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International Courts & Tribunals Interest Group Newsletter

Introductory Note

We are pleased to present the September 2025 edition of ICTIG's quarterly Newsletter. With summer behind us, the Interest Group turns to a busy autumn season of events and exchanges. We are eager to hear from you: please take a moment to complete our survey, where we are gathering members' views on past activities and ideas for future programming. The **survey can be filled out here**.

The past quarter has been especially momentous for international adjudication. Climate change was at the forefront, with advisory opinions issued by both the Inter-American Court of Human Rights and the International Court of Justice. The European Court of Human Rights delivered a judgment by the Grand Chamber in Ukraine and the Netherlands v. Russia case, alongside other significant rulings, while the CJEU and ICC added their own notable jurisprudence. Together, these decisions span climate governance, human rights, accountability for violations of the law of armed conflict, and the rule of law within the EU. We hope this issue provides a useful overview and inspiration for further discussion. Please keep an eye out for upcoming ICTIG events, and—as always—share your news and publications with us for future editions.

Additionally, we highlight that the ICTIG Advisory Board is now welcoming applications from Interest Group members to join the Advisory Board.

The Advisory Board is responsible for ICTIG management and programming, and organizes several events over the course of the year, including at the ASIL Annual Meeting. It includes ICTIG members with expertise in a wide variety of areas relating to international courts and tribunals. Advisory Board members are expected to join remote quarterly meetings and participate in event planning and the intellectual life of the interest group.

If you are interested, please send your resume and a cover email describing your qualifications and expressing how you would contribute to the Advisory Board to Vladyslav Lanovoy (**vladyslav.lanovoy@fd.ulaval.ca**) and Philipp Kotlaba (**p.kotlaba@icj-cij.org**) by 3 October 2025.

Vladyslav Lanovoy & Philipp Kotlaba, Co-Chairs

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Developments at International Courts & Tribunals

International Criminal Court Welcomes Ukraine as a New State Party

On 17 July 2025, the International Criminal Court held a ceremony at the seat of the Court in The Hague to welcome Ukraine as the 125th State Party to the Rome Statute, the ICC's founding treaty. On 25 October 2024, Ukraine had formally deposited the instrument of ratification of the Rome Statute of the ICC and the Statute entered into force on 1 January 2025. Ukraine becomes the 125th State Party to join the Statute, and the 20th State from the Eastern European group to do so. Further information can be found **here**.

Administrative Tribunal of the Council of Europe to Celebrate 60th Anniversary

To mark the 60th anniversary of its establishment, the Administrative Tribunal of the Council of Europe will host events on 13 and 14 October 2025 at the Palais de l'Europe in Strasbourg, France. On the 13th, the Tribunal will host a closed meeting of various international administrative tribunals. A public conference entitled "The right to a fair trial before international administrative tribunals" will follow on the 14th with panels on "Access to a court with respect to acts and omissions of international organisations," "Scope and method of judicial review by international administrative tribunals," and "Reparation measures and enforcement of judgments." Further information can be found **here**.

New Member of the World Bank Administrative Tribunal

Judge Joëlle Adda joined the World Bank Administrative Tribunal effective 1 May 2025. Prior to her appointment, she most recently served as a full-time Judge and multiple-term President of the United Nations Dispute Tribunal in New York, where she led efforts to strengthen the Tribunal's independence, efficiency, and commitment to due process. In France, she held senior judicial roles as President of the Administrative Court of Lille and Presiding Judge at the Administrative Court of Appeal of Paris, where she adjudicated complex public law matters in areas such as asylum, public procurement, civil service law, and government liability. 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

Asaf Lubin and Cherry Tang, ***Data Injustice in Global Justice***, 59(1) UC Davis Law Review (forthcoming, 2025).

Books & Book Chapters

Melissa Stewart, *Jurisdictional Ingenuity in Pursuit of Promoting States' Obligations in the Context of the Climate Emergency*, in The Role of Advisory Opinions in International Law in the Context of the Climate Crisis (Maria Antonia Tigre & Armando Rocha, eds., 2025).

"2024-2025 marks a pivotal shift in international climate law, as advisory opinions before international and regional courts and tribunals begin to shape the global response to the climate crisis. With one advisory opinion already issued and two more anticipated in 2025, this collective effort to define and enforce States' climate obligations is gaining momentum. This book captures this critical juncture, featuring chapters by leading scholars and litigators involved in these landmark advisory opinions. Against the backdrop of decades of domestic climate litigation, the transition to international courts reflects the urgent need for global solutions to a challenge that transcends borders, offering vital insights for the path forward."

The book is available here: **https://brill.com/edcollbook-oa/title/70391**

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Online Publications

- Joshua Paine, '**ICJ Advisory Opinion on Climate Change: The Variable and Evolutive Nature of Due Diligence Obligations**,' EJIL *Talk*! *Blog of the European Journal of International Law*, 21 August 2025.
- Joshua Paine, '**A Multilateral Instrument on ISDS Reform (MIIR): Selected Design Issues**,' EJIL *Talk*! *Blog of the European Journal of International Law*, 3 June 2025.
- Joshua Paine, '**Exceptions and Regulatory Autonomy**,' in Julien Chaisse and Christoph Herrmann (eds) *The International Law of Economic Integration* (Oxford University Press 2025) 1083–1101. ■

Notable Judgments & Decisions

ICJ Issues Advisory Opinion On Obligations of States in Respect of Climate Change

Massimo Lando, University of Hong Kong

The 23 July 2025 climate change advisory opinion was one of the most-awaited ICJ decisions in recent memory. And rightly so, as it concerned what likely is the most pressing challenge facing humanity, the threat of anthropogenic climate change. The opinion was the culmination of Vanuatu's initiative, which led to the General Assembly's requesting, by consensus, that the Court give this advisory opinion. The Assembly asked two questions: first, what are the obligations of States in respect of climate change; second, what are the legal consequences from the causation by States of significant harm to the climate system. The Court found that it had jurisdiction to give the opinion and that there were no compelling reasons to decline to exercise that jurisdiction. In relation to the first question, the Court iterated States' treaty obligations in the UNFCCC and the Paris Agreement, among others. More interestingly, it formulated the obligations arising under customary international law, spending some time detailing the types of measures that States may, or should, adopt to combat climate change in compliance with those obligations. The Court's effort may give some teeth to obligations the more precise content of which was, until now, less than clear. Importantly, the Court rejected the argument, much debated, of certain participant States that the climate law regime was *lex specialis* with respect to general international law, which allowed the ICJ to look beyond the treaty regime and into customary international law.

On the second question, the Court's reasoning was crisper. The most interesting part concerns questions of reparation. The Court accepted that reparations may be due where States cause climate harm, and may take the form of restitution, compensation, and satisfaction. But the Court's opinion is wanting in relation to causation, in relation to which the Court merely iterated its usual test of a "sufficiently direct and certain causal nexus" and stated that it should be operationalized by determining, somewhat circularly, "whether a given climatic event or trend can be attributed to anthropogenic climate change."

ICC Trial Chamber Issues Judgment against Yekatom and Ngaïssona

Sara L. Ochs, Associate Professor of Law, Elon University School of Law

On 24 July 2025, following a trial that initially opened in February 2021, Trial Chamber V of the International Criminal Court (ICC) issued its **judgment** in the case of *The Prosecutor v. Alfred Yekatom and Patrice-Edouard Ngaïssona*. The Chamber entered guilty verdicts against both defendants for war crimes and crimes against humanity committed in the Central African Republic (CAR) between 2013 and 2014 and sentenced Mr. Yekatom to fifteen years and Mr. Ngaïssona to twelve years imprisonment.

This case falls within the purview of the ICC's **Situation in the CAR II**, which focuses on crimes committed within the context of a conflict that has been ongoing since 2012

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between the predominantly Muslim Seleka group and the predominantly Christian Anti-Balaka group. However, in its judgment, the Trial Chamber emphasized that it did not find the conflict to "be of a religious nature at the outset." Both Mr. Yekatom and Mr. Ngaïssona were instrumental in forming and supporting the Anti-Balaka and routinely targeted the Muslim civilian population of the CAR including during widespread attacks throughout 2013 and 2014.

Ultimately, under a theory of individual responsibility, the Trial Chamber found both men guilty of various war crimes and crimes against humanity committed during these attacks, including murder; forcible transfer/displacement and deportation; directing an attack against a building dedicated to religion; torture; cruel treatment; other inhumane acts; imprisonment and other severe deprivation of physical liberty; destruction of property; and persecution. At the time of this publication, both defendants have expressed an intent to appeal the Court's judgment against them.

ECtHR, Case of Ukraine and the Netherlands v. Russia, Applications nos. 8019/16, 43800/14, 28525/20 and 11055/22, Judgment (Merits), 9 July 2025

Stefan Kirchner, University College Cork, Ireland

In 2022, Russia was excluded from the Council of Europe over its all-out invasion of Ukraine earlier in that year. Russia's war against Ukraine, however, already began in 2014. There are still a number of older cases before the European Court of Human Rights (ECtHR), pertaining to the time when Russia was still bound by the European Convention on Human Rights (ECHR). One of the most high-profile cases in this context was decided by the ECtHR's Grand Chamber in July 2025. It consists of four inter-state complaints (which are rare at the ECtHR to begin with), three of which relate to the early days of the war, including the killing of 298 civilians on board Malaysia Airlines flight MH17, which was en route from Amsterdam to Kuala Lumpur to Amsterdam when it was shot down in Ukrainian airspace on 17 July 2014. The fourth inter-state case relates to the events since 2022.

The Grand Chamber found that Russia was in control of the armed forces operating in Eastern Ukraine in 2014 and therefore responsible for the attack against the civilian airliner. The Court found a violation of Article 2 ECHR (right to life) due to Russia's failure to distinguish between civilians and legitimate military targets and, under the procedural limb of Article 2 ECHR, due to Russia's failure to adequately investigate the matter. It also found violations of Article 13 ECHR (right to an effective remedy) and even concluded that the suffering of the victims' relatives crossed the threshold of Article 3 ECHR (prohibition of torture). In relation to the invasion since 2022, the Court found numerous additional violations of the ECHR, including in particular concerning the indoctrination of Ukrainian children in part of Ukraine occupied by Russia and the forced transfer of kidnapped Ukrainian children to Russia.

ECtHR Unanimously Finds No Violation in Bradshaw and Others v. the United Kingdom

Farah El Barnachawy

The case *Bradshaw and Others v. the United Kingdom* concerned a complaint by several former Members of Parliament that the UK government had failed to adequately respond to allegations of Russian interference in the 2019 general election. They argued that this inaction breached the United Kingdom's positive obligations under Article 3 of Protocol No. 1 to the ECHR, which guarantees the right to free elections. Specifically, the applicants claimed that the government had neither investigated the allegations properly nor established a sufficient legal and institutional framework to prevent such interference, and they challenged the rejection of judicial review proceedings in the domestic courts.

The ECtHR unanimously found no violation. While recognizing that the government's initial response to the allegations was limited, the Court emphasized that two thorough and independent investigations were later carried out, and a range of legislative and operational reforms had been adopted to counter disinformation and safeguard electoral integrity. The judgment affirms that the Convention requires states to take active steps to protect democratic institutions from external interference but that they retain wide discretion in how they do so. In this case, the combination of inquiries and reforms was deemed adequate to discharge the UK's duties, and the shortcomings identified

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were not serious enough to impair the essence of the applicants' right to free elections.

IACtHR Renders Landmark Advisory Opinion On Climate Change and Human Rights

On 3 July 2025, the Inter-American Court of Human Rights rendered a landmark **advisory opinion** on the climate emergency and human rights, which had been requested by Chile and Colombia in January 2023. The advisory opinion was issued following written proceedings in which 263 briefs were received from 613 actors, including States, civil society actors, and individuals, and two rounds of oral proceedings in which a total of 185 delegations appeared before the IACtHR.

In its lengthy opinion, the IACtHR first set out its factual and normative analysis of climate change, its causes, consequences, and the risks it poses to human rights—all of which confirm that the current situation constitutes a climate emergency.

The IACtHR then focused on three key questions concerning the substantive, procedural, and intersectional obligations of States in respect of the climate emergency. Doing so, the IACtHR made a number of novel observations, including: recognizing the right to a healthy environment; recognizing the rights of nature; identifying the *jus cogens* nature of the obligation not to cause irreversible damage to the climate and the environment; and identifying States as having substantive duties with respect to climate change through mitigation and adaptation measures. The IACtHR also made a number of findings in respect of the impact of climate change on vulnerable persons, which build on its 2017 advisory opinion on the environment and human rights.

IACtHR Renders Advisory Opinion on the Scope and Content of Care as a Human Right

On 7 August 2025, the Inter-American Court of Human Rights rendered an **advisory opinion** on the content and scope of care as a human right. The request for the advisory opinion was brought by Argentina in January 2023, and ultimately had the second highest participation in the IACtHR's history.

Notably, in the advisory opinion, the IACtHR recognized the existence of a stand-alone human right to care, which it noted derived from other rights recognized in the American Declaration and the Charter of the Organization of American States. In so doing, the IACtHR found that the right to care has three dimensions: to receive care, to provide care, and to exercise self-care. The IACtHR further found that there were a number of measures that States must take to guarantee the scope of care, particularly in respect of individuals who face obstacles in exercising their right to care.

The IACtHR also opined on the interrelationship between the right to care and other human rights, and particularly economic, social, cultural and environmental rights and the right to equality and non-discrimination. In respect of the latter, the IACtHR observed that States must adopt measures to revert the stereotypes that lead to an unequal distribution of care work between genders. The Court also indicated that, based on the principle of co-responsibility, measures must be adopted for society and the State to guarantee the right to care.

CJEU Affirms Propriety of Double Appointments of Domestic Judges

Craig D. Gaver

In **Joined Cases C-422/23, C-455/23, C-459/23, C-486/23 and C-493/23**, Daka and Others, the Court of Justice found that the double appointment of judges to the Polish Supreme Court was compatible with EU law.

The Polish Supreme Court is divided into different chambers, including the Civil Chamber and the Labour and Social Insurance Chamber. Two judges from the latter group were appointed for a period of three months to sit with a judge from the Civil Chamber to hear Civil Chamber appeals in five different cases. The Labour and Social Insurance Chamber appointees challenged this mixed composition, contending that their duties had been doubled and that the quality of their work would suffer as a result. The President of the Civil Chamber disagreed, leading to a preliminary reference to the CJEU whether the arrangement complied with EU requirements of an independent, impartial and legally established judiciary.

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The Court found the arrangement compatible with EU law so long as it is based on legitimate reasons, taken on the basis of the national rules governing the court in question, temporary and strictly limited in time, do not call into question the assignment of the judges concerned to their chamber of origin and do not result in any demotion or removal of those judges from the cases for which they are otherwise responsible (para. 100).

The designation must not target specific judges because of positions they took in the past. The Court discounted the judges' arguments concerning the increase in workload or lack of expertise outside their chamber. Finally, neither the designated judges' lack of consent to the arrangement nor the absence of their right to appeal undermined the principles of independence and impartiality.

CJEU Decides CAS Awards Must Be Subject To Effective Judicial Review

Isaac D. Webb

On 1 August 2025, the CJEU rendered a **decision** in the case of Royal Football Club Seraing ("Seraing"), finding that under EU law, arbitral awards issued by the Court of Arbitration for Sport (CAS) must be subject to effective judicial review in the courts of EU Member States.

The case arose after Seraing, a Belgian soccer team, entered into a financing agreement with Doyen Sports that gave Doyen rights over players' future transfers, which FIFA's rules on third-party ownership prohibit. In response, FIFA sanctioned the club, levying fines and imposing a transfer ban. Seraing appealed to CAS, which upheld FIFA's sanctions, and the Swiss Federal Supreme Court confirmed the decision. When Seraing attempted to challenge the underlying FIFA rules before Belgian courts, its action was dismissed because the CAS award was treated as *res judicata*. The Belgian Cour de cassation asked the CJEU whether this approach was compatible with Articles 19(1) TEU and 47 of the Charter of Fundamental Rights.

The CJEU ruled that effective judicial protection is a fundamental requirement of EU law. While sports arbitration can be mandatory, it cannot prevent subsequent judicial control by the courts of EU Member States. Member states must ensure that disputes involving EU law are subject to review by independent courts capable of referring questions to the CJEU. The fact that CAS is seated in Switzerland does not exempt member states from this obligation.

National courts must therefore disapply any domestic or sporting rule that automatically recognizes CAS awards as binding if this blocks access to effective judicial review under EU law. Courts must also be able to grant interim measures and ensure compliance with EU competition law and fundamental rights. This judgment reinforces that arbitration in sport cannot operate as a closed system beyond EU judicial oversight. ■

Opportunities

Calls for Papers

German Yearbook of International Law (GYIL)

The GYIL is calling for contributions to the "General Articles" section of its Volume 68(2025). The deadline is 30 September 2025 and more details can be found **here**.

Job Postings & Other Opportunities

Associate Counsel - Institutional Matters, World Bank

The World Bank is looking for an Associate Counsel - Institutional Matters. The deadline to apply is 23 September 2025 and further information can be found **here**.

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Call for New ICTIG Advisory Board Members

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Member News

Jenna Dolececk was promoted to Team Lead on the Child Crimes Task Force at OSINT For Ukraine, which investigates the illegal transfer of Ukrainian children and other crimes. She was also chosen to be part of the International and Ukrainian Bar Associations' pilot mentoring program supporting legal professionals working on war crimes cases in Ukraine.