American Society of International Law

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INTERNATIONAL LEGAL RESEARCH
INFORMER

Global legal policies and norms cannot exist without strong foundations built on exhaustive research.

Message from the Co-Chairs

The year leading up to the 2016 ASIL Annual Meeting was an adventurous one for ILRIG!

This year, we fostered a partnership with the Foreign, Comparative, and International Law Special Interest Section of the American Association of Law Libraries (AALL). Thanks to the generosity of ASIL, ILRIG will cosponsor a full-day workshop at AALL's Annual Meeting on July 16, 2016. The workshop, "Two Sides to the United Nations: Working with Public and Private International Law at the U.N.," will be held at the Chicago-Kent College of Law. Speakers Thomas Mills (Cornell University Law Library), Susan Goard (United Nations) and Vikki Rogers (Pace Law School) will lead participants in a workshop designed to equip all law librarians with foundational knowledge of the United Nations and the Convention on Contracts for the International Sale of Goods (CISG), and to increase their fluency with the major U.N. and CISG documents, information, research resources, and strategies. More information about this exciting opportunity can be found at: http://eventmobi.com/aall2016/agenda/140597/805414

ILRIG has been working to develop a relationship with AALL for a couple of years and we are happy to finally realize this goal. We will continue to look for ways to foster partnerships with AALL and other organizations at our annual meetings.

ILRIG also announced two Jus Gentium Research Award winners. As you might recall, in 2014 IRLIG created the Jus Gentium Research Award to annually recognize important contributions in the area of providing and enhancing open access to legal information in international law.

In 2015, the ICRC's Customary IHL Database won the first Jus Gentium Research Award. The selection committee determined that the database, first launched in 2010, was an exceptionally well-structured, easy to navigate, and indispensable research tool frequently used by international law practitioners and scholars. The database contains customary international humanitarian law rules and commentary in multiple languages. A second part of the database describes national practices under the rules. The database links to primary law sources such as the ICRC's Treaty Database and National Implementation Database to enhance the research experience. The selection committee recognized that it has been ten years since the ICRC's ground-breaking, three-volume study of customary international law was published in 2005. The ICRC's Customary IHL Database was a well-deserved recipient of the first Jus Gentium Research Award.

INSIDE THIS ISSUE

NEWS & EVENTS

ILRIG Business Meeting Thursday, March 31, 7:30 am, Grand Teton Room @ Hyatt Regency Capital Hill

In 2016, the selection committee unanimously awarded the second Jus Gentium Research Award to the Global Health and Human Rights Database (GHHRD). The selection committee found that the GHHRD "is not only an aesthetically pleasing interface, it's interactive, well structured, and helps facilitate research for the lawyer and non-lawyer. The database contains a map, keyword search, English and Spanish interfaces, as well as an RSS feed and blog, being regularly updated. GHHRD received six references in Hein-Online, with two being ASIL-related. GHHRD also received 2,560 hits on a Google search result. Moreover, it's promoted by the United Nations. GHHRD provides a variety of updated resources and functional links to other valuable and related databases that would further facilitate expanded research. This database not only allows for easy navigation to other resources, but GHHRD is easily navigable despite the substantial amount of information provided."

Special Mentions:

We extend a heartfelt thank-you to Donald Ford, editor of the IRLIG newsletter, *The Informer*. Don will be stepping down as editor this year and will be handing over the reins to Paul Moorman. Don and Paul have been working side by side this year to deliver our newsletter, in preparation for Paul taking over editorial duties this year. Thank you Don and Paul!

We also want to acknowledge the hard work completed by the 2015 and 2016 Jus Gentium Research Award selection committee members. They organized a terrific slate of candidates and made difficult choices to find the most worthy recipients of this award.

A Special Message from Co-chair Vicki Szymczak:

This year, Cochair Wanita Scroggs, Secretary Marylin Raisch, and Treasurer Gabriela Femenia all complete their terms. While I look forward to the upcoming officer elections, I will miss my colleagues and thank them for their unwavering leadership and guidance. They are all very special people.

At the 2016 Annual Meeting:

ILRIG will continue to offer research services through the Research Liaison Program for the speakers and moderators at ASIL's Annual Meeting. Research services will be available prior to and during the meeting.

We hope to see you in Washington, DC for the Annual Meeting! Keep your eyes open for the date and time of our business meeting. ILRIG continues to submit program proposals for ASIL's Annual Meetings and sponsor/cosponsor meetings and webinars with other professional organizations. We need to hear your ideas!

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Update to

THE EUROPEAN HUMAN RIGHTS SYSTEM

James W. Hart

This is an update to THE EUROPEAN HUMAN RIGHTS SYSTEM, which described the founding, development, and bibliography of the Council of Europe (COE), the European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), and the European Court of Human Rights (ECtHR). It does not repeat the contents of THE EUROPEAN HUMAN RIGHTS SYSTEM, but describes what has happened between the publication of that article in 2010 and the end of 2014. This update covers the alleviation of the pressures on the European Court of Human Rights, improvements in the publication and dissemination of the ECtHR's documents, the Draft Treaty of Accession, and the case that is a barrier to accession.

Problems with the European Court of Human Rights

When THE EUROPEAN HUMAN RIGHTS SYSTEM was published five years ago, the COE and the ECtHR had the following serious problems:

- The number of pending cases was much too large for the Court.
- The accession of the European Union to the ECHR had a number of unsolved complex problems.
- Compliance with ECtHR judgments had declined significantly.

Protocol 14 of the ECHR put in place several mechanisms to alleviate the Court's enormous load of cases and to improve its efficiency. First, before Protocol 14 came into force, initial decisions on admissibility were made by a three judge panel; Protocol 14 reduced that to one judge.[1] Second, Protocol 14 sends cases that are "already the subject of well-established case-law of the Court" to a three judge committee and cases that involve a "subject of well-established case-law of the Court," to a chamber of five judges.[2] Finally, Protocol 14 raises the bar on the admissibility of cases in which the plaintiff has not "suffered a significant disadvantage."[3]

The statistics tell the story. In September 2011 the number of pending cases had risen to a peak of 160,000; during 2012 it decreased to 128,000;[4] and by the end of 2014 it stood at 70,000.[5] In three years the number declined by 56 %. Note that pending cases are those on which the decision on admissibility has not been made. The Court itself said, "This means that Protocol 14 has been a success, above all... particularly as regards filtering...."[6]

Although the Court attributes these dramatic decreases primarily to Protocol 14, it also believes that Rule 47 of the Rules of Court had a role. That Rule sets the requirements for the contents of individual applications.[7] The Rule's present form is the result of one amendment made to the original Rule in 2002 and one made in each of the following years: 2007, 2008, and 2013. The most recent version of

Rule 47 came into effect on January 1, 2014. In addition, the Court appears to say that the Rule was not as strictly followed in the past as it has been more recently.[8] The Court ascribes the effects of the new Rule 47 to the following:

- the case-processing divisions have less correspondence to deal with;
- incoming applications are now better organized;
- properly-completed application forms make it easier to analyze and process incoming cases;
- there is a significant gain of time enabling the Registry to deal with other meritorious cases.[9]

It is impossible to know how much of the decline in pending cases has been caused by Protocol 14 and how much by Rule 47. It would take a statistical analysis too sophisticated for a working court in order to determine how much of the decline is caused by one or the other.

The Publication and Dissemination of Court Documents

Since the publication of THE EUROPEAN HUMAN RIGHTS SYSTEM, the ECtHR has improved the publication and dissemination of its documents. In 2012 and 2013 the Registry installed an entirely new HUDOC system that provides a number of improvements. In addition to the features described on page 542 of THE EUROPEAN HUMAN RIGHTS SYSTEM, it also has an Advanced Search system with thesauri for states and regions, visit types, visit start date, document date, and publication date. It also includes a database of communicated cases from 2008 to 2011, and parallel systems for the work of the Committee for the Prevention of Torture and the European Social Charter. In 2012 the Registry added an interface in Turkish and planned on adding one in Russian last year. By 2014 the Turkish version included 2,600 documents. The Registry has also begun a three year project financed by the Human Rights Trust Fund (HRTF) to translate cases that are important in the Court's jurisprudence throughout the continent into the languages of countries in which knowledge of that jurisprudence is rare. "The beneficiary States of this three-year project are Albania, Armenia, Azerbaijan, Bosnia and Herzegovina, Georgia, the Republic of Moldova, Montenegro, Serbia, 'the former Yugoslav Republic of Macedonia,' Turkey and Ukraine."[10]

EU Accession to the ECHR[11]

EU accession to the ECHR is a tale that is too long and complex to describe in detail here. Let us concentrate on the last two events in the story: the most recent Draft Treaty of Accession and the CJEU's Opinion 2/13 of December 18, 2014.

The most important issues that the Draft Treaty of Accession addresses is the allocation of responsibility between the CJEU and the ECtHR, between the EU and its members, and between the law of the EU and the Convention. The allocation of responsibility between the COE and its members is not mentioned in the Treaty of Accession because it is already part of the Convention.

Preliminaries

An explanation of some preliminary items might make the rest of this paper easier to understand than it would be without them. The first is the difference between the legal status of the Treaty of European Union (TEU) and the Treaty on the Functioning of the European Union (TFEU) on the one hand and the Statute of the Council of Europe and the European Human Rights Convention (ECHR) on the other. The former are predicated as legal. The latter are conventional; they are ordinary international agreements.[12] Black's Law Dictionary defines conventional law as "A rule or system of rules agreed on by persons for the regulation of their conduct toward one another; law constituted by agreement as having the force of special law between the parties, by either supplementing or replacing the general law of the land. The most important example is conventional international law…."[13] It appears to me that Saventa's description of the ECHR as "residual" vis-a-vis the EU legal system explains the difference.[14] "Thus the court and the Convention are considered to be safety nets under the national legal systems that assure the people of those nations that they have recourse should their legal systems fail to afford them the rights of the ECHR."[15]

The second point is the constitutionality of the primary EU treaties. Some consider the two EU treaties as the constitution of the EU although the point is not universally accepted. But Daniel Halberstam, whose learned article is based on their constitutionality, relies on the CJEU's authority on the point.[16] In C-2/13, the Court itself states, "As the Court of Justice has repeatedly held, the founding treaties of the EU, unlike ordinary international treaties, established a new legal order, possessing its own institutions…the subjects of which comprise not only those States but also their nationals.[17] In the very next paragraph, which seems to me to explain the previous quote, the Court refers to the EU's "own constitutional framework."[18]

Finally the EU has a unique structure. Superficially it resembles a federation. The law of the EU is superior to the laws of the member states and affects all of them while the laws of the member states are equal to each other and the law of each affects only itself.[19] But the relationships between the central government and the member states and among the member states themselves are not the same as that of a nation state or the signatories to an international agreement. In addition both the EU and its member states can join international agreements and are subject to international law. Thus the network of relationships within the EU and with other political entities outside the EU is substantially more complex than that of other international organizations. Indeed the EU is unique among political and civil entities.

The different types of law that play a role in accession form a complex network. The most obvious are EU law, its member states' laws, the ECHR, and the laws of its contracting parties. But the situation is not as simple as that. Some EU laws may affect member states' citizens directly; other EU laws may need to be implemented through member states' legal systems. The member states may also make laws for their self-regulation and have nothing to do with the EU. Finally the EU and its member states may together or separately have international agreements

with other nation states or international organizations. All the member states of the EU, but not the EU itself, have made the rights from the ECHR part of their own law and may be taken before the ECtHR by their own citizens.[20]

The Draft Treaty of Accession

Article 1(2) of the Draft Treaty of Accession makes clear that the Treaty will become part of the ECHR when the entire process of accession is completed. Section (2) ensures that the ECHR will not require the EU to do anything that contradicts its laws. Section (3) allows that when a member of the EU or its representative performs an act that is contrary to the Convention "including decisions taken under the Treaty on European Union and under the Treaty on the Functioning of the European Union", it is the member that is responsible, although the EU may be a co-respondent.

Article 3 contains the co-respondent mechanism and the potential review of EU law by the ECtHR. If a member of the EU appears to violate the Convention when doing or omitting to do something that is compatible with EU law, the EU may become a co-respondent, i.e. a party to the case. If the EU itself appears to violate the Convention when doing or omitting to do something that is compatible with EU law, one or more of its member states may become co-respondents. "A High Contracting Party shall become a co-respondent either by accepting an invitation from the Court or by decision of the Court upon the request of that High Contracting Party."[21]

But this is just the beginning. If an EU member allegedly violated a provision of the ECHR, and the act or omission was related to EU law, ***and*** the CJEU had not reviewed that provision in the past, then the application should go directly to the CJEU so that it can review the compatibility of the Convention and the relevant EU law before the ECtHR rules on it. If, however, the applicant files the complaint with the ECtHR instead of the CJEU, it is the ECtHR that decides whether or not the application should go to the CJEU. The Draft Accession Agreement calls for the ECtHR to make this judgment on the basis of the plausibility that the EU law is compatible with the ECHR.[22] The CJEU's internal review, however, does not have the force of law.[23] "And… where complainants directly challenge actions of the EU institutions, the principle of exhaustion of remedies would oblige appellants to take their action to the CJEU first,…."[24]

In addition to these arrangements for the interactions of the two courts, the Draft Treaty on Accession also arranges for the EU to participate in the major organs of the COE. A delegation of the European Parliament could take part in the election of judges by the COE's Parliamentary Assembly. The delegation of the EU's European Parliament in the COE's Parliamentary Assembly would equal the number of that of the largest High Contracting Party. "The European Union shall be entitled to participate in the meetings of the Committee of Ministers, with the right to vote, when the latter takes decisions…."[25] that concern the reduction of the number of judges in a chamber to five, the approval of friendly settlements, the enforcement of judgments, requests for advisory opinions, and the protection of the powers of

the COE's Committee of Ministers. The Committee of Ministers shall consult the delegation of the EU before the adoption of any other text that 1) relates to the ECHR or any of its protocols to which the EU is a party, 2) relates to Committee of Ministers actions in any of the areas on which the EU can vote, or 3) to the selection of candidates for judge of the ECtHR in the Parliamentary Assembly. Finally, the Draft Treaty on Accession will not come into force until "the first day of the month following the expiration of a period of three months after the date" on which all High Contracting Parties have accepted it.[26]

The Barrier to Accession

It sounds like everything's ready to go, right? Not so fast. There are still some substantial problems that need to be solved before accession can become a reality. On July 4, 2013 the European Commission and a number of EU members requested an opinion from the CJEU on the compatibility of the Draft Treaty with EU law. The court's decision, which was handed down on December 18, 2014, clearly held that the Treaty is not compatible with EU law for the five following substantial reasons.[27]

First, the Treaty does not take account of the specific characteristics of EU law in three ways:[28]

- Article 53 of the Convention and Article 53 of the Charter as interpreted by the CJEU in *Melloni v. Ministerio* contradict each other.[29] Article 53 of the Convention allows contracting parties to adopt higher human rights standards than are in the Convention. *Melloni*, on the other hand, disallows member states from raising their human rights standards any higher than those in the Charter.

- The absence of an accommodation of the EU's rule of "mutual trust" in the Draft Agreement conflicts with the ECtHR jurisprudence on contracting states responsibility for other members' implementation of the ECHR rights. Mutual trust requires, particularly with regard to the area of freedom, security and justice, each of those States, save in exceptional circumstances, to consider all the other Member States to be complying with EU law and particularly with the fundamental rights recognised by EU law.[30]

  The exceptional circumstances are systemic or wide-spread violations. In Opinion 2/13 the CJEU states that the "set of common values on which the EU is founded, as stated in Article 2 TEU... implies and justifies the existence of mutual trust...."[31] Mutual trust is regarded as essential to the stability and consistency of EU law and it's absence to be a threat to the EU's foundation insofar as it limits conflicts between its members. In point of fact mutual trust has been considered essential to the EU's ability to create and maintain an area without borders. The ECHR's case law, on the other hand, requires its contracting states to observe other contracting states' implementation of its articles.[32] Article 33 of the ECHR allows contracting states to bring complaints against other contracting states. In addition the ECtHR admits cases that involve a very small number, even only one, which conflicts with the EU's allowance of actions against member states only in cases in which

those states violations of fundamental rights is systemic or wide spread. Moreover, under the Draft Agreement, alleged violations of the ECHR that involve EU law and are brought by the EU or its member states would be brought under the standards of the ECtHR. This arrangement would also end the EU limit on actions between member states for violations of fundamental rights only when those violations are systemic or wide spread. Finally since accession would end the rule of mutual trust, the CJEU said that "…accession is liable to upset the underlying balance of the EU and undermine the autonomy of EU law.[33]

- The Treaty does not exclude the possibility that if national courts were to request advisory opinions from the ECtHR for interpretation of the ECHR as allowed by Protocol 16, it is possible that the ECtHR might not send the application to the CJEU for initial review of any EU law that might be in the application.[34] Protocol 16 allows members' highest courts to request advisory opinions as long as it relates to a pending case. After accession, the Convention would be a part of EU law and if the request for the advisory opinion was within the scope of EU law, the request should go to the CJEU, not the ECtHR. But parties could read Protocol 16 to allow them to send such applications to the ECtHR by mistake thus bypassing the CJEU. Once again we have external control over EU law. Note, however, that Protocol 16 needs 10 ratifications to come into force, but at this writing has only 2.[35]

Second, the Draft Treaty violates Article 344 of the TFEU, which says that EU law can only be interpreted by EU institutions.[36] The Court gives the following explanation:

> 212. Consequently, the fact that Member States or the EU are able to submit an application to the ECtHR is liable in itself to undermine the objective of Article 344 TFEU and, moreover, goes against the very nature of EU law, which… requires that relations between the Member States be governed by EU law to the exclusion, if EU law so requires, of any other law.[37]

Note that, as stated earlier, the Treaty on the Functioning of the European Union (TFEU) plays a constitutional role in EU law. The point of Article 344 is that allowing external powers to interpret EU law would undermine its stability and consistency. The CJEU insists on being the sole interpreter for the purpose of keeping the balance in the federal structure.

Next, the CJEU held that the co-respondent system is incompatible with EU law.[38] The co-respondent system allows the EU and one or more of its member states to become a party to a case begun by the other before the ECtHR. The ECtHR may invite a party, not named in the initial application, to become a co-respondent. Such an invitation is not binding, which allows an EU invitee to assess the invitation in the light of EU law. On the other hand, "if the EU or Member States request leave to intervene as co-respondents in a case before the ECtHR…the ECtHR is to decide on that request in the light of the plausibility of those reasons."[39] In this case the decision on EU law is under external control and, in the view of the CJEU, the

co-respondent mechanism is incompatible with EU law. By now this should sound very familiar.

Fourth, Opinion C-2/13 asserts that the Draft Treaty fails to make adequate arrangements for the EU's prior involvement procedure as required by Article 2 of Protocol 8 EU. The Draft Treaty provides that all cases involving EU law that are brought before the ECtHR will be referred to the appropriate EU agency by the ECtHR. The prior involvement procedure has three purposes: to 1) to assess the compatibility of the EU law with the ECHR, 2) to assess the validity of EU secondary law, and 3) to interpret EU primary law.[40] Allowing the ECtHR to decide when to refer applications to an EU agency to perform these functions certainly appears to put the decision of referral in external control.

Finally, the Draft Agreement recommends that the ECtHR have jurisdiction over the EU's Common Foreign and Security Policy (CFSP) rules while the CJEU does not have such jurisdiction in cases that involve the ECHR. Current law provides that the CJEU has jurisdiction over a small portion of acts that are adopted in the context of the CFSP. The Draft Agreement then would give the ECtHR jurisdiction over an area of EU law that the CJEU does not have jurisdiction over. Thus the ECtHR in many such cases could be the only court to hear such applications. Once again the Draft Agreement "fails to have regard to the specific characteristics of EU law...."[41]

Conclusion

In the Court's opinion, the Draft Treaty would allow EU law to be ruled on by an external court, the ECtHR, and would in many ways fail to maintain the cohesiveness and autonomy of EU law. Every author that reports on and critiques Opinion C-2/13 has solutions, some of which are carefully reasoned and others that are conjectural. Although it is admittedly presumptuous of me to say so, please allow me to say that even this short summary has impressed on me the difficulty, nay, the near impossibility of any accession that would retain both the autonomy of the EU and the jurisdiction of the CJEU. These problems cannot be resolved without each side making substantial concessions to the other. It is unlikely that there will be an accession soon.

Endnotes:

[1] James W. Hart, *The European Human Rights System* 102 LL J 533, at 548. James W. Hart is Senior Reference Librarian at the University of Cincinnati College of Law's Robert S. Marx Law Library.

[2] *Id.*

[3] *Id.*

[4] Eur. Court of Human Rights, ANNUAL REPORT 2012, at 6 (2013).

[5] Eur. Court of Human Rights, ANNUAL REPORT 2014 (PROVISIONAL VERSION), at 5 (2015).

[6] *Id.*; Filtering is the judgments made on admissibility.

[7] The text of Rule 47 can be found in the Appendix that follows this update.

[8] Eur. Court of Human Rights, REPORT ON THE IMPLEMENTATION OF THE REVISED RULE ON THE LODGING OF NEW APPLICATIONS, at 2 (Feb. 2015) and *supra* note 5, at 5.
Eur. Court of Human Rights, ANNUAL REPORT 2013, at 67 (2014). The rest of this article is a very brief summary of a very complex situation.

[9] Eur. Court of Human Rights, REPORT ON THE IMPLEMENTATION OF THE REVISED RULE ON THE LODGING OF NEW APPLICATIONS, at 3 (Feb. 2015).

[10] Eur. Court of Human Rights, ANNUAL REPORT 2013, at 67 (2014).

[11] The rest of this article is a very brief summary of a very complex situation.

[12] Daniel Halberstam, *"It's the Autonomy, Stupid!" A Modest Defense of Opinion 2/13 on EU Accession to the ECHR, and the Way Forward,* 16 GER. L.J. 105, at 122 and 140.

[13] *Conventional Law*, BLACK'S LAW DICTIONARY (10th ed. 2010)

[14] Eleanor Spaventa, *A Very Fearful Court? The Protection of Fundamental Rights in the European Union after Opinion 2/13,* 22 MAASTRICHT J. EUROPEAN & COMPARATIVE L. 35, at 36, 39.

[15] Hart, *supra* note 1, at 552.

[16] Halberstam, *supra* note 11 at 115 citing *Kadi and Al Barakaat Int'l Found. v Council and Comm'n*, Case C-402/5 P and C-415/05 P, 2008 ECR 461

[17] Opinion Pursuant to Article 218(11) TFEU, CJEU Case C-2/13 (Dec. 18, 2014),¶157, http://curia.europa.eu/ [hereinafter Opinion 2/13].

[18] Opinion 2/13 ¶158

[19] Unless they have international agreements among themselves.

[20] Hart, *supra* note 1 at 554

[21] *Draft Revised Agreement on the Accession of the European Union to the Convention for the Protection of Human Rights and Fundamental Freedoms art. 3(5), in* FIFTH NEGOTIATION MEETING BETWEEN THE CDDH AD HOC NEGOTIATION GROUP AND THE EUROPEAN COMMISSION ON THE ACCESSION OF THE EUROPEAN UNION TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS: FINAL REPORT TO THE CDDH, 47+1(2013)008REV2, (Jun. 10, 2013), http://www.coe.int/t/dghl/standardsetting/hrpolicy/Accession/Meeting_reports/47_1(2013)008rev2_EN.pdf . (hereinafter Draft Revised Agreement)

[22] Draft Revised Agreement, Art. 3(5), *supra* note 19 at 6

[23] *Appendix V Draft Explanatory Report to the Agreement on the Accession of the European Union to the Convention for the Protection of Human Rights and Fundamental Freedoms* ¶¶26 & 68 *in* FIFTH NEGOTIATION MEETING BETWEEN THE CDDH AD HOC NEGOTIATION GROUP AND THE EUROPEAN COMMISSION ON THE ACCESSION OF THE EUROPEAN UNION TO THE EUROPEAN CONVENTION ON HUMAN RIGHTS: FINAL REPORT TO THE CDDH, 47+1(2013)008REV2, (JUN. 10, 2013) [hereinafter Draft Explanatory Report].

[24] Noreen O'Meara, *"A More Secure Europe of Rights?" The European Court of Human Rights, the Court of Justice of the European Union and EU Accession to the ECHR*, 12 GER. L.J. 1813, at 1823.

[25] *Id.,* at art. 7(2).

[26] *Id.,* at art. 10(3).

[27] Opinion C-2/13.

[28] Steve Peers, *The EU's Accession to the ECHR: The Dream Becomes a Nightmare,* 16 GER. L. J. 213, at 215 (2015), *available at* http://static1.squarespace.com/static/56330ad3e4b0733dcc0c8495/t/56c84ffef055e95324090f9d/1455968255593/PDF_Vol_16_No_01_Special_213-222_Peers.pdf .

[29] Melloni v. Ministerio Fiscal, CJEU Case C-399/11, paras. 60–61, 63 (Feb. 26, 2013), http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:62011CJ0399&from=EN

[30] Opinion 2/13, *supra* note 16, at 191.

[31] Opinion 2/13, *supra* note 16, at 168.

[32] Halberstam, *supra* note 12, at 127-130.

[33] Opinion 2/13, *supra* note 16, at 194.

[34] Peers, *supra* note 17, at 216; Protocol No. 16 to the Convention on the Protection of Human Rights and Fundamental Freedoms, arts. 1-5, Oct. 2, 2013, C.E.T.S. No. 214, *available at* http://www.coe.int/fr/web/conventions/full-list/-/conventions/rms/0900001680063765NT=214&CM=8&DF=07/04/2015&CL=ENG (look for English language icons).

[35] The Chart of Signatures and Ratifications of Protocol 16 (http://conventions.coe.int/Treaty/Commun/ChercheSig.asp?NT=214&CM=1&DF=&CL=ENG) has 2 ratifications as of April 7, 2015.

[36] Peers, *supra* note 17, at 216.

[37] Opinion 2/13, *supra* note 15 at ¶ 212.

[38] Peers, *supra* note 17, at 216 and Opinion 2/13, supra note 15 at ¶242
[39] Opinion 2/13, supra note 15 at ¶223.
[40] Peers, *supra* note 17, at 216.
[41] Opinion 2/13, *supra* note 15 at ¶257

The Informer continues on page 12.

Professor Burns Weston: An Appreciation

Don Ford

FCIL Librarian, University of Iowa College of Law

Burns Weston, Bessie Dutton Murray Distinguished Professor of Law Emeritus, died in November 2015, and his family and University of Iowa College of Law faculty and students gathered in December to honor his memory and share the many ways he influenced their lives. The memorial service filled the Levitt Auditorium of the University of Iowa College of Law, where Professor Weston had arrived in 1966 at the age of 34, after graduating from Yale Law School in 1961 and working for Paul, Weiss, Rifkind, Wharton & Garrison in New York City.

The memorial service included family eulogies by Burns Westons's children Timothy and Rebecca Weston, and filmed memorials from his wife Dr. Marta Cullberg and his stepchildren in Sweden. In addition, there were scholarly encomia from College of Law Dean Gail Agrawal; Professors Adrien Wing, Sandy Boyd, Steven Burton, and Greg Hamot (Iowa); Sir Geoffrey Palmer (Victoria University of Wellington); Richard Falk (Princeton); and Anna Grear (Cardiff University). Interspersed with these spoken memorials were classical music selections from Dvorak, Mendelssohn, Schumann, Bach, and Beethoven. Such a celebration of Burns Weston's life was fitting, for Professor Weston was both an artist and an impresario of international and human rights law, an approach to these disciplines most likely formed by his undergraduate training in classical piano at Oberlin College, from which he graduated in 1956.

Burns Weston helped found the University of Iowa College of Law International and Comparative Law Program and the University of Iowa Center for Human Rights. He furthered the careers of many international law scholars, among them Professor Adrien Wing, the current Bessie Dutton Murray Distinguished Professor of Law, an advisor to the drafters of the constitutions of South Africa, Palestine, and Rwanda, and an active member of ASIL.

Of particular interest to ILRIG members is Professor Weston's editing of the influential multivolume international document collection, ***Basic Documents in International Law and World Order***, fondly known as the "Red Book," so-called because of its red loose-leaf format. The Red Book has recently been transformed into the Brill database "International Law & World Order: Weston & Carlson's Basic Documents," for both major and hard-to-find international, regional, and post-Cold War international legal documents. In addition, Professor Weston served as a longtime editorial board member of ASIL's *American Journal of International Law*, and was also a series editor of ASIL's *International Legal Materials*.

In his retirement, Burns Weston took his ASIL and University of Iowa experiences and shared them nationwide and indeed worldwide. At the end of his life Professor Weston was publishing well-received treatises and articles on international environmental law, green governance, and sustainable development.

Burns Weston has influenced the lives of students, professors, human rights activists and, above all, the many people worldwide who have benefitted from human rights initiatives for which Professor Weston was catalyst, mentor, and facilitator. Burns Weston worked wholeheartedly with and for the American Society of International Law, and contributed untiringly to promoting world peace.

The Informer continues on page 14.

International Legal Research Group

The International Legal Research Interest Group (ILRIG) is dedicated primarily to its members' professional development in the areas of foreign, comparative, and international law (FCIL). ILRIG provides a forum for discussion among legal information professionals, legal scholars, and attorneys. ILRIG enhances its members' opportunities to share their knowledge about available FCIL resources, research methods, research techniques, and best practices. ILRIG organizes presentations, publishes a newsletter, and maintains a website that reflects the most recent developments in the legal research profession.

ILRIG members are particularly mindful of the interdisciplinary and multicultural aspects of contemporary foreign, comparative, and international law. Global legal policies and norms cannot exist without strong foundations built on exhaustive research. ILRIG is committed to being a forum for discussing ASIL's unique analytical needs.

ILRIG membership is open to all ASIL members. ILRIG should be of particular interest to:

- Law librarians
- Legal scholars
- Attorneys with FCIL practice issues
- Academic librarians
- Scholars working in political science, international relations, economics, and history
- Research professionals from government agencies, policy institutes, inter-governmental organizations, and non-governmental organizations

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The Informer

The *Informer* is the bi-annual newsletter of the International Legal Research Interest Group (ILRIG). Any views expressed in this newsletter are those of the authors in their private capacities and do not purport to represent the official view of the ASIL or ILRIG.

Submissions are welcomed and will be published at the discretion of the editors. Essays or articles should relate to foreign, comparative, and international law (FCIL) resources, research methods, research techniques, and best practices.

To contribute to future issues of the *Informer*, contact:

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