for a replacement candidate to serve for the remainder of Judge Salam's term.

Judges Named to Bahrain's International Court

Nine judges have been **appointed** by King Hamad bin Isa Al Khalifa to serve as the first jurists on the bench of the new Bahrain International Commercial Court. Jan Paulsson will serve as president, while Sir Christopher Greenwood will serve as deputy president. The other judges are:

Mary Lim Thiam Suan of Malaysia, Sanjay Kishna Kaul of India, Sir Vivian Ramsey of the UK, Hi-Taek Shin of South Korea, Henk Snijders of The Netherlands, Judith Prakash of Singapore, and Fatima Faisal Hubail of Bahrain. The court was established through a treaty between the Kingdom of Bahrain and Singapore, and offers litigants a unique appellate mechanism: decisions arising out of proceedings conducted in English will be appealable to an international committee of the Singapore International Commercial Court.

ICJ Suspends Proceedings in Germany v. Italy Case

On 17 December, 2024, the ICJ **suspended proceedings** in *Questions of Jurisdictional Immunities of the State and Measures of Constraint against State-Owned Property (Germany v. Italy)*. Germany requested the dismissal of the case and Italy did not object. Germany **instituted proceedings** in April 2022, alleging that Italy had violated Germany's sovereign immunity by allowing civil cases to be brought against Germany based on violations of IHL committed by Nazi Germany during World War II. The case came a decade after the Court first found that Italy had violated Germany's sovereign immunity by allowing such civil claims to proceed in Germany in Italian courts. Germany's 2022 application alleged that Italy was continuing to violate Germany's sovereign immunity notwithstanding the Court's 2012 decision. Germany initially sought provisional measures but withdrew its request after Italy established a fund, financed by the Italian government, to pay reparations to victims of Nazi crimes; the fund was **understood** to be designed to shield Germany from litigation in Italian courts.

European Commission Refers UK to CJEU for Failure to Terminate its BITs with Six EU Member States

The European Commission has **referred** the UK to the CJEU for failing to terminate its BITs with Bulgaria, Czechia, Croatia, Lithuania, Poland, and Slovenia, alleging that treaties conflict with EU law, as determined by the Court in the 2018 *Achmea* ruling. The Court held in *Achmea* that investor-State arbitration between EU Member States is incompatible with EU law. Although the UK is no longer

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an EU Member State, the Commission claims that the BITs in question are “intra-EU BITs” because they were signed when the UK was an EU Member State, and are therefore incompatible with EU law. In January 2019, all EU Member States, including the UK, committed to terminating intra-EU BITs by 2020 through a coordinated treaty, but the UK did not sign or proceed with termination. Under the UK-EU Withdrawal Agreement, the EC could refer certain claims to the CJEU until December 31, 2024.

ICC condemns the issuance of US Executive Order seeking to impose sanctions on the Court

In a [statement](#) released 7 February 2025, the International Criminal Court condemned the issuance by the United States of an Executive Order seeking to impose sanctions on its officials. ICC President Judge Tomoko Akane released a [statement](#) the same day, drawing attention to the Court’s “indispensable” work in light of “atrocities [that] continue to plague the globe.”

Former Philippine President Duterte in Custody of ICC

On 12 March 2025, former Philippine President Rodrigo Roa Duterte was [arrested](#) by authorities of the Philippines and surrendered into the custody of the International Criminal Court. The ICC Prosecutor had applied for an arrest warrant for Duterte on 10 February 2025, and the Court issued the warrant on 7 March 2025. Duterte was

wanted for the crime against humanity of murder, allegedly committed in the Philippines between 1 November 2011 and 16 March 2019, pursuant to a systemic policy enacted while he was the head of the Davao Death Squad and President of the Philippines.

ECtHR Publishes Paper on Cancelled Romanian Presidential Election

The Court has [published](#) a new Questions and Answers paper concerning the decision in the case of *Călin Georgescu v. Romania*. The case concerned the annulment by the Constitutional Court of Romania of the presidential elections of 2024, for which the applicant was a candidate.

African Court on Human and Peoples’ Rights Concludes Public Hearing in Case Between DRC and Rwanda

The African Court on Human & Peoples’ Rights concluded a two-day Public Hearing in Democratic Republic of Congo v Republic of Rwanda (Application 007/2023) at the seat of the Court in Arusha – United Republic of Tanzania. The case arises out of allegations of human rights violations related to the ongoing armed conflict in the eastern region of the country since 2021, involving its armed forces and the M23 rebel group, which, according to the applicant, are supported by the Republic of Rwanda. Further information can be found [here](#). ■

New Publications

ICTIG members have recently published articles, essays, chapters, books, and blogs, including those listed below.

Articles, Essays & Book Reviews

- Cecily Rose, *Evidentiary Challenges in the Litigation of War Reparations: Armed Activities on the Territory of the Congo (DRC v Uganda) (2025)* 16 *Journal of International Dispute Settlement* ([advanced access](#)).
- Charalampos Giannakopoulos, *Paradigms of Justice and the Limits of ISDS Reform*, 16 *Journal of International Dispute Settlement* (2025) ([advance access](#)).
- Joshua Paine, *Control Mechanisms in Multilateral Investment Tribunals: Navigating Procedural Multilateralism and Substantive Bilateralism* (2024) 73(4) *International & Comparative Law Quarterly* 819–851 ([open access](#)).
- Md. Rizwanul Islam, *Challenges of Research and Publications on International Law in Bangladesh: A Soliloquy?* (2024) 26 *Chittagong University Journal of Law* 7 ([SSRN](#)).

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Books & Book Chapters

Giorgio Sacerdoti and **Niall Moran** have published a new book, *International Trade and Investment Dispute Settlement. From Rise to Crisis and Reform* (Routledge, 2025). This book provides a thorough comparative examination of the trade dispute settlement systems of the WTO and Regional Trade Agreements, and of Investor-State Dispute Settlement (ISDS). Reviewing in parallel their origins, features, development, and current challenges, highlighting commonalities and differences, the book analyzes criticisms levelled against both regimes, explores current reform efforts at the WTO, ICSID and UNCITRAL (including the controversial proposal to replace ISDS with a Multilateral Investment Court), and engages in the on-going debate by evaluating possible outcomes. As to trade, the book high-

lights the WTO system's successful operation for more than 20 years, and its hobbling functioning since the paralysis of the Appellate Body in 2019. As to ISDS, the book details the procedural protection granted to foreign investors under Bilateral Investment Treaties (BITs), other International Investment Agreements and investment chapters of trade agreements such as NAFTA, USMCA, CETA and the CPTPP, alongside the impact of case law on the regulatory space of states. This authoritative book will serve as a fundamental reference for students and researchers in international investment and trade law, as well as for international lawyers, adjudicators, and diplomats involved in dispute settlement. Giorgio Sacerdoti is Emeritus Professor at Bocconi University in Milan, Italy. Niall Moran is Assistant Professor in Economic Law at Dublin City University in Ireland. ■

Notable Judgments & Decisions

Westmoreland Coal Company v. Canada, ICSID Case No. UNCT/23/2, Award of 17 December 2024

Massimo Lando

On 17 December 2024, an ICSID tribunal found that it had no jurisdiction to hear the merits of the case brought by Westmoreland Coal Company ("WCC"), a US investor, against Canada. WCC brought the case under Chapter 11 of NAFTA and Annex 14-C of the USMCA. The arbitration was governed by the 2013 UNCITRAL Arbitration Rules. Between 2013 and 2014, WCC acquired coal-related assets of a Canadian company with operations in Alberta. The dispute arose out of Alberta's plan to phase out coal by 2030, enacted between 2015 and 2016, under which WCC did not receive any compensation. In its 2018 notice of arbitration, WCC claimed that this plan was in breach of Canada's obligations to accord national treatment and minimum standard of treatment, and not to expropriate without compensation. Canada raised a number of jurisdictional objections. In its award, the tribunal only considered whether WCC's claims were time-barred under Article 1116(2) of NAFTA and whether WCC's investment was a "legacy investment" under Annex 14-C of the USMCA. Article 1116(2) of NAFTA precluded investors from submitting claims where more than three years have elapsed since they acquired knowledge of the alleged breach and loss.

The issue was that WCC, due to bankruptcy and internal restructuring, had to submit a new notice of arbitration in 2022, beyond the three-year time bar that, as the parties agreed, began on 29 November 2016. The tribunal found that WCC's expropriation claim was time-barred, as it had been first raised in 2022. The other claims were also found to be time-barred, as they had not been suspended by the pendency of a related arbitration between the restructured WCC and Canada between 2019 and 2022. The tribunal was without jurisdiction, therefore. It went on to address the "legacy objection" nonetheless, finding that it would have succeeded because WCC's investment was not "in existence" when the USMCA entered into force.

ICSID Annulment Committee Upholds Award Against Venezuela

Craig D. Gaver

A long-running arbitration between oil and gas major ConocoPhillips and the Bolivarian Republic of Venezuela is at an end after an ICSID *ad hoc* Annulment Committee upheld an arbitral award in favor of the foreign investor. The Committee, comprising Judge Dominique Hascher, Professor Diego Fernández Arroyo, and Professor Lawrence Boo, issued a 369-page [Decision on Annulment](#) in ICSID Case No. ARB/07/30 on January 22, 2025.

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The original case arose out of Venezuela's expropriation of ConocoPhillips' oil projects in 2007. Following a protracted legal battle marked by multiple arbitrator challenges and changes, a tribunal majority issued a [Decision on Jurisdiction and Merits](#) in favor of the claimant in 2013. Further challenges ensued. A reconstituted tribunal issued an [Award](#) in favor of the ConocoPhillips in 2019, awarding nearly USD 9 billion in compensation.

Venezuela sought to annul the Award on grounds of improper constitution of the tribunal, manifest excess of power, serious departure from a fundamental rule of procedure, and failure to state reasons arising out of the various challenges to the tribunal as well as certain findings of the tribunal concerning Conoco's claims. The annulment procedure was complicated by the tribunal's refusal to determine whether legal counsel representing the State or the opposition government ought to be heard. Instead, the Committee took submissions from both legal teams. In declining to annul the Award, the Committee allowed the claimant to turn its attention fully to enforcement efforts, which were already underway and are no less complex than the arbitration that preceded them.

ICC rejects request for compensation in *The Prosecutor v. Maxim Jeoffroy Eli Mokom Gawak*

Farah El-Barnachawy

On 31 January 2025, the ICC issued a decision on a request for compensation in the case of *The Prosecutor v. Maxim Jeoffroy Eli Mokom Gawaka*. The Court rejected Mr. Mokom's request for compensation claiming that he has been unlawfully detained, finding himself an asylum seeker, and having suffered harm and damage as a result. The Chamber did not deem restrictions on Mr Mokom's freedom of movement as amounting to a deprivation of liberty. Bearing in mind that the Central African Republic was obliged to receive Mr. Mokom following his release and that he objected to being returned there as authorities therein had imposed life imprisonment on him, the ICC Registry was unable to secure a third State to receive Mr. Mokom in the short-term. As a result, Mr. Mokom accepted practical arrangements allowing him to remain and reside legally in the Host State. Mr. Mokom voluntarily decided to remain at the hotel and the option to leave the hotel was always available to him. Therefore, the Chamber found that he was not deprived of his liberty and was not subject to unlawful detention.

Inter-American Court of Human Rights extends provisional measures incumbent on Nicaragua

Farah El Barnachawy

On 4 February 2025, the Inter-American Court of Human Rights extended provisional measures vis-à-vis Nicaragua in the [case of Juan Sebastian Chamorro & Others](#), in response to a request by the Inter-American Commission for Human Rights. Following a request for extension by the Inter-American Commission for Human Rights in January 2025, the Court ordered Nicaragua to immediately release Mr. Catalino Leo Carcamo Herrera; to protect his family from any reprisals by the Nicaraguan State for seeking to obtain information in his regard; to take the requisite administrative measures to inform his family of his whereabouts, to facilitate communication between them, and to ensure he has access to medical services, medication, and adequate food; to guarantee his right to a lawyer; and for Nicaragua to report to the Court no later than 28 February 2025 on his situation. In the event that Nicaragua does not comply with its duty to report, the Commission may submit updated information regarding Mr. Catalino at any time it deems appropriate or if the Court requires it.

European Court of Human Rights Condemns Russia for Arrests of Anti-war Protestors and Closure of Independent Media

In a judgment of 11 February 2025, the European Court of Human Rights (the "Court") held in the case of *Novaya Gazeta and Others v. Russia* that Russia had violated the European Convention on Human Rights (the "Convention") when it arrested and detained individuals for protesting against Russia's 2022 invasion of Ukraine and shuttered two independent media outlets for publishing material critical of the invasion.

The case involved 162 applications to the Court by individuals as well as by *Novaya Gazeta* and *Rain TV*. Most of the individuals were prosecuted and convicted for the offense of "discrediting" the Russian military. Although Russia withdrew from the Council of Europe and ceased to be a Party to the Convention on 16 September 2022, the Court determined that it retained jurisdiction with respect

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to the alleged interference with the applicants' rights that occurred before that date. All of the applicants alleged violations of Article 10 of the Convention, which guarantees freedom of expression.

The Court held that the applicants' convictions in administrative proceedings, and the arrest and detention of applicants in criminal proceedings, constituted interference with their right to freedom of expression under Article 10. Likewise, the Court stated that Russia's revocation of Novaya Gazeta's publishing license, along with the blocking of Novaya Gazeta and Rain TV's websites, amounted to interference with their right to freedom of expression.

The Court next considered whether there was justification for the interference pursuant to Article 10(2) of the Convention, which states that the exercise of such freedoms "may be subject to such formalities, conditions, restrictions, or penalties as are prescribed by law and are necessary in a democratic society." The Court expressed "serious doubts" that the interference with the applicants' freedom of expression was "prescribed by law," as the terms "discrediting" and "knowingly false information" used in the relevant Russian legal provisions may not have been sufficiently clear and the Russian courts' application of these terms may have been excessively broad. The Court ultimately did not decide that issue.

The Court held that in any event the interference was not "necessary in a democratic society," noting that most applicants' expressions "did not contain calls to violence, hatred, discrimination or any unlawful activity." The Court noted that in the case of two applicants who used Nazi symbols by drawing comparisons between the "Z" symbol used by Russian forces and a swastika, the Court "must examine how such imagery is used in its overall context." The court found the use of such imagery in this context to be protected by Article 10, since the applicants "sought to transfer the stigma attached to Nazi imagery onto contemporary symbols of aggression."

The Court ordered Russia to pay pecuniary and non-pecuniary damages to each of the applicants. The Court's judgment is available [here](#).

Application No. 019/2018, Centre for Human Rights and Others v. United Republic of Tanzania (African Court on Human and Peoples' Rights)

Philipp Kotlaba

On 5 February 2025, the African Court on Human and Peoples' Rights delivered a major [ruling](#) holding Tanzania liable for failures to protect persons with albinism against violent attacks, torture and degrading treatment, trafficking and abduction, and other rights violations under the African Charter on Human and People's Rights.

The judgment found Tanzania, which has the largest population of persons with albinism globally, in violation of multiple rights guaranteed under the African Charter on Human and Peoples' Rights, including the rights to life, dignity, and freedom from torture or degrading and inhumane treatment. The Court considered the degree to which a respondent State might be held to violate the "right to freedom from discrimination" in circumstances notwithstanding formal equality before the law. In this regard, it drew special attention to General Comment No. 14 of the Committee on the Elimination of Racial Discrimination, which stipulates that a "distinction" is unlawful if it has "either the purpose or the effect of impairing particular rights and freedoms." The key question, therefore, was not simply whether albinism was directly disfavored by law, but whether persons with albinism faced discrimination "based on the beliefs attributed to them"—an answer which the Court answered in the affirmative based on United Nations and NGO reporting.

The judgment accordingly found Tanzania liable for failing to effectively investigate and punish those responsible for killings and attacks on persons with albinism, as well as for its failure to ensure adequate education and health services. It issued several time-bound reparation orders for Tanzania to implement within two years, including establishing a compensation fund for victims of violence, amending existing laws to better protect persons with albinism, revising Tanzania's "Witchcraft Act" of 1928, and launching awareness campaigns to combat myths surrounding albinism. ■



Opportunities

Conferences, Webinars & Programs

The NATO ACO International Legal Conference will be held this year in Boston in the first full week of April. For those interested in attending or seeking further information, please contact Mr. Jose Da Silva Miguel at jose.dasilvamiguel@shape.nato.int.

Calls for Papers

The Latin American Society of International Law (SLADI/LASIL) will celebrate its 7th biennial Conference from 31 July to 2 August 2025 at the Universidad de la República in Montevideo, Uruguay. LADI/LASIL invites submissions of papers and panel proposals addressing one or more of the issues outlined [here](#) by **20 March 2025**.

The NATO Cyber Cooperative Cyber Defence Centre of Excellence, the War Studies Research Centre of the Netherlands Defence Academy and the Amsterdam Centre for International Law (ACIL) are organizing an international conference on the law applicable to the use of biometrics by armed forces. The deadline for submission is **28 March 2025** and further information can be found [here](#).

The Asian Law and Economics Association (AsLEA) welcomes submissions for its 2025 Annual Conference on August 13-15, 2025. The deadline is **31 March 2025** and further information can be found [here](#).

The ESIL Feminism and International Law Interest Group invites paper proposals for a pre-conference workshop in the context of the ESIL Annual Conference 2025, on 'Reconstructing International Law.' The submission deadline is **15 April 2025** and further information can be found [here](#).

Job Postings & Other Opportunities

The ICJ is recruiting a Legal Officer (P3) to join the Registry. The deadline to apply is **4 April 2025** and further information can be found [here](#).

Member News

Franklin Rosenblatt is an Associate Professor at Mississippi College School of Law. His recent publications include "The Relationship Between International Criminal Tribunals and National Militaries", <https://papers.ssrn.com/abstract=4994909>. Professor Rosenblatt serves as the President of the National Institute of Military Justice, and recently co-founded a new journal devoted to military law scholarship, *Forces Law Review*, which will soon publish its first edition.

Dr. Andres B. Munoz Mosquera has successfully earned his PhD in Public International Law from Leiden University.

Cecily Rose recently joined the Dutch Advisory Committee on Public International Law (*Commissie van advies inzake volkenrechtelijke vraagstukken* (CAVV)). She also recently became a member (arbitrator) of the Award Review and Debarment Board of the NATO Support and Procurement Agency (NSPA).

Farah El Barnachawy recently joined the United Arab Emirates as Legal Advisor (Permanent Mission of the United Arab Emirates and the Ministry of Foreign Affairs' International Law Department). She also recently earned her PhD in public international law from La Sorbonne. Farah additionally participated last month in ICTIG's debate on the terrorism exception to sovereign immunities.

On 27 February 2025, ICTIG hosted its second event in its series on Incidental Proceedings. The webinar, on Preliminary Objections, featured remarks from **Professor Lawrence Hill-Cawthorne** (University of Bristol), **Callista Harris** (7 Wentworth Selbourne and 3 Verulam Buildings), **Raphael Kok Chi Ren** (Lim Chee Wee Partnership), and **Professor Claudia Martin** (American University Washington College of Law). **Craig Gaver** moderated. The recorded session is available at the ICTIG webpage [here](#). A third and final event in the series, on interventions, will be announced in due course.

The ICTIG Newsletter archives are available on the [ICTIG page](#) of the ASIL website. We invite submissions to the newsletter on an ongoing basis, and encourage members to contribute case summaries, news items, publications, relevant announcements and opportunities, and their own professional news for inclusion in the next issue. For summaries and news items, please limit submissions to 300 words or fewer and indicate how you would like to be credited. All submissions may be sent via email with the subject "ICTIG newsletter submission" to ictignewsletter@gmail.com.